
A BILL FOR AN ACT

RELATING TO CHARITABLE SOLICITATION.

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

1 SECTION 1. Chapter 467B, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§467B- Collection boxes; required disclosures. (a)

5 The front of every collection box that is owned and operated by
6 a charitable organization exempt from income tax under Section
7 501(c)(3) of the Internal Revenue Code shall conspicuously
8 display all of the following:

9 (1) The name, address, telephone number, and, if
10 available, the internet web address of the charitable
11 organization; and

12 (2) A statement, in lettering at least two inches in
13 height and one-half inch in width, that reads, "This
14 collection box is owned and operated by a tax exempt
15 charitable organization."

16 (b) The front of every collection box that is owned and
17 operated by a professional solicitor shall conspicuously display
18 all of the following:



1 (1) The name, address, telephone number, and, if
2 available, the internet web address of the
3 professional solicitor;

4 (2) A statement, in lettering at least two inches in
5 height and one-half inch in width, that reads, "This
6 collection box is owned and operated by a professional
7 solicitor. Items donated here support, in part, the
8 professional solicitor, which is a for-profit
9 organization."; and

10 (3) The name of the charitable organization that will
11 benefit from the donation of contributions to the
12 collection box.

13 (c) The front of every collection box that is owned and
14 operated by a for-profit organization that is not a professional
15 solicitor or an organization that is not a charitable
16 organization exempt from income tax under Section 501(c)(3) of
17 the Internal Revenue Code shall conspicuously display all of the
18 following:

19 (1) The name, address, telephone number, and, if
20 available, the internet web address of the for-profit
21 organization; and



1 (2) A statement, in lettering at least two inches in
2 height and one-half inch in width, that reads, "This
3 collection box is owned and operated by a for-profit
4 organization that is not a charity. Any contributions
5 made here are not tax deductible.".

6 (d) Every charitable organization or professional
7 solicitor owning or operating a collection box shall be
8 registered with the department under section 467B-2.1 or
9 467B-12, as applicable.

10 (e) For purposes of this section, a "collection box" means
11 an unattended canister, box, bin, receptacle, or similar device,
12 used for soliciting and collecting donations of salvageable
13 personal property."

14 SECTION 2. Section 467B-2.1, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Every public benefit corporation domiciled in Hawaii
17 and every charitable organization not exempted by section
18 467B-11.5 shall register with the department prior to conducting
19 any solicitation of contributions or prior to having any
20 solicitation of contributions conducted on its behalf by others.
21 Two authorized officers of the charitable organization shall
22 sign the registration form and shall certify that the statements



1 therein are true and correct to the best of their knowledge
2 subject to penalties imposed by section 710-1063. A central or
3 parent organization that has received a group exemption letter
4 from the Internal Revenue Service may submit a consolidated
5 application for registration [~~may, at the option of the~~
6 ~~charitable organization, be submitted by a parent organization]~~
7 for itself and any or all of [~~its related foundations,~~
8 ~~supporting organizations, chapters, branches, or affiliates in~~
9 ~~this State.~~] the subordinate organizations covered under the
10 group exemption that are included in the central or parent
11 organization's annual information return to the Internal Revenue
12 Service."

13 SECTION 3. Section 467B-2.5, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Within ninety days after a solicitation campaign or
16 event has been completed and on the anniversary of the
17 commencement of a solicitation campaign lasting more than one
18 year, a professional solicitor shall file with the attorney
19 general a financial report for the campaign, including gross
20 revenue and an itemization of all expenses incurred on a form
21 prescribed by the attorney general. The attorney general may
22 require the financial report to be submitted electronically.



1 This report shall be signed under penalty provided by section
2 710-1063 by the authorized contracting agent for the
3 professional solicitor [~~and two authorized officials of the~~
4 ~~charitable organization~~] and shall report gross revenue from
5 Hawaii donors and national gross revenue from a solicitation
6 activity or campaign. If a financial report required under this
7 section is not filed, unless it is shown that the failure is due
8 to reasonable cause, an initial fine of \$100 shall be imposed
9 and an additional fine of \$20 shall be imposed for each day
10 during which the violation continues; provided that the total
11 amount imposed under this subsection shall not exceed \$1,000.
12 The professional solicitor shall provide a copy of the financial
13 report to the charitable organization to which the financial
14 report pertains within ten days of its submission of the report
15 to the attorney general. A professional solicitor shall
16 maintain during each solicitation campaign and for not less than
17 three years after the completion of that campaign the following
18 records, which shall be available for inspection upon demand by
19 the attorney general:

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



- 1 (2) The name and residence of each employee, agent, or
2 other person involved in the solicitation;
- 3 (3) Records of all revenue received and expenses incurred
4 in the course of the solicitation campaign; and
- 5 (4) The location and account number of each bank or other
6 financial institution account in which the
7 professional solicitor has deposited revenue from the
8 solicitation campaign."

9 SECTION 4. Section 467B-5.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§467B-5.5 Commercial co-venturer's charitable sales**
12 **promotions.** (a) All charitable sales promotions by a
13 commercial co-venturer shall disclose the name of the commercial
14 co-venturer.

15 (b) Prior to the commencement of any charitable sales
16 promotion in this State conducted by a commercial co-venturer
17 using the name of a charitable organization, the commercial co-
18 venturer shall obtain the written consent of the charitable
19 organization whose name will be used during the charitable sales
20 promotion. The commercial co-venturer shall file a copy of the
21 written consent with the department not less than ten days prior
22 to the commencement of the charitable sales promotion within



1 this State. An authorized representative of the charitable
2 organization and the commercial co-venturer shall sign the
3 written consent, and the terms of the written consent shall
4 include the following:

- 5 (1) The goods or services to be offered to the public;
- 6 (2) The geographic area where, and the starting and final
7 date when, the offering is to be made;
- 8 (3) The manner in which the name of the charitable
9 organization is to be used, including any
10 representation to be made to the public as to the
11 amount or per cent per unit of goods or services
12 purchased or used that is to benefit the charitable
13 organization;
- 14 (4) A provision for a final accounting on a per unit basis
15 to be given by the commercial co-venturer to the
16 charitable organization and the date when it is to be
17 made~~[7]~~, which date shall be no more than ninety days
18 after the end of the charitable sales promotion; and
- 19 (5) The date when and the manner in which the benefit is
20 to be conferred on the charitable organization.

21 (c) A final accounting for each charitable sales promotion
22 shall be prepared by the commercial co-venturer following the



1 completion of the promotion. A copy of the final accounting
2 shall be provided to the attorney general not more than twenty
3 days after the copy is requested by the attorney general. [A
4 ~~copy of the final accounting shall be provided to the charitable~~
5 ~~organization not more than twenty days after the copy is~~
6 ~~requested by the charitable organization.] The final accounting
7 shall be kept by the commercial co-venturer for a period of
8 three years, unless the commercial co-venturer and the
9 charitable organization mutually agree that the accounting
10 should be kept by the charitable organization instead of the
11 commercial co-venturer.~~

12 (d) A fine of \$20 shall be imposed on a commercial
13 co-venturer who fails to file a written consent as required by
14 subsection (b), unless it is shown that the failure is due to
15 reasonable cause, for each day during which the violation
16 continues; provided that the total amount imposed under this
17 subsection shall not exceed \$1,000.

18 (e) The attorney general may issue a cease and desist
19 order whenever the attorney general finds that a commercial
20 co-venturer has engaged in an act or practice that violates this
21 chapter.



1 (f) When the attorney general finds that a commercial
2 co-venturer has violated or is operating in violation of this
3 chapter, the attorney general may impose an administrative fine
4 not to exceed \$1,000 for each act that constitutes a violation
5 of this chapter and an additional penalty, not to exceed \$100
6 per day, for each day during which the violation continues. Any
7 person aggrieved by an action of the attorney general under this
8 section may request a hearing to review that action in
9 accordance with chapter 91 and rules adopted by the attorney
10 general. Any request for hearing shall be made within ten days
11 after the attorney general has served the person with notice of
12 the action, which notice shall be deemed effective upon
13 mailing."

14 SECTION 5. Section 467B-6.5, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Every charitable organization required to register
17 pursuant to section 467B-2.1 shall annually file with the
18 department a report for its most recently completed fiscal year.
19 If the charitable organization files a Form 990 or 990-EZ with
20 the Internal Revenue Service, the annual report shall be a copy
21 of that Form 990 or 990-EZ. If the registered charitable
22 organization is required to file a Form 990-T with the Internal



1 Revenue Service, the annual report shall include a copy of that
2 Form 990-T. If a charitable organization is not required to
3 file a Form 990 or 990-EZ with the Internal Revenue Service, the
4 annual report shall contain all information prescribed by the
5 department. The charitable organization shall file its annual
6 report not later than the fifteenth day of the fifth month
7 following the close of its fiscal year. A charitable
8 organization that has obtained an extension of time to file a
9 Form 990 or 990-EZ from the Internal Revenue Service may obtain
10 an extension of time to file the annual report with the
11 department, by electronically filing with the department a copy
12 of the Internal Revenue Service's approved extension of time to
13 file. The annual report shall be accompanied by a filing fee as
14 prescribed by subsection (d). The department shall accept,
15 under conditions prescribed by the attorney general, a copy or
16 duplicate original of financial statements, reports, or returns
17 filed by the charitable organization with the Internal Revenue
18 Service or another state having requirements similar to the
19 provisions of this section; provided that the attorney general
20 may prescribe the form of the annual financial report for
21 charitable organizations that file the Form 990-N with the



1 Internal Revenue Service, or who are not required to file a Form
2 990 or 990-EZ with the Internal Revenue Service."

3 SECTION 6. Section 467B-6.5, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) Each charitable organization filing a report required
6 by this section shall pay a filing fee to the department based
7 on the total amount of its gross revenues during the time
8 covered by the report at the close of the calendar or fiscal
9 year adopted by the charitable organization as follows:

- 10 (1) [~~\$10,~~] \$0, if less than \$25,000;
11 (2) \$25, if \$25,000 but less than \$50,000;
12 (3) \$50, if \$50,000 but less than \$100,000;
13 (4) \$100, if \$100,000 but less than \$250,000;
14 (5) \$150, if \$250,000 but less than \$500,000;
15 (6) \$200, if \$500,000 but less than \$1,000,000;
16 (7) \$250, if \$1,000,000 but less than \$2,000,000;
17 (8) \$350, if \$2,000,000 but less than \$5,000,000; or
18 (9) \$600, if \$5,000,000 or more."

19 SECTION 7. Section 467B-9, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§467B-9 Prohibited acts.** (a) No person, for the purpose
22 of soliciting contributions from persons in the State, shall use



1 the name of any other person except that of an officer,
2 director, or trustee of the charitable organization by or for
3 which contributions are solicited, without the written consent
4 of the other persons.

5 A person shall be deemed to have used the name of another
6 person for the purpose of soliciting contributions if the latter
7 person's name is listed on any stationery, advertisement,
8 brochure, or correspondence in or by which a contribution is
9 solicited by or on behalf of a charitable organization or the
10 latter person's name is listed or referred to in connection with
11 a request for a contribution as one who has contributed to,
12 sponsored, or endorsed the charitable organization or its
13 activities.

14 (b) No charitable organization, professional solicitor,
15 professional fundraising counsel, or commercial co-venturer
16 soliciting contributions shall use a name, symbol, or statement
17 so closely related or similar to that used by another charitable
18 organization or governmental agency that the use thereof would
19 tend to confuse or mislead the public.

20 (c) No person, in connection with any solicitation or
21 sale, shall misrepresent or mislead anyone by any manner, means,
22 practice, or device whatsoever, to believe that the solicitation



1 or sale is being conducted on behalf of a charitable
2 organization or that the proceeds of the solicitation or sale
3 will be used for charitable purposes, if that is not the fact.

4 (d) No professional solicitor, and no agent, employee,
5 independent contractor, or other person acting on behalf of the
6 professional solicitor, shall solicit in the name of or on
7 behalf of any charitable organization unless:

8 (1) The professional solicitor has obtained the written
9 authorization of two officers of the organization,
10 which authorization shall bear the signature of the
11 professional solicitor and the officers of the
12 charitable organization and shall expressly state on
13 its face the period for which it is valid, which shall
14 not exceed one year from the date of issuance, and has
15 filed a copy of the written authorization with the
16 attorney general prior to the solicitation; and

17 (2) The professional solicitor and any person who, for
18 compensation, acts as an agent, employee, independent
19 contractor, or otherwise on behalf of the professional
20 solicitor carries a copy of the authorization while
21 conducting solicitations, and exhibits it on request



1 to persons solicited or police officers or agents of
2 the department.

3 (e) No charitable organization, professional fundraising
4 counsel, professional solicitor, or commercial co-venturer
5 subject to this chapter shall use or exploit the fact of filing
6 any statement, report, professional fundraising counsel
7 contracts, written consents, or professional solicitor contracts
8 or other documents or information required to be filed under
9 this chapter or with the department so as to lead the public to
10 believe that the filing in any manner constitutes an endorsement
11 or approval by the State of the purposes or goals for the
12 solicitation by the charitable organization, professional
13 fundraising counsel, professional solicitor, or commercial
14 co-venturer; provided that the use of the following statement
15 shall not be deemed a prohibited exploitation: "Information
16 regarding this organization has been filed with the State of
17 Hawaii department of the attorney general. Filing does not
18 imply endorsement or approval of the organization or the public
19 solicitation for contributions.

20 (f) No person, while soliciting, shall impede or obstruct,
21 with the intent to physically inconvenience the general public



1 or any member thereof in any public place or in any place open
2 to the public.

3 (g) No person shall submit for filing on behalf of any
4 charitable organization, professional fundraising counsel,
5 professional solicitor, or commercial co-venturer, any
6 statement, financial statement, report, attachment, or other
7 information to be filed with the department that contains
8 information, statements, or omissions that are false or
9 misleading.

10 (h) No person shall solicit contributions from persons in
11 the State or otherwise operate in the State as a charitable
12 organization, an exempt charitable organization, professional
13 fundraising counsel, professional solicitor, or commercial
14 co-venturer unless the person has filed the information required
15 by this chapter with the department in a timely manner.

16 (i) No person shall aid, abet, or otherwise permit any
17 persons to solicit contributions from persons in the State
18 unless the person soliciting contributions has complied with the
19 requirements of this chapter.

20 (j) No person shall fail to file the information and
21 registration statement, annual or financial reports, and other
22 statements required by this chapter or fail to provide any



1 information demanded by the attorney general pursuant to this
2 chapter in a timely manner.

3 (k) No person shall employ in any solicitation or
4 collection of contributions for a charitable organization, any
5 device, scheme, or artifice to defraud or obtain money or
6 property by means of any false, deceptive, or misleading
7 pretense, representation, or promise.

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

12 (m) No person shall receive compensation from a charitable
13 organization for obtaining moneys or bequests for that
14 charitable organization if that person has also received
15 compensation for advising the donor to make the donation;
16 provided that compensation may be received if the person obtains
17 the written consent of the donor to receive compensation from
18 the charitable organization.

19 (n) No person shall act as a professional solicitor if the
20 person, any officer, any person with a controlling interest
21 therein, or any person the professional solicitor employs,
22 engages, or procures to solicit for compensation, has been



1 convicted by any federal or state court of any felony, or of any
2 misdemeanor involving dishonesty or arising from the conduct of
3 a solicitation for a charitable organization or purpose.

4 (o) No charitable organization shall use the services of
5 an unregistered professional solicitor or professional
6 fundraising counsel.

7 (p) No person or charitable organization shall fail to
8 make the collection box disclosures required by section
9 467B- ."

10 SECTION 8. Section 467B-11.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§467B-11.5 Charitable organizations exempted from**
13 **registration and financial disclosure requirements.** The
14 following charitable organizations shall not be subject to
15 sections 467B-2.1 and 467B-6.5, if the organization submits
16 [information as the department may require] to the department an
17 application for exemption to substantiate an exemption under
18 this section[+] and the department approves the organization's
19 application; provided that the attorney general may require the
20 application for exemption to be filed electronically with the
21 department and may require the use of electronic signatures:



- 1 (1) Any duly organized religious corporation, institution,
2 or society that is exempt from filing Form 990 with
3 the Internal Revenue Service pursuant to sections
4 6033(a)(3)(A)(i) and (iii) and 6033(a)(3)(C)(i) of the
5 Internal Revenue Code, as amended;
- 6 (2) Parent-teacher associations;
- 7 (3) Any educational institution that is licensed or
8 accredited by any of the following licensing or
9 accrediting organizations:
- 10 (A) Hawaii Association of Independent Schools;
- 11 (B) Hawaii Council of Private Schools;
- 12 (C) Western Association of Schools and Colleges;
- 13 (D) Middle States [~~Association of Colleges and~~
14 ~~Schools;~~] Commission on Higher Education;
- 15 (E) New England Association of Schools and Colleges;
- 16 (F) North Central Association of Colleges and
17 Schools;
- 18 (G) Northwest Commission on Colleges and
19 Universities;
- 20 (H) Southern Association of Colleges and Schools; or
21 (I) The National Association for the Education of
22 Young Children;



1 and any organization exempt from taxation under
2 section 501(c)(3) of the Internal Revenue Code
3 expressly authorized by, and having an established
4 identity with, such an educational institution;
5 provided that the organization's solicitation of
6 contributions is primarily directed to the students,
7 alumni, faculty, and trustees of the institutions and
8 their respective families;

9 (4) Any nonprofit hospital licensed by the State or any
10 similar provision of the laws of any other state;

11 (5) Any corporation established by an act of the United
12 States Congress that is required by federal law to
13 submit to Congress annual reports, fully audited by
14 the United States Department of Defense, of its
15 activities including itemized accounts of all receipts
16 and expenditures;

17 (6) Any agency of this State, another state, or the
18 federal government; and

19 (7) Any charitable organization that normally receives
20 less than \$25,000 in contributions annually, if the
21 organization does not employ or compensate a
22 professional solicitor or professional fundraising



1 counsel. For purposes of this paragraph, an
2 organization normally receives less than \$25,000 in
3 contributions annually if, during the immediately
4 preceding three fiscal years, it received, on average,
5 less than \$25,000 in contributions."

6 SECTION 9. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 10. This Act shall take effect on December 21,
9 2112.



Report Title:

Charitable Solicitation; Collection Boxes; Charitable Organizations; Professional Solicitors; Commercial Co-venturers

Description:

Requires certain disclosures on collection boxes for donated clothing and household items that are owned and operated by a charitable organization exempt from the income tax under Section 501(c)(3) of the Internal Revenue Code, a professional solicitor, or a for-profit organization that is not a professional solicitor or an organization exempt from the income tax under Section 501(c)(3) of the Internal Revenue Code; clarifies registration requirement for Hawaii domiciled charitable organizations and by nonprofits covered by an IRS Group Exemption Ruling; authorizes the Attorney General to require electronic financial reporting by professional solicitors; imposes a fee for late financial reports by professional solicitors; amends the time within which commercial co-venturers must provide a final accounting to a charitable organization; clarifies exemptions from registration requirements; and makes other technical and housekeeping amendments to chapter 467B, Hawaii Revised Statutes. Effective 12/21/2112. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

