



Texas SB 140 Compliance Checklist

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Effective September 1, 2025

Texas Senate Bill 140 amends the Texas Business & Commerce Code to:

- Expand the definition of “telephone call” and “telephone solicitation” to include text messages, image or graphic messages, and other electronic transmissions initiated to induce a purchase, rental, claim, or receipt of an item.
- Apply the law to inbound calls made in response to outbound marketing, such as mailed promotions, texts, or online ads.
- **Broaden the private right of action** so that any violation of Texas telemarketing laws is deemed a deceptive trade practice under the Texas Deceptive Trade Practices Act (DTPA).

Consumers now **have a direct private right of action to sue for:**

- Statutory damages of \$500 per violation (up to \$1,500 for willful misconduct)
 - Actual damages
 - Injunctive relief
 - Attorneys’ fees and court costs
- Clarify that multiple recoveries for the same violation do not limit future actions, enabling repeat claims.
 - Increase the maximum penalty for certain violations from \$5,000 to \$10,000 per violation.

Consent Risk


The statute does not define “consent” or “express consent.” Therefore, best practice is to treat consent as clear, affirmative, and verifiable to minimize litigation risk. Without clear consent, every outbound sales call, text, or image message to a wireless number carries elevated risk.

The following is a checklist of items to consider and cover when placing calls/texts into Texas.

Questions?

Contact CompliancePoint:

 connect@compliancepoint.com

 (855) 670-8780

Registration

- ☐ **Evaluate registration applicability and complete registration if required:**
 - Determine if your business qualifies for an exemption under Texas Business & Commerce Code § 302.001 (e.g., publicly traded companies, certain financial institutions, educational institutions, 501(c)(3) nonprofits).
 - If no exemption applies:
 - File a Telephone Solicitor Registration Form with the Texas Secretary of State.
 - Pay the \$200 filing fee.
 - Obtain and post a \$10,000 surety bond.
 - Maintain proof of registration or applicable exemption.

Consent and Wireless Numbers

- ☐ Obtain and document clear, affirmative consent before making any sales call, text, image, or graphic message to a wireless number, regardless of dial method (manual, auto, etc.), where the recipient may be charged.
- ☐ Capture consent in a retrievable format (recorded line, written, or electronic).
- ☐ Maintain records of the consent details (date, time, method, and scope of consent).
- ☐ Apply consent requirements to both new leads and existing customers within Texas EBR timeframes (12 months from last transaction; 3 months from inquiry).
- ☐ Avoid calling back missed calls unless prior documentable consent for marketing exists.

Do-Not-Call List Suppression

- ☐ Evaluate whether your business qualifies for a federal (TCPA/TSR) or Texas-specific exemption from DNC list requirements. If no exemption applies, comply with respective laws by:
 - Subscribing to and updating the National DNC Registry (monthly).
 - Subscribing to and updating the Texas State DNC list (quarterly).
 - Documenting subscriptions, downloads, and suppression processes.
- ☐ Maintain an Internal DNC List — update in real time with opt-outs and suppress regardless of National/State list status.

Calling Time or “Quiet Hours” Restrictions

- ☐ Place telemarketing calls only between 9:00 a.m. and 9:00 p.m. Monday–Saturday, and between 12:00 p.m. and 9:00 p.m. on Sundays, using the consumer’s local time zone (Texas spans Central and Mountain).

Disclosures

- ☐ At the beginning of each call, identify:
 - Your name
 - The business on whose behalf the call is made
 - The purpose of the call
- ☐ For sales completed during the call, provide all state-required purchase and cancellation disclosures.

Opt-Outs

- ☐ Maintain a process to capture and honor consumer opt-out requests immediately.
- ☐ Document the date/time, method, and scope of the opt-out.
- ☐ Suppress opted-out numbers from all marketing channels.
- ☐ Train staff to recognize and process opt-outs on every call or message interaction.

Inbound-to-Outbound Risk Controls

- ☐ Treat inbound calls resulting from marketing campaigns as telemarketing calls unless clear consent exists.
- ☐ Apply all disclosure, opt-out, and recordkeeping requirements to these calls.
- ☐ Document the marketing source for each inbound lead.

Recordkeeping and Retention

- ☐ Under the Telemarketing Sales Rule (TSR), retain records for at least 5 years related to:
 - Consent
 - Call/Text details
 - DNC scrubbing
 - Opt-out requests
 - Disclosures provided

Vendor Compliance Management (best practice due to vicarious liability)

- ☐ Require vendors to certify compliance with Texas telemarketing laws (including SB 140).
- ☐ Include SB 140 compliance obligations in contracts.
- ☐ Audit vendors at least annually for consent capture, DNC suppression, calling times, and disclosures.
- ☐ Retain proof of audits, certifications, and remediation steps.

Conclusion

While SB 140 does not rewrite the substance of Texas telemarketing rules, it amplifies enforcement by empowering consumers to sue directly. This shift—combined with broader definitions of “telephone solicitation” and no limits on repeated claims—means that compliance missteps could now lead to serious financial and reputational harm. Organizations should audit their telemarketing, texting, and lead follow-up processes **before September 1, 2025** to ensure they align with Texas law and withstand private litigation challenges.

The information contained herein is not to be construed as legal advice nor should it be used as a substitute for legal counsel. Please seek the opinion of your attorney regarding matters of law.