

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

H. B. No. 457

**Representative Ginter
Cosponsors: Representatives Riedel, Lipps, West**

A BILL

To amend sections 1716.01, 1716.07, 1716.08, 1
1716.14, and 1716.15 and to enact section 2
1716.06 of the Revised Code regarding charitable 3
solicitations. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1716.01, 1716.07, 1716.08, 5
1716.14, and 1716.15 be amended and section 1716.06 of the 6
Revised Code be enacted to read as follows: 7

Sec. 1716.01. As used in this chapter: 8

(A) (1) "Charitable organization" means either of the 9
following: 10

(a) Any person that is determined by the internal revenue 11
service to be a tax exempt organization pursuant to section 12
501(c) (3) of the Internal Revenue Code; 13

(b) Any person that is or holds itself out to be 14
established for any benevolent, philanthropic, patriotic, 15
educational, humane, scientific, public health, environmental 16
conservation, civic, or other eleemosynary purpose or for the 17

benefit of law enforcement personnel, firefighters, or other 18
persons who protect the public safety, or any person who in any 19
manner employs a charitable appeal as the basis of any 20
solicitation or an appeal that suggests that there is a 21
charitable purpose to any solicitation. 22

(2) "Charitable organization" is not limited to only those 23
organizations to which contributions are tax deductible under 24
section 170 of the Internal Revenue Code. 25

"Charitable organization" does not include an employer who 26
is not engaged in the business of soliciting contributions or 27
conducting charitable sales promotions but who incidentally 28
solicits contributions for a charitable organization or purpose; 29
or a compensated employee of an employer not engaged in the 30
business of soliciting contributions or conducting charitable 31
sales promotions, when the employee solicits contributions or 32
conducts charitable sales promotions at the direction of the 33
employee's employer. 34

(B) (1) "Charitable purpose" means either of the following: 35

(a) Any purpose described in section 501(c) (3) of the 36
Internal Revenue Code; 37

(b) Any benevolent, philanthropic, patriotic, educational, 38
humane, scientific, public health, environmental conservation, 39
civic, or other eleemosynary objective or any objective that 40
benefits law enforcement personnel, firefighters, or other 41
persons who protect the public safety. 42

(2) "Charitable purpose" is not limited to only those 43
purposes for which contributions are tax deductible under 44
section 170 of the Internal Revenue Code. 45

(C) "Charitable sales promotion" means any advertising or 46

sale conducted by a person who represents that the purchase or 47
use of goods or services offered by the person will benefit, in 48
whole or in part, any charitable organization or charitable 49
purpose. The provision of advertising services to a charitable 50
organization, either for compensation or as a donation, does not 51
of itself constitute a charitable sales promotion. 52

(D) "Collection receptacle" means an attended or 53
unattended container the purpose of which is to collect 54
donations of clothing, books, personal or household items, or 55
other goods. "Collection receptacle" does not include a 56
container used to collect monetary donations. 57

(E) "Commercial co-venturer" means any person who for 58
profit regularly and primarily is engaged in trade or commerce 59
other than in connection with soliciting for charitable 60
organizations or charitable purposes and who conducts a 61
charitable sales promotion. 62

~~(E)~~-(F) "Contribution" means the promise, pledge, or grant 63
of any money or property, financial assistance, or any other 64
thing of value in response to a solicitation. "Contribution" 65
does not include any bona fide fees, or any dues or assessments 66
paid by members, provided that membership is not conferred 67
solely as a consideration for making a contribution in response 68
to a solicitation. 69

~~(F)~~-(G) "Deceptive act or practice" means knowingly 70
misrepresenting any material fact related to the planning, 71
conducting, or executing of any solicitation of contributions 72
for a charitable organization or charitable purpose or to the 73
planning, conducting, or executing of a charitable sales 74
promotion, when the misrepresentation induces any person to make 75
a contribution to a charitable organization, for a charitable 76

purpose, or in response to a charitable sales promotion. 77

~~(G)~~ (H) "Fund-raising counsel" means any person who, for 78
compensation, plans, manages, advises, consults, or prepares 79
material for or with respect to the solicitation in this state 80
of contributions for any charitable organization or at any time 81
has custody of contributions from a solicitation, but does not 82
solicit contributions and does not employ, procure, or otherwise 83
engage any compensated person to solicit contributions. "Fund- 84
raising counsel" does not include the following: 85

(1) An attorney, investment counselor, or banker who in 86
the conduct of the attorney's, investment counselor's, or 87
banker's profession advises a client; 88

(2) A charitable organization or a bona fide officer, 89
employee, or volunteer of a charitable organization, when the 90
charitable organization has full knowledge of the services being 91
performed on its behalf and either of the following applies: 92

(a) The services performed by the charitable organization, 93
bona fide officer, employee, or volunteer are performed on 94
behalf of the charitable organization that employs the bona fide 95
officer or employee or engages the services of the bona fide 96
volunteer; 97

(b) The charitable organization on whose behalf the 98
services are performed shares some element of common control or 99
an historic or continuing relationship with the charitable 100
organization that performs the services or employs the bona fide 101
officer or employee or engages the services of the bona fide 102
volunteer; 103

(3) An employer who is not engaged in the business of 104
soliciting contributions or conducting charitable sales 105

promotions but who incidentally solicits contributions for a 106
charitable organization or purpose without compensation; 107

(4) A compensated employee of an employer who is not 108
engaged in the business of soliciting contributions or 109
conducting charitable sales promotions, when the employee 110
solicits contributions or conducts charitable sales promotions 111
at the direction of the employee's employer. 112

~~(H)~~ (I) "Internal Revenue Code" means the "Internal 113
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as 114
amended. 115

~~(I)~~ (J) "Person" has the same meaning as in section 1.59 116
of the Revised Code and includes a group, foundation, or any 117
other entity however styled. 118

~~(J)~~ (K) "Professional solicitor" means any person who, for 119
compensation, performs on behalf of or for the benefit of a 120
charitable organization any service in connection with which 121
contributions are or will be solicited in this state by the 122
compensated person or by any person it employs, procures, or 123
otherwise engages directly or indirectly to solicit 124
contributions. "Professional solicitor" does not include the 125
following: 126

(1) An attorney, investment counselor, or banker who in 127
the conduct of the attorney's, investment counselor's, or 128
banker's profession advises a client; 129

(2) A charitable organization or a bona fide officer, 130
employee, or volunteer of a charitable organization, when the 131
charitable organization has full knowledge of the services being 132
performed on its behalf and either of the following applies: 133

(a) The services performed by the charitable organization, 134

bona fide officer, employee, or volunteer are performed on 135
behalf of the charitable organization that employs the bona fide 136
officer or employee or engages the services of the bona fide 137
volunteer; 138

(b) The charitable organization on whose behalf the 139
services are performed shares some element of common control or 140
an historic or continuing relationship with the charitable 141
organization that performs the services or employs the bona fide 142
officer or employee or engages the services of the bona fide 143
volunteer; 144

(3) An employer who is not engaged in the business of 145
soliciting contributions or conducting charitable sales 146
promotions but who incidentally solicits contributions for a 147
charitable organization or purpose without compensation; 148

(4) A compensated employee of an employer who is not 149
engaged in the business of soliciting contributions or 150
conducting charitable sales promotions, when the employee 151
solicits contributions or conducts charitable sales promotions 152
at the direction of the employee's employer. 153

~~(K)(1)~~ (L)(1) "Solicit" or "solicitation" means to request 154
or a request directly or indirectly for money, property, 155
financial assistance, or any other thing of value on the plea or 156
representation that such money, property, financial assistance, 157
or other thing of value or a portion of it will be used for a 158
charitable purpose or will benefit a charitable organization. 159
"Solicit" or "solicitation" includes but is not limited to the 160
following methods of requesting or securing the promise, pledge, 161
or grant of money, property, financial assistance, or any other 162
thing of value: 163

(a) Any oral or written request;	164
(b) Making any announcement to the press, on radio or television, by telephone or telegraph, or by any other communication device concerning an appeal or <u>solicitation</u> campaign by or for any charitable organization or for any charitable purpose;	165 166 167 168 169
(c) Distributing, circulating, posting, or publishing any handbill, written advertisement, or other publication that directly or by implication seeks to obtain any contribution;	170 171 172
(d) Selling or offering or attempting to sell any advertisement, advertising space, book, card, tag, coupon, chance, device, magazine, membership, merchandise, subscription, sponsorship, flower, ticket, admission, candy, cookies, or other tangible item, or any right of any description in connection with which an appeal is made for any charitable organization or charitable purpose, or when the name of any charitable organization is used or referred to in any such appeal as an inducement or reason for making the sale, or when in connection with the sale or offer or attempt to sell, any statement is made that all or part of the proceeds from the sale will be used for any charitable purpose or will benefit any charitable organization;	173 174 175 176 177 178 179 180 181 182 183 184 185
<u>(e) Operating a collection receptacle that purports, either through language appearing on the collection receptacle itself or otherwise, to be collecting items for the purpose of benefiting a charitable purpose or charitable organization.</u>	186 187 188 189
<u>"Solicit" or "solicitation" does not include removing or delivering donations placed in a collection receptacle for a fixed fee if the person doing so does not otherwise directly or indirectly receive any of the proceeds of the sale of such</u>	190 191 192 193

donations or derive any other benefit from such activity. 194

(2) A solicitation is considered as having taken place for 195
purposes of division ~~(K)(1)~~ (L)(1) of this section whether or 196
not the person making the solicitation receives any 197
contribution. A solicitation does not occur when a person 198
applies for a grant or an award to the government or to an 199
organization that is exempt from federal income taxation under 200
section 501(a) and described in section 501(c)(3) of the 201
Internal Revenue Code. 202

~~(L)~~ (M) "Solicitation campaign" means a series of 203
solicitations that are made by the same person for the same 204
charitable organization and that are similar in content or are 205
based on a similar pitch or sales approach, which series leads 206
up to or is represented to lead up to an event or lasts or is 207
intended to last for a definite period of time. 208

(N) "Theft offense" has the same meaning as in section 209
2913.01 of the Revised Code. 210

~~(M)~~ (O) "Elderly person" and "disabled adult" have the 211
same meanings as in section 2913.01 of the Revised Code. 212

Sec. 1716.06. The operator of a collection receptacle 213
shall display all of the following information on the collection 214
receptacle in letters that are at least three inches in height 215
and not less than one-half inch in width, are on a permanent 216
sign or label placed on every side of the collection receptacle, 217
and are in a color that contrasts with the color of the 218
collection receptacle: 219

(A) The name, address, and telephone number of the 220
charitable organization that will receive goods collected in the 221
collection receptacle; 222

(B) If the collection receptacle is operated by a 223
professional solicitor, the name, address, and telephone number 224
of the professional solicitor; 225

(C) If the collection receptacle is operated by a 226
professional solicitor, a statement that the contract disclosing 227
the financial arrangements between the professional solicitor 228
and the charitable organization is on file with and available 229
from the attorney general. 230

Sec. 1716.07. (A) No professional solicitor shall engage 231
in any solicitation unless it has complied with the requirements 232
of this chapter and any rules adopted under this chapter. 233

(B) Every professional solicitor, before engaging in any 234
solicitation, shall register with the attorney general. 235
Applications for registration or renewal of registration shall 236
be in writing, under oath, and in the form prescribed by the 237
attorney general, and shall be accompanied by a fee in the 238
amount of two hundred dollars. Any corporation, partnership, 239
association, or other entity that intends to act as a 240
professional solicitor may register for and pay a single fee of 241
two hundred dollars on behalf of all its members, officers, 242
employees, agents, and solicitors. In that case, the names and 243
addresses of all the officers, employees, and agents of the 244
professional solicitor and all other persons with whom the 245
professional solicitor has contracted to work under its 246
direction, including solicitors, shall be listed in the 247
application or furnished to the attorney general within five 248
days of the date of employment or contractual arrangement. The 249
application shall contain any other information that the 250
attorney general may require. The registration shall be for a 251
period of one year or part of one year and shall expire on the 252

thirty-first day of March of each year. Upon application and 253
payment of the fee specified in this division and filing of the 254
bond prescribed in division (C) of this section, the 255
registration may be renewed for additional one-year periods. All 256
fees prescribed in this division shall be paid into the state 257
treasury to the credit of the charitable law fund established 258
under section 109.32 of the Revised Code. 259

(C) At the time of making an application for registration 260
or renewal of registration, the professional solicitor shall 261
file with and have approved by the attorney general a bond in 262
which the professional solicitor shall be the principal obligor, 263
in the sum of twenty-five thousand dollars, with one or more 264
sureties authorized to do business in this state. The 265
professional solicitor shall maintain the bond in effect as long 266
as the registration is in effect; however, the liability of the 267
surety under the bond shall not exceed an all-time aggregate 268
liability of twenty-five thousand dollars. The bond, which may 269
be in the form of a rider to a larger blanket liability bond, 270
shall run to the state and to any person who may have a cause of 271
action against the principal obligor of the bond for any 272
liability arising out of a violation by the obligor of any 273
provision of this chapter or any rule adopted pursuant to this 274
chapter. 275

(D) (1) Prior to the commencement of any solicitation, the 276
professional solicitor shall file ~~all of the following~~ with the 277
attorney general, and the attorney general may publish, all of 278
the following: 279

(a) A completed document called "Solicitation Notice" upon 280
a form prescribed by the attorney general and containing all of 281
the information specified in division (D) (2) of this section; 282

(b) A copy of the contract described in division (A) of section 1716.08 of the Revised Code;	283 284
(c) A sworn statement by the charitable organization on whose behalf the professional solicitor is acting certifying that the solicitation notice and any accompanying material are true and correct to the best of its knowledge.	285 286 287 288
(2) The solicitation notice shall include all of the following:	289 290
(a) The fund-raising methods to be used;	291
(b) The projected dates when the solicitation will commence and terminate, <u>which period of time shall not exceed three years;</u>	292 293 294
(c) The location and telephone number from where the solicitation will be conducted if it will be conducted by telephone;	295 296 297
(d) <u>The location of each collection receptacle used in connection with the solicitation;</u>	298 299
<u>(e)</u> The name and residence address of each person responsible for directing and supervising the conduct of the solicitation campaign;	300 301 302
(e) <u>(f)</u> A statement of whether the professional solicitor will at any time have custody of any contributions;	303 304
(f) <u>(g)</u> A full and fair description of the charitable program for which the solicitation campaign is being carried out;	305 306 307
(g) <u>(h)</u> The written and signed consent of every charitable organization on whose behalf the professional solicitor will be	308 309

soliciting contributions or whose name will be mentioned during 310
the solicitation. 311

(E) Not later than ninety days after a solicitation 312
campaign has been completed and on the anniversary of the 313
commencement of a solicitation campaign lasting more than one 314
year, the professional solicitor shall provide to the charitable 315
organization and file with the attorney general a financial 316
report of the campaign, including the gross revenue received, 317
the total weight of items collected in each collection
receptacle if a collection receptacle was used and the value 318
received for the sale of such items collected, and an 319
itemization of all expenses incurred. The report shall be 320
completed on a form prescribed by the attorney general and 321
signed by an authorized official of the professional solicitor 322
who shall certify under oath that the report is true and 323
correct. 324
325

(F) Each contribution collected by or in the custody of 326
the professional solicitor shall be solely in the name of the 327
charitable organization on whose behalf the contribution was 328
solicited. Not later than two days after receipt of each 329
contribution, the professional solicitor shall deposit the 330
entire amount of the contribution in an account at a bank or 331
other federally insured financial institution, which shall be in 332
the name of that charitable organization. The charitable 333
organization shall have sole control of all withdrawals from the 334
account and the professional solicitor shall not be given the 335
authority to withdraw any deposited funds from the account. 336

(G) (1) During each solicitation campaign and for not less 337
than three years after its completion, the professional 338
solicitor shall maintain the following records: 339

(a) The name and, if known to the professional solicitor, 340
the address and telephone number of each contributor and the 341
date and amount of the contribution, provided that the attorney 342
general shall not disclose that information except to the extent 343
necessary for investigative or law enforcement purposes; 344

(b) The name and residence address of each employee, 345
agent, and any other person, however designated, who is involved 346
in the solicitation, the amount of compensation paid to each, 347
and the dates on which the payments were made; 348

(c) A record of all contributions that at any time are in 349
the custody of the professional solicitor; 350

(d) A record of all expenses incurred by the professional 351
solicitor for the payment of which the professional solicitor is 352
liable; 353

(e) A record of all expenses incurred by the professional 354
solicitor for the payment of which the charitable organization 355
is liable; 356

(f) The location of each bank or financial institution in 357
which the professional solicitor has deposited revenue from the 358
solicitation campaign and the account number of each account in 359
which the deposits were made; 360

(g) A copy of each pitch sheet or solicitation script used 361
during the solicitation campaign; 362

(h) If a refund of a contribution has been requested, the 363
name and address of each person requesting the refund, and if a 364
refund was made, its amount and the date it was made. 365

(i) An audio recording of each telephone solicitation the 366
professional solicitor makes; 367

(j) Any other record of such information as the attorney 368
general may require. 369

(2) If the professional solicitor sells tickets to any 370
event and represents that the tickets will be donated for use by 371
another person, the professional solicitor also shall maintain 372
for the same period as specified in division (G) (1) of this 373
section the following records: 374

(a) The name and address of each contributor that 375
purchases or donates tickets and the number of tickets purchased 376
or donated by the contributor; 377

(b) The name and address of each organization that 378
receives the donated tickets for the use of others, and the 379
number of tickets received by the organization. 380

(3) Any of the records described in divisions (G) (1) and 381
(2) of this section shall be made available to the attorney 382
general upon the attorney general's request and shall be 383
furnished to the attorney general within ten days of the 384
request. 385

(H) Unless otherwise provided in this section or section 386
1716.08 of the Revised Code, any change in any information filed 387
with the attorney general pursuant to this section and section 388
1716.08 of the Revised Code shall be reported in writing to the 389
attorney general within seven days after the change occurs. 390

(I) No person shall serve as a professional solicitor, or 391
be a member, officer, employee, or agent of any professional 392
solicitor, who has been convicted in the last five years of 393
either of the following: 394

(1) Any violation of this chapter or any rule adopted 395
under this chapter, or of any charitable solicitation 396

legislation or regulation of a political subdivision of this 397
state or charitable solicitation law of any other jurisdiction 398
that is similar to this chapter; 399

(2) A felony in this or another state. 400

(J) If a professional solicitor fails to comply in a 401
timely or complete manner with any of the requirements under 402
this section, the professional solicitor is liable for and, in 403
addition to any fee required in this section, shall pay two 404
hundred dollars for each late filing. Each registration, renewal 405
of registration, bond, solicitation notice, contract, sworn 406
statement, or financial report shall be considered a separate 407
filing for the purposes of this section. Any fees required by 408
this section are in addition to, and not in place of, penalties 409
prescribed in this chapter. 410

Sec. 1716.08. (A) Every contract entered into by any 411
professional solicitor with any charitable organization shall be 412
in writing, shall clearly state the respective obligations of 413
the professional solicitor and the charitable organization, and 414
shall contain ~~the percentage of the gross revenue from the~~ 415
~~solicitation campaign that the charitable organization will~~ 416
~~receive. That percentage shall be either a clear statement of~~ 417
the benefit the charitable organization will receive, which may 418
be stated as a fixed percentage of the gross revenue or a 419
reasonable estimate of the percentage of the gross revenue, 420
subject to and in accordance with divisions (A) (1), (2), and (3) 421
of this section, or as any other amount such as dollars per 422
pound of goods collected. 423

(1) If the compensation of the professional solicitor is 424
contingent upon the number of contributions ~~or,~~ the amount of 425
revenue received from the solicitation campaign, or the number 426

and value of goods received from the solicitation campaign, the 427
stated ~~percentage of the gross revenue benefit~~ that the 428
charitable organization will receive shall be a fixed percentage 429
of the gross revenue or a fixed percentage of the amount or 430
value of goods collected. 431

(2) If the compensation of the professional solicitor is 432
not contingent upon the number of contributions or the amount of 433
revenue received from the solicitation campaign, the stated 434
percentage of the gross revenue that the charitable organization 435
will receive shall be a reasonable estimate of the percentage of 436
the gross revenue or a reasonable estimate of the percentage of 437
the amount or value of goods collected, and the contract shall 438
include the following: 439

(a) The assumptions upon which the estimate is based, 440
which assumptions shall be based upon all of the relevant facts 441
known to the professional solicitor regarding the solicitation 442
to be conducted and the past performance of the solicitation 443
campaigns conducted by the professional solicitor; 444

(b) A provision that the charitable organization is 445
guaranteed a percentage ~~of the gross revenue~~ that is not less 446
than ninety per cent of the amount of the reasonable estimate of 447
that percentage. 448

(3) The stated percentages prescribed in divisions (A) (1) 449
and (2) of this section shall exclude any amount that the 450
charitable organization, pursuant to the contract entered into 451
with the professional solicitor, will pay as expenses of the 452
solicitation campaign, including the costs of merchandise or 453
services sold or events staged. 454

(B) A professional solicitor shall comply with, and shall 455

be responsible for complying or causing compliance with each of 456
the following requirements: 457

(1) Prior to verbally requesting a contribution, or 458
contemporaneously with and accompanying a written request for a 459
contribution, the following shall be clearly and conspicuously 460
disclosed at the point of solicitation: 461

(a) The name of the professional solicitor as it is on 462
file with the attorney general and a statement that the 463
solicitation is being conducted by the person as a professional 464
solicitor; 465

(b) The name and address of each charitable organization 466
on behalf of which all or any part of the contribution collected 467
will be used. If the charitable organization has not received 468
from the internal revenue service a determination letter that is 469
currently in effect, stating that the organization is exempt 470
from federal income taxation under section 501(a) and described 471
in section 501(c) (3) of the Internal Revenue Code, the 472
particular charitable purpose or purposes to be advanced with 473
the funds raised shall be disclosed. 474

(2) If requested by the person being solicited, the 475
professional solicitor shall inform that person of the fixed 476
percentage of the gross revenue or the reasonable estimate of 477
the percentage of the gross revenue, as prescribed in division 478
(A) of this section, that the charitable organization will 479
receive as a benefit from the solicitation campaign. 480

(C) A professional solicitor shall not represent that any 481
part of the contributions received will be given or donated to 482
any other charitable organization unless that charitable 483
organization has given its written and signed consent pursuant 484

to division ~~(D) (2) (g)~~ (D) (2) (h) of section 1716.07 of the 485
Revised Code. 486

(D) (1) A professional solicitor shall not represent that 487
tickets to any event will be donated for use by another person, 488
unless the following requirements are complied with: 489

(a) The professional solicitor shall have the written 490
commitments from persons stating that they will accept donated 491
tickets and specifying the number of tickets they are willing to 492
accept. 493

(b) The written commitments are filed with the attorney 494
general prior to any solicitation. 495

(2) The contributions solicited for donated tickets shall 496
not be more than the amount representing the number of ticket 497
commitments received from persons and filed with the attorney 498
general pursuant to division (D) (1) of this section. 499

(3) Not later than seven calendar days prior to the date 500
of the event, the professional solicitor shall give all donated 501
tickets to each person that made the written commitment to 502
accept them. 503

(E) The attorney general shall prepare an annual report 504
setting forth the activities of all professional solicitors and 505
all fund-raising counsel that at any time have custody of 506
contributions from a solicitation who are required to comply 507
with the provisions of this chapter and any rules adopted under 508
the provisions of this chapter. The report is a public record 509
open to public inspection under section 149.43 of the Revised 510
Code. 511

(F) The attorney general shall maintain a file for each 512
registered professional solicitor and fund-raising counsel that 513

at any time has custody of contributions from a solicitation. In 514
that file, ~~he~~ the attorney general shall place all information 515
received by ~~him~~ the attorney general from those registered 516
professional solicitors or fund-raising counsel and any letters 517
received from citizens and charitable organizations regarding 518
the work of the professional fund raiser or fund-raising 519
counsel. The files are public records open to public inspection 520
under section 149.43 of the Revised Code. 521

Sec. 1716.14. (A) The following acts and practices are 522
hereby prohibited and declared unlawful as applied to the 523
planning, conducting, or executing of any solicitation of 524
contributions for a charitable organization or charitable 525
purpose or to the planning, conducting, or executing of a 526
charitable sales promotion: 527

(1) Committing any deceptive act or practice; 528

(2) Misleading any person as to any material fact 529
concerning the solicitation of contributions for a charitable 530
organization or charitable purpose or concerning a charitable 531
sales promotion; 532

(3) Using any representation that implies that the 533
contribution is for or on behalf of a charitable organization, 534
or using any emblem, device, or printed matter belonging to or 535
associated with a charitable organization, without first having 536
been authorized in writing to do so by the charitable 537
organization; 538

(4) Using a name, symbol, or statement that is so closely 539
related or similar to that used by another charitable 540
organization, public official, or public agency in such a manner 541
that the use of the name, symbol, or statement tends to confuse 542

or mislead a person being solicited for contributions, except 543
that the name, symbol, or statement may be used if written 544
permission is obtained from the other charitable organization, 545
public official, or public agency and filed with the attorney 546
general prior to any solicitation for a charitable purpose or 547
prior to engaging in any charitable sales promotion; 548

(5) Misleading any person in any manner in the belief, or 549
making or using any representation to any person that implies, 550
that the organization on whose behalf a solicitation or 551
charitable sales promotion is being conducted is a charitable 552
organization or that the proceeds of the solicitation or 553
charitable sales promotion will be used for a charitable purpose 554
if either of those is not the fact; 555

(6) Misleading any person in any manner in the belief, or 556
making or using any representation to any person that implies, 557
that any other person sponsors, endorses, or approves of the 558
solicitation or charitable sales promotion when that other 559
person has not given its consent in writing to that 560
representation or to the use of its name for any of those 561
purposes; 562

(7) Using or exploiting the fact of registration in such a 563
manner as to lead any person to believe that the registration in 564
any manner constitutes an endorsement or approval by the state; 565

(8) Representing directly or by implication that a 566
charitable organization will receive a fixed or estimated 567
percentage of the gross revenue from a solicitation campaign 568
that is greater than that set forth in the contract filed with 569
the attorney general pursuant to section 1716.08 of the Revised 570
Code, or that a charitable organization will receive an actual 571
or estimated dollar amount or percentage per unit of goods or 572

services purchased or used in a charitable sales promotion, that 573
is greater than that agreed to by the commercial co-venturer and 574
the charitable organization pursuant to section 1716.09 of the 575
Revised Code; 576

(9) Filing false or misleading information in any document 577
required to be filed with the attorney general under this 578
chapter; 579

(10) Filing false or misleading information in response to 580
a request from the attorney general under section 1716.15 of the 581
Revised Code; 582

(11) Failing to provide complete and timely payment to a 583
charitable organization of the proceeds from a solicitation 584
campaign or a charitable sales promotion; 585

(12) Initiating an outbound telephone call that delivers a 586
prerecorded message in violation of 16 C.F.R. 310.4(b)(1)(v); 587

(13) Operating in violation of, or failing to comply with, 588
any of the requirements of this chapter or any rule adopted 589
under this chapter. 590

(B) The act of soliciting contributions for any charitable 591
organization or charitable purpose or engaging in a charitable 592
sales promotion without complying with the requirements of this 593
chapter or any rule adopted pursuant to this chapter, is a 594
nuisance. 595

Sec. 1716.15. (A) In order to carry out his official 596
responsibilities under this chapter, upon reasonable cause to 597
believe that any person has violated or is violating any 598
provision of this chapter or any rule adopted under it, or has 599
filed any document as required under this chapter that contains 600
false or misleading information, the attorney general may 601

conduct an investigation to determine whether there has been a 602
violation or filing of false or misleading information. In the 603
conduct of the investigation, the attorney general may do the 604
following: 605

(1) Examine or cause to be examined any person or any 606
documentary material that is relevant to the alleged violation 607
or false or misleading information, including, but not limited 608
to, a professional solicitor's pitch sheets, solicitation 609
scripts, and recordings described in division (G)(1) of section 610
1716.07 of the Revised Code; 611

(2) Require the attendance during the examination of any 612
person or require the production of any documentary material and 613
the attendance of any person who has knowledge of the material, 614
and take their testimony under oath. The testimony and 615
examination shall take place in the county in which the person 616
resides or has a place of business, or in Franklin county if the 617
person consents to it, is a nonresident of this state, or has no 618
place of business in this state. 619

(3) Require any professional solicitor, fund-raising 620
counsel that at any time has custody of contributions from a 621
solicitation, or charitable organization to produce an audited 622
financial report prepared in accordance with generally accepted 623
accounting principles pursuant to section 1716.04 of the Revised 624
Code and that has been examined by an independent certified 625
public accountant for the purpose of expressing an opinion on 626
the report. 627

(B) The attorney general shall give notice of the time, 628
date, place, and cause of the examination or the taking of 629
testimony not less than ten days prior to its date. Service of 630
the notice may be made by any of the following means: 631

(1) Personal delivery of a duly executed copy of the notice to the person to be served or to a partner, officer, or agent authorized by appointment or by law to receive service of process on behalf of that person;

(2) Delivery by leaving a duly executed copy of the notice at the principal place of business in this state of the person to be served;

(3) Certified mail, return receipt requested, of a duly executed copy of the notice to the person to be served at ~~his~~ the person's principal place of business in this state or, if the person has no principal place of business in this state, to the last address of that person known to the attorney general.

(C) The notice specified in division (B) of this section shall contain all of the following:

(1) The time, date, and place of the examination or the taking of testimony and, if known, the name and address of each person to be examined or to testify, or if that is not known, a general description sufficient to identify the person or the particular class or group to which ~~he~~ the person belongs;

(2) The section of the Revised Code, if any, or the chapter of the Administrative Code containing the rule adopted by the attorney general, if any, that is allegedly violated and the general subject matter of the investigation;

(3) A description with reasonable specificity of the class or classes of documentary material that is required to be produced, if any, and the return date within which the documentary material is to be produced, which date shall be not less than ten days after the mailing of the notice.

(D) Every person upon whom the attorney general made

service of the notice pursuant to this section shall comply with 661
the terms of the notice unless otherwise provided by order of 662
any court in this state. 663

(E) No person shall do any of the following: 664

(1) Fail to appear at any investigation under this section 665
if ~~he~~ the person is required to do so; 666

(2) With the purpose to avoid, evade, or prevent 667
compliance in whole or in part with any investigation under this 668
section, remove, conceal, withhold, destroy, mutilate, alter, or 669
by any means falsify any documentary material in the possession, 670
custody, or control of any person who is subject to the notice 671
prescribed in division (B) of this section; 672

(3) With the purpose to avoid, evade, or prevent 673
compliance in whole or in part with any investigation under this 674
section, knowingly conceal any information. 675

(F) The attorney general may file a petition in the court 676
of common pleas of the county in which the person who is subject 677
to the notice resides or has its principal place of business or 678
in the court of common pleas of Franklin county if that person 679
is not a resident of this state or has no principal place of 680
business in this state, asking the court to issue an order for 681
the enforcement of this section. The court may assess a civil 682
penalty of not more than ten thousand dollars for each violation 683
against any person who violates division (E) of this section, 684
and may award the attorney general the costs of investigation 685
and litigation and reasonable attorney's fees. 686

(G) Any disobedience of any final order issued by the 687
court under this section may be punished as for contempt of 688
court or by imposing an additional civil penalty of not more 689

than ten thousand dollars.

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Section 2. That existing sections 1716.01, 1716.07,
1716.08, 1716.14, and 1716.15 of the Revised Code are hereby
repealed.

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