



CLIENT ALERT: TEXAS TELEMARKETING LAW EXPANDS TO TEXTS - KEY REQUIREMENTS

Publications

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Effective **September 1, 2025**, SB 140 expands Texas' telemarketing law to **cover SMS/MMS and image messages**. Businesses who send marketing texts *from Texas* or to persons located in Texas must **register with the Texas Secretary of State** (\$200 filing fee; \$10,000 security deposit).

Violations carry significant liability: (i) civil penalties of up to \$5,000 per violation (enforced by the Texas Attorney General); (ii) statutory damages between \$500 and \$1,500 per violation, via lawsuits brought by private individuals; and (iii) Texas Deceptive Trade Practices Act (DTPA) exposure: telemarketing violations are treated as false, misleading, or deceptive acts, giving consumers a private right of action. Prior recoveries do not bar future claims, allowing for multiple awards for the same conduct.

When Registration Is Not Required: Key Exemptions

- **Former or current customers (§302.058)**: this exemption applies only if the recipient is an actual former or current customer *and* the business has operated under the same business name for at least 2 years. If the promotional messages campaigns target individuals who only opted in to receive promotional messages but never actually purchased from the business, or if it cannot be clearly documented that a recipient is a current or former customer, the exemption would likely not apply.
- **Retail-location (§302.059)**: this exemption applies where a business has operated a physical retail establishment under the same name as that used in the telemarketing operations for at least two years *and* a majority of its business occurs at retail locations (i.e. majority of the overall sales are made at the physical retail locations (not online, wholesale, etc.)).

- **Other narrow exemptions** exist (regulated industries, media subscriptions, educational institutions and nonprofits, certain B2B sales, food sales, long-standing vendors that serve mostly exempt clients, solicitation that only schedules a later in-person presentation, and isolated/one-off solicitations).

We are available to assist you and, where appropriate, to coordinate with Texas-licensed counsel to help navigate compliance with SB 140.

Contacting Bartko Pavia LLP

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