

Private Right of Action Exposure Increase: Texas Expands Damages for Telemarketing Violations Effective September 1, 2025

Alysa Z. Hutnik, Gregory C. Pruden, Jennifer Rodden Wainwright

July 23, 2025

A bill recently enacted in Texas ([SB140](#)) will enhance the ability of individual consumers to seek damages for violations of various aspects of the state's telemarketing laws.

The changes adopted impact the following provisions of the Texas Business and Commerce Code:

- *Regulation of Telephone Solicitation (Chapter 302)*. This chapter requires certain sellers to complete a registration and post a bond in order to make telephone solicitations. It also requires regulated sellers to make certain disclosures prior to a purchase. In addition to other measures, Chapter 302 is subject to enforcement under the Texas Deceptive Trade Practices (DTP) law, which provides for both public and private remedies. The key change to this chapter made by SB140 was an amended definition of "telephone solicitation" to expressly include text, graphic, or image transmissions.
- *Texas Telemarketing Disclosure and Privacy Act (Chapter 304)*. This chapter, with certain exceptions, prohibits telemarketing calls to numbers on the Texas No-Call list, and also regulates fax solicitations and caller ID displays for telemarketing. Previously, Chapter 304 only allowed for a private right of action if a consumer notified the telemarketer of a violation and filed a complaint with the Public Utility Commission, state Attorney General, or other state licensing agency, followed by a 120-day waiting period for those agencies to take administrative or civil action. But through SB140, the legislature opened the door to a new way for consumers to pursue claims for alleged violations, by establishing that a violation of Chapter 304 is also a violation of the DTP law.
- *Telephonic Communications Made for Purpose of Solicitation (Chapter 305)*. This chapter prohibits calls for the purpose of making a sale if the person calling knows or should have known that the number called is a mobile phone, and the called person has not consented. It also prohibits sales/solicitation transmissions to facsimile recording devices or other telecopiers, without consent of the recipient. As it did with Chapter 304, SB140 expands upon an existing private right of action in Chapter 305 by establishing that a violation of the chapter is also a violation of the DTP law.

Additionally, SB140 inserts the following identical language to all three of the above chapters: **"The fact that a claimant has recovered under a private action arising from a violation of this**

chapter more than once may not limit recovery in a future legal proceeding in any manner.” Such language could expose businesses to multiple demands for damages for the same underlying telemarketing claims in Texas going forward to the extent an alleged violation is not promptly addressed.

These changes will take effect on September 1, 2025. While not retroactive, businesses that engage in telemarketing activity in Texas, including promotional text message campaigns, should consult with counsel about how these changes may impact them, and make appropriate updates to existing policies and procedures for their telemarketing programs.