



Privacy & Cybersecurity Update

August 2025

Is Your Business Ready for the New Texas (Mini-TCPA) Telemarketing Law?

On September 1, 2025, [Texas Senate Bill 140](#) (SB 140), often referred to as the “mini-TCPA,” will take effect, amending Chapters 302, 304, and 305 of the Texas Business & Commerce Code. There has been a significant increase in telemarketing (and specifically SMS-related) lawsuits, and SB 140 sets forth additional challenges for businesses, particularly because it allows consumers to bring a private right of action for statutory violations.

The sponsors of SB 140 indicated that the bill is intended to address judicial decisions in this area – most notably *Powers v. One Technologies* (N.D. Tex. 2022) – that allowed businesses to avoid liability for unsolicited text messages because Texas law previously did not expressly cover such communications. SB 140 changes this framework in favor of consumers over businesses.

Though SB 140 is not retroactive, it applies to conduct occurring on or after September 1, 2025, leaving businesses a very short compliance window, including with respect to certain registration deadlines.

Key Changes to the Law and Compliance Measures

It is common for businesses to engage in telemarketing, including SMS marketing, but any business that engages in telemarketing should be aware of the numerous federal and state laws regulating these activities. SB 140 alters Texas’s existing telemarketing law in several key ways.

Broad Definitions of “Telephone Call” and “Telephone Solicitation”

SB 140 incorporates a definition of “telephone call” that expressly includes voice, text, image, and graphic transmissions. It also expands the definition of “telephone

solicitation” to include “transmission of a text or graphic message of an image” to “induce a person to purchase, rent, claim, or receive an item.” Accordingly, covered businesses that send marketing texts to Texas numbers will be treated as telemarketers under both Chapters 302 and 304 and must comply with registration, disclosure, and opt-out requirements.

No Cap on Cumulative Recoveries

In the event a consumer seeks damages, SB 140 ensures that multiple awards for damages to the same claimant do not impact future recoveries, reducing the possibility of a “one-and-done” defense strategy.

Violations Deemed Deceptive Trade Practices

Violations of Chapter 302 were already considered violations of the Texas Deceptive Trade Practices Act (DTPA). SB 140 expands that reach, making a violation of Chapter 304 a DTPA violation as well.

Registration and Security Bond Required

Businesses that are subject to the Texas telemarketing law must register each location from which telephone solicitations are made with the Texas Secretary of State by filing [Form 3401](#). The current filing fee is \$200 and annual renewal is required. Additional requirements include a \$10,000 security bond, quarterly salespersons addenda, and certain disclosures on the registration statement.

Enforcement and Penalties Expanded

Businesses need to be aware of the strict penalties and fines they can face for violations of the Texas telemarketing law. The Texas Attorney General can seek penalties of up to

\$5,000 per violation as well as injunctive relief and attorneys' fees. And because violations of the telemarketing law also constitute DTPA violations, recipients of the telemarketing messages or calls can bring private lawsuits to recover actual damages and/or treble damages for knowing and intentional violations.

Exemptions

Importantly, the Texas telemarketing law does not apply to:

- Certain regulated entities such as banks, insurance companies, public utilities, and publicly traded companies registered with the SEC or the Texas Securities Board
- Certain sales of media subscriptions, periodic merchandise shipments, or catalog sales
- Educational and nonprofit organizations
- Solicitation of food sales
- Solicitation of former or current customers
- Sales connected to established retail locations if the majority of the retail business comes from sales at the retail location
- Providers of solicitation services predominantly for exempt persons
- Isolated, non-repetitive solicitations

It is unclear whether Texas regulatory officials will promulgate regulations clarifying some of these exemptions.

No Definition of "Customers"

While the amended law states that there is an exception for current and former customers, the word "customer" is not defined. It is not clear, therefore, whether a customer is someone who has made a purchase or one who could potentially make a purchase in the future. Some context is provided by related chapters that define "established business relationship" as one in which there is voluntary two-way communication between a person and consumer. However, this still does not clarify who is a customer.

Potential Implications for Jurisdictional Issues

Additionally, SB 140 raises jurisdictional issues pertaining to potential litigation. Businesses do not have to be registered to do business in Texas to be required to register under the Texas telemarketing law. However, it is unclear whether

such registration will cause these businesses to be deemed to have submitted to jurisdiction in Texas.

Summary

SB 140 represents the most significant overhaul of Texas's telemarketing framework in more than a decade. Businesses engaging in any consumer outreach to Texas telephone numbers should act now to align their practices with the new requirements and mitigate exposure before the statute becomes effective on September 1, 2025.

FOR MORE INFORMATION

For more information, please contact:

Gregory T. Fouts

312.998.4244

Gregory.Fouts@ThompsonHine.com

Jessica E. Salisbury-Copper

937.443.6854

Jessica.Salisbury-Copper@ThompsonHine.com

Steven G. Stransky

216.566.5646

202.263.4126

Steve.Stransky@ThompsonHine.com

Certified Information Privacy Professional/Government (CIPP/G)

Certified Information Privacy Professional/United States (CIPP/US)

Kimberly Pack

312.998.4262

Kimberly.Pack@ThompsonHine.com

Certified Information Privacy Professional/United States (CIPP/US)

Certified Information Privacy Manager (CIPM)

Jenna Schneider

513.352.6633

Jenna.Schneider@ThompsonHine.com

Thora Knight, Ph.D.

212.908.3971

Thora.Knight@ThompsonHine.com

This advisory bulletin may be reproduced, in whole or in part, with the prior permission of Thompson Hine LLP and acknowledgment of its source and copyright. This publication is intended to inform clients about legal matters of current interest. It is not intended as legal advice. Readers should not act upon the information contained in it without professional counsel.

This document may be considered attorney advertising in some jurisdictions.

© 2025 THOMPSON HINE LLP. ALL RIGHTS RESERVED.