
By: Senator Derr

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 1997

CHAPTER _____

1 AN ACT concerning

2 Charitable Organizations - Fund-Raising Containers - Labeling

3 FOR the purpose of modifying requirements concerning information that must be
 4 provided on certain devices or containers used for charitable fund-raising purposes
 5 and given to certain persons granting permission for their placement; requiring that
 6 specified information be given when a device or container is placed on the property
 7 of another; providing that the provisions of this Act do not apply under specified
 8 circumstances; establishing a penalty and specifying a certain defense expanding
 9 locations to which disclosure requirements apply; and generally relating to the
 10 modification of the Maryland Charitable Solicitations Act as it relates to disclosure
 11 requirements and certain devices and containers used for charitable fund-raising
 12 purposes.

13 BY repealing and reenacting, without amendments,

14 Article - Business Regulation

15 Section ~~6-101(a), (e), (d)~~, and (d) and ~~(f) 6-619~~

16 Annotated Code of Maryland

17 (1992 Volume and 1996 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article - Business Regulation

20 Section ~~6-102(e), 6-619, and 6-620~~

21 Annotated Code of Maryland

22 (1992 Volume and 1996 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

24 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Business Regulation**

2 6-101.

3 (a) In this title the following words have the meanings indicated.

4 ~~(e) (1) "Charitable contribution" means a contribution made on a~~
5 ~~representation that it will be used for a charitable purpose.~~

6 ~~(2) "Charitable contribution" includes the payment, transfer, or enforceable~~
7 ~~pledge of financial help, including money, credit, property, or services.~~

8 ~~(3) "Charitable contribution" does not include:~~

9 (i) ~~an unsolicited gift;~~

10 (ii) ~~a government grant or government money;~~

11 (iii) ~~membership assessments, dues, or fines; and~~

12 (iv) ~~a payment for property sold or services rendered by a charitable~~
13 ~~organization, unless the property is sold or the services are rendered in connection with a~~
14 ~~charitable solicitation.~~

15 (d) (1) "Charitable organization" means:

16 (i) a person that:

17 1. is or holds itself out to be a benevolent, educational,
18 eleemosynary, humane, patriotic, philanthropic, or religious organization; and

19 2. solicits or receives charitable contributions from the public;

20 or

21 (ii) an ambulance, fire fighting, fraternal, rescue, or police or other
22 law enforcement organization when it solicits charitable contributions from the public.

23 (2) "Charitable organization" includes an area, branch, chapter, office, or
24 similar affiliate that solicits charitable contributions from the public within the State for
25 a charitable organization that is organized or has its principal place of business outside
26 the State.

27 (3) "Charitable organization" does not include:

28 (i) an agency of the State government or of a political subdivision; or

29 (ii) a political club, committee, or party.

30 ~~(f) (1) "Charitable solicitation" means an oral or written request for a~~
31 ~~charitable contribution, regardless of whether the person who makes the request receives~~
32 ~~the charitable contribution.~~

33 ~~(2) "Charitable solicitation" includes:~~

34 (i) ~~a fund raising drive, event, campaign, or other activity;~~

1 (ii) an announcement to the news media seeking charitable
 2 contributions;

3 (iii) except as provided in § 6-621 of this title, the distribution of a
 4 written advertisement or other publication that, directly or implicitly, seeks charitable
 5 contributions; and

6 (iv) the sale of, or offer or attempt to sell an admission, advertisement,
 7 advertising space, book card, chance, coupon, device, magazine, membership,
 8 merchandise, patron listing, subscription, tag, ticket, or other tangible item in connection
 9 with which:

10 1. an appeal is made for charitable contributions;

11 2. the name of a charitable organization is used expressly or
 12 implicitly to induce a purchase; or

13 3. a statement is made that some or all of the proceeds from the
 14 sale are to be used for a charitable purpose.

15 ~~6-102.~~

16 (e) ~~(1) Except as provided in paragraph (2) of this subsection AND § 6-620 OF~~
 17 ~~THIS TITLE, a charitable organization is exempt from the requirements of this title if the~~
 18 ~~charitable organization:~~

19 (i) ~~does not employ a professional solicitor; and~~

20 (ii) ~~1. solicits charitable contributions for a named individual and~~
 21 ~~the gross amount is delivered to the individual;~~

22 ~~2. A. is a religious organization, a parent organization of a~~
 23 ~~religious organization, or a school affiliated with a religious organization; and~~

24 ~~B. has in effect a declaration of tax exempt status from the~~
 25 ~~government of the United States;~~

26 ~~3. solicits charitable contributions only from its members;~~

27 ~~4. does not receive more than \$25,000 in charitable~~
 28 ~~contributions from the public during the year for which a registration statement and~~
 29 ~~annual report otherwise would be required; or~~

30 ~~5. only receives contributions from for-profit corporations and~~
 31 ~~organizations determined to be private foundations by the government of the United~~
 32 ~~States.~~

33 ~~(2) (i) A charitable organization claiming exemption under paragraph (1)~~
 34 ~~of this subsection shall submit evidence of its entitlement to an exemption upon request~~
 35 ~~of the Secretary of State.~~

36 ~~(ii) A charitable organization that fails to submit evidence satisfactory~~
 37 ~~to the Secretary of State under subparagraph (i) of this paragraph is not exempt from the~~
 38 ~~requirements of this title.~~

4

1 6-619.

2 (a) ~~{A} EXCEPT AS PROVIDED IN § 6-620 OF THIS SUBTITLE,~~ A person who
3 commits a willful violation of this title or who causes a person to commit a willful violation
4 of this title is guilty of a misdemeanor and, on conviction, is subject to a fine not
5 exceeding \$5,000 or imprisonment not exceeding 1 year or both.

6 (b) A person who commits a grossly negligent violation of this title or who causes
7 a person to commit a grossly negligent violation of this title is guilty of a misdemeanor
8 and, on conviction, is subject to a fine not exceeding \$3,000 or liability for restitution that
9 the court determines or both.

10 6-620.

11 ~~{A} THIS SECTION DOES NOT APPLY IF:~~

12 ~~{1} A DEVICE OR CONTAINER GENERATES LESS THAN A GROSS TOTAL~~
13 ~~OF \$100 A YEAR; AND~~

14 ~~{2} THE CHARITABLE ORGANIZATION THAT BENEFITS FROM THE~~
15 ~~DEVICE OR CONTAINER GENERATES LESS THAN \$500 A YEAR FROM ANY SOURCE~~
16 ~~FOR CHARITABLE PURPOSES.~~

17 ~~{B}~~ ~~{1}~~ A person who places in an establishment OR OTHER LOCATION open to
18 the public a vending machine, canister, or other device or container for the deposit of
19 money that reflects the name of a charitable organization or a charitable purpose shall {:

20 (1) } state on the device or container:

21 (I) the address of the charitable organization named {;and};

22 (II) the name and address of the ~~entity~~ BUSINESS placing the device or
23 container, if not [a] THE charitable organization; {and

24 (2) state on the device or container and to the person who grants permission
25 for the placement of the device or container that a portion of the money deposited is
26 RETAINED BY THE BUSINESS PLACING THE DEVICE OR CONTAINER AND THAT THE
27 REMAINDER IS given to a charitable organization or used for charitable purposes, if less
28 than all of the money deposited is given to a charitable organization or used for charitable
29 purposes}.

30 ~~{III} WHETHER MAINTENANCE OF THE DEVICE OR CONTAINER IS~~
31 ~~PERFORMED BY VOLUNTEERS OR A PERSON PAID FOR THE SERVICE; AND~~

32 ~~{IV} THE PERCENTAGE OF THE RECEIPTS FROM THE DEVICE OR~~
33 ~~CONTAINER PROVIDED TO THE CHARITABLE ORGANIZATION AND USED FOR~~
34 ~~CHARITABLE PURPOSES.~~

35 ~~{2} THE PERSON WHO PLACES THE DEVICE OR CONTAINER ON THE~~
36 ~~PROPERTY OF ANOTHER SHALL PROVIDE TO THE PERSON WHO GRANTS~~
37 ~~PERMISSION FOR THE PLACEMENT THE INFORMATION REQUIRED UNDER THIS~~
38 ~~SECTION.~~

1 ~~(C) (1) A PERSON WHO COMMITS A WILLFUL VIOLATION OF THIS SECTION~~
2 ~~OR WHO CAUSES A PERSON TO COMMIT A WILLFUL VIOLATION OF THIS SECTION IS~~
3 ~~GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE NOT~~
4 ~~EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR BOTH.~~

5 ~~(2) IT IS AN ABSOLUTE DEFENSE UNDER THIS SECTION IF 100% OF THE~~
6 ~~RECEIPTS GENERATED BY THE DEVICE OR CONTAINER ARE GIVEN TO THE~~
7 ~~CHARITABLE ORGANIZATION ON WHOSE BEHALF THE CHARITABLE~~
8 ~~CONTRIBUTIONS ARE SOLICITED.~~

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 1997.