
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 "~~S467B-~~ 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 information:

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:

13 (A) In lettering that is at least two inches in
14 height and one-half inch in width; and

15 (B) That reads, "This collection box is owned and
16 operated by a tax-exempt charitable
17 organization."



1 (b) The front of every collection box that is owned and
2 operated by a professional solicitor shall conspicuously display
3 all of the following information:

4 (1) The name; address; telephone number; and, if
5 available, the internet web address of the
6 professional solicitor;

7 (2) A statement:

8 (A) In lettering that is at least two inches in
9 height and one-half inch in width; and

10 (B) That reads, "This collection box is owned and
11 operated by a professional solicitor. Items
12 donated here support, in part, the professional
13 solicitor, which is a for-profit organization.";

14 and

15 (3) The name of the charitable organization that will
16 benefit from the donation of contributions to the
17 collection box.

18 (c) The front of every collection box that is owned and
19 operated by a for-profit organization that is not a professional
20 solicitor or an organization that is not a charitable
21 organization exempt from income tax under section 501(c)(3) of

1 the Internal Revenue Code shall conspicuously display all of the
2 following information:

3 (1) The name; address; telephone number; and, if
4 available, the internet web address of the for-profit
5 organization; and

6 (2) A statement:

7 (A) In lettering that is at least two inches in
8 height and one-half inch in width; and

9 (B) That reads, "This collection box is owned and
10 operated by a for-profit organization that is not
11 a charity. Any contributions made here are not
12 tax-deductible."

13 (d) Every charitable organization or professional
14 solicitor owning or operating a collection box shall be
15 registered with the department under section 467B-2.1 or 467B-
16 12, as applicable.

17 (e) As used in this section, a "collection box" means an
18 unattended canister, box, bin, receptacle, or similar device,
19 used for soliciting and collecting donations of salvageable
20 personal property."

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



1 "(a) Every public benefit corporation domiciled in Hawaii
2 and every charitable organization not exempted by section 467B-
3 11.5 shall register with the department prior to conducting any
4 solicitation of contributions or prior to having any
5 solicitation of contributions conducted on its behalf by others.
6 Two authorized officers of the charitable organization shall
7 sign the registration form and shall certify that the statements
8 therein are true and correct to the best of their knowledge
9 subject to penalties imposed by section 710-1063. A central or
10 parent organization that has received a group exemption letter
11 from the Internal Revenue Service may submit a consolidated
12 application for registration [~~may, at the option of the~~
13 ~~charitable organization, be submitted by a parent organization]~~
14 for itself and any or all of [~~its related foundations,~~
15 ~~supporting organizations, chapters, branches, or affiliates in~~
16 ~~this State.~~] the subordinate organizations that are covered
17 under the group exemption and included in the central or parent
18 organization's annual information return to the Internal Revenue
19 Service."

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



1 "(a) Within ninety days after a solicitation campaign or
2 event has been completed and on the anniversary of the
3 commencement of a solicitation campaign lasting more than one
4 year, a professional solicitor shall file with the attorney
5 general a financial report for the campaign, including gross
6 revenue and an itemization of all expenses incurred on a form
7 prescribed by the attorney general. The attorney general may
8 require the financial report to be submitted electronically.
9 This report shall be signed under penalty provided by section
10 710-1063 by the authorized contracting agent for the
11 professional solicitor [~~and two authorized officials of the~~
12 ~~charitable organization~~] and shall report gross revenue from
13 Hawaii donors and national gross revenue from a solicitation
14 activity or campaign. If a financial report required under this
15 section is not filed, unless it is shown that the failure is due
16 to reasonable cause, an initial fine of \$100 shall be imposed
17 and an additional fine of \$20 shall be imposed for each day
18 during which the violation continues; provided that the total
19 amount of fines imposed under this subsection shall not exceed
20 \$1,000. The professional solicitor shall provide a copy of the
21 financial report to the charitable organization to which the
22 financial report pertains within ten days of the professional



1 solicitor's submission of the report to the attorney general. A
2 professional solicitor shall maintain during each solicitation
3 campaign and for not less than three years after the completion
4 of that campaign the following records, which shall be available
5 for inspection upon demand by the attorney general:

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

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

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

12 (4) The location and account number of each bank or other
13 financial institution account in which the
14 professional solicitor has deposited revenue from the
15 solicitation campaign."

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

18 **"§467B-5.5 Commercial co-venturer's charitable sales**

19 **promotions.** (a) All charitable sales promotions by a
20 commercial co-venturer shall disclose the name of the commercial
21 co-venturer.



1 (b) Prior to the commencement of any charitable sales
2 promotion in this State conducted by a commercial co-venturer
3 using the name of a charitable organization, the commercial co-
4 venturer shall obtain the written consent of the charitable
5 organization whose name will be used during the charitable sales
6 promotion. The commercial co-venturer shall file a copy of the
7 written consent with the department not less than ten days prior
8 to the commencement of the charitable sales promotion within
9 this State. An authorized representative of the charitable
10 organization and the commercial co-venturer shall sign the
11 written consent, and the terms of the written consent shall
12 include the following:

- 13 (1) The goods or services to be offered to the public;
14 (2) The geographic area where, and the starting and final
15 date when, the offering is to be made;
16 (3) The manner in which the name of the charitable
17 organization is to be used, including any
18 representation to be made to the public as to the
19 amount or per cent per unit of goods or services
20 purchased or used that is to benefit the charitable
21 organization;



1 (4) A provision for a final accounting on a per unit basis
2 to be given by the commercial co-venturer to the
3 charitable organization and the date when it is to be
4 made[+], which date shall be no more than ninety days
5 after the end of the charitable sales promotion; and

6 (5) The date when and the manner in which the benefit is
7 to be conferred on the charitable organization.

8 (c) A final accounting for each charitable sales promotion
9 shall be prepared by the commercial co-venturer following the
10 completion of the promotion. A copy of the final accounting
11 shall be provided to the attorney general not more than twenty
12 days after the copy is requested by the attorney general. [A
13 ~~copy of the final accounting shall be provided to the charitable~~
14 ~~organization not more than twenty days after the copy is~~
15 ~~requested by the charitable organization.] The final accounting
16 shall be kept by the commercial co-venturer for a period of
17 three years, unless the commercial co-venturer and the
18 charitable organization mutually agree that the accounting
19 should be kept by the charitable organization instead of the
20 commercial co-venturer.~~

21 (d) A fine of \$20 shall be imposed on a commercial co-
22 venturer who fails to file a written consent as required by



1 subsection (b), unless it is shown that the failure is due to
2 reasonable cause, for each day during which the violation
3 continues; provided that the total amount imposed under this
4 subsection shall not exceed \$1,000.

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

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



1 SECTION 5. Section 467B-6.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) Every charitable organization required to register
5 pursuant to section 467B-2.1 shall annually file with the
6 department a report for its most recently completed fiscal year.
7 If the charitable organization files a Form 990 or 990-EZ with
8 the Internal Revenue Service, the annual report shall be a copy
9 of that Form 990 or 990-EZ. If the registered charitable
10 organization is required to file a Form 990-T with the Internal
11 Revenue Service, the annual report shall include a copy of that
12 Form 990-T. If a charitable organization is not required to
13 file a Form 990 or 990-EZ with the Internal Revenue Service, the
14 annual report shall contain all information prescribed by the
15 department. The charitable organization shall file its annual
16 report not later than the fifteenth day of the fifth month
17 following the close of its fiscal year. A charitable
18 organization that has obtained an extension of time to file a
19 Form 990 or 990-EZ from the Internal Revenue Service may obtain
20 an extension of time to file the annual report with the
21 department, by electronically filing with the department a copy
22 of the Internal Revenue Service's approved extension of time to



1 file. The annual report shall be accompanied by a filing fee as
2 prescribed by subsection (d). The department shall accept,
3 under conditions prescribed by the attorney general, a copy or
4 duplicate original of financial statements, reports, or returns
5 filed by the charitable organization with the Internal Revenue
6 Service or another state having requirements similar to the
7 provisions of this section; provided that the attorney general
8 may prescribe the form of the annual financial report for
9 charitable organizations that file the Form 990-N with the
10 Internal Revenue Service, or who are not required to file a Form
11 990 or 990-EZ with the Internal Revenue Service."

12 2. By amending subsection (d) to read:

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

- 18 (1) [~~\$10,~~ \$0, if less than \$25,000;
19 (2) \$25, if \$25,000 but less than \$50,000;
20 (3) \$50, if \$50,000 but less than \$100,000;
21 (4) \$100, if \$100,000 but less than \$250,000;
22 (5) \$150, if \$250,000 but less than \$500,000;



- 1 (6) \$200, if \$500,000 but less than \$1,000,000;
2 (7) \$250, if \$1,000,000 but less than \$2,000,000;
3 (8) \$350, if \$2,000,000 but less than \$5,000,000; or
4 (9) \$600, if \$5,000,000 or more."

5 SECTION 6. Section 467B-9, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§467B-9 Prohibited acts.** (a) No person, for the purpose
8 of soliciting contributions from persons in the State, shall use
9 the name of any other person except that of an officer,
10 director, or trustee of the charitable organization by or for
11 which contributions are solicited, without the written consent
12 of the other persons.

13 A person shall be deemed to have used the name of another
14 person for the purpose of soliciting contributions if the latter
15 person's name is listed on any stationery, advertisement,
16 brochure, or correspondence in or by which a contribution is
17 solicited by or on behalf of a charitable organization or the
18 latter person's name is listed or referred to in connection with
19 a request for a contribution as one who has contributed to,
20 sponsored, or endorsed the charitable organization or its
21 activities.



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

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

13 (d) No professional solicitor, and no agent, employee,
14 independent contractor, or other person acting on behalf of the
15 professional solicitor, shall solicit in the name of or on
16 behalf of any charitable organization unless:

17 (1) The professional solicitor has obtained the written
18 authorization of two officers of the organization,
19 which authorization shall bear the signature of the
20 professional solicitor and the officers of the
21 charitable organization and shall expressly state on
22 its face the period for which it is valid, which shall



1 not exceed one year from the date of issuance, and has
2 filed a copy of the written authorization with the
3 attorney general prior to the solicitation; and

4 (2) The professional solicitor and any person who, for
5 compensation, acts as an agent, employee, independent
6 contractor, or otherwise on behalf of the professional
7 solicitor carries a copy of the authorization while
8 conducting solicitations, and exhibits it on request
9 to persons solicited or police officers or agents of
10 the department.

11 (e) No charitable organization, professional fundraising
12 counsel, professional solicitor, or commercial co-venturer
13 subject to this chapter shall use or exploit the fact of filing
14 any statement, report, professional fundraising counsel
15 contracts, written consents, or professional solicitor contracts
16 or other documents or information required to be filed under
17 this chapter or with the department so as to lead the public to
18 believe that the filing in any manner constitutes an endorsement
19 or approval by the State of the purposes or goals for the
20 solicitation by the charitable organization, professional
21 fundraising counsel, professional solicitor, or commercial co-
22 venturer; provided that the use of the following statement shall



1 not be deemed a prohibited exploitation: "Information regarding
2 this organization has been filed with the State of Hawaii
3 department of the attorney general. Filing does not imply
4 endorsement or approval of the organization or the public
5 solicitation for contributions."

6 (f) No person, while soliciting, shall impede or obstruct,
7 with the intent to physically inconvenience the general public
8 or any member thereof in any public place or in any place open
9 to the public.

10 (g) No person shall submit for filing on behalf of any
11 charitable organization, professional fundraising counsel,
12 professional solicitor, or commercial co-venturer, any
13 statement, financial statement, report, attachment, or other
14 information to be filed with the department that contains
15 information, statements, or omissions that are false or
16 misleading.

17 (h) No person shall solicit contributions from persons in
18 the State or otherwise operate in the State as a charitable
19 organization, an exempt charitable organization, professional
20 fundraising counsel, professional solicitor, or commercial co-
21 venturer unless the person has filed the information required by
22 this chapter with the department in a timely manner.



1 (i) No person shall aid, abet, or otherwise permit any
2 persons to solicit contributions from persons in the State
3 unless the person soliciting contributions has complied with the
4 requirements of this chapter.

5 (j) No person shall fail to file the information and
6 registration statement, annual or financial reports, and other
7 statements required by this chapter or fail to provide any
8 information demanded by the attorney general pursuant to this
9 chapter in a timely manner.

10 (k) No person shall employ in any solicitation or
11 collection of contributions for a charitable organization, any
12 device, scheme, or artifice to defraud or obtain money or
13 property by means of any false, deceptive, or misleading
14 pretense, representation, or promise.

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

19 (m) No person shall receive compensation from a charitable
20 organization for obtaining moneys or bequests for that
21 charitable organization if that person has also received
22 compensation for advising the donor to make the donation;



1 provided that compensation may be received if the person obtains
2 the written consent of the donor to receive compensation from
3 the charitable organization.

4 (n) No person shall act as a professional solicitor if the
5 person, any officer, any person with a controlling interest
6 therein, or any person the professional solicitor employs,
7 engages, or procures to solicit for compensation, has been
8 convicted by any federal or state court of any felony, or of any
9 misdemeanor involving dishonesty or arising from the conduct of
10 a solicitation for a charitable organization or purpose.

11 (o) No charitable organization shall use the services of
12 an unregistered professional solicitor or professional
13 fundraising counsel.

14 (p) No person or charitable organization to which section
15 467B- applies shall fail to make the collection bin
16 disclosures required by section 467B- ."

17 SECTION 7. Section 467B-11.5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§467B-11.5 Charitable organizations exempted from**
20 **registration and financial disclosure requirements.** The
21 following charitable organizations shall not be subject to
22 sections 467B-2.1 and 467B-6.5, if the organization submits



1 ~~[information as the department may require]~~ to the department an
2 application for exemption to substantiate an exemption under
3 this section[+] and the department approves the organization's
4 application. The attorney general may require the application
5 for exemption to be filed electronically with the department and
6 may require the use of electronic signatures.

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



- 1 (F) North Central Association of Colleges and
2 Schools;
- 3 (G) Northwest Commission on Colleges and
4 Universities;
- 5 (H) Southern Association of Colleges and Schools; or
6 (I) The National Association for the Education of
7 Young Children;
- 8 and any organization exempt from taxation under
9 section 501(c)(3) of the Internal Revenue Code
10 expressly authorized by, and having an established
11 identity with, such an educational institution;
12 provided that the organization's solicitation of
13 contributions is primarily directed to the students,
14 alumni, faculty, and trustees of the institutions and
15 their respective families;
- 16 (4) Any nonprofit hospital licensed by the State or any
17 similar provision of the laws of any other state;
- 18 (5) Any corporation established by an act of the United
19 States Congress that is required by federal law to
20 submit to Congress annual reports, fully audited by
21 the United States Department of Defense, of its



1 activities including itemized accounts of all receipts
2 and expenditures;

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

5 (7) Any charitable organization that normally receives
6 less than \$25,000 in contributions annually if, the
7 organization does not employ or compensate a
8 professional solicitor or professional fundraising
9 counsel. For purposes of this paragraph, an
10 organization normally receives less than \$25,000 in
11 contributions annually, if during the immediately
12 preceding three fiscal years, it received, on average,
13 less than \$25,000 in contributions."

14 SECTION 8. Statutory material to repealed is bracketed and
15 stricken. New statutory material is underscored.

16 SECTION 9. This Act shall take effect on July 1, 2112.



Report Title:

Charitable Solicitation

Description:

Requires certain disclosures on collection bins for donated clothing and household items by for-profit and non-profit organizations. Clarifies registration requirement for Hawaii domiciled charitable organizations and by non-profit organizations covered by an IRS Group Exemption Ruling. Authorizes the Attorney General to require electronic financial reporting by professional solicitors. Imposes fines for late financial reports by professional solicitors. Clarifies that commercial co-venturers must provide a final accounting within ninety days. Clarifies exemptions from registration requirements. Makes other technical and housekeeping amendments to Chapter 467B, Hawaii Revised Statutes. Effective July 1, 2112. (HB2244 HD2)

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

