
HOUSE BILL 2637

State of Washington

52nd Legislature

1992 Regular Session

By Representatives Rasmussen, Dellwo, Broback, Paris, Anderson, Wineberry, Roland, Valle, Mitchell, Betrozoff, Bowman, R. King, Jacobsen, Winsley and Brekke; by request of Attorney General

Read first time 01/22/92. Referred to Committee on Judiciary.

1 AN ACT Relating to charitable solicitations; amending RCW
2 19.09.020, 19.09.065, 19.09.075, 19.09.076, 19.09.079, 19.09.085,
3 19.09.097, 19.09.271, 19.09.100, 19.09.190, 19.09.200, 19.09.210,
4 19.09.230, 19.09.240, 19.09.275, 19.09.305, 19.09.315, and 19.09.340;
5 adding new sections to chapter 19.09 RCW; repealing RCW 19.09.078; and
6 prescribing penalties.

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, and 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) "Secretary" means the secretary of state.~~

1 ~~(16))~~ (14) "Solicitation" means any oral or written request for a
2 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)) attorney general
21 prior to conducting any 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)) attorney general
25 pursuant to this chapter shall be a public record except as otherwise
26 stated in this chapter.

27 (4) Registration shall not be considered or be represented as an
28 endorsement by the ((secretary)) attorney general or the state of
29 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 attorney general, 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 as well as such financial statement as may be required by
23 rule of the attorney general;

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

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

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

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

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

5 (8) An irrevocable appointment of the (~~secretary~~) attorney
6 general to receive service of process in noncriminal proceedings as
7 provided in RCW 19.09.305.

8 The requirements of subsection (7) (b) and (c) of this section may
9 be satisfied by the submission of such federal tax forms as may be
10 approved by rule of the (~~secretary~~) attorney general.

11 The application shall be signed by the president, treasurer, or
12 comparable officer of the organization (~~and~~) whose signature shall be
13 notarized. The application shall be submitted with a nonrefundable(~~(7~~
14 ~~ten-dollar)~~) filing fee in an amount to be established by the attorney
15 general by rule. If the (~~secretary~~) attorney general determines that
16 the application is complete, the application shall be filed and the
17 applicant deemed registered.

18 **Sec. 4.** RCW 19.09.076 and 1986 c 230 s 5 are each amended to read
19 as follows:

20 The application requirements of RCW 19.09.075 do not apply to the
21 following:

22 (1) Any charitable organization raising less than five thousand
23 dollars in any accounting year when all the activities of the
24 organization, including all fund raising activities, are carried on by
25 persons who are unpaid for their services and no part of the charitable
26 organization's assets or income inures to the benefit of or is paid to
27 any officer or member of the organization;

1 (2) Any charitable organization located outside of the state of
2 Washington if the organization files the following with the
3 ((secretary)) attorney general:

4 (a) The registration documents required under the charitable
5 solicitation laws of the state in which the charitable organization is
6 located;

7 (b) The registration required under the charitable solicitation
8 laws of the state of California and the state of New York; and

9 (c) Such federal income tax forms as may be required by rule of the
10 ((secretary)) attorney general.

11 **Sec. 5.** RCW 19.09.079 and 1986 c 230 s 7 are each amended to read
12 as follows:

13 An application for registration as ((an independent)) a commercial
14 fund raiser shall be submitted in the form prescribed by the
15 ((secretary)) attorney general, containing, but not limited to, the
16 following:

17 (1) The name, address, and telephone number of the ((independent))
18 commercial fund-raising entity;

19 (2) The name(s), address(es), and telephone number(s) of the
20 owner(s) and principal officer(s) of the ((independent)) commercial
21 fund-raising entity;

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

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

27 (5) The names of the three officers or employees receiving the
28 greatest amount of compensation from the ((independent)) commercial
29 fund-raising entity;

1 (6) (~~Whether the financial affairs of the independent fund raiser~~
2 ~~are audited by an independent entity, and, if so,~~) The name and
3 address of the entity that prepares, reviews, or audits the financial
4 statement of the organization, and such financial statement as may be
5 required by rule of the attorney general;

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

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

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

11 (c) The total value of contributions received on behalf of
12 charitable organizations required to register under RCW 19.09.065 by
13 the (~~independent~~) commercial fund raiser, affiliate of the
14 (~~independent~~) commercial fund raiser, or any entity retained by the
15 (~~independent~~) commercial fund raiser; and

16 (d) The amount of money disbursed to charitable organizations for
17 charitable purposes, net of fund raising costs paid by the charitable
18 organization as stipulated in any agreement between charitable
19 organizations and the (~~independent~~) commercial fund raiser;

20 (8) The name, address, and telephone number of any (~~independent~~)
21 commercial fund raiser that was retained in the conduct of providing
22 fund raising services; and

23 (9) An irrevocable appointment of the (~~secretary~~) attorney
24 general to receive service of process in noncriminal proceedings as
25 provided in RCW 19.09.305.

26 The application shall be signed by an officer or owner of the
27 (~~independent~~) commercial fund raiser and shall be submitted with a
28 nonrefundable(~~(, fifty dollar filing)~~) fee in an amount to be
29 established by rule of the attorney general. If the (~~secretary~~)

1 attorney general determines that the application is complete, the
2 application shall be filed and the applicant deemed registered.

3 **Sec. 6.** RCW 19.09.085 and 1986 c 230 s 8 are each amended to read
4 as follows:

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

9 (2) Reregistration required under RCW 19.09.075 ~~((and 19.09.078))~~
10 shall be ~~((received by the secretary))~~ submitted to the attorney
11 general no later than the fifteenth day of the fifth month after the
12 organization's accounting period ends.

13 (3) Reregistration required under RCW 19.09.079 shall be ~~((received~~
14 ~~by the secretary))~~ submitted to the attorney general no later than the
15 fifteenth day of the third month after the organization's accounting
16 period ends.

17 (4) Entities required to register under this chapter shall file a
18 notice of change of information within thirty days of any change in the
19 information contained in RCW 19.09.075 (1) through (6)~~((7))~~ or
20 19.09.079 (1) through (6)~~((7 or 19.09.078 (1) through (4)))~~.

21 (5) The ~~((secretary))~~ attorney general may notify entities
22 registered under this chapter of the need to reregister upon the
23 expiration of their current registration. The notification shall be by
24 mail, sent at least sixty days prior to the expiration of their current
25 registration.

26 **Sec. 7.** RCW 19.09.097 and 1986 c 230 s 10 are each amended to read
27 as follows:

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

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

21 (~~1~~) (a) The name and registration number of the (~~independent~~)
22 commercial fund raiser;

23 (~~2~~) (b) The name of the surety or sureties issuing the bond
24 required by RCW 19.09.190, the aggregate amount of such bond or bonds,
25 the bond number(s), original effective date(s), and termination
26 date(s);

27 (~~3~~) (c) The name and registration number of the charitable
28 organization;

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

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

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

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

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

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

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

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

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

27 (3) A true and correct copy of the contract must be filed with the
28 attorney general before the commencement of any campaign.

29 (4) The registration form shall be submitted with a
30 nonrefundable(~~,—five-dollar~~) filing fee in an amount to be

1 established by rule of the attorney general and shall be signed by an
2 owner or principal officer of the ~~((independent))~~ commercial fund
3 raiser and the president, treasurer, or comparable officer of the
4 charitable organization.

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

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

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

18 **Sec. 9.** RCW 19.09.100 and 1986 c 230 s 11 are each amended to read
19 as follows:

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

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

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

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

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

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

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

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

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

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

25 ~~(a) or (b) in writing within five days of the receipt of any~~
26 ~~contribution. If the person or organization sends any materials to the~~
27 ~~person or organization solicited before the receipt of any~~
28 ~~contribution, those materials shall include the disclosures required in~~
29 ~~RCW 19.09.100(1)(d), and 19.09.100 (2) (a) or (b), whichever is~~
30 ~~applicable.~~

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

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

6 (b) The identity of the charitable organization and the city of the
7 principal place of business of the charitable organization;

8 (c) If requested by the solicitee, the registration number assigned
9 to the charitable organization by the attorney general;

10 (d) The toll-free number for the donor to obtain additional
11 financial disclosure information on file with the attorney general.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 ~~((+5+))~~ (8) If the charitable organization is associated with, or
24 has a name that is similar to, any unit of government each person or
25 organization soliciting contributions shall disclose to each person
26 solicited whether the charitable organization is or is not part of any
27 unit of government and the true nature of its relationship to the unit
28 of government.

29 ~~((+6+))~~ (9) No person may, in connection with the solicitation of
30 contributions or the sale of goods, magazine, newspaper advertising, or

1 any other service, use the name "police," "sheriff," "fire fighter,"
2 "firemen," or a similar name unless properly authorized by a bona fide
3 police, sheriff, or fire fighter organization or police, sheriff, or
4 fire department. A proper authorization must be in writing and signed
5 by two authorized officials of the organization or department.

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

9 ((+7)) (11) The advertising material and the general promotional
10 plan for a solicitation shall not be false, misleading, or deceptive,
11 and shall afford full and fair disclosure. The attorney general may,
12 by rule, define specific false, misleading, or deceptive practices to
13 be deemed violations of this section.

14 ((+8)) (12) Solicitations shall not be conducted by a charitable
15 organization or ((independent)) commercial fund raiser that has, or if
16 a corporation, its officers, directors, or principals have, been
17 convicted of a crime involving solicitations for or on behalf of a
18 charitable organization in this state, the United States, or any other
19 state or foreign country within the past ten years or has been subject
20 to any permanent injunction or administrative order or judgment under
21 RCW 19.86.080 or 19.86.090, involving a violation or violations of RCW
22 19.86.020, within the past ten years, or of restraining a false or
23 misleading promotional plan involving solicitations for charitable
24 organizations.

25 (13) No charitable organization or commercial fund raiser subject
26 to this chapter may use or exploit the fact of registration under this
27 chapter so as to lead the public to believe that registration
28 constitutes an endorsement or approval by the state, but the use of the
29 following is not deemed prohibited: "Registered with the Washington
30 state attorney general as required by law. Registration number"

1 (14) No entity may engage in any solicitation for contributions for
2 or on behalf of any charitable organization or commercial fund raiser
3 unless the charitable organization or commercial fund raiser is
4 registered with the attorney general.

5 (15) No entity may engage in any solicitation for contributions
6 unless it complies with all provisions of this chapter.

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

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

14 (17) Failure to comply with subsections (1) through ((+8)) (16) of
15 this section is a violation of this chapter.

16 **Sec. 10.** RCW 19.09.190 and 1986 c 230 s 16 are each amended to
17 read as follows:

18 Every ~~((independent))~~ commercial fund raiser who (1) directly or
19 indirectly receives contributions from the public on behalf of any
20 charitable organization; or (2) is compensated based upon funds raised
21 or to be raised, number of solicitations made or to be made, or any
22 other similar method; or (3) incurs or is authorized to incur expenses
23 on behalf of the charitable organization; or (4) has not been
24 registered with the ~~((secretary))~~ attorney general as ~~((an~~
25 ~~independent))~~ a commercial fund raiser for the preceding accounting
26 year shall execute a surety bond as principal with one or more sureties
27 whose liability in the aggregate as such sureties will equal at least
28 fifteen thousand dollars. The ~~((secretary))~~ attorney general may, by

1 rule, provide for the reduction and reinstatement of the bond required
2 by this section.

3 The issuer of the surety bond shall be licensed to do business in
4 this state, and shall promptly notify the ~~((secretary))~~ attorney
5 general when claims or payments are made against the bond or when the
6 bond is canceled. The bond shall be filed with the ~~((secretary))~~
7 attorney general in the form prescribed by the ~~((secretary))~~ attorney
8 general. The bond shall run to the state and to any person who may
9 have a cause of action against the obligor of said bond for any
10 malfeasance, misfeasance, or deceptive practice in the conduct of such
11 solicitation.

12 **Sec. 11.** RCW 19.09.200 and 1986 c 230 s 12 are each amended to
13 read as follows:

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

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

25 (3) All contracts between ~~((independent))~~ commercial fund raisers
26 and charitable organizations shall be in writing, and true and correct
27 copies of such contracts or records thereof shall be kept on file in
28 the various offices of the charitable organization and the
29 ~~((independent))~~ commercial fund raiser for a three-year period. Such

1 records and contracts shall be available for inspection and examination
2 by the attorney general or by the county prosecuting attorney. A copy
3 of such contract or record shall be submitted by the charitable
4 organization or ((independent)) commercial fund raiser, within ten
5 days, following receipt of a written demand therefor from the attorney
6 general or county prosecutor.

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

9 Upon the request of the attorney general or the county prosecutor,
10 a charitable organization or commercial fund raiser shall submit a
11 financial statement containing, but not limited to, the following
12 information:

13 (1) The gross amount of the contributions pledged and the gross
14 amount collected.

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

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

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

22 (5) Copies of any annual or periodic reports furnished by the
23 charitable organization, of its activities during or for the same
24 fiscal period, to its parent organization, subsidiaries, or affiliates,
25 if any.

26 **Sec. 13.** RCW 19.09.230 and 1986 c 230 s 14 are each amended to
27 read as follows:

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

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

17 The attorney general may revoke or deny any application for
18 registration that violates this section.

19 **Sec. 14.** RCW 19.09.240 and 1986 c 230 s 15 are each amended to
20 read as follows:

21 No charitable organization, ((~~independent~~)) commercial fund raiser,
22 or other person soliciting contributions for or on behalf of a
23 charitable organization may use a name, symbol, emblem, or statement so
24 closely related or similar to that used by another charitable
25 organization or governmental agency that the use thereof would tend to
26 confuse or mislead the public. The attorney general may revoke or deny
27 any application for registration that violates this section.

1 **Sec. 15.** RCW 19.09.275 and 1986 c 230 s 18 are each amended to
2 read as follows:

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

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

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

19 **Sec. 16.** RCW 19.09.305 and 1983 c 265 s 7 are each amended to read
20 as follows:

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

1 general shall immediately cause one of the copies thereof to be
2 forwarded to the registrant at the most current address shown in the
3 ((~~secretary's~~)) attorney general's files. Any service so had on the
4 ((~~secretary~~)) attorney general shall be returnable in not less than
5 thirty days.

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

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

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

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

16 The ((~~secretary~~)) attorney general may establish, by rule, standard
17 forms and procedures for the efficient administration of this chapter.
18 The ((~~secretary~~)) attorney general may issue such publications,
19 reports, or information from the records as may be useful to the
20 solicited public and charitable organizations. To defray the costs of
21 any such publication, the ((~~secretary~~)) attorney general is authorized
22 to charge a reasonable fee to cover the costs of preparing, printing,
23 and distributing such publications.

24 NEW SECTION. **Sec. 18.** The attorney general, in the attorney
25 general's discretion, may:

26 (1) Annually, or more frequently, make such public or private
27 investigations within or without this state as the attorney general
28 deems necessary to determine whether any registration should be

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

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

8 NEW SECTION. **Sec. 19.** For the purpose of any investigation or
9 proceeding under this chapter, the attorney general or any officer
10 designated by the attorney general may administer oaths and
11 affirmations, subpoena witnesses, compel their attendance, take
12 evidence, and require the production of any books, papers,
13 correspondence, memoranda, agreements, or other documents or records
14 which the attorney general deems relevant or material to the inquiry.

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

23 NEW SECTION. **Sec. 20.** If it appears to the attorney general
24 that a person has engaged or is about to engage in an act or practice
25 constituting a violation of a provision of this chapter or a rule
26 adopted or order issued under this chapter, the attorney general may,
27 in the attorney general's discretion, issue an order directing the
28 person to cease and desist from continuing the act or practice.

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

7 NEW SECTION. **Sec. 21.** (1) The attorney general may assess
8 against any person or organization who violates this chapter, or any
9 rule adopted under this chapter, a civil penalty of not more than one
10 thousand dollars for each violation.

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

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

21 NEW SECTION. **Sec. 22.** The attorney general may from time to
22 time make, amend, and rescind such rules, forms, and orders as are
23 necessary to carry out the provisions of this chapter including,
24 without limitation, rules and forms governing applications and reports,
25 rules defining any terms whether or not used in this chapter insofar as
26 the definitions are consistent with this chapter, and rules prohibiting
27 such unfair and deceptive practices as the attorney general may choose

1 to define. The attorney general in his or her discretion may honor
2 requests from interested persons for interpretive opinions.

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

6 **Sec. 24.** RCW 19.09.340 and 1983 c 265 s 12 are each amended to
7 read as follows:

8 (1) The commission by any person of an act or practice prohibited
9 by this chapter is hereby declared to be an unfair act or practice or
10 unfair method of competition in the conduct of trade or commerce for
11 the purpose of application of the Consumer Protection Act, chapter
12 19.86 RCW.

13 ~~(2) ((The secretary may refer such evidence, as may be available,~~
14 ~~concerning violations of this chapter to the attorney general or the~~
15 ~~prosecuting attorney of the county wherein the alleged violation~~
16 ~~arose.)) In addition to any other action they might commence, the~~
17 ~~attorney general or the county prosecuting attorney may bring an action~~
18 ~~in the name of the state((, with or without such reference,)) against~~
19 any person to restrain and prevent the doing of any act or practice
20 prohibited by this chapter: PROVIDED, That this chapter shall be
21 considered in conjunction with chapters 9.04 and 19.86 RCW, as now or
22 hereafter amended, and the powers and duties of the attorney general
23 and the prosecuting attorney as they may appear in the aforementioned
24 chapters, shall apply against all persons subject to this chapter.

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

1 NEW SECTION. **Sec. 26.** Sections 18 through 23 of this act are
2 each added to chapter 19.09 RCW.

3 NEW SECTION. **Sec. 27.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.