

By: Deshotel

H.B. No. 721

A BILL TO BE ENTITLED

AN ACT

relating to the transmission of certain unsolicited messages or images to a mobile telephone or pager; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 35.47, Business & Commerce Code, is amended by adding Subsection (a-1) and amending Subsections (d) and (e) to read as follows:

(a-1) A person may not make or cause to be made a transmission of a text or graphic message or of an image for the purpose of a solicitation or sale to a mobile telephone or pager number assigned to a resident of this state, unless the person or entity receiving the transmission has given, prior to the transmission, consent to make or cause to be made the transmission. This subsection does not apply to:

(1) a transmission made by a person offering mobile telephone or pager service, if the person offers the recipient an option to not receive further transmissions;

(2) a person, or an affiliate of the person, who has an established business relationship with the recipient, if the person or affiliate offers the recipient an option to not receive further transmissions; or

(3) an action by a commercial mobile service provider that handles or retransmits the message or image, unless the

1 provider assists in transmitting a message or image when the
2 provider knows or is consciously indifferent to the fact that the
3 person or entity sending the message or image is engaged or intends
4 to engage in an act that violates this subsection.

5 (d) On complaint of a called person that Subsection (a),
6 (a-1), (b), or (c) of this section has been violated, the county or
7 district attorney of the county in which the person resides shall
8 investigate the complaint and file charges if appropriate. A
9 telephone company serving the caller or called person is not
10 responsible for investigating a complaint or keeping records
11 relating to this section.

12 (e) A person who violates Subsection (a), (a-1), (b), or (c)
13 of this section commits an offense. An offense under this section
14 is a Class C misdemeanor.

15 SECTION 2. The change in law made by this Act applies only
16 to a transmission made on or after the effective date of this Act.

17 SECTION 3. This Act takes effect September 1, 2005.