
A BILL FOR AN ACT

RELATING TO CHARITABLE SOLICITATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that individuals who
2 donate tangible property using collection bins or receptacles
3 may reasonably believe that the tangible property is donated
4 directly to charitable organizations, and may also reasonably
5 believe they are entitled to a federal income tax credit
6 deduction for the value of the donated property.

7 The legislature further finds that in some cases, the
8 entities operating collection bins or receptacles on behalf of
9 the charity will pay the charity based on the weight of the
10 donated items received, which can be as low as two to five cents
11 per pound, and then resell the donated property at for-profit
12 retail locations. Most donors are not aware of these
13 arrangements between the collection bin operator and associated
14 charitable organizations.

15 The legislature further finds that existing law does not
16 adequately address this charitable solicitation business model.

17 The purpose of this Act is to:



- 1 (1) Establish prompt payment and financial reporting
2 requirements for professional solicitors that sell
3 donated or collected non-perishable tangible property
4 on behalf of charitable organizations; and
- 5 (2) Prohibit professional solicitors that sell donated or
6 collected non-perishable tangible property from
7 failing to visibly display certain signage; comply
8 with prompt payment, financial reporting, and contract
9 term requirements; or prominently disclose certain
10 information on any collection bin, container, or
11 receptacle used to receive donated or collected
12 property.

13 SECTION 2. Section 467B-1, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending the definition of "contribution" to read:

16 ""Contribution" means the promise or grant of any money or
17 property of any kind or value, including [~~the~~] non-perishable
18 tangible property, or a promise to pay[7] or pledge, except
19 payments by members of a charitable organization for membership
20 fees, dues, fines, or assessments, or for services rendered to
21 individual members, if membership in the charitable organization



1 confers a bona fide right, privilege, professional standing,
2 honor, or other direct benefit, other than the right to vote,
3 elect officers, or hold offices, and except money or property
4 received from any governmental authority, or a grant or subsidy
5 from any organization exempt from taxation under section
6 501(c)(3) of the Internal Revenue Code."

7 2. By amending the definition of "solicit" and
8 "solicitation" to read:

9 ""Solicit" and "solicitation" mean a request directly or
10 indirectly for money, credit, property, financial assistance, or
11 thing of value on the plea or representation that the money,
12 credit, property, financial assistance, or thing of value, or
13 any portion thereof, will be used for a charitable purpose or to
14 benefit a charitable organization. [~~These terms shall include~~
15 "Solicit" and "solicitation" includes the following:

- 16 (1) Any oral or written request;
- 17 (2) The making of any announcement to any organization for
18 the purpose of further dissemination, including
19 announcements to the press, over the radio or
20 television, or by telephone, telegraph, or facsimile,



1 concerning an appeal or campaign by or for any
2 charitable organization or purpose;

3 (3) The distribution, circulation, posting, or publishing
4 of any handbill, written advertisement, or other
5 publication that directly or by implication seeks to
6 obtain public support;

7 (4) Where the sale or offer or attempted sale, of any
8 advertisement, advertising space, book, card, tag,
9 coupon, device, magazine, membership, merchandise,
10 subscription, flower, ticket, candy, cookies, or other
11 tangible item in connection with which any appeal is
12 made for any charitable organization or purpose; or
13 where the name of any charitable organization is used
14 or referred to in any appeal as an inducement or
15 reason for making any sale; or where in connection
16 with any sale, any statement is made that the whole or
17 any part of the proceeds from any sale will be used
18 for any charitable purpose or to benefit any
19 charitable organization; and

20 (5) A request made through the use of receptacles for
21 contributions, including non-perishable tangible



1 property, such as honor boxes, vending machines,
2 wishing wells, contribution boxes, [~~and~~] novelty
3 machines, and collection bins or containers, where a
4 charitable appeal is used or referred to or implied as
5 an inducement or reason to contribute.

6 A solicitation occurs whether or not the person making the
7 solicitation receives any contribution. However, [~~the term~~
8 ~~shall~~] solicitation does not include the submission of a grant
9 or subsidy proposal or application to a governmental authority
10 or any organization exempt from taxation under section 501(c)(3)
11 of the Internal Revenue Code."

12 SECTION 3. Section 467B-2.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§467B-2.5 Professional solicitor financial reports;**
15 **contribution account[-]; disclosure; payment; charitable**
16 **organizations.** (a) A professional solicitor shall file with
17 the attorney general a financial report for any charitable
18 solicitation campaign, including gross revenue from Hawaii
19 donors and national gross revenue and an itemization of all
20 expenses incurred on a form prescribed by the attorney general
21 no more than ninety days after the end of the solicitation



1 campaign and, for solicitation campaigns lasting more than one
2 year, within ninety days after each anniversary of the
3 commencement of the solicitation campaign and within ninety days
4 after the end of the solicitation campaign.

5 (b) The attorney general may require the financial report
6 required by subsection (a) to be submitted electronically and
7 may require the use of electronic signatures. This report shall
8 be signed by the professional solicitor, or an authorized
9 officer or agent of the professional solicitor who shall certify
10 that the statements therein are true and correct to the best of
11 the solicitor's, officer's, or agent's knowledge subject to
12 penalties imposed by section 710-1063. If a financial report
13 required under this section is not filed in a timely manner,
14 taking into account any extension of time for filing, unless it
15 is shown that the failure is due to reasonable cause, an initial
16 late filing fee of \$100 shall be imposed, and an additional late
17 filing fee of \$20 per day shall be imposed, for each day during
18 which the violation continues; provided that the total fee
19 amount imposed under this subsection shall not exceed \$1,000.
20 The attorney general may waive all or part of the late filing
21 fee imposed by this subsection if there is a reasonable cause



1 for the failure to timely file. The professional solicitor
2 shall provide a copy of the financial report to the charitable
3 organization to which the financial report pertains within ten
4 days of its submission of the report to the attorney general.

5 (c) A professional solicitor shall maintain during each
6 solicitation campaign and for [~~not~~] no less than three years
7 after the completion of that campaign the following records,
8 which shall be available for inspection upon demand by the
9 attorney general:

10 (1) The date and amount of each contribution received and
11 the name and address of each contributor;

12 (2) The name and residence of each employee, agent, or
13 other person involved in the solicitation;

14 (3) Records of all revenue received and expenses incurred
15 in the course of the solicitation campaign; and

16 (4) The location and account number of each bank or other
17 financial institution account in which the
18 professional solicitor has deposited revenue from the
19 solicitation campaign.

20 (d) Any material change in any information filed with the
21 attorney general pursuant to this section shall be reported in



1 writing by the professional solicitor to the attorney general
2 [~~not~~] no more than seven days after the change occurs.

3 (e) Each contribution in the control or custody of the
4 professional solicitor in its entirety and within five days of
5 its receipt, shall be deposited in an account at a bank or other
6 federally insured financial institution, which shall be in the
7 name of the charitable organization. The charitable
8 organization shall maintain and administer the account and shall
9 have sole control of all withdrawals.

10 (f) If the professional solicitor, directly or indirectly,
11 sells donated or collected non-perishable tangible property, the
12 professional solicitor shall deposit the full amount owed to the
13 charitable organization by the professional solicitor in an
14 account at a bank or other federally insured financial
15 institution, which shall be in the name of that charitable
16 organization, within forty-five days after the sale.

17 (g) If the professional solicitor, directly or indirectly,
18 sells donated or collected non-perishable tangible property and
19 compensates a charitable organization based on the weight of
20 donor contributions, the professional solicitor's financial
21 report shall include:



- 1 (1) The amount paid by the professional solicitor to any
- 2 charitable organization during the applicable period;
- 3 (2) The gross weight of all contributions by donors to the
- 4 professional solicitor, on behalf of each respective
- 5 charitable organization, during the applicable period;
- 6 and
- 7 (3) The dollar amount of compensation per pound or other
- 8 weight measurement paid by the professional solicitor
- 9 to each charitable organization."

10 SECTION 4. Section 467B-9, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "**§467B-9 Prohibited acts.** (a) No person, for the purpose
 13 of soliciting contributions from persons in the State, shall use
 14 the name of any other person except that of an officer,
 15 director, or trustee of the charitable organization by or for
 16 which contributions are solicited, without the written consent
 17 of the other persons.

18 A person shall be deemed to have used the name of another
 19 person for the purpose of soliciting contributions if the latter
 20 person's name is listed on any stationery, advertisement,
 21 brochure, or correspondence in or by which a contribution is



1 solicited by or on behalf of a charitable organization or the
2 latter person's name is listed or referred to in connection with
3 a request for a contribution as one who has contributed to,
4 sponsored, or endorsed the charitable organization or its
5 activities.

6 (b) No charitable organization, professional solicitor,
7 professional fundraising counsel, or commercial co-venturer
8 soliciting contributions shall use a name, symbol, or statement
9 so closely related or similar to that used by another charitable
10 organization or governmental agency that the use thereof would
11 tend to confuse or mislead the public.

12 (c) No person, in connection with any solicitation or
13 sale, shall misrepresent or mislead anyone by any manner, means,
14 practice, or device whatsoever, to believe that the solicitation
15 or sale is being conducted on behalf of a charitable
16 organization or that the proceeds of the solicitation or sale
17 will be used for charitable purposes, if that is not the fact.

18 (d) No professional solicitor, and no agent, employee,
19 independent contractor, or other person acting on behalf of the
20 professional solicitor, shall solicit in the name of or on
21 behalf of any charitable organization unless:



- 1 (1) The professional solicitor has obtained the written
2 authorization of two officers of the organization,
3 which authorization shall bear the signature of the
4 professional solicitor and the officers of the
5 charitable organization and shall expressly state on
6 its face the period for which it is valid, which shall
7 not exceed one year from the date of issuance, and has
8 filed a copy of the written authorization with the
9 attorney general prior to the solicitation; and
- 10 (2) The professional solicitor and any person who, for
11 compensation, acts as an agent, employee, independent
12 contractor, or otherwise on behalf of the professional
13 solicitor carries a copy of the authorization while
14 conducting solicitations, and exhibits it on request
15 to persons solicited or police officers or agents of
16 the department.
- 17 (e) No charitable organization, professional fundraising
18 counsel, professional solicitor, or commercial co-venturer
19 subject to this chapter shall use or exploit the fact of filing
20 any statement, report, professional fundraising counsel
21 contracts, written consents, or professional solicitor contracts



1 or other documents or information required to be filed under
2 this chapter or with the department so as to lead the public to
3 believe that the filing in any manner constitutes an endorsement
4 or approval by the State of the purposes or goals for the
5 solicitation by the charitable organization, professional
6 fundraising counsel, professional solicitor, or commercial
7 co-venturer; provided that the use of the following statement
8 shall not be deemed a prohibited exploitation: "Information
9 regarding this organization has been filed with the State of
10 Hawaii department of the attorney general. Filing does not
11 imply endorsement or approval of the organization or the public
12 solicitation for contributions."

13 (f) No person, while soliciting, shall impede or obstruct,
14 with the intent to physically inconvenience the general public
15 or any member thereof in any public place or in any place open
16 to the public.

17 (g) No person shall submit for filing on behalf of any
18 charitable organization, professional fundraising counsel,
19 professional solicitor, or commercial co-venturer, any
20 statement, financial statement, report, attachment, or other
21 information to be filed with the department that contains



1 information, statements, or omissions that are false or
2 misleading.

3 (h) No person shall solicit contributions from persons in
4 the State or otherwise operate in the State as a charitable
5 organization, an exempt charitable organization, professional
6 fundraising counsel, professional solicitor, or commercial
7 co-venturer unless the person has filed the information required
8 by this chapter with the department in a timely manner.

9 (i) No person shall aid, abet, or otherwise permit any
10 persons to solicit contributions from persons in the State
11 unless the person soliciting contributions has complied with the
12 requirements of this chapter.

13 (j) No person shall fail to file the information and
14 registration statement, annual or financial reports, and other
15 statements required by this chapter or fail to provide any
16 information demanded by the attorney general pursuant to this
17 chapter in a timely manner.

18 (k) No person shall employ in any solicitation or
19 collection of contributions for a charitable organization, any
20 device, scheme, or artifice to defraud or obtain money or



1 property by means of any false, deceptive, or misleading
2 pretense, representation, or promise.

3 (l) No person, in the course of any solicitation, shall
4 represent that funds collected will be used for a particular
5 charitable purpose, or particular charitable purposes, if the
6 funds solicited are not used for the represented purposes.

7 (m) No person shall receive compensation from a charitable
8 organization for obtaining moneys or bequests for that
9 charitable organization if that person has also received
10 compensation for advising the donor to make the donation;
11 provided that compensation may be received if the person obtains
12 the written consent of the donor to receive compensation from
13 the charitable organization.

14 (n) No person shall act as a professional solicitor if the
15 person, any officer, any person with a controlling interest
16 therein, or any person the professional solicitor employs,
17 engages, or procures to solicit for compensation, has been
18 convicted by any federal or state court of any felony, or of any
19 misdemeanor involving dishonesty or arising from the conduct of
20 a solicitation for a charitable organization or purpose.



1 (o) No charitable organization shall use the services of
2 an unregistered professional solicitor or professional
3 fundraising counsel.

4 (p) No professional solicitor, who directly or indirectly
5 sells any donated or collected non-perishable tangible property,
6 shall fail to:

7 (1) Prominently disclose in writing on any collection bin,
8 container, or receptacle used by the professional
9 solicitor to receive donated or collected non-
10 perishable tangible property that:

11 (A) The collection bin, container, or receptacle is
12 operated and used by a paid professional
13 solicitor;

14 (B) The professional solicitor resells the donated or
15 collected property at retail stores and that a
16 charitable organization is either paid a
17 percentage of the sale proceeds or an amount
18 based on the weight of the donated or collected
19 tangible property, whichever is applicable;

20 (C) Donated or collected non-perishable tangible
21 property is not a tax-deductible charitable



- 1 contribution under the Internal Revenue Code of
2 1986, as amended, if applicable;
- 3 (D) The professional solicitor is registered with the
4 attorney general; and
- 5 (E) The professional solicitor's registration form
6 and contracts with the charitable organization
7 benefited by the collection is available for
8 public inspection and copying;
- 9 (2) Provide complete and timely payment of the amount owed
10 to a charitable organization within forty-five days
11 after the sale of non-perishable tangible property;
- 12 (3) Provide complete and timely financial reports to the
13 charitable organization and the attorney general, as
14 required by this chapter; and
- 15 (4) Include in the contract with the charitable
16 organization the terms required by section 467B-12.5."

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on July 1, 2050;
20 provided that sections 2 and 3 shall take effect on January 1,
21 2027.



Report Title:

Charitable Solicitation; Professional Solicitors; Non-Perishable Tangible Property; Donations; Payment; Financial Reports; Disclosures; Signage

Description:

Beginning 1/1/2027: establishes prompt payment and financial reporting requirements for professional solicitors that sell donated or collected non-perishable tangible property on behalf of charitable organizations and prohibits these professional solicitors from failing to visibly display certain signage; comply with prompt payment, financial reporting, and contract term requirements; or prominently disclose certain information on any collection bin, container, or receptacle used to receive donated or collected property. Effective 7/1/2050. (SD2)

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