

CHARITABLE ORGANIZATIONS AND SOLICITATIONS ACT (EXCERPT)
Act 169 of 1975

400.293 Conduct constituting misdemeanor; penalty; presumption; civil action; prosecution.

Sec. 23.

(1) A person that does any of the following is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$5,000.00, or both, for each violation:

(a) Knowingly misrepresents or misleads any person in any manner to believe that a person on whose behalf a solicitation effort is conducted is a charitable organization or that the proceeds of a solicitation effort are for charitable purposes.

(b) Knowingly diverts or misdirects contributions to a purpose or organization other than for which the funds were contributed or solicited.

(c) Knowingly misrepresents that funds solicited or contributed will be used for a specific charitable purpose.

(d) Knowingly misrepresents that a donor will receive special benefits or treatment or that failure to make a contribution will result in unfavorable treatment.

(e) Employs any device, scheme, or artifice to defraud or obtain money or property from a person by means of a false, deceptive, or misleading pretense, representation, or promise.

(f) Knowingly fails to file any materials, information, or report required under this act.

(g) Engages in any of the following practices and wrongfully obtains more than \$1,000.00 and less than \$5,000.00, in the aggregate, as a result of the practice or practices:

(i) Knowingly misrepresents that a person soliciting contributions or other funds for a charitable organization has a sponsorship, approval, status, affiliation, or other connection with a charitable organization or charitable purpose that the person does not have.

(ii) Knowingly uses a name, symbol, or statement so closely related or similar to a name, symbol, or statement used by another charitable organization or governmental agency that use of that name, symbol, or statement is confusing or misleading.

(iii) Knowingly uses a bogus, fictitious, or nonexistent organization, address, or telephone number in any solicitation.

(iv) Knowingly misrepresents or misleads any person in any manner to believe that a person or governmental agency sponsors, endorses, or approves a solicitation effort if that person or agency has not given written consent to the use of the person's or agency's name for that purpose.

(v) Knowingly misrepresents that the amount or percentage of a contribution that a charitable organization will receive for a charitable program after costs of solicitation are paid is greater than the amount or percentage of the contribution the charitable organization will actually receive.

(vi) Knowingly solicits contributions, conducts a charitable sales promotion, or otherwise operates in this state as a charitable organization or professional fund raiser unless the information required under this act is filed with the attorney general as required under this act.

(vii) Aids, abets, or otherwise permits a person to solicit contributions or conduct a charitable sales promotion in this state unless the person soliciting contributions or conducting the charitable sales promotion has complied with the requirements of this act.

(viii) Knowingly solicits or receives a contribution, conducts a charitable sales promotion, or sells memberships in this state for or on behalf of any charitable organization subject to the provisions of this act that is not registered under this act.

(2) A person that does any of the following is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$20,000.00, or both, for each violation:

(a) Engages in any practice or practices described in subsection (1)(a), (b), (c), (d), or (e) if the amount of money fraudulently collected or wrongfully diverted from the charitable purpose for which the money was solicited exceeds, in the aggregate, \$1,000.00.

(b) Engages in any practice or practices described in subsection (1)(g) and wrongfully obtains more than \$5,000.00, in the aggregate, as a result of the practice or practices.

(c) Knowingly submits any of the following in materials or statements required under this act or requested by the attorney general:

(i) Any document or statement purporting to have been signed, certified, attested to, approved by, or endorsed by a person if the signature, certification, attestation, approval, or endorsement is not genuine or has not been given by that person.

(ii) Any document containing any materially false statement.

(3) For purposes of this section, a person is presumed to have committed a violation knowingly if the attorney

general provided written notice identifying alleged violations to the person before the acts or omissions in violation of subsection (1) or (2) occurred.

(4) In addition to pursuing a criminal action under this section, the attorney general may bring a civil action for damages or equitable relief to enforce the provisions of this act.

(5) This section does not limit or restrict prosecution under the general criminal statutes of this state.

History: 1975, Act 169, Imd. Eff. July 20, 1975 ;-- Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976 ;-- Am. 2010, Act 377, Eff. Mar. 30, 2011