

SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 456

As Amended by Senate Committee on
Judiciary

Brief*

SB 456, as amended, would create new law to establish the Kansas Robo-Call Privacy Act as part of the Kansas Consumer Protection Act. A caller would be prohibited from connecting an automatic dialing-announcing device to a telephone line unless the person receiving the call has requested or consented to the receipt of the message, or if the message is immediately preceded by a live operator who obtains person's consent to receive the message. An automatic dialing-announcing device would be required to disconnect within 25 seconds after the end of the call. Automated calls would be prohibited before 9:00 a.m. and after 9:00 p.m. local standard time of the receiver.

Where the recorded message is immediately preceded by a live operator, the bill would require the live operator to disclose the name of the business, firm, organization, association, partnership, or entity on whose behalf the message is being communicated, the purpose of the message, and if applicable, the message intends to solicit payment or commitment of funds.

The bill would provide this Act would not apply to messages from school districts to an enrolled student or that student's parent or guardian; messages from public or private schools to an employee, or an enrolled student or that student's parent or guardian; or messages from a nonprofit tax-exempt charitable organization only requesting voluntary donations of clothing to benefit disabled veterans.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Violations of this Act would be unconscionable acts or practices under the Kansas Consumer Protection Act. A call that violates this Act would be subject to penalties and remedies, including a private right of action to recover damages. Penalties and fees recovered from the prosecution would be paid to the Court Cost Fund of the Attorney General, who would be required to use the funds to investigate and prosecute violations of this Act.

The Attorney General would be permitted to adopt rules and regulations to carry out the Act. The provisions of the Act would be severable.

Background

The proponent of the bill, as introduced, who presented testimony in the Senate Committee hearing was a representative of the Kansas Attorney General's Office.

There was no testimony in opposition to the bill in the Senate Committee hearing.

The Senate Committee amended the bill to:

- Clarify that school district includes private or public schools and that the student called is a student of the private or public school;
- Delete the provision that would have required that where there is a live operator prior to the recorded message, the live operator disclose the identity or kinds of goods or services the message is promoting; and
- Clarify that civil penalties recovered in a private cause of action go to the private party and not to the Attorney General.

According to the fiscal note on the bill, as introduced, the Office of the Attorney General states any additional operating expenditures required under SB 456 would be paid from the penalties and fees generated by the bill.