

BILL ANALYSIS

H.B. 210
By: Solomons
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2001, the 77th Legislature created the Texas No-Call List by adoption of the Texas Telemarketing Disclosure and Privacy Act. The Act required the Public Utility Commission of Texas to establish and provide for the operation of a database to compile a list of names, addresses, and telephone numbers of consumers in this state who object to receiving unsolicited telemarketing or telephone calls. The Act applies on a statewide basis to all telemarketers operating in Texas. From its inception in April 2002, a total of 978,253 numbers have been registered on the list.

On December 18, 2002, the Federal Trade Commission announced that it had adopted rules for a national No-Call List. On June 26, 2003, the Federal Communications Commission revised its rules in conformity with the Federal Trade Commission to implement the national Do-Not-Call registry. While the regulations for the two lists are very similar, C.S.H.B. 210 attempts to resolve some important differences.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends the Business & Commerce Code, Section 44.101 as follows:

1) Section 44.101(b)(1) of the Texas Business and Commerce Code limits the number of bidders who would be qualified to bid to be the administrator of the No-Call list to vendors who have “maintained a national no-call database for more than two years.” In response to the last Request for Proposal for the No-Call administrator, the Commission received only one bid. Modifying this subsection to remove this limitation would expand the eligibility requirements, which would allow other qualified bidders to submit bids to be the No-Call list administrator.

2) Section 44.101(c) of the Texas Business and Commerce Code currently allows enforcement of the Texas No-Call List. Subsection is amended to include the names and telephone numbers of all consumers who have registered for the Texas No-Call List and the names and telephone numbers of all Texas consumers who have registered for the national Do-Not-Call registry. This enables the Commission to pursue enforcement under state law on behalf of any Texas resident that is improperly solicited, regardless of whether the resident registered under the Texas list or the federal list.

3) Additionally, to clarify sign-up options available to Texans, Subsection (c) is amended to reflect that sign-up for the Texas No-Call List over the internet is free of charge.

4) Section 44.101(d) is amended to permit the Commission or its designee to share information on the Texas No-Call List with the administrator of the national Do-Not-Call registry, and also to permit the names and telephone numbers on the Texas No-Call List to be placed on the national Do-Not-Call registry.

SECTION 2. Amends the Business & Commerce Code, Section 552.141 as follows:

The Texas No-Call List is specifically exempted from the Open Records Act and this section allows for the Commission or its designee to share information on the Texas No-Call List with the administrator of the national Do-Not-Call registry without being in violation of the Act.

SECTION 3. Amends the Business & Commerce Code, Section 552.141 as follows:

Currently the state of Texas has a State-wide No-Call List that is open to all residential and cellular numbers and a State-wide Electric No-Call List that is open to both residential and commercial numbers. This amendment would clarify that the Electric No-Call List is for commercial numbers only.

SECTION 4. This is an instructional provision that allows all residential customers currently enrolled on the Electric No-Call List to remain on the list until their current enrollment expires. It further instructs that if a residential customer contacts the PUC or the vendor to renew its enrollment on the Electric No-Call List they will be enrolled on the Statewide No-Call List.

SECTION 5. Effective Date.

EFFECTIVE DATE

This Act is effective immediately if it passes with approval of two-thirds vote of both chambers of the legislature, or September 1, 2005.

COMPARISON TO THE ORIGINAL

C.S.H.B. 210 adds instructional language in Section 4 to allow current residential customers to remain on the Electric No-Call List until their enrollment expires. Once it does expire, any residential customer on the Electric No-Call List who wishes to renew their enrollment will be directed to the State-wide No-Call List. However, no new residential customers will be allowed to enroll on the Electric No-Call List.