

HOUSE BILL 1130

By Gilmore

AN ACT to amend Tennessee Code Annotated, Title 5, Chapter 1, Part 1; Title 6, Chapter 54; Title 7, Chapter 51; Title 29, Chapter 3; Title 47, Chapter 18; Title 47, Chapter 25; Title 47, Chapter 50 and Title 48, Chapter 101, relative to charitable donation bins.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding a new part thereto, as follows:

47-18-3001. This part shall be known and may be cited as the "Unattended Donation Bin Act."

47-18-3002. For purposes of this part, unless the context otherwise requires:

(1) "Commercial fundraiser" means any person other than a nonprofit organization or salaried officer or permanent employee of the nonprofit organization, and who for compensation does any of the following:

(A) Solicits funds, assets or property in this state for charitable purposes;

(B) As a result of a solicitation of funds, assets or property in this state for charitable purposes, receives or controls the funds, assets or property solicited for charitable purposes; or

(C) Employs, procures or engages any compensated person to solicit, receive or control funds, assets or property for charitable purposes;

(2) "Donation bin" means an unattended canister, bin, box or similar receptacle used for soliciting and collecting donations of salvageable personal property including, but not limited to, clothing and housewares;

(3) "Nonprofit organization" means an entity that is exempt from taxation pursuant to § 501(c)(3) or (c)(4) of the Internal Revenue Code, codified in 26 U.S.C. § 501(c)(3) or (c)(4); and

(4) "Person" means any individual, organization, trust, foundation, group, association, partnership, corporation, company, society or any combination of them.

47-18-3003.

(a) The front of every donation bin shall conspicuously display the following:

(1) The name, address, telephone number and, if available, the Internet web site of the owner and operator of the donation bin;

(2) A statement, with lettering at least one inch (1") in height, that either reads, "this donation bin is owned and operated by a for-profit organization" or "this donation bin is owned and operated by a nonprofit organization"; and

(3) Additional lettering, at least four inches (4") in height, that either reads, "for-profit " or "nonprofit".

(b) For purposes of subdivisions (a)(2) and (a)(3), a commercial fundraiser shall comply with the requirements for for-profit organizations.

(c) If the donation bin is owned by a nonprofit organization, the front of the donation bin shall also conspicuously display a statement describing the charitable cause and geographic area that will benefit from the donations.

(d) If the donation bin is owned by a for-profit entity, the front of the donation bin shall also conspicuously display a statement that reads "this donation is not tax deductible".

(e) If the donation bin is owned and operated by a commercial fundraiser, the commercial fundraiser may post notice of donations to a charitable cause only on the sides of the bin. This notice shall always be smaller in size than the name and address of the owner and operator of the donation bin.

47-18-3004.

(a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act, compiled in part 1 of this chapter.

(b) For the purpose of application of the Tennessee Consumer Protection Act, any violation of the provisions of this part shall be construed to constitute an unfair or deceptive act or practice affecting trade or commerce and shall be subject to the penalties and remedies as provided in such act. A civil action for violation of this part may be brought under § 47-18-109.

(c) Nothing in this part shall preempt any local ordinance prohibiting the same or similar conduct or imposing a more severe penalty for the same conduct prohibited in this part.

SECTION 2. This act shall take effect July 1, 2013, the public welfare requiring it.