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DENNIS "BOOG" HIGHBERGER
46TH DISTRICT

TESTIMONY ON HB 2273
Before the Committee on Utilities of the Kansas Senate

January 18, 2018

Rep. Dennis "Boog" Highberger
46th District, Lawrence

Chairman Olson and Members of the Committee,

Thank you for the opportunity to testify as a proponent of HB 2273. I asked for this bill to be introduced after one of my constituents, Mr. Ken Treadway, contacted me about the annoying number of automated ("robocalls") phone calls that he and his wife had been receiving, and a review of existing Kansas statutes showed no remedy under our current "no-call" statute or other state law. Unfortunately, Mr. Treadway is ill and will not be able to attend the hearing today, so I have his attached a copy of his testimony to the House Federal and State Affairs Committee.

I was sympathetic to Mr. Treadway's concerns, and I suspect that you may be as well, because I have a landline for my home office and I get a large number of these calls myself. Fortunately, I have caller ID on that line with an audio feature, so I am able to screen most of them out, ecause at certain times of the morning and evening, all the calls are from my old pal "Toll Free Call" or my good friend "Anonymous" or my colleague "None."

The bill before you amends the Kansas No-Call Act (K.S.A. 50-670 and 50-670a) by prohibiting consumer robocalls unless those calls are made with the prior consent of the recipient or unless the call is introduced by a live operator who obtains the recipient's consent. The bill would further ban consumer robocalls entirely between the hours of 8 pm and 9 am. The provisions of the bill would be enforced by the Office of the Attorney General in the same manner as the rest of the No-Call Act.

The provisions of this bill are based on a 1988 Indiana statute.¹ In a recent decision² the federal 7th Circuit Court found that the statute did not violate the 1st Amendment to the US Constitution, and in an earlier decision in the same case it found that the law was not preempted

¹ Ind. Code § 24-5-14-1 through 13.

² Patriotic Veterans, Inc. v. Zoller, No. 16-2059, 2017 U.S.App. LEXIS 47 (Jan. 3, 2017)

by the federal Telephone Consumer Protection Act (TCPA).³ In upholding the law, the court stated that “[n]o one can deny the legitimacy” of Indiana’s goal of “[p]reventing the phone (at home or in one’s pocket) from frequently ringing with unwanted calls.”

It is my understanding that the Attorney General’s office does not oppose this extension of the Kansas No-Call Act and is willing to enforce it. The bill passed unanimously out of committee and passed the House by a vote of 121-1.

I would happy to do my best to answer to any questions you have.

³ 47 U.S.C. § 227

Testimony on HB 2273 to the House Federal and State Affairs Committee

March 8, 2017

By Proponents:

Ken and Bettie Treadway
3920 Bellflower
Lawrence, Kansas

Several months ago, due to the increasing number of robo and other unwanted phone calls, we contacted our District State Representative, Dennis "Boog" Highberger for help. He promptly responded. We shared with him our experiences. In addition, we discussed with him the good action that has been taken by the State of Indiana to pass a law regarding these calls and it has been most successful, according to our friends in the Hoosier State. We greatly appreciate Rep. Highberger's concerns and good work to get such a law in the great state of Kansas to benefit our citizens. We hope to see Kansas join Indiana and be a leader in an increasing problem that is now reaching into cell phones as well as the land lines. Just during the past week, we starting recording the calls and with some help from experts learned where they were coming from. They are (240) 318-1112-Maryland; (928) 331-1158-New Jersey; (512) 489-9022-Texas; (762) 239-0082-California; (913) 586-4888-Johnson County, Kansas; and last night we received a call about 9:00 PM. They only let the phone ring two times and a voice recording was saying "Anonymous Caller". We cannot speak for any company, but with more and more people removing their land lines because of these annoyances surely AT&T for one would be very concerned.

Early on the state and national "No Call List" protection was good and worked. Today, they are of no avail and money could be saved by eliminating them.

Cordially,

Ken and Bettie Treadway