

Adopted      Rejected

# COMMITTEE REPORT

YES:            14  
NO:             0

**MR. SPEAKER:**

*Your Committee on Commerce and Economic Development, to which was referred House Bill 1120, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1            Page 1, delete lines 1 through 15.
- 2            Page 2, delete lines 1 through 27.
- 3            Page 3, line 35, after "laws." insert "**The contract must disclose**
- 4            **the average percentage of gross contributions collected on behalf**
- 5            **of charitable organizations that the charitable organizations**
- 6            **received from the professional solicitor for the three (3) years**
- 7            **preceding the year in which the contract is formed.**".
- 8            Page 4, line 9, delete "the professional".
- 9            Page 4, line 10, delete "fundraiser consultant or".
- 10          Page 4, line 11, delete "the professional".
- 11          Page 4, line 12, delete "fundraiser consultant or".
- 12          Page 4, line 14, delete ":".
- 13          Page 4, line 15, delete "(A)".
- 14          Page 4, line 15, delete "; and" and insert ".".

1 Page 4, run in lines 14 and 15.

2 Page 4, delete lines 16 through 17, begin a new line block indented  
3 and insert:

4 **"(4) The total amount of money received by the charitable**  
5 **organization."**

6 Page 5, line 4, after "division" insert **"and members of the**  
7 **public"**.

8 Page 5, between lines 7 and 8, begin a new paragraph and insert:

9 "SECTION 5. IC 23-7-8-6 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) A professional  
11 solicitor subject to registration under this chapter or a person who is  
12 employed to solicit or act on behalf of a professional solicitor subject  
13 to registration under this chapter shall disclose at the time of the  
14 solicitation and before the donor agrees to make a contribution:

15 (1) the **name and address of the** charitable organization that is  
16 being represented; ~~and~~

17 (2) the fact that the person soliciting the contribution is, or is  
18 employed by, a professional solicitor, and the fact that the  
19 professional solicitor is compensated;

20 **(3) the full name, mailing address, and telephone number of**  
21 **the professional solicitor; and**

22 **(4) the charitable purpose for which the funds are being**  
23 **raised.**

24 (b) If a person solicits in writing or in person, the disclosures  
25 required by subsection (a)(1) and (a)(2) shall be in writing. If a person  
26 solicits by telephone, the disclosures required by subsection (a)(1) and  
27 (a)(2) shall be made orally.

28 (c) A written confirmation shall be mailed within ten (10) days  
29 after each solicitation in which a contribution has been given. This  
30 confirmation must include the disclosures required under subsection  
31 (a)(1) and (a)(2).

32 (d) All disclosures required by this section must be clear and  
33 conspicuous."

34 Page 5, line 28, delete ";".

35 Page 5, line 29, delete "(B)".

36 Page 5, line 30, delete "." and insert **;" or"**.

37 Page 5, run in lines 28 through 30.

38 Page 5, between lines 30 and 31, begin a new line double block

1 indented and insert:

2 **"(B) the contributor has agreed to purchase goods or**  
 3 **items in connection with the solicitation, and the**  
 4 **collection or attempt to collect is made at the time of**  
 5 **delivery of the goods or items."**

6 Page 5, between lines 40 and 41, begin a new paragraph and  
 7 insert:

8 "SECTION 1. IC 23-7-8-8 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) The division may  
 10 receive, investigate, and prosecute complaints concerning the activities  
 11 of professional fundraiser consultants and professional solicitors who:

- 12 (1) may be subject to this chapter; or  
 13 (2) have or may have violated this chapter.

14 All complaints must be in writing, signed by the complainant, and filed  
 15 with the division.

16 (b) The attorney general may subpoena witnesses, send for and  
 17 compel the production of books, records, papers, and documents of  
 18 professional fundraiser consultants and professional solicitors who are  
 19 subject to registration under this chapter, for the furtherance of any  
 20 investigation under this chapter. The circuit or superior court located  
 21 in the county where the subpoena is to be issued shall enforce any such  
 22 subpoena by the attorney general.

23 (c) The attorney general may bring an action to enjoin a violation  
 24 of this chapter. In this action, the court may order a person who has  
 25 violated this chapter to pay the reasonable costs of investigation and  
 26 prosecution incurred by the attorney general, may award the state civil  
 27 penalties up to five hundred dollars (\$500) for each violation, and may  
 28 order the professional fundraiser consultant or professional solicitor to  
 29 repay money unlawfully received from aggrieved solicitees. In ordering  
 30 injunctive relief, the division is not required to establish irreparable  
 31 harm but only a violation of a statute or that the requested order  
 32 promotes the public interest. It is an affirmative defense to the  
 33 assessment of civil penalties under this subsection that the defendant  
 34 acted pursuant to a good faith misunderstanding concerning the  
 35 requirements of this chapter.

36 (d) A person who knowingly or intentionally:

- 37 (1) fails to file a registration statement or other information;  
 38 (2) files a statement or other information which is materially

1 false; or  
 2 (3) fails to make a disclosure;  
 3 as required by this chapter commits a Class ~~A~~ **infractor. B**  
 4 **misdemeanor. However, the offense is a Class A misdemeanor if**  
 5 **the person has a previous unrelated conviction under this**  
 6 **subsection.**

7 (e) Notwithstanding IC 34-4-32-1, the attorney general has  
 8 concurrent jurisdiction with a prosecuting attorney to enforce this  
 9 chapter.

10 (f) A local unit of government may adopt an ordinance which  
 11 regulates professional fundraisers and solicitors if the ordinance does  
 12 not conflict with this chapter.

13 (g) A professional fundraiser consultant, or a professional  
 14 solicitor, who has the person's principal place of business outside of  
 15 Indiana, or who has organized under the laws of another state, and who  
 16 solicits contributions from persons in Indiana, is subject to this chapter  
 17 and shall be considered to have appointed the secretary of state as his  
 18 agent. All service of process under this subsection shall be made on the  
 19 secretary of state under Rule 4.10 of the Indiana Rules of Trial  
 20 Procedure."

21 Page 7, between lines 17 and 18, begin a new paragraph and  
 22 insert:

23 **"(c) A seller may not knowingly or intentionally block or**  
 24 **attempt to block the display of the seller's:**

25 **(1) telephone number; or**

26 **(2) identity;**

27 **by a caller ID service (as defined by IC 8-1-2.9-1) when attempting**  
 28 **to initiate a telephone conversation for the purpose of making a**  
 29 **solicitation to a prospect.**

30 **(d) If a seller uses an automated dialing and answering device**  
 31 **when attempting to initiate a telephone conversation for the**  
 32 **purpose of making a solicitation to a prospect, the seller must use**  
 33 **a prerecorded message or other means to ensure that the telephone**  
 34 **is not silent after the prospect answers the telephone."**

35 Page 7, line 18, delete "(c)" and insert "(e)".

36 Page 7, line 18, delete "subsection" and insert "**this section**".

37 Page 7, line 19, delete "(b)".

38 Page 7, line 19, delete "C misdemeanor." and insert "**B**

1       **misdemeanor. However, the offense is a Class A misdemeanor if**  
2       **the person has a previous unrelated conviction under this**  
3       **subsection."**

4             Renumber all SECTIONS consecutively.  
              (Reference is to HB 1120 as introduced.)

**and when so amended that said bill do pass.**

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Representative Bottorff