

Ecommerce Innovation Alliance Files Lawsuit To Block Texas Senate Bill 140

The EIA's lawsuit against Texas seeks to prevent the enforcement of SB 140 - set to expand the definition of "telephone solicitation" to include text messages.

RICHMOND, VA, UNITED STATES, September 3, 2025 /EINPresswire.com/ -- The [Ecommerce Innovation Alliance](#) (EIA), a nonprofit trade association dedicated to advocating for common sense policies that strengthen the ecommerce ecosystem, announced today that it has filed a "[Complaint For Declaratory And Injunctive Relief](#)" in the U.S. District Court for the Western District of Texas, Civil Action No. 1:25-cv-1401. This legal action names the State of Texas, Attorney General Ken Paxton, and Secretary of State Jane Nelson.



EIA Files Lawsuit To Block Texas Senate Bill 140

The lawsuit seeks to prevent the enforcement of [Texas Senate Bill 140 \(SB 140\)](#), which became effective September 1, 2025. SB 140 made significant changes to three chapters of the Texas Business & Commerce Code. Most notably, revisions to Chapter 302 expand the definition of "telephone solicitation" to include text messages. This change subjects ecommerce businesses that send text messages to individuals, even those who have consented, to burdensome registration, reporting, and disclosure requirements.

Real-World Impact on Ecommerce Businesses:

Burdensome Registration: SB 140 requires businesses making telephone solicitations in Texas to register with the state and post a \$10,000 security bond. The registration process demands extensive and sensitive information, including names, addresses, criminal history, financial details, and sales literature for every product sold, much of which becomes public information.

Impractical Disclosure Requirements:

The law mandates various disclosures to purchasers every time a "telephone solicitation" is

made, which now includes each marketing text message. These disclosures could require multiple additional text messages for a single marketing communication, significantly increasing costs for businesses and potentially annoying consumers who have opted in to receive messages. Businesses are also prohibited from explaining that these disclosures are state-mandated.

Legal Uncertainty and Risk:

The complaint argues that SB 140 is unconstitutional, unlawful, and unenforceable. It claims the law violates the First Amendment's protections for commercial speech by imposing unreasonable burdens on consent-based text messaging. Furthermore, the statute is deemed unconstitutionally vague regarding how businesses determine a "purchaser's location" and the applicability of certain exemptions for "customers" and "retail establishments". Violations can lead to civil penalties, private lawsuits, and even criminal liability.

EIA's Position and Plaintiffs:

Ecommerce Innovation Alliance (EIA) members operate consent-based text messaging programs by sending text messages only to customers who have visited their online stores and who have provided explicit consent to receive marketing messages by text, generally because they want to receive discounts or other incentives when they enroll in SMS marketing campaigns. While the stated goal of SB 140 was to protect consumers from unwanted and unsolicited text messages, the current language of Chapter 302, as amended, applies broadly even to text messages sent with prior consent.

The lawsuit was filed jointly by the EIA, Flux Footwear, LLC, and Stodge, Inc. dba Postscript. Flux Footwear, a Texas-based ecommerce business, relies significantly on consent-based SMS marketing for revenue, with nearly 200,000 subscribers nationwide, including Texas residents. Postscript is a leading text message marketing platform that faces substantial business risk under the new law stemming from customer and consumer confusion. Over the last year, it has served over 26,000 ecommerce businesses that have utilized its platform to send consent-based text messages.

The EIA and their members, along with its co-plaintiffs, seeks preliminary and permanent injunctions to prevent Texas officials from enforcing these requirements against businesses that operate consent-based text messaging campaigns.

Specifically, the relief sought in this lawsuit, if granted, would protect the named Plaintiffs Flux Footwear, Postscript and all members of the EIA from the enforcement of Texas Senate Bill 140's registration, reporting, and disclosure requirements. This action underscores the tangible benefits of EIA membership in navigating complex legal landscapes.

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