

2018 Kansas Statutes

21-6423. Violation of a consumer protection order. (a) Violation of a consumer protection order is engaging in a door-to-door sale while prohibited from door-to-door sales.

(b) Violation of a consumer protection order is a severity level 9, person felony.

(c) As used in this section:

(1) "Door-to-door sale" has the meaning provided by K.S.A. 50-640, and amendments thereto.

(2) "Engaging in" means participating, directly or indirectly, in the prohibited conduct or causing, directing, employing, enabling or assisting others to participate in such conduct.

(3) "Prohibited from door-to-door sales" means subject to any temporary or permanent order or judgment of a court entered under authority of the Kansas consumer protection act, K.S.A. 50-623 et seq., and amendments thereto, or any act that is part of or supplemental to the consumer protection act, and that restrains, enjoins or otherwise prohibits the person from engaging in door-to-door sales in this state or any portion thereof. For purposes of this section, an order or judgment restrains, enjoins or otherwise prohibits the person from engaging in door-to-door sales in this state or any portion thereof if such order or judgment:

(A) Expressly prohibits the person from engaging in door-to-door sales;

(B) prohibits conduct that includes, but is not limited to, engaging in door-to-door sales, such as prohibiting the person from engaging in consumer transactions as defined by K.S.A. 50-624, and amendments thereto; or

(C) prohibits engaging in only a particular type of door-to-door sale, such as the door-to-door sale of roofing-related services within the meaning of K.S.A. 2018 Supp. 50-6,122, and amendments thereto, or prohibits engaging in door-to-door sales only in a particular place. In such case, criminal liability under this section shall arise only if the person engaged in the particular type of door-to-door sale that is restrained, enjoined or otherwise prohibited or engaged in a door-to-door sale in the particular place where such sale is restrained, enjoined or otherwise prohibited.

(d) A person shall be subject to criminal liability under this section only if the state proves beyond a reasonable doubt that such person had actual or constructive notice of the temporary or permanent order or judgment described in subsection (b)(3).

(1) A person has actual notice of the existence of a temporary or permanent order or judgment if:

(A) Such order or judgment was actually served on such person in any manner authorized by the code of civil procedure or the Kansas consumer protection act, other than K.S.A. 60-307, and amendments thereto, at any time prior to the violation of this section, regardless of when such order or judgment was issued; or

(B) such person otherwise had actual knowledge of such order or judgment.

(2) A person has constructive notice of the existence of a temporary or permanent order or judgment if, on or after July 1, 2016:

(A) The petition or subpoena that resulted in issuance of such order or judgment was actually served on such person in any manner authorized by the code of civil procedure or the Kansas consumer protection act, other than K.S.A. 60-307, and amendments thereto;

(B) the petition or subpoena contained, or was accompanied by, notice that failure to answer the petition or comply with the subpoena could result in such person being prohibited from door-to-door sales should a judgment be issued, and that a violation of the judgment could constitute an additional crime;

(C) actual service of such order or judgment on such person was attempted, but was refused or left unclaimed; and

(D) such order or judgment is posted conspicuously on an official and publicly available website of the office of the attorney general, whether or not such order or judgment was actually served on such person. Compliance with this paragraph shall create a rebuttable presumption that such person had knowledge of the existence of such order or judgment, but such presumption may be rebutted by showing, through a preponderance of evidence, that such person neither knew nor should have known of the existence of such order or judgment.

(e) The criminal liability imposed by this section shall not relieve any person of civil liability for violating a consumer protection order, and any criminal penalties authorized by law may be imposed in addition to any civil sanctions or liability authorized by law.

(f) The attorney general, or county attorney or district attorney, or both, may institute criminal action to prosecute this offense.

(g) This section shall be part of and supplemental to the Kansas criminal code.

(h) If any provision or provisions of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or provisions or application, and to this end the provisions of this section are severable.

History: L. 2016, ch. 103, § 4; July 1.