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House Bills 5716 and 5717 (as reported without amendment)

Sponsor: Representative Goeff Hansen (H.B. 5716)

Representative Ed Clemente (H.B. 5717)

House Committee: Commerce

Senate Committee: Commerce and Tourism

CONTENT

House Bill 5716 would amend the Michigan Consumer Protection Act to prohibit a person that engaged in the conduct of trade or commerce and owned or operated a clothing donation box from doing either of the following:

- Marking the box or any sign near it in any manner that represented or implied that any personal property placed in the box, or the proceeds of that personal property, was donated to one or more charitable organizations if it were not.
- Displaying the name, logo, trademark, or service mark of a charitable organization on a clothing donation box, or on any sign near it, if that organization did not receive any of the personal property placed in the box or any of its proceeds.

If charitable organizations received some but not all of the personal property placed in the clothing donation box, or the proceeds of that property, a person engaged in the conduct of trade or commerce that owned or operated a clothing donation box could not fail to disclose, clearly and conspicuously on the donation box or a sign at the box, any of the following:

- The name, address, and telephone number of each charitable organization that received any of the property or proceeds.
- The percentage of the property or proceeds the charitable organization received.
- The name, address, and telephone number of any other person that received any of the property or proceeds.
- The percentage of the property or proceeds the person received.

The bill also would include proposed violations regarding a clothing donation box in the Act's list of unfair, unconscionable, or deceptive methods, acts, or practices.

House Bill 5717 would amend the Charitable Organizations and Solicitations Act to specify that, unless the person was a charitable organization, a person that owned or operated a clothing donation box, or that received any of the personal property placed in a box or the proceeds of that property, could not fail or neglect to maintain a current license under the Act at any time the clothing donation box was accessible to the public. A person that owned or operated a box also would have to comply with the same display and disclosure requirements as those proposed by House Bill 5716.

The Act prohibits a person from acting as a professional fund raiser before applying for a license. Under the bill, the term "professional fund raiser" would include a person that is not a charitable organization and that owns or operates a clothing donation box if any of the following are met:

- 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 one or more charitable organizations.
- The person represents or implies to any person that he or she is using the clothing donation box to solicit contributions on behalf of one or more charitable organizations.
- The clothing donation box or any sign near it is marked with the name, logo, trademark, or service mark of one or more charitable organizations or is otherwise marked in any manner that represents or implies that personal property placed in the box or the proceeds of that property will be donated to one or more charitable organizations.

Both bills would define "clothing donation box" as 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.

The bills are tie-barred.

MCL 445.903 et al. (H.B. 5716)
400.272 et al. (H.B. 5717)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 5716

The bill would have an indeterminate impact on the State and local units of government. Enforcement costs and revenue from civil fines would depend on the number of violations.

House Bill 5717

A violation of the Charitable Organizations and Solicitations Act is a misdemeanor punishable by a maximum fine of \$500, imprisonment for up to six months, or both. The bill would have an indeterminate fiscal impact on local government to the extent that people were convicted of violating the legislation. Local units would incur the costs of incarceration, which vary by county, and public libraries would receive any fine revenue.

Date Completed: 9-10-10

Fiscal Analyst: Bill Bowerman
Matthew Grabowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.