

1-1 By: McCall (Senate Sponsor - Gallegos) H.B. No. 2553  
1-2 (In the Senate - Received from the House April 22, 2005;  
1-3 April 25, 2005, read first time and referred to Committee on  
1-4 Business and Commerce; May 5, 2005, reported favorably by the  
1-5 following vote: Yeas 8, Nays 0; May 5, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the publication of mobile service customer telephone  
1-9 numbers by commercial mobile service providers; providing a civil  
1-10 penalty.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 64, Utilities Code, is amended by adding  
1-13 Subchapter E to read as follows:

1-14 SUBCHAPTER E. PUBLICATION OF MOBILE SERVICE CUSTOMER TELEPHONE  
1-15 NUMBERS

1-16 Sec. 64.201. DEFINITION. In this subchapter, "commercial  
1-17 mobile service provider" means a provider of commercial mobile  
1-18 service as defined by Section 332(d), Communications Act of 1934  
1-19 (47 U.S.C. Section 151 et seq.), Federal Communications Commission  
1-20 rules, and the Omnibus Budget Reconciliation Act of 1993 (Pub. L.  
1-21 No. 103-66).

1-22 Sec. 64.202. CONSENT REQUIRED. (a) A commercial mobile  
1-23 service provider doing business in this state may not publish in a  
1-24 directory or provide for publication in a directory the name and  
1-25 telephone number of a mobile service customer in this state without  
1-26 the express consent of the customer. The consent of a customer must  
1-27 be given:

1-28 (1) in writing on a separate document that includes  
1-29 the customer's signature and the date;

1-30 (2) verbally; or

1-31 (3) on a website maintained by the commercial mobile  
1-32 service provider.

1-33 (b) Before a customer consents under Subsection (a), a  
1-34 commercial mobile service provider must disclose to the customer in  
1-35 writing or verbally, as appropriate, that:

1-36 (1) by consenting the customer agrees to have the  
1-37 customer's telephone number sold or licensed as part of a list of  
1-38 customers and the customer's telephone number may be included in a  
1-39 publicly available directory; and

1-40 (2) if the customer's calling plan bills the customer  
1-41 for unsolicited calls or text messages from a telemarketer, by  
1-42 consenting to have the customer's telephone number sold or licensed  
1-43 as part of a list of customers or be included in a publicly  
1-44 available directory, the customer may incur additional charges for  
1-45 receiving unsolicited calls or text messages.

1-46 (c) A customer who consents under Subsection (a) may revoke  
1-47 that consent at any time. A commercial mobile service provider  
1-48 shall comply with the customer's request not later than the 60th day  
1-49 after the date the request is made.

1-50 (d) A commercial mobile service provider may not bill a  
1-51 mobile services customer for not consenting under Subsection (a).

1-52 Sec. 64.203. VIOLATIONS. (a) The attorney general may  
1-53 investigate violations of this subchapter and file civil  
1-54 enforcement actions seeking injunctive relief, attorney's fees,  
1-55 and civil penalties in an amount not to exceed \$1,000 for each  
1-56 violation. If the court finds the defendant wilfully or knowingly  
1-57 violated this subchapter, the court may increase the amount of the  
1-58 civil penalties to an amount not to exceed \$3,000 for each  
1-59 violation.

1-60 (b) Chapter 15 does not apply to a violation of this  
1-61 subchapter.

1-62 SECTION 2. This Act takes effect September 1, 2005.

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