
HOUSE BILL 2101

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Rasmussen, Miller and Roland.

Read first time February 25, 1991. Referred to Committee on Judiciary.

1 AN ACT Relating to public safety-related organizations soliciting
2 charitable contributions; amending RCW 19.09.020, 19.09.100, and
3 19.09.275; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.09.020 and 1986 c 230 s 2 are each amended to read
6 as follows:

7 When used in this chapter, unless the context otherwise requires:

8 (1) A "bona fide officer or employee" of a charitable organization
9 is one (a) whose conduct is subject to direct control by such
10 organization; (b) who does not act in the manner of an independent
11 contractor in his or her relation with the organization; and (c) whose
12 compensation is not computed on funds raised or to be raised.

13 (2) "Charitable organization" means any entity that solicits or
14 collects contributions from the general public where the contribution
15 is or is purported to be used to support a charitable activity.

1 "Charitable" (a) is not limited to its common law meaning unless the
2 context clearly requires a narrower meaning; (b) does not include
3 religious or political activities; and (c) includes, but is not limited
4 to, educational, recreational, social, patriotic, legal defense,
5 benevolent, or health causes.

6 (3) "Compensation" means salaries, wages, fees, commissions, or any
7 other remuneration or valuable consideration.

8 (4) "Contribution" means the donation, promise or grant, for
9 consideration or otherwise, of any money or property of any kind or
10 value which contribution is wholly or partly induced by a solicitation.
11 Reference to dollar amounts of "contributions" or "solicitations" in
12 this chapter means in the case of payments or promises to pay for
13 merchandise or rights of any description, the value of the total amount
14 paid or promised to be paid for such merchandise or rights less the
15 reasonable purchase price to the charitable organization of any such
16 tangible merchandise, rights, or services resold by the organization,
17 and not merely that portion of the purchase price to be applied to a
18 charitable purpose.

19 (5) "Cost of solicitation" means and includes all direct and
20 indirect costs, expenditures, debts, obligations, salaries, wages,
21 commissions, fees, or other money or thing of value paid or incurred in
22 making a solicitation. Cost of solicitation does not include the
23 reasonable purchase price to the charitable organization of any
24 tangible goods or services resold by the organization as a part of its
25 fund raising activities.

26 (6) "Entity" means an individual, organization, group, association,
27 partnership, corporation, agency or unit of state government, or any
28 combination thereof.

29 (7) "General public" or "public" means any individual located in
30 Washington state without a membership or other official relationship

1 with a charitable organization before a solicitation by the charitable
2 organization.

3 (8) "Independent fund raiser" or "independent fund-raising entity"
4 means any entity that for compensation or other consideration, plans,
5 conducts, manages, or administers any drive or campaign in this state
6 for the purpose of soliciting contributions for or on behalf of any
7 charitable organization or charitable or religious purpose, or that is
8 engaged in the business of or is held out to persons in this state as
9 independently engaged in the business of soliciting contributions for
10 such purposes, or the business of planning, conducting, managing, or
11 carrying on any drive or campaign in this state for such solicitations.
12 However, a nonprofit fund raiser or bona fide officer or other employee
13 of a charitable organization shall not be deemed an independent fund
14 raiser.

15 (9) "Membership" means that for the payment of fees, dues,
16 assessments, etc., an organization provides services and confers a bona
17 fide right, privilege, professional standing, honor, or other direct
18 benefit, in addition to the right to vote, elect officers, or hold
19 office. The term "membership" does not include those persons who are
20 granted a membership upon making a contribution as the result of
21 solicitation.

22 (10) "Nonprofit fund raiser" means an entity registered as a
23 nonprofit corporation under Title 24 RCW, or any entity exempt from
24 federal income tax under section 501(c) of the Internal Revenue Code,
25 that solicits and receives contributions exceeding five thousand
26 dollars in any accounting year on behalf of a charitable or religious
27 organization other than the nonprofit corporation.

28 (11) "Other employee" of a charitable organization means any person
29 (a) whose conduct is subject to direct control by such organization;
30 (b) who does not act in the manner of any independent contractor in his

1 or her relation with the organization; and (c) who is not engaged in
2 the business of or held out to persons in this state as independently
3 engaged in the business of soliciting contributions for charitable or
4 religious purposes.

5 (12) "Parent organization" means that part of a charitable
6 organization that coordinates, supervises, or exercises control over
7 policy, fund raising, or expenditures, or assists or advises one or
8 more chapters, branches, or affiliates of such organization in the
9 state of Washington.

10 (13) "Political activities" means those activities subject to
11 chapter 42.17 RCW or the Federal Elections Campaign Act of 1971, as
12 amended.

13 (14) "Public safety-related organization" means a charitable
14 organization whose membership is primarily comprised of public safety
15 employees or volunteers including, but not limited to, fire fighters
16 and law enforcement agents.

17 (15) "Religious activities" means those religious, evangelical, or
18 missionary activities under the direction of a religious organization
19 duly organized and operating in good faith that are entitled to receive
20 a declaration of current tax exempt status for religious purposes from
21 the United States government and the duly organized branches or
22 chapters of those organizations.

23 (~~(15)~~) (16) "Secretary" means the secretary of state.

24 (~~(16)~~) (17) "Solicitation" means any oral or written request for
25 a contribution, including the solicitor's offer or attempt to sell any
26 property, rights, services, or other thing in connection with which:

27 (a) Any appeal is made for any charitable purpose; or

28 (b) The name of any charitable organization is used as an
29 inducement for consummating the sale; or

1 (c) Any statement is made that implies that the whole or any part
2 of the proceeds from the sale will be applied toward any charitable
3 purpose or donated to any charitable organization.

4 The solicitation shall be deemed completed when made, whether or
5 not the person making it receives any contribution or makes any sale.

6 Bingo activities, raffles, and amusement games conducted under
7 chapter 9.46 RCW and applicable rules of the Washington state gambling
8 commission are specifically excluded and shall not be deemed a
9 solicitation under this chapter.

10 **Sec. 2.** RCW 19.09.100 and 1986 c 230 s 11 are each amended to read
11 as follows:

12 The following conditions apply to solicitations as defined by RCW
13 19.09.020:

14 (1) Each person or organization soliciting charitable contributions
15 shall disclose orally or in writing to each person or organization
16 solicited:

17 (a) The name of the individual making the solicitation;

18 (b) The name of the charitable organization;

19 (c) The purpose of the solicitation, and the name of the
20 organization that will receive the funds contributed; and

21 (d) Whether the charitable organization is or is not properly
22 registered under this chapter, and if registered, that information
23 relating to its financial affairs is available by contacting the office
24 of the secretary of state, giving the secretary's toll-free telephone
25 number, if available.

26 (2) Each person or organization soliciting charitable contributions
27 shall conspicuously disclose in writing to each person or organization
28 solicited:

1 (a) If the solicitation is conducted by a charitable organization,
2 the percentage relationship between (i) the total amount of money
3 applied to charitable purposes; and (ii) the dollar value of support
4 received from solicitations and from all other sources received on
5 behalf of the charitable purpose of the organization, as contained in
6 the organization's most recent solicitation report filed in accordance
7 with RCW 19.09.075(7);

8 (b) If the solicitation is conducted by an independent or nonprofit
9 fund raiser, the percentage relationship between (i) the amount of
10 money disbursed to charitable organizations for charitable purposes;
11 and (ii) the total value of contributions received on behalf of
12 charitable organizations by the independent or nonprofit fund raiser,
13 as contained in the fund raiser's most recent solicitation report filed
14 in accordance with RCW 19.09.079(7) or 19.09.078.

15 (3) Each person or organization soliciting charitable contributions
16 by telephone shall make the disclosures required by RCW 19.09.100(2)
17 (a) or (b) in writing within five days of the receipt of any
18 contribution. If the person or organization sends any materials to the
19 person or organization solicited before the receipt of any
20 contribution, those materials shall include the disclosures required in
21 RCW 19.09.100(1)(d), and 19.09.100 (2) (a) or (b), whichever is
22 applicable.

23 (4) Each person or organization soliciting charitable contributions
24 shall not represent orally or in writing that:

25 (a) The charitable contribution is tax deductible unless the
26 charitable organization for which charitable contributions are being
27 solicited or to which tickets for fund raising events or other services
28 or goods will be donated, has applied for and received from the
29 internal revenue service a letter of determination granting tax
30 deductible status to the charitable organization;

1 (b) The person soliciting the charitable contribution is a
2 volunteer or words of similar meaning or effect that create the
3 impression that the person soliciting is not a paid solicitor unless
4 such person is unpaid for his or her services;

5 (c) The person soliciting the charitable contribution is a member,
6 staffer, helper, or employee of the charitable organization or words of
7 similar meaning or effect that create the impression that the person
8 soliciting is not a paid solicitor if the person soliciting is
9 employed, contracted, or paid by an independent fund raiser.

10 (5) If the charitable organization is associated with, or has a
11 name that is similar to, any unit of government each person or
12 organization soliciting contributions shall disclose to each person
13 solicited whether the charitable organization is or is not part of any
14 unit of government and the true nature of its relationship to the unit
15 of government.

16 (6) A charitable organization shall comply with all local
17 governmental regulations that apply to soliciting for or on behalf of
18 charitable organizations.

19 (7) The advertising material and the general promotional plan for
20 a solicitation shall not be false, misleading, or deceptive, and shall
21 afford full and fair disclosure.

22 (8) Solicitations shall not be conducted by a charitable
23 organization or independent fund raiser that has, or if a corporation,
24 its officers, directors, or principals have, been convicted of a crime
25 involving solicitations for or on behalf of a charitable organization
26 in this state, the United States, or any other state or foreign country
27 within the past ten years or has been subject to any permanent
28 injunction or administrative order or judgment under RCW 19.86.080 or
29 19.86.090, involving a violation or violations of RCW 19.86.020, within

1 the past ten years, or of restraining a false or misleading promotional
2 plan involving solicitations for charitable organizations.

3 (9) Each person or organization soliciting charitable contributions
4 by telephone on behalf of a public safety-related organization shall
5 comply with the requirements of RCW 80.36.390, and in addition, shall,
6 during the first forty-five seconds of the phone call, identify the
7 name of any independent fundraising organization associated with the
8 solicitation effort, and the fact that the independent fundraiser is
9 compensated for its services.

10 Failure to comply with subsections (1) through ~~((+8))~~ (9) of this
11 section is a violation of this chapter.

12 **Sec. 3.** RCW 19.09.275 and 1986 c 230 s 18 are each amended to read
13 as follows:

14 Any person who willfully and knowingly violates any provision of
15 this chapter or who willfully and knowingly gives false or incorrect
16 information to the secretary, attorney general, or county prosecuting
17 attorney in filing statements required by this chapter, whether or not
18 such statement or report is verified is guilty of a gross misdemeanor
19 punishable under chapter 9A.20 RCW.

20 Any person who violates any provisions of this chapter or who gives
21 false or incorrect information to the secretary, attorney general, or
22 county prosecuting attorney in filing statements required by this
23 chapter, whether or not such statement or report is verified, is guilty
24 of a misdemeanor punishable under chapter 9A.20 RCW.

25 Any person who, in the course of soliciting contributions on behalf
26 of a public safety-related organization, violates the provisions of RCW
27 19.09.100 (5) or (9) is guilty of a class C felony punishable under
28 chapter 9A.20 RCW.