

HOUSE BILL No. 4132

February 9, 1989, Introduced by Reps. Hertel and Ciaramitaro and referred to the Committee on Consumers.

A bill to regulate the solicitation of contributions by persons affiliated with or organized for the benefit of law enforcement officers; to provide for registration and disclosure statements; to prescribe the duties of certain departments; to prohibit certain activities; and to provide for penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "law enforcement solicitation act".

3 Sec. 2. As used in this act:

4 (a) "Contribution" means the promise, grant, or payment of
5 money or property of any kind or value, including promises to
6 pay. Contribution does not include money or property received
7 from a governmental authority or a foundation restricted as to
8 use. Contribution does not include payments by members of an
9 organization for membership fees, dues, fines, assessments, or

1 for services rendered to individual members, if membership in the
2 organization confers a bona fide right, privilege, professional
3 standing, honor, or other direct benefit, other than the right to
4 vote, elect officers, or hold office.

5 (b) "Law enforcement officer" means a member of a police or
6 sheriff force of a city, county, township, village, university,
7 or of the state who is responsible for the prevention and detec-
8 tion of crime and the enforcement of the criminal laws of this
9 state.

10 (c) "Person" means an individual, organization, group, asso-
11 ciation, partnership, corporation, trust, or any combination of
12 those entities.

13 (d) "Soliciting material" means printed and electronically
14 transmitted material, including, but not limited to, labels,
15 posters, mailings, television scripts and broadcasts, radio
16 scripts and broadcasts, or recordings used in soliciting funds
17 from the public.

18 (e) "Sponsor" means a person who is, or holds himself or
19 herself out to be, soliciting contributions by the use of any
20 name or campaign which implies that the person is in any way
21 affiliated with, or organized for the benefit of, law enforcement
22 officers. Sponsor includes a chapter, branch, or affiliate of a
23 sponsor which has its principal place of business outside this
24 state, if the chapter, branch, or affiliate solicits or holds
25 itself out to be soliciting contributions in this state.

26 Sec. 3. (1) A sponsor shall not solicit contributions in
27 this state without first receiving a certificate of registration

1 from the attorney general. A sponsor shall apply for a
2 certificate of registration in writing, under oath, and on a form
3 prescribed by the attorney general. The registration application
4 shall contain all of the following information:

5 (a) The name of the sponsor and the purpose for which it is
6 organized.

7 (b) The principal address of the sponsor and the address of
8 any offices in this state.

9 (c) The names and addresses of any chapters, branches, or
10 affiliates in this state.

11 (d) The location and date when the sponsor was legally
12 established, the form of its organization, and a reference to any
13 determination of its tax exempt status under the United States
14 internal revenue code.

15 (e) The names and addresses of the officers, directors,
16 trustees, and the principal executive staff officer.

17 (f) The names and addresses of the persons having custody of
18 its books and records.

19 (g) The names and addresses of the persons who will be
20 making the direct solicitation to the public.

21 (h) A statement as to whether the sponsor intends to solicit
22 contributions from the public directly or to have contributions
23 solicited on its behalf by others. If the contributions are to
24 be solicited by others, the sponsor shall provide their names and
25 addresses.

26 (i) A statement as to whether the sponsor is authorized by
27 any other governmental authority to solicit contributions and

1 whether the sponsor is or has ever been enjoined by any court
2 from soliciting contributions.

3 (j) The specific purpose for which the contributions to be
4 solicited shall be used and a complete breakdown by percentage of
5 how all of the contributions will be spent by the sponsor.

6 (k) The name or names under which the sponsor intends to
7 solicit contributions.

8 (l) The names of the individuals or officers of the sponsor
9 who will have final responsibility for the custody of the
10 contributions.

11 (m) The names of the individuals or officers of the sponsor
12 responsible for the final distribution of the contributions.

13 (n) Other information considered necessary or relevant by
14 the attorney general.

15 (2) Each chapter, branch, or affiliate of a sponsor shall
16 apply separately for a certificate of registration.

17 (3) Each sponsor shall pay a registration fee of \$25.00 to
18 the attorney general. If the parent sponsor has previously reg-
19 istered, each chapter, branch, or affiliate of the sponsor shall
20 pay a registration fee of \$10.00.

21 (4) Upon receipt of a completed application in proper form
22 and the registration fee, the attorney general shall issue a cer-
23 tificate of registration within 30 days.

24 (5) A certificate of registration issued under this section
25 shall expire 1 year after the date of issuance.

26 (6) Certificates of registration issued under this section
27 may be renewed for additional 1-year periods upon written

1 application and payment of a renewal fee of \$25.00 to the
2 attorney general not less than 45 days before the expiration of
3 the certificate of registration, under oath, and in the form pre-
4 scribed by the attorney general. The information required in the
5 renewal form shall not exceed the information required in the
6 initial registration form.

7 Sec. 4. Upon request of the attorney general, a sponsor
8 shall supply copies of all soliciting materials to the attorney
9 general.

10 Sec. 5. Registration applications and documents required to
11 be filed with the attorney general under this act shall be open
12 to public inspection as provided by the freedom of information
13 act, Act No. 442 of the Public Acts of 1976, being sections
14 15.231 to 15.246 of the Michigan Compiled Laws.

15 Sec. 6. A sponsor shall notify the attorney general within
16 15 days of any change in the information required to be furnished
17 under this act.

18 Sec. 7. An application for registration under this act
19 shall not be accepted from a sponsor located in another state or
20 country without the sponsor first designating a resident agent in
21 this state for the acceptance of service of process.

22 Sec. 8. (1) The registration requirements under this act do
23 not apply to any of the following:

24 (a) A sponsor soliciting contributions for the relief of any
25 individual specified by name at the time of the solicitation, if
26 all of the contributions collected, without any deductions, are

1 turned over to the named beneficiary or promptly dedicated to the
2 use of the named beneficiary.

3 (b) A sponsor which does not receive contributions in excess
4 of \$1,000.00 during its fiscal year, if all of its functions,
5 including fund-raising activities, are carried on by persons who
6 are unpaid for their services and if no part of the assets or
7 income of the sponsor inures to the personal benefit of or is
8 paid to any officer or member of the sponsor.

9 (c) An organization of law enforcement officers which solic-
10 its only within the membership of the organization by members of
11 the organization. As used in this subdivision, "membership" does
12 not include those persons who are granted memberships upon making
13 contributions as the result of solicitations.

14 (2) A person exempt from the registration requirements under
15 subsection (1) shall maintain records as are necessary to prove
16 that the person qualifies for an exemption. Upon demand, the
17 records shall be made available to the attorney general for
18 inspection. Any person that is no longer exempt under subsection
19 (1) shall register with the attorney general within 15 days after
20 not being exempt and pay the appropriate fees.

21 Sec. 9. (1) A person shall not, in connection with the
22 solicitation of contributions for or on behalf of a sponsor, mis-
23 represent, mislead, or make false statements to another person by
24 any manner which would lead a reasonable person to believe either
25 of the following:

26 (a) That the sponsor on whose behalf the solicitation is
27 being conducted is a charitable organization.

1 (b) That the proceeds or any part of the proceeds of the
2 solicitation will be used for charitable purposes if, in fact,
3 the proceeds or part of the proceeds will not be used for chari-
4 table purposes.

5 (2) A person shall not make any representation that he or
6 she is soliciting contributions for or on behalf of a sponsor or
7 use or display any emblem, device, or printed matter belonging to
8 or associated with a sponsor for the purpose of soliciting or
9 inducing contributions without first being authorized in writing
10 to do so by the sponsor.

11 (3) A person shall not, in connection with the solicitation
12 of contributions for or on behalf of a sponsor, represent to
13 another person that the donation of a contribution or the display
14 of any sticker, emblem, or insignia offered to contributors will
15 entitle the other person to any special treatment by law enforce-
16 ment officers in the performance of their official duties or that
17 the failure to make a donation will result in unfavorable treat-
18 ment by law enforcement officers.

19 Sec. 10. (1) Each sponsor shall prepare a disclosure state-
20 ment to be given with all printed material and read when con-
21 tacted by telephone, to each person from whom a contribution is
22 solicited. The disclosure statement shall contain all of the
23 following information:

24 (a) The name and purpose of the sponsor.

25 (b) The relationship to and number of law enforcement offi-
26 cers represented by the sponsor.

1 (c) That the sponsor is not a charitable organization and
2 whether the solicitor is another organization acting on behalf of
3 the sponsor.

4 (d) The specific purpose for which the contributions are to
5 be used.

6 (e) The percentage of the contribution which will actually
7 be used for the stated purpose for which the contribution was
8 solicited and a complete breakdown by percentage on how the
9 remaining contributions shall be spent.

10 (f) That the solicited person is under no legal obligation
11 to contribute.

12 (2) The disclosure statement shall be submitted to and
13 approved by the attorney general. A sponsor or a person acting
14 on behalf of the sponsor shall not solicit contributions until
15 the disclosure statement has been approved.

16 Sec. 11. (1) A person who does any of the following is
17 guilty of a misdemeanor punishable by a fine of not more than
18 \$1,000.00, or imprisonment for not more than 6 months, or both,
19 together with costs of the prosecution:

20 (a) Violates a provision of this act.

21 (b) Solicits funds under a certificate of registration
22 issued under this act and thereafter diverts the funds to pur-
23 poses other than that for which the funds were contributed or
24 solicited.

25 (2) A person who is guilty of a second or subsequent offense
26 under this section is guilty of a misdemeanor punishable by a

1 fine of not more than \$5,000.00, or imprisonment for not more
2 than 1 year, or both, and costs of the prosecution.

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

5 Sec. 12. This act does not limit or restrict the exercise
6 of powers or the performance of the duties of the attorney gen-
7 eral which he or she otherwise is authorized to exercise or per-
8 form under any other provisions of law.