

---

SENATE BILL 6662

---

State of Washington

59th Legislature

2006 Regular Session

By Senators Weinstein, Esser, Finkbeiner and Rasmussen; by request of Secretary of State

Read first time 01/18/2006. Referred to Committee on Judiciary.

1 AN ACT Relating to charitable solicitations and charitable trusts;  
2 amending RCW 19.09.020, 19.09.075, 19.09.076, 19.09.079, 19.09.097,  
3 19.09.100, 19.09.210, 19.09.440, 11.110.051, 11.110.120, 11.110.130,  
4 and 19.09.085; adding a new section to chapter 19.09 RCW; adding new  
5 sections to chapter 11.110 RCW; adding a new section to chapter 43.10  
6 RCW; repealing RCW 19.09.095; and prescribing penalties.

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

8 **Sec. 1.** RCW 19.09.020 and 2002 c 74 s 1 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  
14 contractor in his or her relation with the organization; and (c) whose  
15 compensation is not computed on funds raised or to be raised.

16 (2) "Charitable organization" means any entity that solicits or  
17 collects contributions from the general public where the contribution  
18 is or is purported to be used to support a charitable ((activity))  
19 purpose, but does not include any commercial fund raiser or commercial

1 fund-raising entity or any fund-raising counsel as defined in this  
2 section. (~~("Charitable" (a) is not limited to its common law meaning~~  
3 ~~unless the context clearly requires a narrower meaning; (b) does not~~  
4 ~~include religious or political activities; and (c) includes, but is not~~  
5 ~~limited to, educational, recreational, social, patriotic, legal~~  
6 ~~defense, benevolent, and health causes.))~~

7 (3) "Charitable purpose" includes the relief of poverty, the  
8 advancement of knowledge or education, the promotion of health,  
9 governmental purposes, and other purposes that are beneficial to the  
10 community. Charitable purposes do not include religious or political  
11 activities.

12 (4) "Compensation" means salaries, wages, fees, commissions, or any  
13 other remuneration or valuable consideration.

14 (~~(+4)~~) (5) "Contribution" means the payment, donation, promise, or  
15 grant, for consideration or otherwise, of any money or property of any  
16 kind or value which contribution is wholly or partly induced by a  
17 solicitation. Reference to dollar amounts of "contributions" or  
18 "solicitations" in this chapter means in the case of payments or  
19 promises to pay for merchandise or rights of any description, the value  
20 of the total amount paid or promised to be paid for such merchandise or  
21 rights less the reasonable purchase price to the charitable  
22 organization of any such tangible merchandise, rights, or services  
23 resold by the organization, and not merely that portion of the purchase  
24 price to be applied to a charitable purpose.

25 (~~(+5)~~) (6) "Cost of solicitation" means and includes all direct  
26 and indirect costs, expenditures, debts, obligations, salaries, wages,  
27 commissions, fees, or other money or thing of value paid or incurred in  
28 making a solicitation. Cost of solicitation does not include the  
29 reasonable purchase price to the charitable organization of any  
30 tangible goods or services resold by the organization as a part of its  
31 fund raising activities.

32 (~~(+6)~~) (7) "Entity" means an individual, organization, group,  
33 association, partnership, corporation, agency or unit of state  
34 government, or any combination thereof.

35 (~~(+7)~~) (8) "General public" or "public" means any individual  
36 located in Washington state without a membership or other official  
37 relationship with a charitable organization before a solicitation by  
38 the charitable organization.

1       ~~((+8))~~ (9) "Commercial fund raiser" or "commercial fund-raising  
2 entity" means any entity that for compensation or other consideration  
3 within this state directly or indirectly solicits or receives  
4 contributions for or on behalf of any charitable organization or  
5 charitable purpose, or that is engaged in the business of or is held  
6 out to persons in this state as independently engaged in the business  
7 of soliciting or receiving contributions for such purposes. However,  
8 ~~((the following))~~ a fund-raising counsel shall not be deemed a  
9 commercial fund raiser or "commercial fund-raising entity"~~((: (a) Any  
10 entity that provides fund raising advice or consultation to a  
11 charitable organization within this state but neither directly nor  
12 indirectly solicits or receives any contribution for or on behalf of  
13 any such charitable organization; and (b) a bona fide officer or other  
14 employee of a charitable organization)).~~

15       ~~((+9))~~ (10) "Fund-raising counsel" means any entity or individual  
16 who is retained by a charitable organization, for a fixed fee or rate,  
17 that is not computed on a percentage of funds raised, or to be raised,  
18 under a written agreement to only plan, advise, consult, or prepare  
19 materials for a solicitation of contributions in this state, but who  
20 does not manage, conduct, or carry on a fund-raising campaign and who  
21 does not solicit contributions or employ, procure, or engage any  
22 compensated person to solicit contributions, and who does not at any  
23 time have custody or control of contributions. A volunteer, employee,  
24 or salaried officer of a charitable organization maintaining a  
25 permanent establishment or office in this state is not a fund-raising  
26 counsel. An attorney, investment counselor, or banker who advises an  
27 individual, corporation, or association to make a charitable  
28 contribution is not a fund-raising counsel as a result of the advice.

29       (11) "Membership" means that for the payment of fees, dues,  
30 assessments, etc., an organization provides services and confers a bona  
31 fide right, privilege, professional standing, honor, or other direct  
32 benefit, in addition to the right to vote, elect officers, or hold  
33 office. The term "membership" does not include those persons who are  
34 granted a membership upon making a contribution as the result of  
35 solicitation.

36       ~~((+10))~~ (12) "Other employee" of a charitable organization means  
37 any person (a) whose conduct is subject to direct control by such  
38 organization; (b) who does not act in the manner of any independent

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

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

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

13 ~~((13))~~ (14) "Religious activities" means those religious,  
14 evangelical, or missionary activities under the direction of a  
15 religious organization duly organized and operating in good faith,  
16 whose sole purpose is religious and is organized and operated  
17 exclusively for the study, advancement, or practice of religion, that  
18 ~~((are))~~ is entitled to receive a declaration of current tax exempt  
19 status for religious purposes from the United States government and the  
20 duly organized branches or chapters of ~~((those))~~ that  
21 organization~~((s))~~.

22 ~~((14))~~ (15) "Secretary" means the secretary of state.

23 ~~((15))~~ (16) "Signed" means hand-written, or, if the secretary  
24 adopts rules facilitating electronic filing that pertain to this  
25 chapter, in the manner prescribed by those rules.

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

30 ~~((a))~~ (i) Any appeal is made for any charitable purpose; or

31 ~~((b))~~ (ii) The name of any charitable organization is used as an  
32 inducement for consummating the sale; or

33 ~~((c))~~ (iii) Any statement is made that implies that the whole or  
34 any part of the proceeds from the sale will be applied toward any  
35 charitable purpose or donated to any charitable organization.

36 (b) The solicitation shall be deemed completed when made, whether  
37 or not the person making it receives any contribution or makes any  
38 sale.

1 (c) "Solicitation" does not include:

2 (i) Bingo activities, raffles, and amusement games conducted under  
3 chapter 9.46 RCW and applicable rules of the Washington state gambling  
4 commission ((are specifically excluded and shall not be deemed a  
5 solicitation under this chapter)); or

6 (ii) Appeals for funds on behalf of a specific individual named in  
7 the solicitation, but only if all of the proceeds of the solicitation  
8 are given to or expended for the direct benefit of that individual.

9 **Sec. 2.** RCW 19.09.075 and 2002 c 74 s 2 are each amended to read  
10 as follows:

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

14 (1) The name, address, and telephone number of the charitable  
15 organization;

16 (2) The name(s) under which the organization will solicit  
17 contributions;

18 (3) The name, address, and telephone number of the officers of or  
19 persons accepting responsibility for the organization;

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

22 (5) The purpose of the organization;

23 (6)(a) Whether the organization is exempt from federal income tax;  
24 and if so the organization shall attach to its application a copy of  
25 the letter by which the internal revenue service granted such status;  
26 and

27 (b) The name and address of the entity that prepares, reviews, or  
28 audits the financial statement of the organization;

29 (7) A solicitation report of the organization for the preceding  
30 accounting year including:

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

32 (b) The total dollar value of ((support)) contributions received  
33 from solicitations and from all other sources received on behalf of the  
34 charitable purpose of the charitable organization;

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

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

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 (~~and~~))

6 (9) The total revenue of the preceding fiscal year; and

7 (10) An audited financial statement, if the charitable organization  
8 received total revenue in excess of one million dollars for its most  
9 recent fiscal year. The audited financial statement must be prepared  
10 by an independent certified public accountant, if the charitable  
11 organization received total revenue in excess of one million dollars  
12 for its most recent fiscal year. In preparing the audit, the certified  
13 public accountant must take into consideration capital, endowment, or  
14 other reserve funds controlled by the charitable organization. A  
15 review or compilation does not fulfill state audit requirements.

16 The solicitation report required to be submitted under subsection  
17 (7) of this section shall be in the form prescribed by rule by the  
18 secretary, or as agreed to by the secretary and a charitable  
19 organization or a group of charitable organizations. (~~A consolidated~~  
20 ~~application for registration may, at the option of the charitable~~  
21 ~~organization, be submitted by a parent organization for itself and any~~  
22 ~~or all of its related foundations, supporting organizations, chapters,~~  
23 ~~branches, or affiliates in the state of Washington.~~

24 ~~The application shall be signed by))~~ The president, treasurer, or  
25 comparable officer of the organization must sign and date the  
26 application, and include a certification or declaration that the  
27 information is true and correct under penalty of perjury as set forth  
28 in chapter 9A.72 RCW. The application shall be submitted with a  
29 nonrefundable filing fee which shall be in an amount to be established  
30 by the secretary by rule. In determining the amount of this  
31 application fee, the secretary may consider factors such as the  
32 entity's annual budget and its federal income tax status. If the  
33 secretary determines that the application is complete, the application  
34 shall be filed and the applicant deemed registered.

35 (~~The secretary shall notify the director of veterans' affairs upon~~  
36 ~~receipt of an application for registration as a charitable organization~~  
37 ~~from an entity that purports to raise funds to benefit veterans of the~~

1 ~~United States military services. The director of veterans' affairs may~~  
2 ~~advise the secretary and the attorney general of any information,~~  
3 ~~reports, or complaints regarding such an organization.))~~

4 **Sec. 3.** RCW 19.09.076 and 1994 c 287 s 1 are each amended to read  
5 as follows:

6 (1) The application requirements of RCW 19.09.075 do not apply to  
7 ~~((the following:~~

8 ~~(1))~~ (1)) any charitable organization raising less than an amount as  
9 set by rule adopted by the secretary in any accounting year when all  
10 the activities of the organization, including all fund raising  
11 activities, are carried on by persons who are unpaid for their services  
12 and no part of the charitable organization's assets or income inures to  
13 the benefit of or is paid to any officer or member of the  
14 organization(~~(:~~

15 ~~(2) Any charitable organization located outside of the state of~~  
16 ~~Washington if the organization files the following with the secretary:~~

17 ~~(a) The registration documents required under the charitable~~  
18 ~~solicitation laws of the state in which the charitable organization is~~  
19 ~~located;~~

20 ~~(b) The registration required under the charitable solicitation~~  
21 ~~laws of the state of California and the state of New York; and~~

22 ~~(c) Such federal income tax forms as may be required by rule of the~~  
23 ~~secretary)).~~

24 (2) All entities soliciting charitable donations shall comply with  
25 the requirements of RCW 19.09.100.

26 **Sec. 4.** RCW 19.09.079 and 1993 c 471 s 5 are each amended to read  
27 as follows:

28 An application for registration as a commercial fund raiser shall  
29 be submitted in the form prescribed by the secretary, containing, but  
30 not limited to, the following:

31 (1) The name, address, and telephone number of the commercial fund-  
32 raising entity;

33 (2) The name(s), address(es), and telephone number(s) of the  
34 owner(s) and principal officer(s) of the commercial fund-raising  
35 entity;

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

9 ~~((6))~~ (5) The name and address of the entity that prepares,  
10 reviews, or audits the financial statement of the organization;

11 ~~((7))~~ (6) A solicitation report of the commercial fund-raising  
12 entity for the preceding accounting year, including:

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

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

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

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

24 ~~((8))~~ (7) The name, address, and telephone number of any  
25 commercial fund raiser that was retained in the conduct of providing  
26 fund raising services; and

27 ~~((9))~~ (8) An irrevocable appointment of the secretary to receive  
28 service of process in noncriminal proceedings as provided in RCW  
29 19.09.305.

30 The application shall be signed by an officer or owner of the  
31 commercial fund raiser and shall be submitted with a nonrefundable fee  
32 in an amount to be established by rule of the secretary. If the  
33 secretary determines that the application is complete, the application  
34 shall be filed and the applicant deemed registered.

35 **Sec. 5.** RCW 19.09.097 and 1993 c 471 s 7 are each amended to read  
36 as follows:

37 (1) No charitable organization may contract with a commercial fund



1 raiser for any fund raising service or activity unless its contract  
2 requires that both parties comply with the law and permits officers of  
3 the charity reasonable access to: (a) The fund raisers' financial  
4 records relating to that charitable organization; (~~and~~) (b) the fund  
5 raisers' operations including without limitation the right to be  
6 present during any telephone solicitation. In addition, the contract  
7 shall specify the amount of raised funds that the charitable  
8 organization will receive or the method of computing that amount, the  
9 amount of compensation of the commercial fund raiser or the method of  
10 computing that amount, and whether the compensation is fixed or  
11 contingent; and (c) the names of all of the fundraisers' employees or  
12 staff who are conducting fundraising or charitable solicitations on  
13 behalf of the charitable organization.

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

22 (a) The name and registration number of the commercial fund raiser;

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

26 (c) The name and registration number of the charitable  
27 organization;

28 (d) The name of the representative of the commercial fund raiser  
29 who will be responsible for the conduct of the fund raising;

30 (e) The type(s) of service(s) to be provided by the commercial fund  
31 raiser;

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

33 (g) The terms of the agreement between the charitable organization  
34 and commercial fund raiser relating to:

35 (i) Amount or percentages of amounts to inure to the charitable  
36 organization;

37 (ii) Limitations placed on the maximum amount to be raised by the

1 fund raiser, if the amount to inure to the charitable organization is  
2 not stated as a percentage of the amount raised;

3 (iii) Costs of fund raising that will be the responsibility of the  
4 charitable organization, regardless of whether paid as a direct  
5 expense, deducted from the amounts disbursed, or otherwise; and

6 (iv) The manner in which contributions received directly by the  
7 charitable organization, not the result of services provided by the  
8 commercial fund raiser, will be identified and used in computing the  
9 fee owed to the commercial fund raiser; and

10 (h) The names of any entity to which more than ten percent of the  
11 total anticipated fund raising cost is to be paid, and whether any  
12 principal officer or owner of the commercial fund raiser or relative by  
13 blood or marriage thereof is an owner or officer of any such entity.

14 (3) A correct copy of the contract shall be filed with the  
15 secretary before the commencement of any campaign.

16 (4) The registration form shall be submitted with a nonrefundable  
17 filing fee in an amount to be established by rule of the secretary and  
18 shall be signed by an owner or principal officer of the commercial fund  
19 raiser and the president, treasurer, or comparable officer of the  
20 charitable organization.

21 **Sec. 6.** RCW 19.09.100 and 1994 c 287 s 2 are each amended to read  
22 as follows:

23 The following conditions apply to solicitations as defined by RCW  
24 19.09.020:

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

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

30 (b) The identity of the charitable organization and the city of the  
31 principal place of business of the charitable organization;

32 (c) If requested by the solicitee, the published number in the  
33 office of the secretary for the donor to obtain additional financial  
34 disclosure information on file with the secretary.

35 (2) A commercial fund raiser shall clearly and conspicuously  
36 disclose at the point of solicitation:

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

1 (b) The name of the entity for which the fund raiser is an agent or  
2 employee and the name and city of the charitable organization for which  
3 the solicitation is being conducted; and

4 (c) If requested by the solicitee, the published number in the  
5 office of the secretary for the donor to obtain additional financial  
6 disclosure information on file with the secretary. The disclosure must  
7 be made during an oral solicitation of a contribution, and at the same  
8 time at which a written request for a contribution is made.

9 (3) A person or organization soliciting charitable contributions by  
10 telephone shall make the disclosures required under subsection (1) or  
11 (2) of this section in the course of the solicitation but prior to  
12 asking for a commitment for a contribution from the solicitee, and in  
13 writing to any solicitee that makes a pledge within five working days  
14 of making the pledge. If the person or organization sends any  
15 materials to the person or organization solicited before the receipt of  
16 any contribution, those materials shall include the disclosures  
17 required in subsection (1) or (2) of this section, whichever is  
18 applicable.

19 (4) In the case of a solicitation by advertisement or mass  
20 distribution, including posters, leaflets, automatic dialing machines,  
21 publication, and audio or video broadcasts, it shall be clearly and  
22 conspicuously disclosed in the body of the solicitation material that:

23 (a) The solicitation is conducted by a named commercial fund  
24 raiser, if it is;

25 (b) The notice of solicitation required by the charitable  
26 solicitation act is on file with the secretary's office; and

27 (c) The potential donor can obtain additional financial disclosure  
28 information at a published number in the office of the secretary.

29 (5) A container or vending machine displaying a solicitation must  
30 also display in a clear and conspicuous manner the name of the  
31 charitable organization for which funds are solicited, the name,  
32 business address, and telephone number of the individual and any  
33 commercial fund raiser responsible for collecting funds placed in the  
34 containers or vending machines, and the following statement: "This  
35 charity is currently registered with the secretary's office under the  
36 charitable solicitation act, registration number . . . ."

37 (6) A commercial fund raiser shall not represent that tickets to

1 any fund raising event will be donated for use by another person unless  
2 all the following requirements are met:

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

6 (b) The written commitments are kept on file by the commercial fund  
7 raiser for three years and are made available to the secretary,  
8 attorney general, or county prosecutor on demand;

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

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

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

18 (a) The charitable contribution is tax deductible unless the  
19 charitable organization for which charitable contributions are being  
20 solicited or to which tickets for fund raising events or other services  
21 or goods will be donated, has applied for and received from the  
22 internal revenue service a letter of determination granting tax  
23 deductible status to the charitable organization;

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

28 (c) The person soliciting the charitable contribution is a member,  
29 staffer, helper, or employee of the charitable organization or words of  
30 similar meaning or effect that create the impression that the person  
31 soliciting is not a paid solicitor if the person soliciting is  
32 employed, contracted, or paid by a commercial fund raiser.

33 (8) If the charitable organization is associated with, or has a  
34 name that is similar to, any unit of government each person or  
35 organization soliciting contributions shall disclose to each person  
36 solicited whether the charitable organization is or is not part of any  
37 unit of government and the true nature of its relationship to the unit  
38 of government. This subsection does not apply to a foundation or other

1 charitable organization that is organized, operated, or controlled by  
2 or in connection with a registered public charity, including any  
3 governmental agency or unit, from which it derives its name.

4 (9) No person may, in conducting any solicitation, use the name  
5 "police," "sheriff," "fire fighter," "firemen," or a similar name  
6 unless properly authorized by a bona fide police, sheriff, or fire  
7 fighter organization or police, sheriff, or fire department. A proper  
8 authorization shall be in writing and signed by two authorized  
9 officials of the organization or department and shall be filed with the  
10 secretary.

11 (10) A person may not, in conducting any solicitation, use the name  
12 of a federally chartered or nationally recognized military veterans'  
13 service organization as determined by the United States veterans'  
14 administration unless authorized in writing by the highest ranking  
15 official of that organization in this 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 (12) The advertising material and the general promotional plan for  
20 a solicitation shall not be false, misleading, or deceptive, and shall  
21 afford full and fair disclosure.

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

32 (14) No charitable organization or commercial fund raiser subject  
33 to this chapter may use or exploit the fact of registration under this  
34 chapter so as to lead the public to believe that registration  
35 constitutes an endorsement or approval by the state, but the use of the  
36 following is not deemed prohibited: "Currently registered with the  
37 Washington state secretary of state as required by law. Registration  
38 number . . . ."

1 (15) 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 currently registered with the secretary.

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

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

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

16 (18) Failure to comply with subsections (1) through (17) of this  
17 section is a violation of this chapter.

18 **Sec. 7.** RCW 19.09.210 and 1993 c 471 s 12 are each amended to read  
19 as follows:

20 Upon the request of the attorney general or the county prosecutor,  
21 a charitable organization or commercial fund raiser shall submit a  
22 financial statement containing, but not limited to, the following  
23 information:

24 (1) The gross amount of the contributions pledged and the gross  
25 amount collected.

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

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

31 (4) The amounts paid to and to be paid to commercial fund raisers  
32 or charitable organizations.

33 (5) Copies of any annual or periodic reports furnished by the  
34 charitable organization, of its activities during or for the same  
35 fiscal period(~~, to its parent organization, subsidiaries, or~~  
36 ~~affiliates, if any~~)).

1       **Sec. 8.** RCW 19.09.440 and 1993 c 471 s 42 are each amended to read  
2 as follows:

3       (1) Annually, the secretary of state shall publish a report  
4 indicating:

5       (a) For each charitable organization registered under RCW 19.09.065  
6 the percentage relationship between (i) the total amount of money  
7 applied to charitable purposes; and (ii) the dollar value of (~~support~~  
8 ~~received from solicitations and received from all other sources on~~  
9 ~~behalf of the charitable purpose of the organization~~) total  
10 expenditures, including the total amount of money applied to charitable  
11 purposes, fund-raising costs, and administrative expenses;

12       (b) For each commercial fund raiser registered under RCW 19.09.065  
13 the percentage relationship between (i) the amount of money disbursed  
14 to charitable organizations for charitable purposes; and (ii) the total  
15 value of contributions received on behalf of charitable organizations  
16 by the commercial fund raiser; and

17       (c) Such other information as the secretary of state deems  
18 appropriate.

19       (2) The secretary of state may use the latest information obtained  
20 pursuant to RCW 19.09.075 or otherwise under chapter 19.09 RCW to  
21 prepare the report.

22       NEW SECTION. **Sec. 9.** A new section is added to chapter 19.09 RCW  
23 to read as follows:

24       Charitable organizations that received revenue in excess of one  
25 million dollars must ensure that their boards have reviewed and  
26 accepted the financial filings submitted to the secretary for filing,  
27 including any audits that a charity may be required to perform and  
28 file. Charitable organizations must also ensure that the financial  
29 information included in the filing fairly represents, in all material  
30 respects, the financial condition and results of operations of the  
31 charity as of, and for, the periods presented to the secretary for  
32 filing. If the financial information submitted to the secretary is  
33 incorrect in any material way, the charitable organization may be  
34 subject to penalties as provided under RCW 19.09.279.

35       **Sec. 10.** RCW 11.110.051 and 1997 c 124 s 1 are each amended to  
36 read as follows:

1 (1) Except as provided in subsection (2) of this section, a  
2 trustee, as defined by RCW 11.110.020, must register with the secretary  
3 of state if, as to a particular charitable trust:

4 (a) The trustee holds assets in trust(~~(, invested for income-~~  
5 ~~producing purposes,)~~) exceeding a value established by the secretary of  
6 state by rule;

7 (b) Under the terms of the trust all or part of the principal or  
8 income of the trust can or must currently be expended for charitable  
9 purposes; and

10 (c) The trust instrument does not require the distribution of the  
11 entire trust corpus within a period of one year or less.

12 (2) A trustee of a trust, in which the only charitable interest is  
13 in the nature of a remainder, is not required to register during any  
14 life estate or other term that precedes the charitable interest. This  
15 exclusion from registration applies to trusts which have more than one  
16 noncharitable life income beneficiary, even if the death of one such  
17 beneficiary obligates the trustee to distribute a remainder interest to  
18 charity.

19 (3) A trustee of a charitable trust that is not required to  
20 register pursuant to this section is subject to all requirements of  
21 this chapter other than those governing registration and reporting to  
22 the secretary of state.

23 **Sec. 11.** RCW 11.110.120 and 1999 c 42 s 632 are each amended to  
24 read as follows:

25 (~~The attorney general~~) A party authorized under RCW 11.110.130  
26 may institute appropriate proceedings to secure compliance with this  
27 chapter and to secure the proper administration of any trust or other  
28 relationship to which this chapter applies. (~~He~~) The attorney  
29 general shall be notified of all judicial proceedings involving or  
30 affecting the charitable trust or its administration in which, at  
31 common law, he or she is a necessary or proper party as representative  
32 of the public beneficiaries. The notification shall be given as  
33 provided in RCW 11.96A.110, but this notice requirement may be waived  
34 at the discretion of the attorney general. The powers and duties of  
35 the attorney general provided in this chapter are in addition to his or  
36 her existing powers and duties, and are not to be construed to limit or  
37 to restrict the exercise of the powers or the performance of the duties



1 of the attorney general or of any prosecuting attorney which they may  
2 exercise or perform under any other provision of law. Except as  
3 provided herein, nothing in this chapter shall impair or restrict the  
4 jurisdiction of any court with respect to any of the matters covered by  
5 it.

6 **Sec. 12.** RCW 11.110.130 and 1993 c 471 s 33 are each amended to  
7 read as follows:

8 A civil action for a violation of this chapter may be prosecuted by  
9 the attorney general or by a prosecuting attorney. This section shall  
10 not be construed as an abrogation or derogation of the common law.

11 NEW SECTION. **Sec. 13.** A new section is added to chapter 11.110  
12 RCW to read as follows:

13 (1)(a) A party authorized to bring an action under RCW 11.110.130  
14 may recover the actual damages sustained by him or her together with  
15 the costs of the suit, including reasonable attorneys' fees and  
16 investigative expenses, which shall be awarded if a violation of this  
17 chapter is found. Every person who violates the terms of this chapter,  
18 or the terms of an injunction imposed under this chapter or chapter  
19 11.96A RCW relating to a charitable trust, shall forfeit and pay a  
20 civil penalty of not more than one hundred thousand dollars for each  
21 violation. Judgment for these amounts shall be entered against the  
22 trustee or other responsible party, and shall not be paid out of the  
23 corpus of any charitable trust unless the court finds that: (i)  
24 Recovery from the trustee or other responsible party would be unlikely;  
25 and (ii) the action benefited the charitable purpose of the trust such  
26 that payment from the corpus would serve the interests of justice.

27 (b) A court order entered under this section shall specify that  
28 funds recovered as actual damages shall be applied to benefit the  
29 charitable purpose of the trust. If civil penalties are assessed, the  
30 court order shall provide for their distribution, giving priority to  
31 making charitable interests whole and providing for the expenses  
32 related to general enforcement of this chapter.

33 (2) A trustee or other defendant found not to have violated this  
34 chapter shall be awarded costs of the suit, including reasonable  
35 attorneys' fees, if the court determines that the suit was commenced  
36 without reasonable basis in law and fact.

1 (3) This section is remedial in nature and does not alter or  
2 establish any duty of care.

3 NEW SECTION. **Sec. 14.** A new section is added to chapter 11.110  
4 RCW to read as follows:

5 (1) In the enforcement of this chapter, the attorney general may  
6 accept an assurance of discontinuance of any act or practice deemed in  
7 violation of this chapter, from any person engaging in, or who has  
8 engaged in, such act or practice. Any such assurance shall be in  
9 writing and be filed with and subject to the approval of the superior  
10 court of the county in which the alleged violator resides or has his or  
11 her principal place of business, or in Thurston county.

12 (2) The assurance of discontinuance shall not be considered an  
13 admission of a violation for any purpose; however, proof of failure to  
14 comply with the assurance of discontinuance shall be prima facie  
15 evidence of a violation of this chapter.

16 NEW SECTION. **Sec. 15.** A new section is added to chapter 43.10 RCW  
17 to read as follows:

18 (1) The charities enforcement revolving fund is created in the  
19 custody of the state treasurer. All receipts from the following shall  
20 be transferred to the charities enforcement revolving fund: Funds  
21 appropriated to the revolving fund; funds transferred to the revolving  
22 fund such as reasonable attorneys' fees, investigative expenses, or  
23 civil penalties under court order or judgment in an action commenced by  
24 the attorney general under chapter 11.110 or 19.09 RCW; gifts or grants  
25 made to the revolving fund; and funds awarded to the state or any  
26 agency thereof for the recovery of costs and attorneys' fees in an  
27 action commenced by the attorney general under chapter 11.110 or 19.09  
28 RCW. To the extent that such costs constitute reimbursement for  
29 expenses directly paid from constitutionally dedicated funds, such  
30 recoveries shall be transferred to the constitutionally dedicated fund.

31 (2) The attorney general may expend from the charities enforcement  
32 revolving fund such funds as are necessary for the payment of costs,  
33 expenses, and charges incurred in the investigation, preparation,  
34 institution, and maintenance of actions under chapter 11.110 or 19.09  
35 RCW.

1       **Sec. 16.** RCW 19.09.085 and 1993 c 471 s 6 are each amended to read  
2 as follows:

3       (1) Registration under this chapter shall be effective for one year  
4 or longer, as established by the secretary.

5       (2) Reregistration required under RCW 19.09.075 or 19.09.079 shall  
6 be submitted to the secretary no later than the date established by the  
7 secretary by rule.

8       (3) Entities required to register under this chapter shall file a  
9 notice of change of information within thirty days of any change in the  
10 information contained in RCW 19.09.075 (1) through (6) or 19.09.079 (1)  
11 through ((+6+)) (5).

12       (4) The secretary shall notify entities registered under this  
13 chapter of the need to reregister upon the expiration of their current  
14 registration. The notification shall be by mail, sent at least sixty  
15 days prior to the expiration of their current registration. Failure to  
16 register shall not be excused by a failure of the secretary to mail the  
17 notice or by an entity's failure to receive the notice.

18       NEW SECTION. **Sec. 17.** RCW 19.09.095 (Subsidiary organizations--  
19 Requirement to register--Exemptions) and 1986 c 230 s 9 & 1983 c 265 s  
20 6 are each repealed.

--- END ---