



Senate Fiscal Agency  
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BILL ANALYSIS



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House Bills 5716 and 5717 (as passed by the House)  
Sponsor: Representative Goeff Hansen (H.B. 5716)  
Representative Ed Clemente (H.B. 5717)  
House Committee: Commerce  
Senate Committee: Commerce and Tourism

Date Completed: 8-23-10

### **CONTENT**

**House Bills 5716 and 5717 would amend the Michigan Consumer Protection Act and the Charitable Organizations and Solicitations Act, respectively, to do all of the following:**

- **Prohibit an owner or operator of a clothing donation box, who conducted trade or commerce, from misrepresenting that donations would go to charitable organizations.**
- **Prohibit an owner or operator of a clothing donation box, other than a charitable organization, from failing or neglecting to maintain a license under the Charitable Organizations and Solicitations Act or misrepresenting that donations would go to charitable organizations.**
- **Require an owner or operator of a clothing donation box to disclose on or near the box the identity of charitable organizations and others receiving donations from the box and the percentage of donations received.**
- **Include proposed violations regarding a clothing donation box in the Michigan Consumer Protection Act's list of unfair, unconscionable, or deceptive methods, acts, or practices.**

The bills are tie-barred.

Under both bills, "clothing donation box" would mean 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.

### **House Bill 5716**

The bill would prohibit a person that engaged in the conduct of trade or commerce and owned or operated a clothing donation box from doing any of the following:

- Marking the clothing donation 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 personal 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 Michigan Consumer Protection Act states that unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful, and it lists activities that constitute these methods, acts, or practices. The bill would include a violation of its provisions in the list.

Under the bill, "charitable organization" would mean a benevolent, educational, philanthropic, humane, patriotic, religious, or eleemosynary organization of people organized for any lawful purpose or purposes not involving pecuniary profit or gain for its officers or members.

#### **House Bill 5717**

Under the bill, 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 do any of the following:

- Fail or neglect to maintain a current license under the Charitable Organizations and Solicitations Act at any time the clothing donation box was accessible to the public.
- Mark the clothing donation 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.
- Display 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 the proceeds of that property.

If charitable organizations received some but not all of the personal property placed in the clothing donation box, or the proceeds of that personal property, a person other than a charitable organization that owned or operated a clothing donation box could not fail or neglect 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 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.

The Act defines "charitable organization" as a benevolent, educational, philanthropic, humane, patriotic, or eleemosynary organization of people that solicits or obtains contributions solicited from the public for charitable purposes. The term does not include a duly constituted religious organization or an affiliated group if none of its net income directly benefits any individual and it has received tax-exempt status from the Federal government. The term also does not include a candidate, campaign committee, or political party.

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.

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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.