

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 201

As Amended by House Committee of the Whole

Brief*

SB 201, as amended, would amend the Kansas Consumer Protection Act (Act) with respect to active duty military personnel and automatic dialing-announcing devices or “robocalls.”

The bill would amend the Act to add members of the military to the definition of “protected consumer” found in the Act. The definition in current law includes veterans, surviving spouses of veterans, and immediate family members of members of the military, but does not specifically include current members of the military.

The bill would also amend the Act by expanding the Kansas No-Call Act to add new restrictions for telephone solicitors who use robocalls. Such calls would be prohibited, unless the person who is receiving the call has consented to or has authorized receipt of the message or the message is immediately preceded by a live operator who obtains the person’s consent. Additionally, the bill would prohibit robocalls before 9:00 a.m. or after 8:00 p.m. The bill would also prohibit such calls from being made to hospitals, ambulatory surgical centers, recuperation centers, ambulance services, emergency medical service facilities, mental health centers, psychiatric hospitals, state institutions for people with intellectual disabilities, law enforcement agencies, or fire departments.

Further, the bill would amend the definition of “consumer telephone call” in the Act to include calls made to a consumer

*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>

regarding services already being received, or maintenance of those existing services.

Finally, the bill would clarify the definition of “unsolicited consumer telephone call” by providing that express request or express written agreement includes the implied consent or agreement resulting from a consumer providing a telephone number to a utility company, local exchange carrier, telecommunications carrier, or video services provider as contact information.

Background

The House Committee on Federal and State Affairs added the contents of HB 2273 to the contents of 201, as introduced, concerning new restrictions for telephone solicitors who use robocalls.

The House Committee of the Whole amended SB 201 by modifying the definitions of consumer telephone call and unsolicited consumer telephone call in the Act.

Background information for SB 201 and HB 2273 is included below.

SB 201—Consumer Protection Act and Active Duty Military Personnel

SB 201 was introduced in the Senate Committee on Federal and State Affairs at the request of Senator Rogers. In the Senate Committee hearing, Senator Rogers and a private citizen testified in support of the bill. The two proponents stated they believed the omission of active duty military personnel from the definition was an oversight. Written-only proponent testimony was provided by the Attorney General and a private citizen. No other testimony was provided.

The Senate Committee considered the bill on March 14, 2017, and recommended the bill favorably for passage the same day.

The bill was removed from the Senate Calendar and rereferred to the Committee on April 4, 2017. On April 5, 2017, the Committee again recommended the bill favorably for passage and recommended the bill be placed on the Consent Calendar.

At the House Committee on Federal and State Affairs hearing, Senator Rogers testified in support of the bill. Written proponent testimony was provided by the Attorney General and two private citizens. No further testimony was provided.

The House Committee on Federal and State Affairs amended the bill by inserting the contents of HB 2273, concerning new restrictions for telephone solicitors who use robocalls.

The House Committee of the Whole further amended the bill by amending the definitions of consumer telephone call and unsolicited consumer telephone call.

According to the fiscal note prepared by the Division of the Budget on SB 201, as introduced, the Office of the Attorney General (Office) indicates expanding the list of protected consumers may result in an increase in the number of complaints filed with the Office, which would increase expenses in the form of additional staff time. The bill could also result in additional revenues from recoveries. Under current law, a person who is found to be in violation of the Kansas Consumer Protection Act against a protected consumer may face civil penalties of up to \$10,000 per violation. However, the fiscal effect is unknown because the Office is unable to estimate the number of additional complaints that may be filed with the agency. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2018 Governor's Budget Report*.

HB 2273—Restrictions on Automatic Dialing-Announcing Devices or “Robocalls”

HB 2273 was introduced by the House Committee on Federal and State Affairs at the request of Representative Highberger. In the House Committee hearing, Representative Highberger and a private citizen testified in support of the bill. No neutral or opponent testimony was provided.

According to the fiscal note prepared by the Division of the Budget, enactment of HB 2273, as introduced, would not have an identifiable fiscal effect for the State. The Office of the Attorney General Consumer Protection Division indicates the bill could result in additional complaints; however, it is unable to estimate the number of additional complaints that may be filed with the agency. If the number of received complaints is high, the Office may require additional investigators or employees. Further, some of the costs incurred from a higher number of complaints may be offset by additional revenue collected from penalties against individuals or organizations that violate the bill’s provisions. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2018 Governor’s Budget Report*.