~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 14, 2010

**S. 652**

Introduced by Senators Knotts, Elliott, Ford and Campbell

S. Printed 4/14/10--H.

Read the first time May 21, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 652) to amend the Code of Laws of South Carolina, 1976, by adding Section 33‑56‑75 so as to require professional fundraising counsel, professional solicitors and commercial, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Chapter 56, Title 33 of the 1976 Code is amended by adding:

"Section 33-56-75. (A) A list provided by the charitable organization of the names, postal addresses, telephone numbers, e-mail addresses, and the dates and amounts of each donation, of each contributor to a solicitation campaign organized pursuant to this chapter conducted by a professional fundraising counsel or professional solicitor is the property of the charitable organization for which the solicitation campaign is conducted. The professional fundraising counsel or professional solicitor must maintain this list throughout the duration of the solicitation campaign until the list is transferred to the charitable organization pursuant to subsection (B).

(B) If the contributions are received by a professional fundraising counsel or professional solicitor, his agent or subcontractor, then the professional fundraising counsel or professional solicitor shall deliver the list of contributors, including the names, postal addresses, telephone numbers, e-mail addresses, and dates and amounts of donations, to the charitable organization within ninety days after the solicitation campaign has been completed, or within ninety days after each anniversary of a solicitation campaign that lasted for more than one year.

(C) A professional fundraising counsel or professional solicitor must not:

(1) withhold from the charitable organization the list referenced in subsection (A);

(2) restrict any use by the charitable organization of the list referenced in subsection (A);

(3) transfer possession or control of the list referenced in subsection (A) to any person other than the charitable organization that owns the list;

(4) permit the use of the list referenced in subsection (A) by any person not so authorized by the charitable organization; or

(5) use the list referenced in subsection (A)for the benefit of any person other than the owner of the list, without the explicit written consent of the charitable organization that owns this list.

(D) (1) If a professional fundraising counsel or a professional solicitor violates a provision of this section, the Secretary of State must notify the professional fundraising counsel or professional solicitor by mailing a notice by registered or certified mail, with return receipt requested, to the last known address of the violator. If the violation is not remedied within fifteen days after the formal notification or receipt of the notice, the Secretary of State may assess an administrative fine of one hundred dollars for each day of noncompliance, not to exceed a maximum fine of twenty-five thousand dollars for each violation.

(2) A person who is assessed an administrative fine pursuant to this section shall, within thirty days from receipt of certified or registered notice from the Secretary of State, pay the assessed fine or request a contested case hearing before the Administrative Law Court. If no fine is remitted or no contested case is requested, then the Secretary of State may suspend the registration of the person and is authorized to request an injunction against the person in the Administrative Law Court to prohibit the person from engaging in further charitable solicitation activities in this State. The decision of the Administrative Law Court may be appealed as provided in Section 1-23-610.

(E) the provisions of this section do not apply to a professional fundraising counsel or a professional solicitor used for a political campaign subject to disclosure requirements of Section 8-13-920.”

SECTION 2. Section 33-56-160 of the 1976 Code is amended to read:

“Section 33-56-160. (A) The first two hundred thousand dollars in administrative fine revenue received pursuant to this chapter in a fiscal year, not including fine revenues collected pursuant to Section 33-56-75, may be retained by the Secretary of State to offset the expenses of enforcing this chapter. All administrative fines collected pursuant to this chapter in excess of two hundred thousand dollars in a fiscal year, not including fine revenues collected pursuant to Section 33-56-75, must be transmitted to the State Treasurer and deposited in the state general fund. All fees collected pursuant to this chapter must be transmitted to the State Treasurer and deposited in a fund separate and distinct from the state general fund and used by the Secretary of State for the purpose of administering the provisions of this chapter.

(B) All administrative fines collected pursuant to Section 33-56-75 in a fiscal year must be transmitted to the State Treasurer and deposited in a fund separate and distinct from the state general fund. The revenue collected from these fines must be directed to the Secretary of State for the purpose of administering the provisions of that section.”

SECTION 3. This act takes effect upon approval by the Governor and applies to all transactions or contracts entered into on or after that date./

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 33‑56‑75 SO AS TO REQUIRE PROFESSIONAL FUNDRAISING COUNSEL, PROFESSIONAL SOLICITORS AND COMMERCIAL CO‑VENTURERS TO MAINTAIN LISTS OF DONORS FROM CAMPAIGNS AND SOLICITATONS CONDUCTED BY THE SOLICITOR; TO PROVIDE THAT THESE LISTS ARE THE PROPERTY OF THE CHARITABLE ORGANIZATION; TO RESTRICT THE USE OF DONOR LISTS BY THE CAMPAIGN SOLICITOR; AND TO PROVIDE CIVIL PENALTIES FOR VIOLATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 56, Title 33 of the 1976 Code is amended by adding:

“Section 33-56-75. (A) A list provided by the charitable organization of the names, postal addresses, telephone numbers, e-mail addresses, and the dates and amounts of each donation, of each contributor to a solicitation campaign organized pursuant to this chapter conducted by a professional fundraising counsel or professional solicitor and any such list generated during the solicitation campaign shall be the property of the charitable organization for which the solicitation campaign is conducted. The professional fundraising counsel or professional solicitor must maintain this list throughout the duration of the solicitation campaign until the list is transferred to the charitable organization pursuant to subsection (B).

(B) If the contributions are received by a professional fundraising counsel or professional solicitor, his agent or subcontractor, then the professional fundraising counsel or professional solicitor shall deliver the list of contributors that has been provided by the charitable organization and generated during the solicitation campaign, including the names, postal addresses, telephone numbers, e-mail addresses, and dates and amounts of donations, to the charitable organization within ninety days after the solicitation campaign has been completed, or within ninety days after each anniversary of a solicitation campaign that lasted for more than one year.

(C) A professional fundraising counsel or professional solicitor shall not:

(1) withhold from the charitable organization the list referenced in subsection (A);

(2) restrict any use by the charitable organization of the list referenced in subsection (A);

(3) transfer possession or control of the list referenced in subsection (A) to any person other than the charitable organization that owns the list;

(4) permit the use of the list referenced in subsection (A) by any person not so authorized by the charitable organization; or

(5) use the list referenced in subsection (A)for the benefit of any person other than the owner of the list, without the explicit written consent of the charitable organization that owns this list.

(D) (1) If a professional fundraising counsel or a professional solicitor violates a provision of this section, the Secretary of State must notify the professional fundraising counsel or professional solicitor by mailing a notice by registered or certified mail, with return receipt requested, to the last known address of the violator. If the violation is not remedied within fifteen days after the formal notification or receipt of the notice, the Secretary of State may assess an administrative fine of one hundred dollars for each day of noncompliance, not to exceed a maximum fine of twenty-five thousand dollars for each violation.

(2) A person who is assessed an administrative fine pursuant to this section shall, within thirty days from receipt of certified or registered notice from the Secretary of State, pay the assessed fine or request a contested case hearing before the Administrative Law Court. If no fine is remitted or no contested case is requested, then the Secretary of State may suspend the registration of the person and is authorized to request an injunction against the person in the Administrative Law Court to prohibit the person from engaging in further charitable solicitation activities in this State. The decision of the Administrative Law Court may be appealed as provided in Section 1-23-610.”

SECTION 2. Section 33-56-160 of the 1976 Code is amended to read:

“Section 33-56-160. (A) The first two hundred thousand dollars in administrative fine revenue received pursuant to this chapter in a fiscal year, not including such fine revenues collected pursuant to Section 33-56-75, may be retained by the Secretary of State to offset the expenses of enforcing this chapter. All administrative fines collected pursuant to this chapter in excess of two hundred thousand dollars in a fiscal year, not including such fine revenues collected pursuant to Section 33-56-75, must be transmitted to the State Treasurer and deposited in the state general fund. All fees collected pursuant to this chapter must be transmitted to the State Treasurer and deposited in a fund separate and distinct from the state general fund and used by the Secretary of State for the purpose of administering the provisions of this chapter.

(B) All administrative fines collected pursuant to Section 33-56-75 in a fiscal year must be transmitted to the State Treasurer and deposited in a fund separate and distinct from the state general fund. The revenue collected from these fines must be directed to the Secretary of State for the purpose of administering the provisions of that section.”

SECTION 3. This act takes effect upon approval by the Governor.

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