

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4 By: Senator Mahony

As Engrossed: H1/29/97

A Bill

SENATE BILL 4

For An Act To Be Entitled

8 "AN ACT TO REQUIRE CHARITABLE ORGANIZATIONS TO PLACE A
9 DISCLOSURE LABEL IN A CONSPICUOUS PLACE ON A CONTAINER OR
10 OTHER RECEPTACLE HOLDING PRODUCTS OFFERED FOR SALE FOR THE
11 PURPOSE OF SOLICITING FUNDS OR DONATIONS FOR A CHARITABLE
12 PURPOSE; TO ESTABLISH THE CRIME OF UNLAWFUL CHARITABLE
13 SOLICITATION; AND FOR OTHER PURPOSES."

Subtitle

14
15
16 "TO REQUIRE CHARITABLE ORGANIZATIONS TO
17 PLACE DISCLOSURE LABELS ON CONTAINERS
18 HOLDING PRODUCTS OFFERED FOR SALE TO
19 SOLICIT FUNDS FOR CHARITABLE PURPOSES."

20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 SECTION 1. As used in this act:

24 (1) "Charitable organization" means any nonprofit corporation that is
25 or holds itself out to be established for a charitable purpose, or any person
26 who employs a charitable appeal as the basis for any solicitation or appeal
27 that suggests, directly or indirectly, that the solicitation is for a
28 charitable purpose. Charitable organization includes a person, chapter,
29 branch, area office, or a similar affiliate or agent of any of these, whether
30 paid or not paid, soliciting contributions within the state for a charitable
31 organization or cause.

32 (2) "Charitable purpose" means any charitable, benevolent,
33 philanthropic, humane, patriotic, scientific, artistic, public health, social
34 welfare, advocacy, environmental, conservation, civic, or other eleemosynary
35 purpose as defined and amended, from time to time, by the Internal Revenue
36 Code.

1 (3) "Container" means any box, carton, package, receptacle, canister,
2 jar, dispenser, or machine that offers a product for sale or distribution for
3 solicitation purposes.

4 (4) "Disclosure label" means a printed or typed notice affixed to a
5 container located in a conspicuous place and accessible to the public, which
6 is easily readable and legible and informs the public of the following:

7 (A) The approximate annual percentage paid, if any, to an
8 individual or organization to maintain, service, or collect the contributions
9 raised by the solicitation.

10 (B) The net percentage or sum for the most recent calendar year
11 going to the specific charitable purpose.

12 (C) If the maintenance, service, and collection from the
13 container is done by volunteers or by paid individuals.

14

15 SECTION 2. (a) Any container used by any charitable organization in a
16 public place to solicit contributions by offering a product for sale or
17 distribution for solicitation purposes shall have a disclosure label attached
18 thereto.

19 (b) Any charitable organization that knowingly places a container in
20 violation of the provisions of subsection (a) of this section commits the
21 offense of unlawful charitable solicitation.

22 (c) Unlawful charitable solicitation is a Class C misdemeanor.

23 (d) It is an affirmative defense to prosecution under this section that
24 a charitable organization has given one hundred percent of the receipts
25 generated by the container to the charitable purpose for which the charitable
26 organization represented the funds being solicited.

27

28 SECTION 3. No charitable organization shall be liable for prosecution
29 under this act for failure to place a disclosure label on any container if:

30 (a) The container generates less than one hundred dollars (\$100) gross
31 per annum; or

32 (b) The charitable organization generates less than five hundred
33 dollars (\$500) per year from all sources for any charitable purpose or
34 purposes combined.

35

1 SECTION 4. (a)(1) Any violation of the provisions of this act shall
2 constitute an unfair and deceptive act or practice as defined by the Deceptive
3 Trade Practices Act, § 4-88-101, et seq.

4 (2) All remedies, penalties and authority granted to the Attorney
5 General under the Deceptive Trade Practices Act, §4-88-101, et seq., shall be
6 available to the Attorney General for the enforcement of this act.

7 (b) The prosecuting attorneys of the various districts and counties of
8 this state shall also have full authority to enforce the provisions of this
9 act.

10

11 SECTION 5. The provisions of this act shall be supplemental to the laws
12 of this state pertaining to charitable fraud or fraudulent practices.

13

14 SECTION 6. All provisions of this act of a general and permanent nature
15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
16 Revision Commission shall incorporate the same in the Code.

17

18 SECTION 7. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.

23

24 SECTION 8. All laws and parts of laws in conflict with this act are
25 hereby repealed.

26

/s/Senator Mahony

27

28

29

30

31

32

33

34

35

