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H.B. 184
135th General Assembly

Bill Analysis

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Version: As Introduced

Primary Sponsors: Reps. Brennan and Bird

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SUMMARY

- Adds collection receptacles, which are containers used for the collection of donations of clothing, books, personal or household items, or other goods, and those who operate them under the regulation of the Ohio Charitable Solicitation Law.
- Requires the operator of a collection receptacle to display a conspicuous and permanent sign or label on every side of the collection receptacle providing identifying and contact information for the charitable organization and professional solicitor.
- Limits all charitable solicitations that are subject to the Ohio Charitable Solicitation Law to four years.
- Permits the contract between a professional solicitor and a charitable organization to express the benefit the charitable organization will receive based on an amount of dollars per pound of goods collected rather than as a percentage of gross revenue.
- Requires a professional solicitor to maintain audio recordings of each phone solicitation the solicitor makes for up to three years after the completion of the solicitation campaign.
- Expressly prohibits a charitable solicitation or charitable sales promotion from violating the federal Telemarketing Sales Rule which, among other things, prohibits initiating an outbound telephone call that delivers a prerecorded message.
- Permits the Attorney General to examine a professional solicitor's pitch sheets, solicitation scripts, and recordings when investigating any alleged violation of the law.

DETAILED ANALYSIS

General overview

The Ohio Charitable Solicitation Law (R.C. Chapter 1716) provides regulation of charitable organizations and professional solicitors. The law requires any charitable

organization that intends to solicit contributions or have contributions solicited on its behalf to file a registration statement with the Attorney General. The law also requires each professional solicitor to register with the Attorney General.¹ The bill extends the same requirements to collection receptacles and those who operate them, and makes other changes to the Ohio Charitable Solicitation Law related to filing requirements with the Attorney General, limitations on the duration of solicitations, and recordkeeping requirements.

Collection receptacles

The bill extends the Ohio Charitable Solicitation Law to collection receptacles and persons who operate collection receptacles. “**Collection receptacles**” are attended or unattended containers used to collect donations of clothing, books, personal or household items, or other goods. They are not used to collect monetary donations. As defined in existing law, unchanged by the bill, “**professional solicitor**” means any person who, for compensation, performs on behalf, or for the benefit of a charitable organization any service in connection with which contributions are or will be solicited in Ohio.

Under the bill, a person operating a collection receptacle that purports, either through language appearing on the collection receptacle itself or otherwise, to be collecting items for the purpose of benefiting a charitable purpose or charitable organization is considered a professional solicitor and is required to register with the Attorney General. However, a person removing or delivering donations placed in a collection receptacle for a fixed fee is not subject to the law if the person does not otherwise receive proceeds of, or derive any other benefit from the sale of donations. Under existing law, unchanged by the bill, a professional solicitor must register with the Attorney General before engaging in any solicitation. The registration process includes filing an application and posting a bond of \$25,000.²

Required sign or label on collection receptacle

The bill requires the operator of a collection receptacle to display a conspicuous and permanent sign or label on every side of the collection receptacle with the following information:

- The name, address, and telephone number of the charitable organization that will receive the goods collected;
- If the collection receptacle is operated by a professional solicitor, the name, address, and telephone number of the professional solicitor;
- If the collection receptacle is operated by a professional solicitor, a statement that the contract disclosing the financial arrangement between the professional solicitor and the charitable organization is on file with and available from the Attorney General.³

¹ R.C. 1716.02, not in the bill, and 1716.07.

² R.C. 1716.01(D), (K), and (L) and 1716.07(A), (B), and (C).

³ R.C. 1716.06.

Filings with the Attorney General

Existing law requires a professional solicitor to file with the Attorney General a solicitation notice, a copy of the contract between the solicitor and any charitable organization contracting with the solicitor, and a sworn statement by the charitable organization on whose behalf the professional solicitor is acting certifying the materials filed are true and correct. The bill permits the Attorney General to publish all of that information, and requires the professional solicitor to pay a \$200 fee to the Attorney General at the time of filing.

The solicitation notice must include details about the manner in which the solicitor intends to fundraise, the projected dates of the solicitation campaign, the location and telephone number of the place where the campaign will be conducted, contact information for each person responsible for directing and supervising the campaign, and other information about the campaign. The bill requires the solicitation notice to also include the location of each collection receptacle used in connection with the solicitation. In addition, while existing law requires the solicitation notice to include the projected dates when the solicitation will commence and terminate, the bill limits the duration of the solicitation to four years.

Existing law also requires that no later than 90 days after a solicitation campaign has been completed, and on each anniversary of the commencement of a solicitation campaign lasting more than one year, the professional solicitor must provide to the charitable organization and file with the Attorney General a financial report of the campaign, including the gross revenue received and an itemization of all expenses incurred. The bill adds that the report must also include the total weight of items collected in each collection receptacle, if applicable, and the value received for the sale of such items.⁴

The bill defines “**solicitation campaign**” for the purposes of the Ohio Charitable Solicitation Law as a series of solicitations that are made by the same person for the same charitable organization and that are similar in content or are based on a similar pitch or sales approach, which series leads up to or is represented to lead up to an event or lasts or is intended to last for a definite period of time.⁵

Contract between professional solicitor and charitable organization

Existing law lays out specific requirements for the contracts between a charitable organization and a solicitor. For example, the contract between the parties must be in writing, state the obligations of both parties, and contain the percentage of gross revenue from the solicitation campaign that the charitable organization is to receive. The percentage can be either a fixed percentage of the gross revenue or a reasonable estimate.

⁴ R.C. 1716.07(D) and (E).

⁵ R.C. 1716.01(M).

The bill provides another option. Instead of requiring a percentage of gross revenue, the bill requires the contract to contain a clear statement of the benefit the charitable organization will receive, which may be stated as a fixed percentage of the gross revenue, a reasonable estimate of the percentage of the gross revenue, *or as any other amount such as dollars per pound of goods collected*. The bill also permits the number and value of goods collected to be used for determining compensation of the professional solicitor or for calculating the percentage of gross revenue the charitable organization will receive.⁶

Audio records

The bill adds a requirement that, during each solicitation campaign, and for not less than three years after its completion, the professional solicitor maintain an audio record of each telephone solicitation the professional solicitor makes.⁷

Telemarketing Sales Rule

The bill explicitly prohibits a charitable solicitation or charitable sales promotion to violate the federal Telemarketing Sales Rule that prohibits initiating an outbound telephone call that delivers a prerecorded message.⁸

Investigation by the Attorney General

Under existing law, the Attorney General may investigate any alleged violation of the Ohio Charitable Solicitation Law. For this purpose, the Attorney General may examine any person or any documentary material that is relevant to the alleged violation or false or misleading information. The bill adds that such documentary material includes a professional solicitor's pitch sheets, solicitation scripts, and recordings.⁹

HISTORY

Action	Date
Introduced	05-23-23

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⁶ R.C. 1716.07(D) and 1716.08(A).

⁷ R.C. 1716.07(G)(1)(i).

⁸ R.C. 1716.14(A)(12) and 16 Code of Federal Regulations 310.4(b)(1)(v).

⁹ R.C. 1716.15(A)(1).