

BILL ANALYSIS

Senate Research Center

S.B. 1040
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Subchapter F (Automatic Dial Announcing Devices), Chapter 55 (Regulation of Telecommunications Services), Utilities Code, governs automated dial announcing devices (ADAD). An ADAD is automated equipment used for telephone solicitation or collection that can store telephone numbers to be called or produce numbers to be called, and conveys a message to the number called without the use of a live operator. Texas law requires each recorded message from an ADAD to contain the following information in the first 30 seconds of the call: the nature of the call; the identity of the person, company, or organization making the call; and the telephone number from which the call is made. The Public Utility Commission (PUC) is responsible for enforcing ADAD compliance. PUC is authorized to assess an administrative penalty for a violation of up to \$1,000 each day during which an ADAD is used in violation. In addition to the administrative fine, PUC is required, upon finding of a violation of Subchapter F, to direct a telecommunications utility to disconnect service to the violator.

ADAD calls have been made that do not contain the proper message disclosures. Although the phone messages urged listeners to perform an action, questions arose as to whether the calls were a "solicitation" and therefore subject to the disclosure provisions in the Utilities Code. ADAD telephone calls without proper identification information can deceive the public, and lack the transparency required by Texas law.

In order to ensure transparency and disclosure, S.B. 1040 defines "telephone solicitation" to mean an unsolicited call. In addition, S.B. 1040 clarifies that calls originating from the state or terminating in the state are subject to Subchapter F, Chapter 55, Utilities Code.

S.B. 1040 amends current law relating to automatic dial announcing devices.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 55.121, Utilities Code, as follows:

Sec. 55.121. New heading: DEFINITIONS. Defines "telephone solicitation" in this subchapter (Automatic Dial Announcing Devices) and makes nonsubstantive changes.

SECTION 2. Amends Section 55.122, Utilities Code, to provide that this subchapter does not apply to the use of an automated dial announcing device under certain circumstances, including the use of an automated dial announcing device by a municipality or a person calling on behalf of a municipality to deliver information to citizens of the municipality regarding a public health, safety, or welfare issue, or by an organization to a member of the organization.

SECTION 3. Amends Subchapter F, Chapter 55, Utilities Code, by adding Section 55.1225, as follows:

Sec. 55.1225. APPLICABILITY. Provides that this subchapter applies to an automated dial announcing device used to make a telephone call that originates or terminates in this state.

SECTION 4. Effective date: September 1, 2013.