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"Texas Senate Bill 140: New Telemarketing Liabilities for Franchisors and Businesses Marketing to Texans"

Effective September 1, 2025, franchisors and businesses supporting franchisees or subsidiaries in Texas face heightened legal risks under Texas Senate Bill 140 (SB 140). The law expands telemarketing regulations to cover text-based communications and creates direct liability for franchisors and parent companies when franchisees or subsidiaries run non-compliant campaigns targeting Texas residents. These requirements are not just confined to businesses domiciled or only operating from within the Texas state borders.

Expanded Telemarketing Definition

SB 140 significantly broadens the scope of "telephone solicitation" to include **text messages (SMS), graphic/image messages (MMS), and other electronic solicitations**. This change means that marketing methods once considered outside traditional "telemarketing" are now regulated under Texas law.

For businesses, this expansion eliminates any ambiguity. If you are texting Texas residents for commercial purposes, you are telemarketing. This includes those follow-up "tell us how we did" texts.

New Compliance Obligations

Franchisors and businesses conducting marketing in Texas must now meet new statutory obligations:

1. Registration with the Texas Secretary of State

Entities must register as "telephone solicitors," pay a \$200 fee, and maintain a \$10,000 security

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RELATED PROFESSIONALS

C. Jade Davis
Joseph J. Santaniello

MEDIA CONTACT

Wendy M. Byrne
wbyrne@shumaker.com

bond. Registration is annual.

2. Franchisor and subsidiary liability

Liability may extend beyond the sender. If a franchisor creates the marketing content, supplies leads, or otherwise directs campaign strategy, they can be held responsible for franchisee or subsidiary violations.

3. Heightened consumer remedies

Texas consumers gain a direct private right of action under the Texas Deceptive Trade Practices Act (DTPA). Available remedies include:

- Statutory damages of \$500 to \$10,000 per violation
- Recovery of attorney's fees and court costs
- Treble damages for intentional violations

4. Unlimited serial claims

The law explicitly allows consumers to bring repeated claims for future violations, encouraging serial litigation if marketing practices are not tightly controlled.

Risks for Franchisors and Parent Companies

The greatest shift is the imputed liability for marketing campaigns carried out by Texas franchisees or subsidiaries. Even if a franchisor does not send the messages directly, they can face exposure if they:

- Provide messaging templates or customer lists
- Oversee or approve franchisee marketing programs
- Fail to implement adequate compliance monitoring

This provision is particularly concerning for national franchisors with hundreds of Texas outlets, as one rogue campaign could trigger widespread consumer claims.

Action Steps for Franchisors and Businesses

To reduce exposure, businesses should take proactive steps now:

1. Audit marketing practices

Review all corporate and franchisee-level marketing targeting Texas residents, especially text and MMS campaigns.

2. Review exemptions/exclusions

If your business qualifies for an exemption, confirm and document the application.

3. Complete registration

If your business or its affiliates send marketing texts, promptly register with the Texas Secretary of State and post the required bond.

4. Update franchise agreements

Insert clear telemarketing compliance obligations, indemnification provisions, and monitoring rights into franchise, multi-unit/development and subsidiary agreements.

5. Strengthen consent mechanisms

Confirm that opt-in processes are clear, unambiguous, and separate from purchase conditions. Update consent language to reflect SMS/MMS coverage.

6. Implement “quiet hours” safeguards

Configure automated systems to respect Texas’s restricted calling/texting hours to avoid inadvertent violations.

7. Train and monitor franchisees

Provide compliance training, update operations manuals, and implement oversight mechanisms to assist franchisees and subsidiaries follow the law.

See Quick Chart of Texas SB 140

Requirement	Key Details
Registration	Required by Sept 1, 2025—Form 3401, \$200 fee, \$10,000 bond, annual renewal.
Exemptions	Available for certain entities (e.g., public companies, nonprofits, food marketers, existing customers).
Quiet Hours	Mon–Sat: 9 a.m.–9 p.m.; Sun: 12 p.m.–9 p.m.; exceptions for requests/relationships (law not clear on what constitutes a prior existing business relationship).
Consent	Prior express written consent required; cannot be conditional.
Opt-Out	Must include in every message; immediate honor required.
Recordkeeping	Keep documentation of consent, opt-outs, messaging history.
Do-Not-Call List	Screen and avoid numbers on the list for 60+ days.
Private Rights	Consumers may sue under the Texas DTPA; serious penalties apply.
Penalties	Up to \$5,000 per text; potential treble damages and legal fees via the Texas DTPA.

Texas SB 140 marks a major shift in telemarketing liability for businesses operating in Texas. By explicitly covering text-based communications and expanding liability to franchisors and parent companies, the law exposes businesses to heightened litigation risk and significant financial penalties. We can expect to see similar legislation in other states as legislators continue to tighten consumer protections.