

Date of Hearing: May 6, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
 Buffy Wicks, Chair  
 AB 1865 (Bauer-Kahan) – As Amended March 17, 2026

Policy Committee:	Privacy and Consumer Protection	Vote:	15 - 0
	Judiciary		10 - 1

Urgency: No                      State Mandated Local Program: No                      Reimbursable: No

**SUMMARY:**

This bill prohibits the transmission of text message advertisements between 9:00 p.m. and 9:00 a.m. Pacific Standard Time, regardless of whether the recipient previously consented to receive such messages, and creates civil causes of action with \$500 per-message statutory damages, enforceable by private litigants and public prosecutors.

**FISCAL EFFECT:**

- 1) Costs of an unknown but potentially significant amount to trial courts (Trial Court Trust Fund, General Fund) for additional civil actions filed under the new private right of action and for public enforcement actions by the Attorney General or public prosecutors. The bill establishes a knowing-violation standard, creates statutory damages of \$500 per message, and authorizes recovery of actual damages, statutory damages, punitive damages, attorney's fees and costs, and injunctive relief. Actual costs depend on the volume of cases filed, the rate at which they reach contested motions or trial, and the proportion that resolve via settlement. It generally costs approximately \$1,000 to operate a courtroom for one hour. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26.
  
- 2) Ongoing General Fund costs of an unknown amount to the Department of Justice's (DOJ) Consumer Protection Section to investigate and pursue civil enforcement actions under the bill's public enforcement authority. Actual costs depend on whether the Attorney General pursues enforcement actions, and, if so, the level of additional staffing needed by DOJ to handle the related workload. If DOJ hires staff to handle enforcement actions authorized by this bill, the department would incur significant workload costs, likely in the low hundreds of thousands of dollars annually at a minimum. If DOJ does not pursue enforcement as authorized by this bill, the department would likely not incur any costs.

The Legislative Analyst's Office has identified a General Fund structural deficit of approximately \$35 billion annually beginning in 2027-28.

**COMMENTS:**

- 1) **Purpose.** According to the author:

This bill seeks to address the growing problem of intrusive text message marketing being sent to consumers during late-night or early-

morning hours, when individuals reasonably expect privacy from disruptions. Because mobile phones are constantly within reach, unwanted marketing texts outside normal waking hours are more intrusive than other forms of advertising. AB 1865 is intended to close these gaps by creating clear, uniform standards governing when marketing texts may be sent, strengthening consumer protection while giving businesses predictable compliance rules.

- 2) **Background.** Existing Business and Professions Code Section 17538.41 prohibits the transmission of text message advertisements to mobile devices in California, subject to several exceptions: where the recipient has been offered an opt-out by the carrier, where the sender has an existing relationship with the recipient and offers an opt-out, and where an affiliate sends to a recipient who has provided express consent. The federal Telephone Consumer Protection Act (TCPA) imposes parallel restrictions on telemarketing calls, and federal regulations prohibit telephone solicitations between 9:00 p.m. and 8:00 a.m. local time at the recipient's location. This bill builds on the existing California framework by imposing a 9:00 p.m. to 9:00 a.m. quiet-hours window on text message advertisements that would otherwise be permissible under the existing exceptions, regardless of whether the recipient has consented. The bill expands the definition of "text message advertisement" to include images and videos, establishes a knowing-violation civil cause of action with \$500 statutory damages per message and fee-shifting, and provides parallel public enforcement authority for the Attorney General and public prosecutors. As reported in the policy committee analyses, California TCPA filings rose by approximately 268% in 2025; this bill creates a parallel state cause of action that may be pleaded alongside existing federal and state claims. This bill's remedies are expressly cumulative and do not preclude claims under other laws, including the federal TCPA and the California Unfair Competition Law.

Furthermore, this bill specifies that message timing is measured in "Pacific Standard Time." As noted in the Judiciary committee analysis, California observes Pacific Standard Time only from early November to mid-March; for the remainder of the year, the state observes Pacific Daylight Time.

- 3) **Support and Opposition.** The bill is supported by Consumer Watchdog and the Consumer Federation of California. It is opposed by the California Chamber of Commerce, and various industry organizations. Opponents argue that existing "do not disturb" smartphone features address the same concern, and that the bill does not adequately distinguish between unsolicited advertisements and confirmatory or transactional messages with embedded links to a business website.

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