

*[As Amended by Senate Committee of the Whole]*

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*Session of 2010*

## SENATE BILL No. 456

By Committee on Judiciary

1-26

12 AN ACT concerning consumer protection; creating the Kansas robo-call  
13 privacy act.

14

15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. As used in sections 1 through 6, and amendments thereto:

17 (a) "Automatic dialing-announcing device" shall have the same mean-  
18 ing as provided in K.S.A. 50-670, and amendments thereto.

19 (b) "Caller" means a person, corporation, firm, partnership, associa-  
20 tion or legal or commercial entity who attempts to contact, or who con-  
21 tacts, a subscriber in this state by using a telephone or a telephone line.

22 (c) "Established business relationship" shall have the same meaning  
23 as provided in K.S.A. 50-670, and amendments thereto.

24 (d) "Message" means any call, regardless of its content.

25 (e) "Subscriber" means a person who has subscribed to telephone  
26 service from a telephone company or any other persons living or residing  
27 with the subscribing person.

28 Sec. 2. (a) A caller shall not use or connect to a telephone line an  
29 automatic dialing-announcing device unless: (1) The subscriber has know-  
30 ingly or voluntarily requested, consented to, permitted or authorized re-  
31 ceipt of the message; or (2) the message is immediately preceded by a  
32 live operator who obtains the subscriber's consent before the message is  
33 delivered.

34 (b) This section and section 5, and amendments thereto, do not apply  
35 to: (1) Messages from school districts to students, ~~parents or employees~~  
36 ***enrolled in such district, parents or guardians of such students or***  
37 ***employees of such district; (2) messages from private or public***  
38 ***schools to students attending such school, parents or guardians of***  
39 ***such students or employees of such school; ~~(3)~~ (3) messages to sub-***  
40 ***scribers with whom the caller has an established business relationship or***  
41 ***personal relationship; ~~(4)~~ (4) messages advising employees of work sched-***  
42 ***ules; ~~(5)~~ (5) messages on behalf of correctional facilities advising vic-***  
43 ***tims; or (6) messages for political purposes].***

- 1 (c) This section does not apply to messages from a nonprofit tax-  
2 exempt charitable organization sent solely for the purpose of soliciting  
3 voluntary donations of clothing to benefit disabled United States military  
4 veterans and containing no request for monetary donations or other so-  
5 licitations of any kind.
- 6 Sec. 3. A caller shall not use an automatic dialing-announcing device  
7 unless the device is designed and operated so as to disconnect within 25  
8 seconds after termination of the telephone call by the subscriber.
- 9 Sec. 4. Where the message is immediately preceded by a live oper-  
10 ator, the operator must, at the outset of the message, disclose:
- 11 (a) The name of the business, firm, organization, association, part-  
12 nership or entity on whose behalf the message is being communicated;
- 13 (b) the purpose of the message; **and**
- 14 ~~(c) the identity or kinds of goods or services the message is promot-~~  
15 ~~ing, and~~
- 16 ~~(d) if applicable, the fact that the message intends to solicit payment~~  
17 ~~or commitment of funds.~~
- 18 Sec. 5. A caller shall not use an automatic dialing-announcing device  
19 to call a subscriber before 9:00 a.m. or after 9:00 p.m. local standard time.  
20 For the purposes of this section, “local standard time” means the local  
21 time of the subscriber.
- 22 Sec. 6. (a) Any violation of sections 2 through 5, and amendments  
23 thereto, is an unconscionable act or practice under the Kansas consumer  
24 protection act.
- 25 (b) A caller who is found to have violated any of the provisions of  
26 sections 2 through 5, and amendments thereto, is subject to the penalties  
27 and remedies, including a private right of action to recover damages, as  
28 provided in the Kansas consumer protection act.
- 29 (c) Penalties and fees recovered from prosecutions of violations of  
30 sections 2 through 5, and amendments thereto, **except civil penalties**  
31 **recovered in a private cause of action**, shall be paid to the court cost  
32 account of the office of the attorney general to investigate and prosecute  
33 violations of the Kansas consumer protection act.
- 34 (d) The attorney general may adopt such rules and regulations nec-  
35 essary to carry out the provisions of sections 1 through 6, and amendments  
36 thereto.
- 37 (e) The provisions of sections 1 through 6, and amendments thereto,  
38 shall be a part of and supplemental to the Kansas consumer protection  
39 act.
- 40 (f) The provisions of sections 1 through 6, and amendments thereto,  
41 shall be known and may be cited as the Kansas robo-call privacy act.
- 42 (g) If any provision of sections 1 through 6, and amendments thereto,  
43 or its application to any person or circumstance is held invalid, the inva-

1 lidity shall not affect any other provision or application of sections 1  
2 through 6, and amendments thereto, which can be given effect without  
3 the invalid provision or application. To this end the provisions of sections  
4 1 through 6, and amendments thereto, are severable.

5 Sec. 7. This act shall take effect and be in force from and after its  
6 publication in the statute book.