

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 867

H. P. 685

House of Representatives, March 9, 1977

On motion of Ms. Clark of Freeport, referred to Committee on Business Legislation. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Trafton of Auburn.

Cosponsors: Mr. Marshall of Millinocket, Mrs. Kane of Augusta, Mr. Howe of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Amend the Charitable Solicitations Act.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 22 MRSA § 3151, sub-§ 5 is repealed and the following enacted in its place:

5. Professional solicitor. "Professional solicitor" shall mean any person who is employed or retained for compensation by a professional fund raiser to solicit contributions for charitable purposes from persons in this State.

Sec. 2. 22 MRSA § 3151, sub-§ 6 is amended to read:

6. Commercial co-venturer. "Commercial co-venturer" shall mean any person, who for profit or other commercial consideration, shall conduct, promote, underwrite, arrange or sponsor a sale, performance or event of any kind which is advertised in conjunction with the name of any charitable organization. However, any such person who will benefit in good will only, shall not be deemed a commercial co-venturer if the collection and distribution of the proceeds of the sale, performance or event are supervised and controlled by the benefiting charitable organization.

Sec. 3. 22 MRSA § 3152, as amended by PL 1973, c. 436, § 2, is repealed and the following enacted in its place:

§ 3152. Registration and bonding of professional fund raisers and commercial co-venturers

1. **Registration.** No person shall act as a professional fund raiser or a commercial co-venturer before he has registered with the Department of Human Services or after the expiration or cancellation of such registration or any renewal thereof. Applications for registration or reregistration shall be in writing, under oath, in the form prescribed by the department and shall be accompanied by an annual fee in the sum of \$100. The applicant shall at the time of making application for registration or reregistration, file with and have approved by, the department a bond in which the applicant shall be the principal obligor, in the sum of \$10,000, with one or more sureties whose liability in the aggregate as such sureties will at least equal that sum. The bond shall run to the Department of Human Services for the use of the State and to any person who may have a cause of action against the principal obligor of the bond for any malfeasance or misfeasance in the conduct of such solicitation. Registration or reregistration shall be for a period of one year.

2. **Records.** A professional fund raiser or commercial co-venturer shall maintain accurate and complete books and records of his activities as such while required to be registered under subsection 1, and until at least 3 years shall have elapsed after the end of the effective period of the registration to which they relate, he shall keep such books and records available for inspection and examination by the department or by the Attorney General, or by both, or by their duly authorized representative.

Sec. 4. 22 MRSA §§ 3152-A and 3152-B are enacted to read:

§ 3152-A. Registration of professional solicitors

No person shall act as a professional solicitor in the employ of a professional fund raiser before he has registered with the department or after the expiration or cancellation of such registration or any renewal thereof. Application for registration or reregistration shall be in writing, under oath, in the form prescribed by the department and shall be accompanied by a fee in the sum of \$10. Such registration or reregistration when effected shall be for a period of one year, and may be renewed upon written application, under oath, in the form prescribed by the department and the payment of the fee prescribed herein, for additional one-year periods.

§ 3152-B. Contracts to be filed and retained

All contracts entered into between such professional fund raisers or commercial co-venturers and charitable organizations shall be in writing and a true and correct copy of each such contract shall be filed by the professional fund raiser or commercial co-venturer who is a party thereto with the department within 10 days after it is made. No services shall be performed under such a contract until the professional fund raiser or commercial co-venturer shall have received an acknowledgement from the department of the receipt of a copy of the contract and the contract shall have been on file with the department for at least 15 days. True and correct copies of such contracts shall be kept on file in the offices of the charitable organization and the professional fund raiser or commercial co-venturer during the term thereof and until expiration of a period of 3 years subsequent to the date of solicitation of contributions provided for therein actually terminates.

Sec. 5. 22 MRSA § 3155, as enacted by PL 1973, c. 436, § 3, is repealed and the following enacted in its place:

§ 3155. Charitable solicitation disclosure

1. Violation. It shall be a violation of this chapter for a professional fund raiser or professional solicitor to solicit funds for a charitable purpose from a prospective donor in this State without fully disclosing to the prospective donor at the time of solicitation the estimated percentage of each dollar donated which will be expended for the specific charitable purpose where less than 70% of the amount donated will be so expended.

2. Other violations. It shall be a violation of this chapter for a commercial co-venturer or a charitable organization to place any advertising of every kind or nature or to solicit in regard to any sale, performance, or event conducted, promoted, arranged, underwritten or sponsored by a commercial co-venturer without setting forth or advising the portion of the sales price, percentage of the proceeds or other consideration or benefit the charitable organization is to receive.

Sec. 6. 22 MRSA § 3157 is enacted to read:

§ 3157. Unauthorized use of names

1. Use of name; written consent. No person shall, for the purpose of soliciting contributions from persons in this State or of promoting any sale, performance or event conducted, promoted, arranged, underwritten or sponsored by a commercial co-venturer, use the name of any other person, except that of an officer, director or trustee of the charitable organization by or for which contributions are solicited, without the written consent of such other person.

2. Use of name; explanation. A person shall be deemed to have used the name of another person for the purpose of soliciting contributions if such latter person's name is listed on any stationery, advertisement, brochure or correspondence in or by which a contribution is solicited by or on behalf of a charitable organization or his name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored or endorsed the charitable organization or its activities.

3. Publication. Nothing contained in this section shall prevent the publication of names of contributors without their written consents in an annual or other periodic report issued by a charitable organization for the purpose of reporting on its operations and affairs to its membership or for the purpose of reporting contributions to contributors.

STATEMENT OF FACT

The purpose of this bill is to provide more stringent regulation of persons who contract with charitable institutions to solicit contributions on behalf of such institutions. It is believed that such measures will prevent abuses experienced by charitable institutions at the hands of certain unscrupulous fund raisers.