

BILL ANALYSIS

Senate Research Center
89R1446 SRA-D

S.B. 140
By: Hall
Business & Commerce
2/13/2025
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Problem:

In 2001, the 77th Legislature passed H.B. 472 to create the Texas Telemarketing Disclosure and Privacy Act and required it to be "liberally construed and applied to protect the public against false, misleading, or deceptive practices." With H.B. 2278, the 80th Legislature updated the definition of a "telephone call" to include a call to a mobile phone number. S.B. 1969, from the 81st Legislature, further updated the definition to include text messaging.

Both Chapters 302 (Regulation of Telephone Solicitation) and 304 (Telemarketing) of the Business and Commerce Code concern telephone solicitation. The Chapter 304 definition of "telephone call" includes text messaging. However, Chapter 302 does not define "telephone call" and does not contemplate text messaging.

For example, in a 2022 court case, *Powers v. One Technologies*, the plaintiffs alleged they received unsolicited, unlawful text messages. The court ruled that a company that sent text messages did not qualify as a telemarketer under Texas law. The court reasoned that, since the telemarketing company sent text messages and did not make calls, the defendant did not violate the law because Business and Commerce Code Chapter 302 does not define "call" or include any statute contemplating text messages. *Powers* serves as an example of how the omission allows companies to send unauthorized text messages with little recourse for Texas citizens.

This Bill Would:

Amend Chapter 302 of the Business and Commerce Code to add the definition of "telephone call," as found in Chapter 304.

Additional Information:

S.B. 315 passed during the 88th Regular Session, but was vetoed by the governor. The justification for the veto was unclear.

As proposed, S.B. 140 amends current law relating to the definition of telephone call for purposes of regulating telephone solicitations.

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 302.001, Business & Commerce Code, by adding Subdivision (6-a) to provide that "telephone call" has the meaning assigned by Section 304.002 (Definitions).

SECTION 2. Effective date: September 1, 2025.