

HOUSE BILL No. 5717

December 17, 2009, Introduced by Reps. Clemente and Hansen and referred to the Committee on Commerce.

A bill to amend 1975 PA 169, entitled "Charitable organizations and solicitations act," by amending section 2 (MCL 400.272) and by adding section 19.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Charitable organization" means a benevolent, educational,
3 philanthropic, humane, patriotic, or eleemosynary organization of
4 persons ~~which~~ **THAT** solicits or obtains contributions solicited from
5 the public for charitable purposes. A chapter, branch, area office,
6 or similar affiliate or person soliciting contributions within the
7 state for a charitable organization ~~which~~ **THAT** has its principal
8 place of business outside the state is a charitable organization.
9 ~~This definition~~ **THE TERM** does not include **A** duly constituted
10 religious ~~organizations~~ **ORGANIZATION** or a group affiliated with and

1 forming an integral part of a religious organization ~~no part of the~~
2 **IF NONE OF ITS** net income ~~of which~~ inures to the direct benefit of
3 any individual **AND** if it has received a declaration of current tax
4 exempt status from the United States ~~. The affiliated group shall~~
5 ~~not be required to obtain a declaration if the~~ **IF IT IS A RELIGIOUS**
6 **ORGANIZATION OR IT OR ITS** parent or principal organization has
7 obtained tax exempt status **IF IT IS AN AFFILIATED GROUP**. Charitable
8 organization does not include a candidate or **A** committee ~~as defined~~
9 ~~in section 901 of Act No. 116 of the Public Acts of 1954, being~~
10 ~~section 168.901 of the Michigan Compiled Laws, AS THOSE TERMS ARE~~
11 **DEFINED IN SECTION 3 OF THE MICHIGAN CAMPAIGN FINANCE ACT, 1976 PA**
12 **388, MCL 169.203,** or a political party qualified to be on the
13 general election ballot ~~pursuant to~~ **UNDER** section 560a of Act No.
14 ~~116 of the Public Acts of 1954, as added, being section 168.560a of~~
15 ~~the Michigan Compiled Laws. THE MICHIGAN ELECTION LAW, 1954 PA 116,~~
16 **MCL 168.560A.**

17 (B) **"CLOTHING DONATION BOX" MEANS A RECEPTACLE IN WHICH A**
18 **PERSON MAY PLACE CLOTHING OR OTHER ITEMS OF PERSONAL PROPERTY HE OR**
19 **SHE INTENDS TO DONATE TO A CHARITABLE ORGANIZATION AND THAT HAS A**
20 **CAPACITY OF AT LEAST 27 CUBIC FEET.**

21 (C) ~~(b)~~ "Contribution" means ~~the~~ **A** promise, grant, or payment
22 of money or property of any kind or value, including ~~promises~~ **A**
23 **PROMISE** to pay, except payments by members of an organization for
24 membership fees, dues, fines, or assessments, or for services
25 rendered to individual members, if membership in the organization
26 confers a bona fide right, privilege, professional standing, honor,
27 or other direct benefit, other than the right to vote, elect

1 officers, or hold offices, and except money or property received
2 from a governmental authority or foundation restricted as to use.

3 (D) ~~(e)~~ "Person" means an individual, organization, group,
4 association, partnership, corporation, **LIMITED LIABILITY COMPANY,**
5 trust, **ANY OTHER LEGAL ENTITY,** or any combination of ~~them~~ **LEGAL**
6 **ENTITIES.**

7 ~~—— (d) "Soliciting material" means printed or similar material,~~
8 ~~including but not limited to labels, posters, television scripts,~~
9 ~~radio scripts, or recordings used in soliciting funds from the~~
10 ~~public.~~

11 ~~—— (e) "Solicitor" means a person who solicits on behalf of a~~
12 ~~charitable organization.~~

13 (E) ~~(f)~~ "Professional fund raiser" means a person who ~~for~~
14 ~~compensation or other consideration~~ plans, conducts, manages, or
15 carries on a drive or campaign of soliciting contributions for or
16 on behalf of a charitable organization, religious organization, or
17 any other person **IN EXCHANGE FOR COMPENSATION OR OTHER**
18 **CONSIDERATION;** or who engages in the business of or holds himself
19 **OR HERSELF** out as independently engaged in the business of
20 soliciting contributions for ~~such~~ **THOSE** purposes. **A THE TERM DOES**
21 **NOT INCLUDE A** bona fide officer or employee of a charitable
22 organization ~~is not a professional fund raiser unless his~~ **OR HER**
23 salary or other compensation is computed on the basis of funds to
24 be raised or actually raised. **THE TERM INCLUDES A PERSON THAT IS**
25 **NOT A CHARITABLE ORGANIZATION AND THAT OWNS OR OPERATES A CLOTHING**
26 **DONATION BOX IF ANY OF THE FOLLOWING ARE MET:**

27 (i) **THE PERSON REPRESENTS OR IMPLIES TO ANY PERSON THAT**

1 PERSONAL PROPERTY PLACED IN THE CLOTHING DONATION BOX OR THE
2 PROCEEDS OF THAT PROPERTY WILL BE DONATED TO 1 OR MORE CHARITABLE
3 ORGANIZATIONS.

4 (ii) THE PERSON REPRESENTS OR IMPLIES TO ANY PERSON THAT HE OR
5 SHE IS USING THE CLOTHING DONATION BOX TO SOLICIT CONTRIBUTIONS ON
6 BEHALF OF 1 OR MORE CHARITABLE ORGANIZATIONS.

7 (iii) THE CLOTHING DONATION BOX OR ANY SIGN NEAR THE CLOTHING
8 DONATION BOX IS MARKED WITH THE NAME, LOGO, TRADEMARK, OR SERVICE
9 MARK OF 1 OR MORE CHARITABLE ORGANIZATIONS OR IS OTHERWISE MARKED
10 IN ANY MANNER THAT REPRESENTS OR IMPLIES THAT PERSONAL PROPERTY
11 PLACED IN THE DONATION BOX OR THE PROCEEDS OF THAT PROPERTY WILL BE
12 DONATED TO 1 OR MORE CHARITABLE ORGANIZATIONS.

13 (F) ~~(g)~~ "Professional solicitor" means a person who is
14 employed or retained for compensation by a professional fund raiser
15 to solicit contributions for charitable purposes.

16 (G) ~~(h)~~ "Prohibited transaction" is ~~that~~ **ANY** dealing,
17 activity, conduct, administration, or management of ~~the~~ **A**
18 charitable organization or by any of its officers, trustees,
19 personnel, or related persons ~~which~~ **THAT** may be prohibited as
20 constituting activity contrary to proper administration of the
21 charitable organization or conduct of a fund raising campaign or
22 solicitation by a professional fund raiser, **PROFESSIONAL SOLICITOR,**
23 or solicitor.

24 (H) "SOLICITING MATERIAL" MEANS PRINTED OR SIMILAR MATERIAL
25 USED TO SOLICIT MONEY FROM THE PUBLIC, INCLUDING, BUT NOT LIMITED
26 TO, ANY LABELS, POSTERS, TELEVISION SCRIPTS, RADIO SCRIPTS, OR
27 RECORDINGS USED FOR THAT PURPOSE.

1 (I) "SOLICITOR" MEANS A PERSON WHO SOLICITS ON BEHALF OF A
2 CHARITABLE ORGANIZATION.

3 SEC. 19. UNLESS THE PERSON IS A CHARITABLE ORGANIZATION, A
4 PERSON THAT OWNS OR OPERATES A CLOTHING DONATION BOX OR THAT
5 RECEIVES ANY OF THE PERSONAL PROPERTY PLACED IN A CLOTHING DONATION
6 BOX OR PROCEEDS OF THAT PERSONAL PROPERTY SHALL NOT DO ANY OF THE
7 FOLLOWING:

8 (A) FAIL OR NEGLECT TO MAINTAIN A CURRENT LICENSE UNDER THIS
9 ACT AT ANY TIME THE CLOTHING DONATION BOX IS ACCESSIBLE TO THE
10 PUBLIC.

11 (B) MARK THE CLOTHING DONATION BOX OR ANY SIGN NEAR THE
12 CLOTHING DONATION BOX IN ANY MANNER THAT REPRESENTS OR IMPLIES THAT
13 PERSONAL PROPERTY PLACED IN THE CLOTHING DONATION BOX, OR THE
14 PROCEEDS OF THAT PERSONAL PROPERTY, IS DONATED TO 1 OR MORE
15 CHARITABLE ORGANIZATIONS IF IT IS NOT.

16 (C) DISPLAY THE NAME, LOGO, TRADEMARK, OR SERVICE MARK OF A
17 CHARITABLE ORGANIZATION ON A CLOTHING DONATION BOX OR ON ANY SIGN
18 NEAR THE CLOTHING DONATION BOX IF THAT CHARITABLE ORGANIZATION DOES
19 NOT RECEIVE ANY OF THE PERSONAL PROPERTY PLACED IN THE CLOTHING
20 DONATION BOX OR ANY OF THE PROCEEDS OF THAT PERSONAL PROPERTY.

21 (D) IF CHARITABLE ORGANIZATIONS RECEIVE SOME BUT NOT ALL OF
22 THE PERSONAL PROPERTY PLACED IN THE CLOTHING DONATION BOX OR THE
23 PROCEEDS OF THAT PERSONAL PROPERTY, FAIL OR NEGLECT TO CLEARLY AND
24 CONSPICUOUSLY DISCLOSE ON THE DONATION BOX OR ON A SIGN AT THE
25 DONATION BOX THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH
26 CHARITABLE ORGANIZATION THAT RECEIVES ANY OF THAT PROPERTY OR THOSE
27 PROCEEDS; WHAT PERCENTAGE OF THAT PROPERTY OR THOSE PROCEEDS THAT

1 CHARITABLE ORGANIZATION RECEIVES; THE NAME, ADDRESS, AND TELEPHONE
2 NUMBER OF ANY OTHER PERSON THAT RECEIVES ANY OF THAT PROPERTY OR
3 THOSE PROCEEDS; AND WHAT PERCENTAGE OF THAT PROPERTY OR THOSE
4 PROCEEDS THAT PERSON RECEIVES.

5 Enacting section 1. This amendatory act does not take effect
6 unless Senate Bill No.____ or House Bill No. 5716(request no.
7 05346'09) of the 95th Legislature is enacted into law.