

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 2036

S.P. 714

In Senate, March 24, 1999

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### An Act to Prohibit Deceptive Charitable Solicitations.

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Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator KONTOS of Cumberland.  
Cosponsored by Senator MacKINNON of York, Representative: BOLDUC of Auburn.

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

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Sec. 1. 9 MRSA §5003, sub-§3, as enacted by PL 1977, c. 488, §1, is amended to read:

3. ~~Commercial co-venturer.~~ "Commercial co-venturer" shall mean means any person who, for profit or other commercial consideration, ~~shall conduct, promote, underwrite, arrange or sponsor~~ conducts, promotes, underwrites, arranges or sponsors a sale, performance, collection or sale of donated goods or event of any kind which ~~that~~ is advertised in conjunction with the name of any charitable organization. Any such person who will benefit in good will only ~~shall~~ may not be ~~deemed~~ considered 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. 2. 9 MRSA §5005, sub-§5 is enacted to read:

5. Proceeds from the solicitation of goods involving a commercial co-venturer. If a charitable organization employs a commercial co-venturer for the purpose of soliciting goods through the placement of containers in public places, that charitable organization shall file annually the following information:

A. The total money raised from contributions collected during the year; and

B. Out of the funds raised from contributions, the total dollars that have been or will be expended for:

(1) Program services;

(2) Payments to commercial co-venturers; and

(3) Management.

Sec. 3. 9 MRSA §5012, as repealed and replaced by PL 1989, c. 55, §4, is amended by adding at the end a new paragraph to read:

A charitable organization that employs a commercial co-venturer to solicit goods through the placement of containers in public places shall post the disclosure required in this section in writing that is clearly visible to a person placing a contribution in the container.

Sec. 4. 9 MRSA §5012-A is enacted to read:

2 **§5012-A. Deceptive practices in the solicitation of goods**

4 A commercial co-venturer who is engaged in the solicitation  
6 of goods is guilty of a deceptive and prohibited practice if that  
8 commercial co-venturer charges a charitable organization a sum of  
10 money for the goods and the co-venturer's services in the  
12 collection of those goods that far exceeds the fair market value  
14 of those goods and services. Such an action constitutes a fraud  
16 against the charity and its donors. Fair market value may be  
18 established in any commercially acceptable fashion including a  
20 comparison of the amount paid for similar goods and services by a  
22 similar charity.

14 **SUMMARY**

16 This bill amends the Charitable Solicitations Act as follows.

18 1. It amends the definition of commercial co-venturer to  
20 include the collection or sale of donated goods by a commercial  
22 co-venturer.

24 2. It requires that a charitable organization employing a  
26 commercial co-venturer shall file certain information including  
the amount of money that was expended to commercial co-venturers  
during the year.

28 3. It requires the disclosure of pertinent information on  
30 containers that are used by a commercial co-venturer for the  
solicitation of goods.

32 4. It prohibits a commercial co-venturer from charging a  
34 charitable organization a sum of money for goods and services  
that far exceeds the market value of those goods and services.