

Act No. 196
Public Acts of 2010
Approved by the Governor
October 5, 2010
Filed with the Secretary of State
October 5, 2010
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**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Reps. Clemente and Hansen

ENROLLED HOUSE BILL No. 5717

AN ACT to amend 1975 PA 169, entitled "An act to regulate organizations and persons soliciting or collecting contributions for charitable purposes; to require registration, disclosure of information and licensing before solicitation of contributions; to provide for reporting of financial and other information by those licensed or registered and those claiming exemption; to prescribe standards of conduct and administration, and to prohibit certain actions; to provide for enforcement, investigation, and promulgation of rules by the attorney general; to preempt local regulation; to provide penalties for violations; and to repeal certain acts and parts of acts," by amending section 2 (MCL 400.272) and by adding section 19.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

(a) "Charitable organization" means a benevolent, educational, philanthropic, humane, patriotic, or eleemosynary organization of persons that solicits or obtains contributions solicited from the public for charitable purposes. A chapter, branch, area office, or similar affiliate or person soliciting contributions within the state for a charitable organization that has its principal place of business outside the state is a charitable organization. The term does not include a duly constituted religious organization or a group affiliated with and forming an integral part of a religious organization if none of its net income inures to the direct benefit of any individual and if it has received a declaration of current tax exempt status from the United States if it is a religious organization or it or its parent or principal organization has obtained tax exempt status if it is an affiliated group. Charitable organization does not include a candidate or a

committee as those terms are defined in section 3 of the Michigan campaign finance act, 1976 PA 388, MCL 169.203, or a political party qualified to be on the general election ballot under section 560a of the Michigan election law, 1954 PA 116, MCL 168.560a.

(b) "Clothing donation box" means a receptacle in which a person may place clothing or other items of personal property he or she intends to donate to a charitable organization and that has a capacity of at least 27 cubic feet.

(c) "Contribution" means a promise, grant, or payment of money or property of any kind or value, including a promise to pay, except payments by members of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in the organization confers a bona fide right, privilege, professional standing, honor, or other direct benefit, other than the right to vote, elect officers, or hold offices, and except money or property received from a governmental authority or foundation restricted as to use.

(d) "Person" means an individual, organization, group, association, partnership, corporation, limited liability company, trust, any other legal entity, or any combination of legal entities.

(e) "Professional fund raiser" means a person who plans, conducts, manages, or carries on a drive or campaign of soliciting contributions for or on behalf of a charitable organization, religious organization, or any other person in exchange for compensation or other consideration; or who engages in the business of or holds himself or herself out as independently engaged in the business of soliciting contributions for those purposes. The term does not include a bona fide officer or employee of a charitable organization unless his or her salary or other compensation is computed on the basis of funds to be raised or actually raised. The term includes a person that is not a charitable organization and that owns or operates a clothing donation box if any of the following are met:

(i) The person represents or implies to any person that personal property placed in the clothing donation box or the proceeds of that property will be donated to 1 or more charitable organizations.

(ii) The person represents or implies to any person that he or she is using the clothing donation box to solicit contributions on behalf of 1 or more charitable organizations.

(iii) The clothing donation box or any sign near the clothing donation box is marked with the name, logo, trademark, or service mark of 1 or more charitable organizations or is otherwise marked in any manner that represents or implies that personal property placed in the donation box or the proceeds of that property will be donated to 1 or more charitable organizations.

(f) "Professional solicitor" means a person who is employed or retained for compensation by a professional fund raiser to solicit contributions for charitable purposes.

(g) "Prohibited transaction" is any dealing, activity, conduct, administration, or management of a charitable organization or by any of its officers, trustees, personnel, or related persons that may be prohibited as constituting activity contrary to proper administration of the charitable organization or conduct of a fund raising campaign or solicitation by a professional fund raiser, professional solicitor, or solicitor.

(h) "Soliciting material" means printed or similar material used to solicit money from the public, including, but not limited to, any labels, posters, television scripts, radio scripts, or recordings used for that purpose.

(i) "Solicitor" means a person who solicits on behalf of a charitable organization.

Sec. 19. (1) Subject to subsection (2), a person that owns or operates a clothing donation box or that receives any of the personal property placed in a clothing donation box or proceeds of that personal property shall not do any of the following:

(a) Fail or neglect to maintain a current license under this act at any time the clothing donation box is accessible to the public.

(b) Mark the clothing donation box or any sign near the clothing donation box in any manner that represents or implies that personal property placed in the clothing donation box, or the proceeds of that personal property, is donated to 1 or more charitable organizations if it is not.

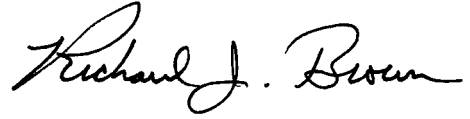
(c) Display the name, logo, trademark, or service mark of a charitable organization on a clothing donation box or on any sign near the clothing donation box if that charitable organization does not receive any of the personal property placed in the clothing donation box or any of the proceeds of that personal property.

(d) If charitable organizations receive some but not all of the personal property placed in the clothing donation box or the proceeds of that personal property, fail or neglect to clearly and conspicuously disclose on the donation box or on a sign at the donation box the name, address, and telephone number of each charitable organization that receives any of that property or those proceeds and the name, address, and telephone number of any other person that receives any of that property or those proceeds.

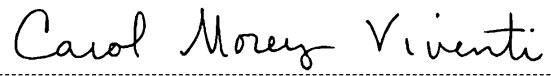
(2) Subsection (1) does not apply to any person that is exempt from the licensing and financial statement requirements of this act under section 13.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5716 of the 95th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: House Bill No. 5716, referred to in enacting section 1, was filed with the Secretary of State October 5, 2010, and became 2010 PA 195, Imd. Eff. Oct. 5, 2010.