

BUSINESS AND COMMERCE CODE  
TITLE 10. USE OF TELECOMMUNICATIONS  
SUBTITLE A. TELEPHONES  
CHAPTER 305. TELEPHONIC COMMUNICATIONS MADE FOR  
PURPOSE OF SOLICITATION

SUBCHAPTER A. PROHIBITED COMMUNICATIONS MADE FOR  
PURPOSE OF SOLICITATION

Sec. 305.001. PROHIBITED TELEPHONE CALLS. A person may not make a telephone call or use an automatic dial announcing device to make a telephone call for the purpose of making a sale if:

(1) the person making the call or using the device knows or should have known that the called number is a mobile telephone for which the called person will be charged for that specific call; and

(2) the called person has not consented to the making of such a call to the person calling or using the device or to the business enterprise for which the person is calling or using the device.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 305.002. PROHIBITED FACSIMILE TRANSMISSIONS: CHARGE TO RECIPIENT. A person may not make or cause to be made a transmission for the purpose of a solicitation or sale to a facsimile recording device or other telecopier for which the person receiving the transmission will be charged for the transmission, unless the person receiving the transmission has, before the transmission, consented to the making of the transmission.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 305.003. PROHIBITED FACSIMILE TRANSMISSIONS: HOURS OF TRANSMISSION. A person may not make or cause to be made a transmission for the purpose of a solicitation or sale to a facsimile recording device after 11 p.m. and before 7 a.m.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

#### SUBCHAPTER B. ENFORCEMENT

Sec. 305.051. INVESTIGATION. (a) On complaint of a called person that a person has violated Section 305.001, 305.002, or 305.003, the county or district attorney of the county in which the called person resides shall investigate the complaint and file charges if appropriate.

(b) A telephone company serving the caller or called person is not responsible for investigating a complaint or keeping records relating to this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 305.052. CRIMINAL PENALTY. (a) A person who violates Section 305.001, 305.002, or 305.003 commits an offense.

(b) An offense under this section is a Class C misdemeanor.  
Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 305.053. CIVIL ACTION. (a) A person who receives a communication that violates 47 U.S.C. Section 227, a regulation adopted under that provision, or Subchapter A may bring an action in this state against the person who originates the communication for:

- (1) an injunction;
- (2) damages in the amount provided by this section; or
- (3) both an injunction and damages.

(b) A plaintiff who prevails in an action for damages under this section is entitled to the greater of:

- (1) \$500 for each violation; or
- (2) the plaintiff's actual damages.

(c) If the court finds that the defendant committed the violation knowingly or intentionally, the court may increase the amount of the award of damages under Subsection (b) to not more than the greater of:

(1) \$1,500 for each violation; or

(2) three times the plaintiff's actual damages.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.