

HOUSE BILL No. 2648

By Committee on Financial Institutions and Pensions

Requested by Kelly VanZwoll on behalf of the Kansas Bankers Association

2-3

1 AN ACT concerning consumer protection; relating to electronic
2 communications; enacting the social media and telecommunications
3 fraud accountability act; requiring social media platforms to exercise
4 reasonable care in preventing the dissemination of fraudulent
5 advertisements; prohibiting a person or business from falsely
6 identifying such person's or business's name or telephone number on
7 telephone caller identification systems; prohibiting the unauthorized
8 use of a bank name in electronic advertisements or solicitations;
9 making violations of the act an unconscionable act or practice under the
10 Kansas consumer protection act; authorizing the attorney general to
11 enforce violations of the act; providing for civil penalties and private
12 civil actions against violators of the act.
13

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

15 Section 1. (a) The provisions of sections 1 through 5, and
16 amendments thereto, shall be known and may be cited as the social media
17 and telecommunications fraud accountability act.

18 (b) As used in this act:

19 (1) "Act" means the social media and telecommunications fraud
20 accountability act;

21 (2) "electronic advertisement" means an audio, video, text or other
22 electronic communication that is heard, read or watched by an individual
23 through an email, telephone call, text message or other electronic
24 communication and is a bid for or call to attention of a property, good or
25 service;

26 (3) "electronic solicitation" means the initiation of a telephone call,
27 text message, email or other electronic communication that is transmitted
28 to any person for the purpose or apparent purpose of encouraging the
29 purchase or rental of or investment in a property, good or service;

30 (4) "fraudulent advertisement" means any paid or promoted content
31 that misrepresents material facts to induce a transaction; and

32 (5) "social media platform" means any interactive computer service
33 that enables users to create, share or view content.

34 Sec. 2. (a) A social media platform that accepts payment or any other
35 form of compensation for advertising shall establish and implement

1 procedures to provide and require:

2 (1) Identity verification for advertisers;

3 (2) an active impersonation detection and mitigation program;

4 (3) an automated and manual fraud detection system; and

5 (4) a clear and conspicuous tool for users to report suspected fraud.

6 (b) If a fraudulent advertisement is reported by a user, a social media
7 platform shall, within 72 hours, investigate such report and, if a
8 determination is made that such advertisement has violated this act, such
9 social media platform shall, not later than 24 hours after such platform's
10 determination and regardless of action taken, notify the submitter of the
11 status of such platform's report.

12 (c) Each platform shall provide a comprehensive quarterly public
13 report that includes, but is not limited to, the following data elements:

14 (1) Percent of total number of advertisements on a platform that were
15 reported by users for fraud;

16 (2) percent of total number of advertisements that were reported by
17 users as fraudulent and were taken down and the average time between
18 receipt of report and takedown;

19 (3) trend data that compares the change in the total number of
20 reported advertisements and the total number of advertisements taken
21 down from quarter to quarter and year to year;

22 (4) the total dollar value of compensation received for advertisements
23 that were reported and for advertisements that were taken down each
24 quarter; and

25 (5) the total number of impersonation reports received each quarter
26 and the time taken between report and takedown.

27 (d) A social media platform is liable for actual damages caused by
28 fraudulent advertisements if such platform:

29 (1) Violates the requirements of this section; or

30 (2) knowingly permits fraudulent advertisements on such platform or
31 ignores credible reports that such advertisements are fraudulent.

32 (e) Social media platforms that maintain a certified fraud prevention
33 program consistent with this act and approved by the attorney general shall
34 be presumed compliant with this act.

35 Sec. 3. No person or business shall take any action that originates,
36 facilitates the transmission of or delivers to the recipient a call falsely
37 identifying the caller's name or telephone number if the equipment or
38 service used by the person or business can create and transmit the caller's
39 name or telephone number.

40 Sec. 4. No person or business shall use the name, trade name,
41 trademark, phone number or internet address of any bank as defined in
42 K.S.A. 9-1137, and amendments thereto, or any credit union as defined in
43 K.S.A. 17-2231, and amendments thereto, or any subsidiary thereof, in any

1 electronic advertisement or electronic solicitation for products or services
2 without the express written consent of such bank or credit union.

3 Sec. 5. (a) Any violation of the provisions of this act shall be
4 considered an unconscionable act or practice as provided in the Kansas
5 consumer protection act. Such violation shall be subject to all the remedies
6 available under the Kansas consumer protection act to the extent that such
7 remedies are in addition to or provide greater protections for consumers
8 than the remedies provided in this section.

9 (b) Whenever the attorney general has reason to believe that any
10 person is using or intends to use any method, act or practice declared by
11 this act to be unlawful, the attorney general may bring a civil or criminal
12 action on behalf of the state in an appropriate court to:

13 (1) Enjoin such action;
14 (2) enforce compliance with this act;
15 (3) obtain damages, restitution or other compensation on behalf of
16 consumers in Kansas; or
17 (4) obtain criminal penalties.

18 (c) Each violation of this act shall be subject to a civil or criminal
19 penalty of not less than \$10,000.

20 (d) Any person aggrieved by an alleged violation of this act may
21 bring a civil action in the district court of the county in which the violation
22 is alleged to have occurred or in which the alleged violator resides or
23 transacts business. Such action may be brought to:

24 (1) Enjoin such violation;
25 (2) enforce compliance with this act;
26 (3) obtain damages; or
27 (4) obtain such other relief as the court may deem appropriate.

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