CLIENT ALERTS & INSIGHTS

Texas Expands Mini-TCPA: Text Marketing Now in the Crosshairs

AUGUST 27, 2025

Authors: Ruddy S. Abam, Mark S. Eisen

SB 140 takes effect on September 1, 2025, effectuating a number of changes to Texas's so-called "mini-TCPA." Perhaps the most significant immediate impact is to the registration provision, expanding the types of outreach covered. Specifically, SB 140 ensures that text messages are also covered within the definition of a "telephone solicitation" under the registration provision. For many companies, this amendment may require a reassessment as to whether registration is required.

In June 2025, the Texas legislature passed and Governor Greg Abbott signed SB 140 to amend the State's so-called mini-TCPA. These amendments made a number of tweaks to the statute, most notably in expanding the definition of "telephone solicitation" under the registration section to encompass *text message* outreach. Prior to these amendments, Texas courts had concluded that the term "call" in the registration provision did not encompass text messages. *See Powers v. One Techs., LLC*, No. 3:21-cv-2091, 2022 WL 2992881, at *4 (N.D. Tex. July 28, 2022).

Under SB 140, telephone solicitations have been redefined to include **text messages, graphic message or images**. Any business that places marketing text messages *from a location within the State or to a purchaser in the State*, should evaluate whether it is necessary to register in Texas. Registration requires, among other things:

- Filing a registration statement with the secretary of state (§ 302.102);
- Issuing a $200 filing fee (§ 302.106);
- Issuing a $10,000 security amount (§ 302.107).

Litigation over the Texas registration requirement was not infrequent prior to these amendments, but it is anticipated that it is an issue that will become common post-amendment given the prevalence of text message outreach.

The registration provision of the statute notably provides for myriad exemptions, including for (i) persons regulated under certain other state or federal laws; (ii) certain subscription-based sellers; (iii) certain commercial sellers; (iv) persons soliciting the sale of food; (v) persons soliciting from former or current customers; and (vi) persons engaging in certain face-to-face sales or engaging in a certain level of retail sales. Some of the exemptions also have unique requirements, like operating under the same business name for at least two years.

SB 140 leaves behind uncertainty and ambiguity for modern businesses that rely exclusively on text message marketing. Specifically, the amendment does nothing to address how current exemptions

under the law collide, or fit, with the new definition of “telephone solicitation” or with modern-day telephonic outreach and the prevalence of online retail. We anticipate plaintiffs testing whether the statute also applies to common customer engagement communications, like delivery confirmations or loyalty programs, even though these may not fit within the spirit of the law.

With enforcement and litigation risk rising, businesses should inventory their text marketing programs now, map exemptions carefully, and build compliance into their marketing operations before September 1. A violation of Section 302 can lead to substantial penalties, including litigation brought by private actors or the attorney general.

For more information, please contact a member of Benesch's Telemarketing Litigation & Compliance Practice Group.

David Kruger at dkrueger@beneschlaw.com or 216.363.4683.

Mark Eisen at meisen@beneschlaw.com or 312.212.4956.

Ruddy Abam at rabam@beneschlaw.com or 312.212.4949.