



## **Texas SB 140 and Your Marketing Compliance Obligations**

If your company sends marketing text messages to consumers in Texas, you need to know about Senate Bill 140. Effective September 1, 2025, SB 140 significantly expanded the state's telemarketing laws to cover text messages, multimedia messages, and similar electronic communications, and it gave consumers powerful new tools to fight back against unwanted outreach.

### **A Broader Net**

Before SB 140, Texas telemarketing law was primarily focused on voice calls. The new law changes that by amending the definition of "telephone solicitation" to include text messages and other transmissions sent to sell goods or services. This means that businesses engaging in text based marketing are now subject to many of the same compliance obligations that have long applied to traditional telemarketers, including registration with the Texas Secretary of State and the posting of a \$10,000 surety bond. The registration filing fee is \$200, and registration must be renewed annually.

### **The DTPA Factor**

Perhaps the most significant change is a new private right of action under the Texas Deceptive Trade Practices and Consumer Protection Act (DTPA). Previously, consumers had to jump through procedural hoops, like filing a complaint with a state agency first and waiting until a second violation of the No Call List, before they could bring a lawsuit. SB 140 removes those barriers, allowing consumers to go straight to court. The stakes are high: the DTPA allows for treble damages (up to three times economic damages), mental anguish damages, and recovery of attorney's fees, in addition to civil penalties of up to \$5,000 per violation. SB 140 also specifies that prior successful claims do not limit recovery in future lawsuits for new violations, meaning repeat offenders cannot hide behind earlier judgments.

### **Key Exemptions**

Not every business will be affected equally. The law carves out exemptions for several categories, including publicly traded companies and their subsidiaries, supervised financial institutions, insurance licensees (for transactions governed by the Insurance Code), 501(c)(3) nonprofits, accredited educational institutions, and retailers with a physical location operating under the same name for at least two years where most sales occur on site. Businesses soliciting only current or former customers, provided they have

operated under the same business name for at least two years — may also qualify for an exemption. However, exemptions are fact specific, and the burden of proof falls squarely on the business claiming one.

It is also worth noting that the Texas Attorney General recently clarified, in a case brought by a coalition of e-commerce companies, that businesses operating consent based text message programs, where consumers have affirmatively opted in, are not subject to the registration and disclosure requirements. While this is welcome news for companies that already use opt in programs, it does not eliminate exposure under the DTPA for other types of violations.

### **What You Should Do Now**

Given the expanded scope and enhanced remedies, businesses that use text based marketing to reach Texas consumers should take proactive compliance steps. Review and update your consent practices to ensure you have documented, affirmative consent for all forms of text based outreach. Complete applicable registration requirements with the Texas Secretary of State, unless a clear exemption applies. Implement reliable mechanisms for honoring consumer opt out requests and respecting the Texas No Call List. Finally, if you use third party vendors to send marketing texts on your behalf, review your vendor agreements to ensure they include clear compliance obligations, indemnification provisions, and audit rights.

SB 140 is a clear signal that Texas is serious about protecting consumers from unwanted electronic marketing. Taking the time now to ensure your practices are compliant is far less costly than finding out the hard way in court.

**For further information on these developments, please contact [Matthew Cire](#).**