
SUBSTITUTE SENATE BILL 6246

State of Washington

52nd Legislature

1992 Regular Session

By Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators von Reichbauer, Rasmussen and McCaslin; by request of Attorney General)

Read first time 02/07/92.

1 AN ACT Relating to charitable solicitations; amending RCW
2 19.09.020, 19.09.065, 19.09.075, 19.09.079, 19.09.085, 19.09.097,
3 19.09.271, 19.09.100, 19.09.190, 19.09.200, 19.09.210, 19.09.230,
4 19.09.240, 19.09.275, 19.09.305, 19.09.315, and 19.09.340; adding new
5 sections to chapter 19.09 RCW; creating new sections; repealing RCW
6 19.09.078; prescribing penalties; and providing an effective date.

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

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

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

11 (1) A "bona fide officer or employee" of a charitable organization
12 is one (a) whose conduct is subject to direct control by such
13 organization; (b) who does not act in the manner of an independent

1 contractor in his or her relation with the organization; and (c) whose
2 compensation is not computed on funds raised or to be raised.

3 (2) "Charitable organization" means any entity that solicits or
4 collects contributions from the general public where the contribution
5 is or is purported to be used to support a charitable activity, but
6 does not include any commercial fund raiser or commercial fund-raising
7 entity as defined in this section. "Charitable" (a) is not limited to
8 its common law meaning unless the context clearly requires a narrower
9 meaning; (b) does not include religious or political activities; and
10 (c) includes, but is not limited to, educational, recreational, social,
11 patriotic, legal defense, benevolent, ~~((or))~~ and health causes;
12 however, a bona fide institution of higher education located in the
13 state of Washington, whether public or private, or a separate
14 foundation whose purpose is to raise funds solely for such an
15 institution, is not a charitable organization.

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

18 (4) "Contribution" means the payment, donation, promise or grant,
19 for consideration or otherwise, of any money or property of any kind or
20 value which contribution is wholly or partly induced by a solicitation.
21 Reference to dollar amounts of "contributions" or "solicitations" in
22 this chapter means in the case of payments or promises to pay for
23 merchandise or rights of any description, the value of the total amount
24 paid or promised to be paid for such merchandise or rights less the
25 reasonable purchase price to the charitable organization of any such
26 tangible merchandise, rights, or services resold by the organization,
27 and not merely that portion of the purchase price to be applied to a
28 charitable purpose.

29 (5) "Cost of solicitation" means and includes all direct and
30 indirect costs, expenditures, debts, obligations, salaries, wages,

1 commissions, fees, or other money or thing of value paid or incurred in
2 making a solicitation. Cost of solicitation does not include the
3 reasonable purchase price to the charitable organization of any
4 tangible goods or services resold by the organization as a part of its
5 fund raising activities.

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

9 (7) "General public" or "public" means any individual located in
10 Washington state without a membership or other official relationship
11 with a charitable organization before a solicitation by the charitable
12 organization.

13 (8) "~~((Independent))~~ Commercial fund raiser" or "~~((independent))~~
14 commercial fund-raising entity" means any entity that for compensation
15 or other consideration, plans, conducts, manages, or administers any
16 drive or campaign in this state for the purpose of soliciting
17 contributions for or on behalf of any charitable organization or
18 charitable or religious purpose, or that is engaged in the business of
19 or is held out to persons in this state as independently engaged in the
20 business of soliciting contributions for such purposes, or the business
21 of planning, conducting, managing, or carrying on any drive or campaign
22 in this state for such solicitations. However, a ~~((nonprofit fund~~
23 ~~raiser or))~~ bona fide officer or other employee of a charitable
24 organization shall not be deemed ~~((an independent))~~ a commercial fund
25 raiser.

26 (9) "Membership" means that for the payment of fees, dues,
27 assessments, etc., an organization provides services and confers a bona
28 fide right, privilege, professional standing, honor, or other direct
29 benefit, in addition to the right to vote, elect officers, or hold
30 office. The term "membership" does not include those persons who are

1 granted a membership upon making a contribution as the result of
2 solicitation.

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

9 ~~((11))~~ "Other employee" of a charitable organization means any
10 person (a) whose conduct is subject to direct control by such
11 organization; (b) who does not act in the manner of any independent
12 contractor in his or her relation with the organization; and (c) who is
13 not engaged in the business of or held out to persons in this state as
14 independently engaged in the business of soliciting contributions for
15 charitable or religious purposes.

16 ~~((12))~~ (11) "Parent organization" means that part of a charitable
17 organization that coordinates, supervises, or exercises control over
18 policy, fund raising, or expenditures, or assists or advises one or
19 more chapters, branches, or affiliates of such organization in the
20 state of Washington.

21 ~~((13))~~ (12) "Political activities" means those activities subject
22 to chapter 42.17 RCW or the Federal Elections Campaign Act of 1971, as
23 amended.

24 ~~((14))~~ (13) "Religious activities" means those religious,
25 evangelical, or missionary activities under the direction of a
26 religious organization duly organized and operating in good faith that
27 are entitled to receive a declaration of current tax exempt status for
28 religious purposes from the United States government and the duly
29 organized branches or chapters of those organizations.

30 ~~((15))~~ (14) "Secretary" means the secretary of state.

1 (~~(16)~~) (15) "Solicitation" means any oral or written request for
2 a contribution, including the solicitor's offer or attempt to sell any
3 property, rights, services, or other thing in connection with which:

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

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

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

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

12 Bingo activities, raffles, and amusement games conducted under
13 chapter 9.46 RCW and applicable rules of the Washington state gambling
14 commission are specifically excluded and shall not be deemed a
15 solicitation under this chapter.

16 **Sec. 2.** RCW 19.09.065 and 1986 c 230 s 3 are each amended to read
17 as follows:

18 (1) All charitable organizations(~~(, independent)~~) and commercial
19 fund raisers(~~(, and nonprofit fund raisers, as defined in RCW~~
20 ~~19.09.020,)~~) shall register with the secretary prior to conducting any
21 solicitations.

22 (2) Failure to register as required by this chapter is a violation
23 of this chapter.

24 (3) Information provided to the secretary pursuant to this chapter
25 shall be a public record except as otherwise stated in this chapter.

26 (4) Registration shall not be considered or be represented as an
27 endorsement by the secretary or the state of Washington.

1 **Sec. 3.** RCW 19.09.075 and 1986 c 230 s 4 are each amended to read
2 as follows:

3 An application for registration as a charitable organization shall
4 be submitted in the form prescribed by rule by the secretary,
5 containing, but not limited to, the following:

6 (1) The name, address, and telephone number of the charitable
7 organization;

8 (2) The name(s) under which the organization will solicit
9 contributions;

10 (3) The name, address, and telephone number of the officers of the
11 organization;

12 (4) The names of the three officers or employees receiving the
13 greatest amount of compensation from the organization;

14 (5) The purpose of the organization;

15 (6)(a) Whether the organization is exempt from federal income tax;
16 and if so the organization shall attach to its application a true copy
17 of the letter by which the internal revenue service granted such
18 status; and

19 ~~(b) ((Whether the financial affairs of the organization are audited~~
20 ~~by an independent entity and, if so,))~~ The name and address of the
21 entity that prepares, reviews, or audits the financial statement of the
22 organization;

23 (7) A solicitation report of the organization for the preceding
24 accounting year including:

25 (a) The number and types of solicitations conducted;

26 (b) The total dollar value of support received from solicitations
27 and from all other sources received on behalf of the charitable purpose
28 of the charitable organization;

29 (c) The total amount of money applied to charitable purposes, fund
30 raising costs, and other expenses;

1 (d) The name, address, and telephone number of any (~~independent~~)
2 commercial fund raiser used by the organization; and

3 (8) An irrevocable appointment of the secretary to receive service
4 of process in noncriminal proceedings as provided in RCW 19.09.305.

5 The requirements of subsection (7) (b) and (c) of this section may
6 be satisfied by the submission of such federal tax forms as may be
7 approved by rule of the secretary.

8 The application shall be signed by the president, treasurer, or
9 comparable officer of the organization (~~and~~) whose signature shall be
10 notarized. The application shall be submitted with a nonrefundable (~~(~~
11 ~~ten-dollar)~~) filing fee in an amount to be established by the secretary
12 by rule. If the secretary determines that the application is complete,
13 the application shall be filed and the applicant deemed registered.

14 The secretary shall notify the director of veterans' affairs upon
15 receipt of an application for registration as a charitable organization
16 from an entity that purports to raise funds to benefit veterans of the
17 United States military services. The director of veterans' affairs may
18 advise the secretary and the attorney general of any information,
19 reports, or complaints regarding such an organization.

20 **Sec. 4.** RCW 19.09.079 and 1986 c 230 s 7 are each amended to read
21 as follows:

22 An application for registration as (~~an independent~~) a commercial
23 fund raiser shall be submitted in the form prescribed by the secretary,
24 containing, but not limited to, the following:

25 (1) The name, address, and telephone number of the (~~independent~~)
26 commercial fund-raising entity;

27 (2) The name(s), address(es), and telephone number(s) of the
28 owner(s) and principal officer(s) of the (~~independent~~) commercial
29 fund-raising entity;

1 (3) The name, address, and telephone number of the individual
2 responsible for the activities of the ((independent)) commercial fund-
3 raising entity in Washington;

4 (4) A list of states and Canadian provinces in which fund raising
5 has been performed;

6 (5) The names of the three officers or employees receiving the
7 greatest amount of compensation from the ((independent)) commercial
8 fund-raising entity;

9 (6) (~~Whether the financial affairs of the independent fund raiser~~
10 ~~are audited by an independent entity, and, if so,)~~ The name and
11 address of the entity that prepares, reviews, or audits the financial
12 statement of the organization;

13 (7) A solicitation report of the ((independent)) commercial fund-
14 raising entity for the preceding accounting year, including:

15 (a) The number and types of fund raising services conducted;

16 (b) The names of charitable organizations required to register
17 under RCW 19.09.065 for whom fund raising services have been performed;

18 (c) The total value of contributions received on behalf of
19 charitable organizations required to register under RCW 19.09.065 by
20 the ((independent)) commercial fund raiser, affiliate of the
21 ((independent)) commercial fund raiser, or any entity retained by the
22 ((independent)) commercial fund raiser; and

23 (d) The amount of money disbursed to charitable organizations for
24 charitable purposes, net of fund raising costs paid by the charitable
25 organization as stipulated in any agreement between charitable
26 organizations and the ((independent)) commercial fund raiser;

27 (8) The name, address, and telephone number of any ((independent))
28 commercial fund raiser that was retained in the conduct of providing
29 fund raising services; and

1 (9) An irrevocable appointment of the secretary to receive service
2 of process in noncriminal proceedings as provided in RCW 19.09.305.

3 The application shall be signed by an officer or owner of the
4 (~~independent~~) commercial fund raiser and shall be submitted with a
5 nonrefundable(~~(, fifty dollar filing)~~) fee in an amount to be
6 established by rule of the secretary. If the secretary determines that
7 the application is complete, the application shall be filed and the
8 applicant deemed registered.

9 **Sec. 5.** RCW 19.09.085 and 1986 c 230 s 8 are each amended to read
10 as follows:

11 (1) Registration under this chapter shall cease to be effective
12 (~~for~~) after one year, or on the (~~end of~~) fifteenth day of the fifth
13 month after the organization's accounting year ends, whichever comes
14 first.

15 (2) Reregistration required under RCW 19.09.075 (~~and 19.09.078~~)
16 shall be (~~received by~~) submitted to the secretary no later than the
17 fifteenth day of the fifth month after the organization's accounting
18 period ends.

19 (3) Reregistration required under RCW 19.09.079 shall be (~~received~~
20 ~~by~~) submitted to the secretary no later than the fifteenth day of the
21 third month after the organization's accounting period ends.

22 (4) Entities required to register under this chapter shall file a
23 notice of change of information within thirty days of any change in the
24 information contained in RCW 19.09.075 (1) through (6)(~~7~~) or
25 19.09.079 (1) through (6)(~~7 or 19.09.078 (1) through (4)~~)).

26 (5) The secretary (~~may~~) shall notify entities registered under
27 this chapter of the need to reregister upon the expiration of their
28 current registration. The notification shall be by mail, sent at least
29 sixty days prior to the expiration of their current registration.

1 Failure to register shall not be excused by a failure of the secretary
2 to mail the notice or by an entity's failure to receive the notice.

3 **Sec. 6.** RCW 19.09.097 and 1986 c 230 s 10 are each amended to read
4 as follows:

5 (1) No charitable organization may contract with a commercial fund
6 raiser for any fund raising service or activity unless its contract
7 requires that both parties comply with the law and permits officers of
8 the charity reasonable access to: (a) The fund raisers' financial
9 records relating to that charitable organization; and (b) the fund
10 raisers' operations including without limitation the right to be
11 present during any telephone solicitation. In addition, the contract
12 shall specify the amount of raised funds that the charitable
13 organization will receive or the method of computing that amount, the
14 amount of compensation of the commercial fund raiser or the method of
15 computing that amount, and whether the compensation is fixed or
16 contingent.

17 (2) Before (~~contracting~~) a charitable organization may contract
18 with a commercial fund raiser for any fund raising service or activity,
19 the charitable organization and (~~independent~~) commercial fund raiser
20 shall complete a registration form. The registration shall be filed by
21 the charitable organization with the secretary, in the form prescribed
22 by the secretary, within five working days of the execution of the
23 contract containing, but not limited to the following information:

24 (~~(1)~~) (a) The name and registration number of the (~~independent~~)
25 commercial fund raiser;

26 (~~(2)~~) (b) The name of the surety or sureties issuing the bond
27 required by RCW 19.09.190, the aggregate amount of such bond or bonds,
28 the bond number(s), original effective date(s), and termination
29 date(s);

1 (~~(3)~~) (c) The name and registration number of the charitable
2 organization;

3 (~~(4)~~) (d) The name of the representative of the (~~independent~~)
4 commercial fund raiser who will be responsible for the conduct of the
5 fund raising;

6 (~~(5)~~) (e) The type(s) of service(s) to be provided by the
7 (~~independent~~) commercial fund raiser;

8 (~~(6)~~) (f) The dates such service(s) will begin and end;

9 (~~(7)~~) (g) The terms of the agreement between the charitable
10 organization and (~~independent~~) commercial fund raiser relating to:

11 (~~(a)~~) (i) Amount or percentages of amounts to inure to the
12 charitable organization;

13 (~~(b)~~) (ii) Limitations placed on the maximum amount to be raised
14 by the fund raiser, if the amount to inure to the charitable
15 organization is not stated as a percentage of the amount raised;

16 (~~(c)~~) (iii) Costs of fund raising that will be the responsibility
17 of the charitable organization, regardless of whether paid as a direct
18 expense, deducted from the amounts disbursed, or otherwise; and

19 (~~(d)~~) (iv) The manner in which contributions received directly by
20 the charitable organization, not the result of services provided by the
21 (~~independent~~) commercial fund raiser, will be identified and used in
22 computing the fee owed to the (~~independent~~) commercial fund raiser;
23 and

24 (~~(8)~~) (h) The names of any entity to which more than ten percent
25 of the total anticipated fund raising cost is to be paid, and whether
26 any principal officer or owner of the (~~independent~~) commercial fund
27 raiser or relative by blood or marriage thereof is an owner or officer
28 of any such entity.

29 (3) A true and correct copy of the contract must be filed with the
30 secretary before the commencement of any campaign.

1 (4) The registration form shall be submitted with a
2 nonrefundable(~~(, five dollar)~~) filing fee in an amount to be
3 established by rule of the secretary and shall be signed by an owner or
4 principal officer of the (~~(independent)~~) commercial fund raiser and the
5 president, treasurer, or comparable officer of the charitable
6 organization.

7 **Sec. 7.** RCW 19.09.271 and 1986 c 230 s 17 are each amended to read
8 as follows:

9 (1) Any charitable organization(~~(, nonprofit fund raiser,)~~) or
10 (~~(independent)~~) commercial fund raiser who, after notification by the
11 secretary, fails to properly register under this chapter by the end of
12 the first business day following the issuance of the notice, is liable
13 for a late filing fee (~~(of five dollars per day from the date of the~~
14 ~~notice until the registration is properly completed and filed)~~) in an
15 amount to be established by rule of the secretary. The late filing fee
16 is in addition to any other filing fee provided by this chapter.

17 (2) The secretary shall notify the attorney general of any entity
18 liable for late filing fees under subsection (1) of this section.

19 **Sec. 8.** RCW 19.09.100 and 1986 c 230 s 11 are each amended to read
20 as follows:

21 The following conditions apply to solicitations as defined by RCW
22 19.09.020:

23 (1) (~~(Each person or organization soliciting charitable~~
24 ~~contributions shall disclose orally or in writing to each person or~~
25 ~~organization solicited:~~

26 ~~(a) The name of the individual making the solicitation;~~

27 ~~(b) The name of the charitable organization;~~

1 ~~(c) The purpose of the solicitation, and the name of the~~
2 ~~organization that will receive the funds contributed; and~~

3 ~~(d) Whether the charitable organization is or is not properly~~
4 ~~registered under this chapter, and if registered, that information~~
5 ~~relating to its financial affairs is available by contacting the office~~
6 ~~of the secretary of state, giving the secretary's toll-free telephone~~
7 ~~number, if available.~~

8 ~~(2) Each person or organization soliciting charitable contributions~~
9 ~~shall conspicuously disclose in writing to each person or organization~~
10 ~~solicited:~~

11 ~~(a) If the solicitation is conducted by a charitable organization,~~
12 ~~the percentage relationship between (i) the total amount of money~~
13 ~~applied to charitable purposes; and (ii) the dollar value of support~~
14 ~~received from solicitations and from all other sources received on~~
15 ~~behalf of the charitable purpose of the organization, as contained in~~
16 ~~the organization's most recent solicitation report filed in accordance~~
17 ~~with RCW 19.09.075(7);~~

18 ~~(b) If the solicitation is conducted by an independent or nonprofit~~
19 ~~fund raiser, the percentage relationship between (i) the amount of~~
20 ~~money disbursed to charitable organizations for charitable purposes;~~
21 ~~and (ii) the total value of contributions received on behalf of~~
22 ~~charitable organizations by the independent or nonprofit fund raiser,~~
23 ~~as contained in the fund raiser's most recent solicitation report filed~~
24 ~~in accordance with RCW 19.09.079(7) or 19.09.078.~~

25 ~~(3) Each person or organization soliciting charitable contributions~~
26 ~~by telephone shall make the disclosures required by RCW 19.09.100(2)~~

27 ~~(a) or (b) in writing within five days of the receipt of any~~
28 ~~contribution. If the person or organization sends any materials to the~~
29 ~~person or organization solicited before the receipt of any~~
30 ~~contribution, those materials shall include the disclosures required in~~

1 ~~RCW 19.09.100(1)(d), and 19.09.100 (2) (a) or (b), whichever is~~
2 ~~applicable.~~

3 ~~(4))~~ A charitable organization, whether or not required to
4 register pursuant to this chapter, that directly solicits contributions
5 from the public in this state shall make the following clear and
6 conspicuous disclosures at the point of solicitation:

7 (a) The true name of the individual making the solicitation;

8 (b) The identity of the charitable organization and the city of the
9 principal place of business of the charitable organization;

10 (c) If requested by the solicitee, the toll-free number for the
11 donor to obtain additional financial disclosure information on file
12 with the secretary.

13 (2) A commercial fund raiser shall clearly and conspicuously
14 disclose at the point of solicitation: (a) The name of the individual
15 making the solicitation; (b) the name of the entity for which the fund
16 raiser is an agent or employee and the name and city of the charitable
17 organization for which the solicitation is being conducted; and (c) if
18 requested by the solicitee, the toll-free number for the donor to
19 obtain additional financial disclosure information on file with the
20 secretary. The disclosure must be made during an oral solicitation of
21 a contribution, and at the same time at which a written request for a
22 contribution is made.

23 (3) A person or organization soliciting charitable contributions by
24 telephone shall make the disclosures required under subsection (1) or
25 (2) of this section in the course of the solicitation but prior to
26 asking for a commitment for a contribution from the solicitee, and in
27 writing to any solicitee that makes a pledge within five days of making
28 the pledge. If the person or organization sends any materials to the
29 person or organization solicited before the receipt of any

1 contribution, those materials shall include the disclosures required in
2 subsection (1) or (2) of this section, whichever is applicable.

3 (4) In the case of a solicitation by advertisement or mass
4 distribution, including posters, leaflets, automatic dialing machines,
5 publication, and audio or video broadcasts, it shall be clearly and
6 conspicuously disclosed in the body of the solicitation material that:
7 (a) The solicitation is conducted by a named commercial fund raiser, if
8 it is; (b) the notice of solicitation required by the charitable
9 solicitation act is on file with the secretary's office; and (c) the
10 potential donor can obtain additional information at a toll-free
11 number.

12 (5) A container or vending machine displaying a solicitation must
13 also display in a clear and conspicuous manner the name of the
14 charitable organization for which funds are solicited, the name,
15 residence address, and telephone number of the individual and any
16 commercial fund raiser responsible for collecting funds placed in the
17 containers or vending machines, and the following statement: "This
18 charity is registered with the secretary's office under the charitable
19 solicitation act, registration number"

20 (6) A commercial fund raiser shall not represent that tickets to
21 any fund raising event will be donated for use by another person unless
22 all the following requirements are met:

23 (a) The commercial fund raiser prior to conducting a solicitation
24 has written commitments from persons stating that they will accept
25 donated tickets and specifying the number of tickets they will accept;

26 (b) The written commitments are kept on file by the commercial fund
27 raiser for three years and are made available to the attorney general
28 on demand;

1 (c) The contributions solicited for donated tickets may not be more
2 than the amount representing the number of ticket commitments received
3 from persons and kept on file under (a) of this subsection; and

4 (d) Not later than seven calendar days prior to the date of the
5 event for which ticket donations are solicited, the commercial fund
6 raiser shall give all donated tickets to the persons who made the
7 written commitments to accept them.

8 (7) Each person or organization soliciting charitable contributions
9 shall not represent orally or in writing that:

10 (a) The charitable contribution is tax deductible unless the
11 charitable organization for which charitable contributions are being
12 solicited or to which tickets for fund raising events or other services
13 or goods will be donated, has applied for and received from the
14 internal revenue service a letter of determination granting tax
15 deductible status to the charitable organization;

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

20 (c) The person soliciting the charitable contribution is a member,
21 staffer, helper, or employee of the charitable organization or words of
22 similar meaning or effect that create the impression that the person
23 soliciting is not a paid solicitor if the person soliciting is
24 employed, contracted, or paid by ~~((an independent))~~ a commercial fund
25 raiser.

26 ~~((+5))~~ (8) If the charitable organization is associated with, or
27 has a name that is similar to, any unit of government each person or
28 organization soliciting contributions shall disclose to each person
29 solicited whether the charitable organization is or is not part of any

1 unit of government and the true nature of its relationship to the unit
2 of government.

3 ~~((6))~~ (9) No person may, in connection with the solicitation of
4 contributions or the sale of goods, magazine, newspaper advertising, or
5 any other service, use the name "police," "sheriff," "fire fighter,"
6 "firemen," or a similar name unless properly authorized by a bona fide
7 police, sheriff, or fire fighter organization or police, sheriff, or
8 fire department. A proper authorization must be in writing and signed
9 by two authorized officials of the organization or department.

10 (10) A person may not, in connection with the solicitation of
11 contributions or the sale of goods, magazines, or newspaper
12 advertising, or any other service, use the name of a federally
13 chartered military veterans' service organization unless authorized in
14 writing by the highest ranking official of that organization in this
15 state.

16 (11) 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))~~ (12) The advertising material and the general promotional
20 plan for a solicitation shall not be false, misleading, or deceptive,
21 and shall afford full and fair disclosure.

22 ~~((8))~~ (13) Solicitations shall not be conducted by a charitable
23 organization or ~~((independent))~~ commercial fund raiser that has, or if
24 a corporation, its officers, directors, or principals have, been
25 convicted of a crime involving solicitations for or on behalf of a
26 charitable organization in this state, the United States, or any other
27 state or foreign country within the past ten years or has been subject
28 to any permanent injunction or administrative order or judgment under
29 RCW 19.86.080 or 19.86.090, involving a violation or violations of RCW
30 19.86.020, within the past ten years, or of restraining a false or

1 misleading promotional plan involving solicitations for charitable
2 organizations.

3 (14) No charitable organization or commercial fund raiser subject
4 to this chapter may use or exploit the fact of registration under this
5 chapter so as to lead the public to believe that registration
6 constitutes an endorsement or approval by the state, but the use of the
7 following is not deemed prohibited: "Registered with the Washington
8 state secretary of state as required by law. Registration number"

9 (15) No entity may engage in any solicitation for contributions for
10 or on behalf of any charitable organization or commercial fund raiser
11 unless the charitable organization or commercial fund raiser is
12 registered with the secretary.

13 (16) No entity may engage in any solicitation for contributions
14 unless it complies with all provisions of this chapter.

15 (17)(a) No entity may place a telephone call for the purpose of
16 charitable solicitation that will be received by the solicitee before
17 eight o'clock a.m. or after nine o'clock p.m.

18 (b) No entity may, while placing a telephone call for the purpose
19 of charitable solicitation, engage in any conduct the natural
20 consequence of which is to harass, intimidate, or torment any person in
21 connection with the telephone call.

22 (18) Failure to comply with subsections (1) through ~~((+8))~~ (17) of
23 this section is a violation of this chapter.

24 **Sec. 9.** RCW 19.09.190 and 1986 c 230 s 16 are each amended to read
25 as follows:

26 Every ~~((independent))~~ commercial fund raiser who (1) directly or
27 indirectly receives contributions from the public on behalf of any
28 charitable organization; or (2) is compensated based upon funds raised
29 or to be raised, number of solicitations made or to be made, or any

1 other similar method; or (3) incurs or is authorized to incur expenses
2 on behalf of the charitable organization; or (4) has not been
3 registered with the secretary as (~~(an independent)~~) a commercial fund
4 raiser for the preceding accounting year shall execute a surety bond as
5 principal with one or more sureties whose liability in the aggregate as
6 such sureties will equal at least fifteen thousand dollars. The
7 secretary may, by rule, provide for the reduction and reinstatement of
8 the bond required by this section.

9 The issuer of the surety bond shall be licensed to do business in
10 this state, and shall promptly notify the secretary when claims or
11 payments are made against the bond or when the bond is canceled. The
12 bond shall be filed with the secretary in the form prescribed by the
13 secretary. The bond shall run to the state and to any person who may
14 have a cause of action against the obligor of said bond for any
15 malfeasance, misfeasance, or deceptive practice in the conduct of such
16 solicitation.

17 **Sec. 10.** RCW 19.09.200 and 1986 c 230 s 12 are each amended to
18 read as follows:

19 (1) Charitable organizations and (~~(independent)~~) commercial fund
20 raisers shall maintain accurate, current, and readily available books
21 and records at their usual business locations until at least three
22 years have elapsed following the effective period to which they relate.

23 (2) Each commercial fund raiser and charitable organization shall
24 maintain a record of the names of donors, their addresses, and the date
25 the donations were received for one year after a solicitation campaign
26 has been completed. No donor list, information, or documentation
27 required to be maintained under this subsection that is obtained by the
28 attorney general under this chapter, unless otherwise ordered by a
29 court for good cause shown, may be a public record.

1 (3) All contracts between ((independent)) commercial fund raisers
2 and charitable organizations shall be in writing, and true and correct
3 copies of such contracts or records thereof shall be kept on file in
4 the various offices of the charitable organization and the
5 ((independent)) commercial fund raiser for a three-year period. Such
6 records and contracts shall be available for inspection and examination
7 by the attorney general or by the county prosecuting attorney. A copy
8 of such contract or record shall be submitted by the charitable
9 organization or ((independent)) commercial fund raiser, within ten
10 days, following receipt of a written demand therefor from the attorney
11 general or county prosecutor.

12 **Sec. 11.** RCW 19.09.210 and 1986 c 230 s 13 are each amended to
13 read as follows:

14 Upon the request of the attorney general or the county prosecutor,
15 a charitable organization or commercial fund raiser shall submit a
16 financial statement containing, but not limited to, the following
17 information:

18 (1) The gross amount of the contributions pledged and the gross
19 amount collected.

20 (2) The amount thereof, given or to be given to charitable purposes
21 represented together with details as to the manner of distribution as
22 may be required.

23 (3) The aggregate amount paid and to be paid for the expenses of
24 such solicitation.

25 (4) The amounts paid to and to be paid to ((independent))
26 commercial fund raisers or charitable organizations.

27 (5) Copies of any annual or periodic reports furnished by the
28 charitable organization, of its activities during or for the same

1 fiscal period, to its parent organization, subsidiaries, or affiliates,
2 if any.

3 **Sec. 12.** RCW 19.09.230 and 1986 c 230 s 14 are each amended to
4 read as follows:

5 No charitable organization, ((~~independent~~)) commercial fund raiser,
6 or other entity may knowingly use the name, symbol, or emblem of any
7 other person for the purpose of soliciting contributions from persons
8 in this state without the written consent of such other person. Such
9 consent may be deemed to have been given by anyone who is a director,
10 trustee, or other authorized officer, employee, agent, or
11 ((~~independent~~)) commercial fund raiser of the charitable organization,
12 and a copy of the written consent must be kept on file by the
13 charitable organization or commercial fund raiser and made available to
14 the attorney general upon demand.

15 A person may be deemed to have used the name of another person for
16 the purpose of soliciting contributions if such latter person's name is
17 listed on any stationery, advertisement, brochure, or correspondence of
18 the charitable organization or person or if such name is listed or
19 represented to any one who has contributed to, sponsored, or endorsed
20 the charitable organization or person, or its or his activities.

21 The secretary may revoke or deny any application for registration
22 that violates this section.

23 **Sec. 13.** RCW 19.09.240 and 1986 c 230 s 15 are each amended to
24 read as follows:

25 No charitable organization, ((~~independent~~)) commercial fund raiser,
26 or other person soliciting contributions for or on behalf of a
27 charitable organization may use a name, symbol, emblem, or statement so
28 closely related or similar to that used by another charitable

1 organization or governmental agency that the use thereof would tend to
2 confuse or mislead the public. The secretary may revoke or deny any
3 application for registration that violates this section.

4 **Sec. 14.** RCW 19.09.275 and 1986 c 230 s 18 are each amended to
5 read as follows:

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

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

17 Any person who willfully and knowingly violates RCW 19.09.100(9) or
18 who falsely claims, in the course of a charitable solicitation, to be
19 a law enforcement officer, is guilty of a class C felony punishable
20 under chapter 9A.20 RCW.

21 **Sec. 15.** RCW 19.09.305 and 1983 c 265 s 7 are each amended to read
22 as follows:

23 When a person or an organization registered under this chapter, or
24 its president, treasurer, or comparable officers, cannot be found after
25 reasonably diligent effort, the secretary of state shall be an agent of
26 such person or organization upon whom process may be served. Service
27 on the secretary shall be made by delivering to the secretary or the
28 secretary's designee duplicate copies of such process, and a ((twenty-

1 ~~five-dollar~~) filing fee to be established by rule of the secretary.
2 Thereupon, the secretary shall immediately cause one of the copies
3 thereof to be forwarded to the registrant at the most current address
4 shown in the secretary's files. Any service so had on the secretary
5 shall be returnable in not less than thirty days.

6 Any fee under this section shall be taxable as costs in the action.

7 The secretary shall maintain a record of all process served on the
8 secretary under this section, and shall record the date of service and
9 the secretary's action with reference thereto.

10 Nothing in this section limits or affects the right to serve
11 process required or permitted to be served on a registrant in any other
12 manner now or hereafter permitted by law.

13 **Sec. 16.** RCW 19.09.315 and 1983 c 265 s 17 are each amended to
14 read as follows:

15 (1) The secretary may establish, by rule, standard forms and
16 procedures for the efficient administration of this chapter.

17 (2) The secretary may provide by rule for the filing of a financial
18 statement by registered entities.

19 (3) The secretary may issue such publications, reports, or
20 information from the records as may be useful to the solicited public
21 and charitable organizations. To defray the costs of any such
22 publication, the secretary is authorized to charge a reasonable fee to
23 cover the costs of preparing, printing, and distributing such
24 publications.

25 NEW SECTION. **Sec. 17.** The attorney general, in the attorney
26 general's discretion, may:

27 (1) Annually, or more frequently, make such public or private
28 investigations within or without this state as the attorney general

1 deems necessary to determine whether any registration should be
2 granted, denied, revoked, or suspended, or whether any person has
3 violated or is about to violate a provision of this chapter or any rule
4 adopted or order issued under this chapter, or to aid in the
5 enforcement of this chapter or in the prescribing of rules and forms
6 under this chapter; and

7 (2) Publish information concerning a violation of this chapter or
8 a rule adopted or order issued under this chapter.

9 NEW SECTION. **Sec. 18.** For the purpose of any investigation or
10 proceeding under this chapter, the attorney general or any officer
11 designated by the attorney general may administer oaths and
12 affirmations, subpoena witnesses, compel their attendance, take
13 evidence, and require the production of any books, papers,
14 correspondence, memoranda, agreements, or other documents or records
15 which the attorney general deems relevant or material to the inquiry.

16 In case of willful failure on the part of a person to comply with
17 a subpoena lawfully issued by the attorney general or on the refusal of
18 a witness to testify to matters regarding which the witness may be
19 lawfully interrogated, the superior court of a county, on application
20 of the attorney general and after satisfactory evidence of willful
21 disobedience, may compel obedience by proceedings for contempt, as in
22 the case of disobedience of a subpoena issued from the court or a
23 refusal to testify therein.

24 NEW SECTION. **Sec. 19.** If it appears to the attorney general
25 that a person has engaged or is about to engage in an act or practice
26 constituting a violation of a provision of this chapter or a rule
27 adopted or order issued under this chapter, the attorney general may,
28 in the attorney general's discretion, issue an order directing the

1 person to cease and desist from continuing the act or practice.
2 Reasonable notice of and opportunity for a hearing shall be given. The
3 attorney general may issue a temporary order pending the hearing, which
4 shall remain in effect until ten days after the hearing is held and
5 which shall become final if the person to whom the notice is addressed
6 does not request a hearing within fifteen days after the receipt of the
7 notice.

8 NEW SECTION. **Sec. 20.** (1) The attorney general may assess
9 against any person or organization who violates this chapter, or any
10 rule adopted under this chapter, a civil penalty of not more than one
11 thousand dollars for each violation.

12 (2) Such person or organization shall be afforded the opportunity
13 for a hearing, upon request made to the attorney general within thirty
14 days after the date of issuance of the notice of assessment. The
15 hearing shall be conducted in accordance with chapter 34.05 RCW.

16 (3) If any person fails to pay an assessment after it has become a
17 final and unappealable order, or after the court has entered final
18 judgment in favor of the state, the attorney general may recover the
19 amount assessed by action in the appropriate superior court. In such
20 action, the validity and appropriateness of the final order imposing
21 the penalty shall not be subject to review.

22 NEW SECTION. **Sec. 21.** The administrative procedure act,
23 chapter 34.05 RCW, shall wherever applicable herein govern the rights,
24 remedies, and procedures respecting the administration of this chapter.

25 NEW SECTION. **Sec. 22.** The secretary shall provide the attorney
26 general with copies of or direct electronic access to all
27 registrations, reports, or other information filed under this chapter.

1 NEW SECTION. **Sec. 23.** The attorney general and the secretary
2 of state shall evaluate the feasibility of providing a common schedule
3 for renewals of registration under chapter 19.09 RCW and annual
4 reporting under chapter 11.110 RCW. They shall report their findings,
5 and any recommendations for further statutory change, to the
6 legislature by January 1, 1993.

7 NEW SECTION. **Sec. 24.** The attorney general and the secretary
8 of state shall jointly develop and implement, prior to July 1, 1993, a
9 consolidated application for registration under chapters 11.110 and
10 19.09 RCW.

11 NEW SECTION. **Sec. 25.** RCW 19.09.078 and 1986 c 230 s 6 are
12 each repealed.

13 NEW SECTION. **Sec. 26.** Sections 17 through 22 of this act are
14 each added to chapter 19.09 RCW.

15 NEW SECTION. **Sec. 27.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 28.** This act shall take effect July 1, 1992.