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Legal Alerts

Texas Expands Telemarketing Law to Cover Text Message/SMS Marketing: What Companies Need to Know

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Effective September 1, 2025, Texas Senate Bill 140 ("SB 140") significantly amended the state's telemarketing laws. The new provisions extend beyond traditional voice calls and now regulate text (SMS) and image messages as well as other electronic messages intended for solicitation. For companies that rely on message-based marketing, these changes impose new compliance obligations and heightened risk, as fines for non-compliance can be thousands of dollars per message.

Under SB 140, "telephone solicitation" is redefined to include text and multimedia messages. Companies that send such messages *to* Texas residents or send such messages *from* Texas (with some exceptions) must now comply with Texas's telephone solicitation practices laws like traditional voice telemarketers, including the requirement to register with the Secretary of State and post a $10,000 bond or security. The law also imposes time restrictions for sending messages. Text messages may only be sent between the hours of 9 am and 9 pm Monday through Saturday and between noon and 9 pm on Sundays, each based on Texas local time (*i.e.*, Central time zone).

Further, in addition to the penalties that may be imposed by the Texas Attorney General, SB 140 strengthens consumer enforcement rights. Violations may now be pursued under the Texas Deceptive Trade Practices Act and importantly, SB 140 allows consumers to bring multiple actions if the violating behavior continues, increasing litigation exposure for even minor violations.

With the US Supreme Court's June 2025 decision in *McLaughlin* opening new avenues for challenging the application of FCC rules and orders regarding the federal Telephone Consumer Protection Act ("TCPA") and accompanying uncertainty, new state laws like SB 140 are likely to play a more significant role in regulating marketing campaigns using text and multimedia messages.

For businesses, the implications are clear. Messaging campaigns should be carefully reviewed for compliance with applicable quiet hours requirements, measures for rapidly processing opt-out requests and maintaining recordkeeping practices sufficient to demonstrate consent and compliance. Foster Garvey's Business team is available to help companies evaluate their obligations under SB 140, update compliance programs and mitigate potential enforcement or litigation risks.

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