

BILL ANALYSIS

S.B. 315
By: Hall
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2001, the 77th Legislature, Regular Session, passed H.B. 472 to create the Texas Telemarketing Disclosure and Privacy Act and required it to be "liberally construed and applied to promote its underlying purpose to protect the public against false, misleading, or deceptive practices." With H.B. 2278, the 80th Legislature, Regular Session, updated the definition of a "telephone call" to include a call to a mobile phone number, and in the 81st Legislature, Regular Session, S.B. 1969, further updated the definition to include text messaging. Both Chapters 302 and 304 of the Business & Commerce Code concern telephone solicitation. However, only Chapter 304 defines "telephone call" to include mobile phone numbers and text messaging. Since Chapter 302 has no such definition, consumers are not adequately protected against unauthorized text messaging. In *Powers v. One Technologies*, the court held that a company sending text messages did not qualify as telemarketing under the Texas statute that requires companies that make a telephone solicitation to obtain a registration certificate from the office of the secretary of state. S.B. 315 seeks to address this issue by providing for the definition of a telephone call for purposes of regulating telephone solicitations.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 315 amends the Business & Commerce Code to define "telephone call" for purposes of provisions regulating telephone solicitations by reference to its meaning in provisions relating to telemarketing as a call or other transmission made to or received at a telephone number, including the following:

- a call made by an automated telephone dialing system;
- a transmission to a facsimile recording device; and
- a call or other transmission, including a transmission of a text or graphic message or of an image, to a mobile telephone number serviced by a provider of commercial mobile service, as defined by certain federal law, as amended, or FCC rules, but excluding a transmission made to a mobile telephone number as part of an ad-based telephone service, in connection with which the telephone service customer has agreed with the service provider to receive the transmission.

EFFECTIVE DATE

September 1, 2023.