

By: Straus

H.B. No. 736

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the applicability of the Texas no-call list to
3 campaign-related calls made using an automated telephone dialing
4 system.

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

6 SECTION 1. Section 44.002, Business & Commerce Code, is
7 amended by adding Subdivision (10) to read as follows:

8 (10) "Automated campaign call" means a call made by an
9 automated telephone dialing system that conveys a prerecorded or
10 synthesized voice message to the number called for the purpose of
11 encouraging or discouraging voting for or otherwise supporting a
12 candidate or measure. For purposes of this subdivision,
13 "candidate" and "measure" have the meanings assigned by Section
14 251.001, Election Code.

15 SECTION 2. The heading to Section 44.102, Business &
16 Commerce Code, is amended to read as follows:

17 Sec. 44.102. PROHIBITED CONTACT [~~TELEMARKETING~~] OF PERSONS
18 ON TEXAS NO-CALL LIST; ENFORCEMENT; PENALTIES.

19 SECTION 3. Sections 44.102(a), (e), and (f), Business &
20 Commerce Code, are amended to read as follows:

21 (a) A person [~~telemarketer~~] may not make a telemarketing
22 call or automated campaign call to a telephone number that has been
23 published on the Texas no-call list more than 60 days after the
24 telephone number appears on the then-current list.

1 (e) Venue for an action based on a violation of this
2 subchapter is in the county where the telemarketing call or
3 automated campaign call was made or received, or if brought by the
4 attorney general, commission, or a state agency, in Travis County.

5 (f) For purposes of this subchapter, a consumer on the Texas
6 no-call list is presumed to be adversely affected by a telemarketer
7 or other person making a call prohibited by this section who calls
8 the consumer more than once and may bring a civil action based on
9 the second or a subsequent violation of this subchapter if:

10 (1) the consumer has notified the person
11 [~~telemarketer~~] of the alleged violation and not later than the 30th
12 day after the date of the call files a verified complaint setting
13 forth the relevant facts surrounding the violation with the
14 commission, the attorney general, or a state agency that licenses
15 the person making the call; and

16 (2) the commission, attorney general, or state agency
17 receiving the complaint fails to initiate an administrative action
18 or a civil enforcement action, as appropriate, against the person
19 [~~telemarketer~~] named in the complaint before the 121st day after
20 the date the complaint is filed.

21 SECTION 4. Section 44.103(a), Business & Commerce Code, is
22 amended to read as follows:

23 (a) The commission may adopt rules to administer this
24 subchapter. The commission shall adopt rules:

25 (1) requiring each local exchange telephone company
26 and each commercial mobile service provider that provides
27 commercial mobile service in this state to inform its customers of

1 the requirements of this subchapter by annual inserts in billing
2 statements mailed to customers, notification in a customer's
3 electronic bill, notification printed on a customer's paper bill,
4 notification sent free of charge by messaging service to a
5 customer's mobile telephone number, or conspicuous publication of
6 the notice in the consumer information pages of local telephone
7 directories or other appropriate notice to consumers;

8 (2) providing that a telemarketing call or automated
9 campaign call made to a number on the Texas no-call list is not a
10 violation of Section 44.102 if the telemarketing call or automated
11 campaign call is an isolated occurrence made by a person who has in
12 place adequate procedures to comply with this subchapter; and

13 (3) providing for:

14 (A) the dissemination of the Texas no-call lists
15 in formats, including electronic formats, commonly used by persons
16 making telemarketing calls or automated campaign calls; and

17 (B) a fee for each such distribution not to
18 exceed \$75.

19 SECTION 5. This Act takes effect September 1, 2007.