

Testimony of Rep. Carl Krehbiel on HB 2599

Thank you Chairman Emler and members of the Committee. I appreciate the opportunity to testify as a proponent of HB 2599, which passed the House on a vote of 112-12 on February 8, 2006.

This bill addresses certain unsolicited facsimile transmissions (“junk faxes”) and unsolicited commercial emails (“spam”). My interest in this bill is primarily on the latter provision, and that is what I will address.

As more people rely on email for communications, spam has become not just an irritant, but a time-consuming and costly plague. It is also a problem that so far has been impossible to solve, as even federal “Can-Spam” legislation has proven to be completely ineffective. HB 2599 is not an attempt to “end spam as we know it,” because that cannot be done.

However, it is possible to address certain niches in the spam problem in a manner that an individual state can undertake. And every little bit helps.

HB 2599 addresses one specific spamming practice: dissemination of email addresses of participants in a conference, seminar or meeting by the organizers, for commercial purposes, without the explicit, “opt-in” consent of such participants.

On a number of occasions I have attended a conference, convention, seminar, or other meeting that required an email address for registration. This can be a legitimate and useful practice for communicating further information or new developments about an event to participants. However, some event organizers “harvest” the registrants’ email addresses, and transmit them to third parties, either by an outright sale, or as part of a package deal for vendors who pay a fee to exhibit or present at an event. In subsequent weeks, I have been bombarded with spam from some vendors. In one case, I followed the “unsubscribe” instructions in one such spam email, and was directed to a web page for opting out that explicitly listed the organization that staged a convention I had attended as the source from which the vendor obtained my email address. Other members of the House Utilities Committee reported similar experiences when we discussed this bill.

It would be a waste of our time to try to ban spam. But after talking to people who are more knowledgeable about the legal aspects of this bill than I, I believe that the anti-spam provisions in HB 2599 are something that the State of Kansas can realistically accomplish. If an organization collects dues from persons in Kansas, then it is doing business in Kansas. And if it collects a fee from persons in Kansas who attend an event it sponsors, then it is doing business in Kansas. My understanding is that this provides a legal basis to address practices associated with these business transactions under the Kansas Consumer Protection Act.

The House Utilities Committee modified the anti-spam provision by specifying that the provision applies to “use for commercial purposes.” We wanted to make sure that the bill would apply to spam, while avoiding the unintended consequence of including conference participants

who compiled a list of email addresses in order to exchange information pertaining to the conference, or just stay in contact.

Again, I am making no claim that passage of this bill will stop spam. But every little bit helps, and HB 2599 would enable Kansans to fight back against one specific cause of spam that it is realistic for an individual state to address.

Thank you for your consideration of HB 2599.