



SPECIAL REPORT

# 2024 UPDATES TO STATE MINI-TCPA LAWS

McDermott  
Will & Emery

## TABLE OF CONTENTS

3	Introduction
4	Background
6	State Breakdown
14	Key Action Items

### LEARN MORE

For more information, please contact your regular McDermott lawyer or:

**DANIEL GOTTLIEB**  
PARTNER

dgottlieb@mwe.com  
Tel +1 312 984 6471

**MATTHEW KNOWLES**  
PARTNER

mknowles@mwe.com  
Tel +1 617 535 3885

**ALAN LEBLANG**  
ASSOCIATE

aleblang@mwe.com  
Tel +1 312 899 8465

For more information about McDermott Will & Emery visit [mwe.com](https://mwe.com)

## INTRODUCTION

Since the Supreme Court of the United States issued its ruling in *Facebook v. Duguid*, which narrowly interpreted the dialing technologies that are considered an automated telephone dialing system (ATDS) regulated by the Telephone Consumer Protection Act (TCPA), state legislators have responded by adopting broader versions of laws requiring consent for telephonic sales calls, texts, and voicemails. This *Special Report* discusses the state laws often called “mini-TCPA laws,” including amendments adopted in 2024 to the Maryland and Utah laws, and steps that businesses that send automated text messages, calls, or voicemails should take in response.

## BACKGROUND

The TCPA regulates text messages and calls placed with an ATDS, as well as those made with an artificial or prerecorded voice. The TCPA defines an ATDS as “equipment which has the capacity – (A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers.” Before the *Duguid* ruling, uncertainty abounded about what type of dialing technology constituted an ATDS. In particular, it was unclear whether the phrase “using a random or sequential number generator” qualified both “store” and “produce,” or if it modified only the latter clause. Following a wave of class action lawsuits, the Supreme Court rejected the broader reading that an ATDS included all equipment that “store[d] or produce[d] telephone numbers to be called” regardless of whether it used a random or sequential number generator. Instead, the Supreme Court opted for the caller-friendly reading that equipment must either “store telephone numbers to be called, using a random or sequential number generator,” or “produce telephone numbers to be called, using a random or sequential number generator,” to be considered an ATDS.

However, many automated texts and calls are unregulated by the TCPA because dialing technology developers can omit the capacity to dial random or sequential numbers, and because many callers want to call consumers based on a targeted list of actual or potential customers rather than calling consumers based on a random or sequential list of telephone numbers. In response to heavy lobbying from consumer groups (and the plaintiffs’ lawyers who invest in TCPA litigation), several states have enacted mini-TCPA laws that are stricter than the TCPA. The result is a regulatory landscape resembling a patchwork quilt, not unlike state privacy law. For example, some states now require businesses to obtain a call recipient’s prior express written consent for automated sales texts, calls, and

voicemails using dialing technologies that target specific consumers rather than randomly or sequentially generated phone numbers. Like the TCPA, some state laws have also empowered call recipients and attorneys general to enforce the new mini-TCPA laws, imposing civil penalties to serve as a deterrence mechanism and hold violators accountable.

The chart below summarizes the current mini-TCPA law landscape, including the dialing technologies that are regulated by each law, the text and call purposes that require a call recipient's consent, the requirements for a valid consent, and noteworthy exceptions to the consent requirement.

This summary does not replace legal advice from an experienced TCPA lawyer tailored to the facts and circumstances of a potential calling campaign and should not be relied on as an exhaustive summary of the applicable law.

State	Regulated Dialing Technology and Communications	Regulated Communication Purpose	Elements of Valid Consent	Notable Exemptions From Consent Requirements	Enforcement and Penalties
Connecticut	The consent requirement applies to telephone calls made by way of a live voice, an automated dialing system, a recorded message device, soundboard technology, over-the-top messaging, or text or media messaging.	<ul style="list-style-type: none"> <li>Engaging in a marketing or sales solicitation.</li> <li>Soliciting an extension of credit for consumer goods or services.</li> <li>Obtaining information that will or may be used for a marketing or sales solicitation or an exchange or extension of credit for consumer goods or services.</li> <li>Encouraging a resident consumer to share personally identifying information, or to purchase or invest in any property, goods, services, or other thing of value, if such resident consumer did not previously express any interest in sharing such information or</li> </ul>	<p>Prior express written consent means a written agreement that:</p> <ul style="list-style-type: none"> <li>Clearly and conspicuously authorizes the telemarketer to deliver, or cause to be delivered, telemarketing messages.</li> <li>Discloses the means by which the telemarketer may make the solicitation.</li> <li>Discloses the telephone number to which the telemarketer may deliver a message.</li> <li>Bears the consumer's signature.</li> </ul>	<ul style="list-style-type: none"> <li>A telecommunications company may make a call or send a message to an existing customer if the company does not charge the customer and the call is made primarily in connection with an existing debt, an existing contract, a wireless emergency alert authorized by federal law, or a prior request for customer service initiated by the customer.</li> <li>A call made or message sent in response to a request or inquiry made by a resident consumer, including a call or message concerning an item that such resident consumer purchased from the telemarketer during the 12-month period preceding such call or message.</li> <li>A call made or message sent by a nonprofit organization to a consumer who is on a list of bona fide or active</li> </ul>	<p>The Connecticut Department of Consumer Protection has jurisdictional authority to enforce this law.</p> <p>Any person liable shall be fined not more than \$20,000 for each violation.</p>

State	Regulated Dialing Technology and Communications	Regulated Communication Purpose	Elements of Valid Consent	Notable Exemptions From Consent Requirements	Enforcement and Penalties
		<p>purchasing or investing in such thing.</p> <ul style="list-style-type: none"> <li>Soliciting a resident consumer to donate any money, property, goods, services, or other thing of value if such resident consumer did not previously express any interest in donating such thing.</li> </ul>		<p>members of such nonprofit organization.</p> <ul style="list-style-type: none"> <li>A call made or message sent as part of a business-to-business contact.</li> <li>A call made or message sent for a religious, charitable, political, or other noncommercial purpose.</li> </ul>	
Florida	The consent requirement applies to telephone calls, text messages, and prerecorded voicemail transmissions that involve an automated system for the selection and dialing of telephone numbers or the playing of a	<ul style="list-style-type: none"> <li>Soliciting a sale of any consumer goods or services.</li> <li>Soliciting an extension of credit for consumer goods or services.</li> <li>Obtaining information that will or may be used for the direct solicitation of a sale of consumer goods or services or an</li> </ul>	<p>Prior express written consent means a written agreement that:</p> <ul style="list-style-type: none"> <li>Includes the telephone number to which the call recipient authorizes a telephonic sales call.</li> <li>Bears the signature of the call recipient.</li> <li>Clearly authorizes the caller to make a telephonic sales call by telephone call, text message, or voicemail transmission using an</li> </ul>	<p>Before the commencement of any action for damages for text message solicitations, the called party must notify the telephone solicitor that the text recipient does not wish to receive text messages from the telephone solicitor by replying “STOP” to the number from which the called party received text messages from the telephone solicitor. Within 15 days after receipt of such notice, the telephone solicitor must cease sending text message</p>	<p>The Florida Department of Agriculture and Consumer Services may obtain an injunction, impose a fine of \$10,000 or more per violation, or both.</p> <p>A call recipient may bring a lawsuit to enjoin the unsolicited telephonic sales calls and recover monetary damages in the form of actual</p>

State	Regulated Dialing Technology and Communications	Regulated Communication Purpose	Elements of Valid Consent	Notable Exemptions From Consent Requirements	Enforcement and Penalties
	recorded message when a connection is completed to a number called.	extension of credit for such purposes.	<p>automated system for the selection and dialing of telephone numbers.</p> <ul style="list-style-type: none"> <li>Includes a clear and conspicuous disclosure informing the call recipient that by executing the agreement, the call recipient authorizes a telephonic sales call.</li> </ul> <p>Callers cannot require prior express written consent as a condition of purchasing any property, goods, or services.</p>	solicitations to the text recipient.	damages or \$500 per violation (whichever is greater). The prevailing party in the lawsuit, after judgment in the trial court and exhaustion of all appeals, if any, receives reasonable attorneys' fees and costs from the non-prevailing party.
Maryland	The consent requirement applies to telephone calls, text messages, and voicemails that involve an automated system for the selection or dialing of telephone numbers or the playing of a recorded message when a	<p>An organized activity, program, or campaign to communicate by telephone with residents of Maryland to:</p> <ul style="list-style-type: none"> <li>Sell, lease, or rent goods or services.</li> <li>Attempt to sell, lease, or rent goods or services.</li> <li>Offer or attempt to offer a gift or prize.</li> </ul>	<p>Prior express written consent means a written agreement that:</p> <ul style="list-style-type: none"> <li>Includes the telephone number to which the call recipient authorizes a telephone solicitation.</li> <li>Includes the signature of the call recipient.</li> <li>Clearly authorizes the caller to make a telephone solicitation to the call recipient by using an automated system for</li> </ul>	<ul style="list-style-type: none"> <li>Certain telephone solicitations in response to customer inquiries or requests.</li> <li>Communications with certain customers with whom the business has an existing business relationship.</li> <li>Certain business-to-business sales when the solicitor has been operating continuously for at least three years.</li> </ul>	<p>The state attorney general may obtain an injunction and impose a fine not exceeding \$10,000 per violation or \$25,000 per repeat violation. In any action brought by the attorney general, the attorney general is entitled to recover the costs of the action.</p> <p>The call recipient may bring an action</p>



State	Regulated Dialing Technology and Communications	Regulated Communication Purpose	Elements of Valid Consent	Notable Exemptions From Consent Requirements	Enforcement and Penalties
	connection is completed to the number called.	<ul style="list-style-type: none"> <li>Conduct or attempt to conduct a poll.</li> <li>Request or attempt to request survey information, if the results of the survey will be used directly to solicit persons to purchase, lease, or rent goods or services.</li> </ul>	<p>the selection or dialing of telephone numbers, the playing of a recorded or artificial voice message, or the transmission of a prerecorded voicemail.</p> <ul style="list-style-type: none"> <li>Includes a clear and conspicuous disclosure informing the call recipient that by executing the agreement, the call recipient authorizes the telephone solicitation to the call recipient.</li> </ul> <p>Callers cannot require prior express written consent as a condition of purchasing property, goods, or services.</p>	<ul style="list-style-type: none"> <li>Noncommercial telephone solicitations for religious, charitable, political, or educational purposes for a nonprofit entity.</li> <li>Noncommercial telephone solicitations for the purpose of public opinion research.</li> </ul>	against the caller for damages up to \$500 or actual damages (whichever is greater). A court may award damages up to three times this amount if the telephone solicitor's violation was willful or knowing. Any person who is awarded damages may also recover reasonable attorneys' fees.
New York	The consent requirement applies to telephone calls, electronic messaging texts, and voicemails initiated by means of a technology that delivers a pre-recorded message.	Messages for the purpose of inducing payment or the exchange of any other consideration for any goods or services.	<p>Prior express written consent means a written agreement that:</p> <ul style="list-style-type: none"> <li>Includes the signature of the call recipient.</li> <li>Includes the telephone number of the call recipient.</li> <li>Includes a clear and conspicuous disclosure</li> </ul>	None.	The New York Department of State may initiate enforcement proceedings. If the department finds that the caller violated the law, the caller may be assessed a fine of up to \$20,000 per violation.

State	Regulated Dialing Technology and Communications	Regulated Communication Purpose	Elements of Valid Consent	Notable Exemptions From Consent Requirements	Enforcement and Penalties
			<p>that the agreement's purpose is to authorize the caller to make telemarketing sales calls to the call recipient.</p> <ul style="list-style-type: none"> <li>Evidences the call recipient's willingness to receive telemarketing sales calls by the caller.</li> </ul> <p>Callers cannot require prior express written consent as a condition of purchasing any good or service.</p>		
Oklahoma	The consent requirement applies to commercial telephonic sales calls that involve an automated system for the selection or dialing of telephone numbers or the playing of a recorded message when a connection is completed to a number called.	<p>Commercial telephonic sales calls.</p> <p>The law does not define this term, but provides multiple exemptions that inform meaning.</p>	<p>Prior express written consent means a written agreement that:</p> <ul style="list-style-type: none"> <li>Includes the signature of the call recipient.</li> <li>Includes the telephone number to which the call recipient authorizes a commercial telephonic sales call to be made.</li> <li>Clearly authorizes the caller to make a commercial telephonic sales call by telephone call, text message, or voicemail transmission to</li> </ul>	<ul style="list-style-type: none"> <li>Calls for religious, charitable, political, or educational purposes.</li> <li>Solicitation of the sale of food, food products, food ingredients, dietary ingredients, dietary supplements, or beverages for human consumption, if the solicitation neither intends to result in, or actually results in, a sale that costs the call recipient more than \$500.</li> <li>Licensed insurance brokers, agents, and</li> </ul>	The aggrieved party may bring an action to enjoin the violation and recover actual damages or \$500 per violation (whichever is greater). If the court finds that the caller willfully or knowingly violated the law, the court may increase the award to an amount equal to not more than three times the actual damages or \$500 per violation.

State	Regulated Dialing Technology and Communications	Regulated Communication Purpose	Elements of Valid Consent	Notable Exemptions From Consent Requirements	Enforcement and Penalties
	The term “commercial telephonic sales calls” is understood to encompass telephone calls, text messages, and voicemail transmissions.		<p>the call recipient using an automated system for the selection or dialing of telephone numbers, the playing of a recorded message or the transmission of a prerecorded voicemail.</p> <ul style="list-style-type: none"> <li>Includes a clear and conspicuous disclosure that by executing the agreement, the call recipient authorizes the caller to deliver a commercial telephonic sales call, and that the call recipient is not required to sign the written agreement as a condition of purchasing any property, good, or service.</li> </ul>	<p>customer service representatives who solicit within the scope of their license.</p> <ul style="list-style-type: none"> <li>Certain business-to-business sales calls by a caller that has been lawfully operating continuously for at least three years under the same business name and has at least 50% of its dollar volume consisting of repeat sales to existing businesses.</li> </ul>	
Utah	The consent requirement applies to calls made with an “automated telephone dialing system,” which is equipment used to store or	<p>A telephone call or message for a commercial purpose or to seek a financial donation, including calls:</p> <ul style="list-style-type: none"> <li>Encouraging the purchase or rental of, or investment in,</li> </ul>	The person who is called must give “prior express consent” to receive a telephone solicitation from the specific solicitor. The statute does not define “prior express consent.”	A person may operate an automated telephone dialing system if a call is made to a person with whom the solicitor has an established business relationship.	Any person who violates this law is subject to a cease-and-desist order and an administrative fine of not less than \$100 or more than \$2,500 for each separate violation.

State	Regulated Dialing Technology and Communications	Regulated Communication Purpose	Elements of Valid Consent	Notable Exemptions From Consent Requirements	Enforcement and Penalties
	produce telephone numbers, call a stored or produced number, and connect the number called with a recorded message or artificial voice.	<p>property, goods, or services.</p> <ul style="list-style-type: none"> <li>• Soliciting a sale of, or extension of credit for, property or services to the person called.</li> <li>• Soliciting information that will be used for the direct solicitation of a sale of property or services to the person called, or an extension of credit to the person called for a sale of property or services.</li> <li>• Soliciting a charitable contribution.</li> <li>• Encouraging the person called to sell real or personal property.</li> </ul>			Any person who intentionally violates this law is guilty of a class A misdemeanor and may be fined up to \$2,500. A person intentionally violates this law if the violation occurs after the Division of Consumer Protection in the Utah Department of Commerce, attorney general, or a district or county attorney notifies the person by certified mail that the person is in violation of this law.
Washington (Calls and Voicemails)	The law applies to systems that automatically dial telephone	Unsolicited initiation of a telephone communication made for the purpose of	An initiation is unsolicited if the called party provided no previous express interest in purchasing, investing in, or	None. The caller must show that the telephone	The aggrieved party may bring a civil action to enjoin further violations and

State	Regulated Dialing Technology and Communications	Regulated Communication Purpose	Elements of Valid Consent	Notable Exemptions From Consent Requirements	Enforcement and Penalties
	numbers and transmit a recorded or artificial voice message once a connection is made.	encouraging a person to purchase property, goods, or services, wrongfully obtaining anything of value.	obtaining information regarding the property, goods, or services attempted to be sold. The statute does not define “previous express interest.”	communication was solicited by the called party.	may recover actual damages or \$1,000 per violation (whichever is greater).
Washington (Text Messages)	The law applies to any technology that sends electronic commercial text messages.	An electronic text message sent to promote real property, goods, or services for sale or lease.	The text recipient must clearly and affirmatively consent in advance to receive the text messages.	None.	A text recipient may bring a civil action to enjoin further violations and to seek damages of up to \$500 per violation, or actual damages, whichever is greater.

## KEY ACTION ITEMS

Businesses that place or send informational and marketing calls, automated calls, calls with a pre-recorded or artificial voice, voicemails, or automated texts that may be subject to these restrictions should consider taking the following steps:

- Identify the state laws that may be implicated based on the physical location of the recipient of the call, voicemail, or text and the area codes of the phone numbers called.
- Identify the purposes (e.g., sales and marketing) for which the business sends calls, voicemails, or texts.
- Determine the capabilities of the dialing technology used to send calls, voicemails, or texts, including whether the technology has the capacity to store or dial randomly or sequentially generated phone numbers.
- Determine whether the business sends any calls, voicemails, or texts that are regulated by the TCPA or any of the mini-TCPA laws.
- If the TCPA or mini-TCPA laws require consent for any calls, voicemails, or texts, develop an efficient and reliable process for obtaining consent or putting a number on the business's do-not-call list.
- Develop policies and training practices for calling and texting to ensure compliance.

## THE MCDERMOTT DIFFERENCE

Please contact your regular McDermott lawyer or any of the authors of this *Special Report* if you have questions about the mini-TCPA laws or if you need assistance with your compliance obligations under the laws.

This material is for general information purposes only and should not be construed as legal advice or any other advice on any specific facts or circumstances. No one should act or refrain from acting based upon any information herein without seeking professional legal advice. McDermott Will & Emery\* (McDermott) makes no warranties, representations, or claims of any kind concerning the content herein. McDermott and the contributing presenters or authors expressly disclaim all liability to any person in respect of the consequences of anything done or not done in reliance upon the use of contents included herein. \*For a complete list of McDermott entities visit [mwe.com/legalnotices](https://mwe.com/legalnotices).

©2025 McDermott Will & Emery. All rights reserved. Any use of these materials including reproduction, modification, distribution or republication, without the prior written consent of McDermott is strictly prohibited. This may be considered attorney advertising. Prior results do not guarantee a similar outcome.

## CONTRIBUTORS



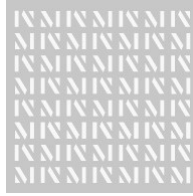
**DANIEL GOTTLIEB**  
PARTNER

[dgottlieb@mwe.com](mailto:dgottlieb@mwe.com)  
Tel +1 312 984 6471



**MATT KNOWLES**  
PARTNER

[mknowles@mwe.com](mailto:mknowles@mwe.com)  
Tel +1 617 535 3885



**ALAN LEBLANG**  
ASSOCIATE

[aleblang@mwe.com](mailto:aleblang@mwe.com)  
Tel +1 312 899 8465

McDermott  
Will & Emery

mwe.com |   