

Tennessee

Does your state have its own version of the TCPA?

Yes, Tennessee has its own state-level laws that complement and, in some cases, extend the protections provided by the TCPA. The Tennessee Consumer Protection Act, Consumer Telemarketing Protection Act, Tennessee's Do Not Call / Do Not Text requirements and other related state laws address issues such as telemarketing, robocalls, and unsolicited communications.

If so, please explain the distinction between the state's iteration of the TCPA.

Scope and Coverage

The Federal TCPA (47 U.S.C. § 227) regulates a broad range of telemarketing practices across the United States including: robocalls, automatic dialing systems, prerecorded voice messages, and unwanted calls to movable phones. It applies nationwide and is enforced by the Federal Communications Commission (FCC) and the Federal Trade Commission (FTC). The TCPA prohibits use of automatic dialing systems or robocalls to mobile phones without consent, sending of unsolicited text messages, and calling consumers on the National Do Not Call Registry or state Do Not Call Lists without prior consent.

Tennessee laws (i.e., Tennessee Consumer Protection Act, Consumer Telemarketing Protection Act, and Do Not Call / Do Not Text Register) are state-specific and provide additional protections tailored to Tennessee residents. The Tennessee laws regulate telemarketing activities within the state, including registration requirements for telemarketers, compliance with the Tennessee Do Not Call / Do Not Text Register, and penalties for violating those rules. The Tennessee laws are more focused on state enforcement and state-specific regulations, with the Tennessee Division of Consumer Affairs overseeing enforcement.

Telemarketing Registration

The Federal TCPA does not require telemarketers to register with a federal body before making calls. There is no federal registry that mandates telemarketer registration before conducting business.

Tennessee's Consumer Telemarketing Protection Act requires telemarketers to register annually with the Tennessee Division of Consumer Affairs before conducting business in Tennessee. This registration requirement helps to ensure that telemarketers are complying with state-specific rules and allows the state to track and monitor telemarketing activities within Tennessee. *Tenn. Code Ann. § 47-18-1503*

Do Not Call Lists

The Federal TCPA requires telemarketers to comply with the National Do Not Call Registry maintained by the FTC. Violations of the National Do Not Call list can result in fines.

Tennessee has its own state-specific Do Not Call / Do Not Text Program and registration, in addition to the National Do Not Call Registry. Telemarketers must comply with both the Tennessee Do Not Call / Do Not Text Register and the National Do Not Call Registry. Penalties for violating the Tennessee Do Not Call / Do Not Text Register and laws include fines of up to \$2,000 per violation. *Tenn. Code Ann. § 65-4-405.*

Automated Calls, Robocalls, and Text Messages

The Federal TCPA imposes restrictions on the use of automated calling systems, robocalls, and prerecorded voice messages, particularly to mobile phones. Prior written consent is required before making robocalls to a cell phone or sending unsolicited text messages. This applies to all states and covers all forms of automated communications made to consumers.

Tennessee's Consumer Telemarketing Protection Act and Consumer Protection Act largely align with the federal TCPA in terms of robocalls, automated dialing systems, and text messages. Prior consent is required for robocalls to mobile phones, and unsolicited text messages are prohibited unless the consumer has given express consent. *Tennessee Code Annotated § 47-18-1502(a)(1).* Tennessee laws also regulate the use of automatic dialing systems for telemarketing calls and requires businesses to identify themselves clearly when using such systems. *Tennessee Code Annotated § 47-18-1502(a)(7).*

Consumer Rights and Legal Action

The Federal TCPA allows consumers to file lawsuits under the TCPA for violations, and the law provides a private right of action. Statutory damages can be up to \$500 per violation or \$1,500 per willful violation, in addition to actual damages.

The Tennessee Consumer Protection Act allows consumers to sue for violations if they have been subjected to unfair or deceptive telemarketing practices, such as failing to honor Do Not Call / Do Not Text requests or using misleading tactics. The Tennessee Consumer Protection Act also allows consumers to sue for treble damages in certain cases if the business acted knowingly or within intent to deceive. *Tenn. Code Ann. § 47-18-109.*

Enforcement and Regulatory Authorities

The Federal Communications Commission (FCC) enforces the Federal TCPA for interstate calls and automated communication violations. The Federal Trade Commission (FTC) also has enforcement powers, especially with regard to telemarketing practices.

In Tennessee, The Tennessee Division of Consumer Affairs is responsible for enforcing state-level telemarketing regulations, including registration, Do Not Call / Do Not Text registry compliance, and penalties. The Tennessee Attorney General can take action against violators, including filing lawsuits and seeking civil penalties. *Tenn. Code Ann. § 47-18-108*

Conclusion

While the federal TCPA provides a national framework for consumer protection against telemarketing abuses, Tennessee's laws offer additional, state-specific protections and regulations. The key differences include requirements for telemarketer registration, compliance with the Tennessee Do Not Call / Do Not Text registry, and penalties for violations, which are generally more stringent at the state level than the federal TCPA in some areas. However, both systems work in parallel to protect consumers from intrusive and deceptive telemarketing practices.

Please address state specific consumer protection statutes that are often paired with TCPA or its state iterations and the additional element and penalties.

Tennessee Information Protection Act 2023 (“TIPA”)

On May 11, 2023, TIPA was signed into law in the state of Tennessee and will become enforceable in July 2025. TIPA extends privacy protections to consumers. TIPA applies to your business if:

- (1) Your revenue exceeds twenty-five million dollars (\$25,000,000); and
- (2) You satisfy one of the following conditions:
 - (a) You control or process personal information of at least twenty-five (25,000) consumers and derive more than fifty percent (50%) of gross revenue from the sale of personal information; or
 - (b) During the calendar year, you control or process personal information of at least one hundred seventy-five thousand (175,000) consumers.

Should an individual or organization violation TIPA, the Attorney General and Reporter have exclusive rights to take enforcement action. Civil penalties of up to seven thousand five hundred dollars (\$7,500) for each violation of the Act may be imposed.

What are the current best practices to comply with the State’s iteration of the TCPA?

General

Generally speaking, the adoption of best practices to ensure compliance with the TCPA will likewise ensure compliance with the Tennessee Consumer Telemarketing Protection Act. These best practices include:

- Maintaining an accurate, up to date “Do-Not-Call” list to avoid contacting persons who have requested that they not be called by telemarketers subject to the statute.
- Securing express written consent before making any auto-dialed or pre-recorded voice call, or sending any text message, for any marketing purpose.
- Maintaining written records of consent, including when and how it was obtained.
- Ensuring that there are clear opt-out mechanisms for persons who do not want to receive any future telemarketing communications, and ensuring that those mechanisms are honored.
- Verifying the identity of the person called (to avoid calling or sending texts to the someone other than the intended recipient) and screen the number against both the national and Tennessee Do-Not-Call registries.
- Staying up to date on the specific laws, both federal and state, that govern telemarketing, do-not-call lists, and prohibitions on automated and/or unsolicited calls and text messages, which have evolved

significantly over time.

- Implementing measures to comply with the federal prohibition on calling residences before 8 am or after 9 pm in the recipient's specific time zone.

In addition to these generally applicable best practices, there are some additional, Tennessee-specific concerns that any organization engaged in telemarketing should be aware of.

Registration Is Required in Tennessee

While not required under federal law, Tennessee is one of a growing number of states that requires registration; specifically, the Tennessee Consumer Telemarketing Protection Act requires telemarketers to register annually with the Tennessee Division of Consumer Affairs *before* conducting business in the state. *See Tenn. Code Ann. § 47-18-1503.*

Tennessee Maintains Its Own “Do-Not-Call” Registry

Telemarketers doing business in Tennessee must comply with both the national and Tennessee “Do-Not-Call” registries. Persons may be listed on the Tennessee state list but not on the national list. For that reason, businesses should regularly update their contact records to ensure that consumers who have opted out of telemarketing communications in Tennessee are not contacted.