

As Reported by the House State and Local Government Committee

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H. B. No. 184

Representatives Bird, Brennan

Cosponsor: Representative Johnson



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 276
campaign, the professional solicitor shall pay to the attorney 277
general a fee of two hundred dollars and file all of the 278
following with the attorney general, and the attorney general 279
may publish, all of the following: 280

(a) A completed document called "Solicitation Notice" upon 281
a form prescribed by the attorney general and containing all of 282

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

organization on whose behalf the professional solicitor will be 310
soliciting contributions or whose name will be mentioned during 311
the solicitation campaign. 312

(E) Not later than ninety days after a solicitation 313
campaign has been completed and on the anniversary of the 314
commencement of a solicitation campaign lasting more than one 315
year, the professional solicitor shall provide to the charitable 316
organization and file with the attorney general a financial 317
report of the campaign, including the gross revenue received, 318
the total weight of items collected in each collection
receptacle if a collection receptacle was used and the value
received for the sale of such items collected, and an 321
itemization of all expenses incurred. The report shall be 322
completed on a form prescribed by the attorney general and 323
signed by an authorized official of the professional solicitor 324
who shall certify under oath that the report is true and 325
correct. 326

(F) Each contribution collected by or in the custody of 327
the professional solicitor shall be solely in the name of the 328
charitable organization on whose behalf the contribution was 329
solicited. Not later than two days after receipt of each 330
contribution, the professional solicitor shall deposit the 331
entire amount of the contribution in an account at a bank or 332
other federally insured financial institution, which shall be in 333
the name of that charitable organization. The charitable 334
organization shall have sole control of all withdrawals from the 335
account and the professional solicitor shall not be given the 336
authority to withdraw any deposited funds from the account. 337

(G) (1) During each solicitation campaign and for not less 338
than three years after its completion, the professional 339

solicitor shall maintain the following records: 340

(a) The name and, if known to the professional solicitor, 341
the address and telephone number of each contributor and the 342
date and amount of the contribution, provided that the attorney 343
general shall not disclose that information except to the extent 344
necessary for investigative or law enforcement purposes; 345

(b) The name and residence address of each employee, 346
agent, and any other person, however designated, who is involved 347
in the solicitation campaign, the amount of compensation paid to 348
each, and the dates on which the payments were made; 349

(c) A record of all contributions that at any time are in 350
the custody of the professional solicitor; 351

(d) A record of all expenses incurred by the professional 352
solicitor for the payment of which the professional solicitor is 353
liable; 354

(e) A record of all expenses incurred by the professional 355
solicitor for the payment of which the charitable organization 356
is liable; 357

(f) The location of each bank or financial institution in 358
which the professional solicitor has deposited revenue from the 359
solicitation campaign and the account number of each account in 360
which the deposits were made; 361

(g) A copy of each pitch sheet or solicitation script used 362
during the solicitation campaign; 363

(h) If a refund of a contribution has been requested, the 364
name and address of each person requesting the refund, and if a 365
refund was made, its amount and the date it was made. 366

(i) An audio recording of each telephone solicitation the 367

professional solicitor makes; 368

(j) Any other record of such information as the attorney 369
general may require. 370

(2) If the professional solicitor sells tickets to any 371
event and represents that the tickets will be donated for use by 372
another person, the professional solicitor also shall maintain 373
for the same period as specified in division (G)(1) of this 374
section the following records: 375

(a) The name and address of each contributor that 376
purchases or donates tickets and the number of tickets purchased 377
or donated by the contributor; 378

(b) The name and address of each organization that 379
receives the donated tickets for the use of others, and the 380
number of tickets received by the organization. 381

(3) Any of the records described in divisions (G)(1) and 382
(2) of this section shall be made available to the attorney 383
general upon the attorney general's request and shall be 384
furnished to the attorney general within ten days of the 385
request. 386

(H) Unless otherwise provided in this section or section 387
1716.08 of the Revised Code, any change in any information filed 388
with the attorney general pursuant to this section and section 389
1716.08 of the Revised Code shall be reported in writing to the 390
attorney general within seven days after the change occurs. 391

(I) No person shall serve as a professional solicitor, or 392
be a member, officer, employee, or agent of any professional 393
solicitor, who has been convicted of a disqualifying offense 394
determined in accordance with section 9.79 of the Revised Code. 395

(J) If a professional solicitor fails to comply in a 396
timely or complete manner with any of the requirements under 397
this section, the professional solicitor is liable for and, in 398
addition to any fee required in this section, shall pay two 399
hundred dollars for each late filing. Each registration, renewal 400
of registration, bond, solicitation notice, contract, sworn 401
statement, or financial report shall be considered a separate 402
filing for the purposes of this section. Any fees required by 403
this section are in addition to, and not in place of, penalties 404
prescribed in this chapter. 405

Sec. 1716.08. (A) Every contract entered into by any 406
professional solicitor with any charitable organization shall be 407
in writing, shall clearly state the respective obligations of 408
the professional solicitor and the charitable organization, and 409
shall contain ~~the percentage of the gross revenue from the~~ 410
~~solicitation campaign that the charitable organization will~~ 411
~~receive. That percentage shall be either~~ a clear statement of 412
the benefit the charitable organization will receive, which may 413
be stated as a fixed percentage of the gross revenue or a 414
reasonable estimate of the percentage of the gross revenue, 415
subject to and in accordance with divisions (A)(1), (2), and (3) 416
of this section or as any other amount such as dollars per pound 417
of goods collected. 418

(1) If the compensation of the professional solicitor is 419
contingent upon the number of contributions ~~or~~, the amount of 420
revenue received from the solicitation campaign, or the number 421
and value of goods received from the solicitation campaign, the 422
~~stated percentage of the gross revenue~~ benefit that the 423
charitable organization will receive shall be a fixed percentage 424
of the gross revenue or a fixed percentage of the amount or 425
value of goods collected. 426

(2) If the compensation of the professional solicitor is 427
not contingent upon the number of contributions or the amount of 428
revenue received from the solicitation campaign, the stated 429
percentage of the gross revenue that the charitable organization 430
will receive shall be a reasonable estimate of the percentage of 431
the gross revenue or a reasonable estimate of the percentage of 432
the amount or value of goods collected, and the contract shall 433
include the following: 434

(a) The assumptions upon which the estimate is based, 435
which assumptions shall be based upon all of the relevant facts 436
known to the professional solicitor regarding the solicitation 437
to be conducted and the past performance of the solicitation 438
campaigns conducted by the professional solicitor; 439

(b) A provision that the charitable organization is 440
guaranteed a percentage ~~of the gross revenue~~ that is not less 441
than ninety per cent of the amount of the reasonable estimate of 442
that percentage. 443

(3) The stated percentages prescribed in divisions (A) (1) 444
and (2) of this section shall exclude any amount that the 445
charitable organization, pursuant to the contract entered into 446
with the professional solicitor, will pay as expenses of the 447
solicitation campaign, including the costs of merchandise or 448
services sold or events staged. 449

(B) A professional solicitor shall comply with, and shall 450
be responsible for complying or causing compliance with each of 451
the following requirements: 452

(1) Prior to verbally requesting a contribution, or 453
contemporaneously with and accompanying a written request for a 454
contribution, the following shall be clearly and conspicuously 455

disclosed at the point of solicitation: 456

(a) The name of the professional solicitor as it is on 457
file with the attorney general and a statement that the 458
solicitation is being conducted by the person as a professional 459
solicitor; 460

(b) The name and address of each charitable organization 461
on behalf of which all or any part of the contribution collected 462
will be used. If the charitable organization has not received 463
from the internal revenue service a determination letter that is 464
currently in effect, stating that the organization is exempt 465
from federal income taxation under section 501(a) and described 466
in section 501(c)(3) of the Internal Revenue Code, the 467
particular charitable purpose or purposes to be advanced with 468
the funds raised shall be disclosed. 469

(2) If requested by the person being solicited, the 470
professional solicitor shall inform that person of the fixed 471
percentage of the gross revenue or the reasonable estimate of 472
the percentage of the gross revenue, as prescribed in division 473
(A) of this section, that the charitable organization will 474
receive as a benefit from the solicitation campaign. 475

(C) A professional solicitor shall not represent that any 476
part of the contributions received will be given or donated to 477
any other charitable organization unless that charitable 478
organization has given its written and signed consent pursuant 479
to division ~~(D) (2) (g)~~ (D) (2) (h) of section 1716.07 of the 480
Revised Code. 481

(D) (1) A professional solicitor shall not represent that 482
tickets to any event will be donated for use by another person, 483
unless the following requirements are complied with: 484

(a) The professional solicitor shall have the written 485
commitments from persons stating that they will accept donated 486
tickets and specifying the number of tickets they are willing to 487
accept. 488

(b) The written commitments are filed with the attorney 489
general prior to any solicitation. 490

(2) The contributions solicited for donated tickets shall 491
not be more than the amount representing the number of ticket 492
commitments received from persons and filed with the attorney 493
general pursuant to division (D) (1) of this section. 494

(3) Not later than seven calendar days prior to the date 495
of the event, the professional solicitor shall give all donated 496
tickets to each person that made the written commitment to 497
accept them. 498

(E) The attorney general shall prepare an annual report 499
setting forth the activities of all professional solicitors and 500
all fund-raising counsel that at any time have custody of 501
contributions from a solicitation who are required to comply 502
with the provisions of this chapter and any rules adopted under 503
the provisions of this chapter. The report is a public record 504
open to public inspection under section 149.43 of the Revised 505
Code. 506

(F) The attorney general shall maintain a file for each 507
registered professional solicitor and each fund-raising counsel 508
that at any time has custody of contributions from a 509
solicitation. In that file, the attorney general shall place all 510
information received by the attorney general from those 511
registered professional solicitors or those fund-raising counsel 512
and any letters received from citizens and charitable 513

organizations regarding the work of the professional fund raiser 514
or fund-raising counsel. The files are public records open to 515
public inspection under section 149.43 of the Revised Code. 516

Sec. 1716.14. (A) The following acts and practices are 517
hereby prohibited and declared unlawful as applied to the 518
planning, conducting, or executing of any solicitation of 519
contributions for a charitable organization or charitable 520
purpose or to the planning, conducting, or executing of a 521
charitable sales promotion: 522

(1) Committing any deceptive act or practice; 523

(2) Misleading any person as to any material fact 524
concerning the solicitation of contributions for a charitable 525
organization or charitable purpose or concerning a charitable 526
sales promotion; 527

(3) Using any representation that implies that the 528
contribution is for or on behalf of a charitable organization, 529
or using any emblem, device, or printed matter belonging to or 530
associated with a charitable organization, without first having 531
been authorized in writing to do so by the charitable 532
organization; 533

(4) Using a name, symbol, or statement that is so closely 534
related or similar to that used by another charitable 535
organization, public official, or public agency in such a manner 536
that the use of the name, symbol, or statement tends to confuse 537
or mislead a person being solicited for contributions, except 538
that the name, symbol, or statement may be used if written 539
permission is obtained from the other charitable organization, 540
public official, or public agency and filed with the attorney 541
general prior to any solicitation for a charitable purpose or 542

prior to engaging in any charitable sales promotion; 543

(5) Misleading any person in any manner in the belief, or 544
making or using any representation to any person that implies, 545
that the organization on whose behalf a solicitation or 546
charitable sales promotion is being conducted is a charitable 547
organization or that the proceeds of the solicitation or 548
charitable sales promotion will be used for a charitable purpose 549
if either of those is not the fact; 550

(6) Misleading any person in any manner in the belief, or 551
making or using any representation to any person that implies, 552
that any other person sponsors, endorses, or approves of the 553
solicitation or charitable sales promotion when that other 554
person has not given its consent in writing to that 555
representation or to the use of its name for any of those 556
purposes; 557

(7) Using or exploiting the fact of registration in such a 558
manner as to lead any person to believe that the registration in 559
any manner constitutes an endorsement or approval by the state; 560

(8) Representing directly or by implication that a 561
charitable organization will receive a fixed or estimated 562
percentage of the gross revenue from a solicitation campaign 563
that is greater than that set forth in the contract filed with 564
the attorney general pursuant to section 1716.08 of the Revised 565
Code, or that a charitable organization will receive an actual 566
or estimated dollar amount or percentage per unit of goods or 567
services purchased or used in a charitable sales promotion, that 568
is greater than that agreed to by the commercial co-venturer and 569
the charitable organization pursuant to section 1716.09 of the 570
Revised Code; 571

(9) Filing false or misleading information in any document required to be filed with the attorney general under this chapter;	572 573 574
(10) Filing false or misleading information in response to a request from the attorney general under section 1716.15 of the Revised Code;	575 576 577
(11) Failing to provide complete and timely payment to a charitable organization of the proceeds from a solicitation campaign or a charitable sales promotion;	578 579 580
(12) <u>Initiating an outbound telephone call that delivers a prerecorded message in violation of 16 C.F.R. 310.4(b)(1)(v);</u>	581 582
(13) <u>Operating in violation of, or failing to comply with,</u> any of the requirements of this chapter or any rule adopted under this chapter.	583 584 585
(B) The act of soliciting contributions for any charitable organization or charitable purpose or engaging in a charitable sales promotion without complying with the requirements of this chapter or any rule adopted pursuant to this chapter, is a nuisance.	586 587 588 589 590
Sec. 1716.15. (A) In order to carry out <u>his official</u> responsibilities under this chapter, upon reasonable cause to believe that any person has violated or is violating any provision of this chapter or any rule adopted under it, or has filed any document as required under this chapter that contains false or misleading information, the attorney general may conduct an investigation to determine whether there has been a violation or filing of false or misleading information. In the conduct of the investigation, the attorney general may do the following:	591 592 593 594 595 596 597 598 599 600

(1) Examine or cause to be examined any person or any 601
documentary material that is relevant to the alleged violation 602
or false or misleading information, including a professional 603
solicitor's pitch sheets, solicitation scripts, and recordings 604
described in division (G) (1) of section 1716.07 of the Revised 605
Code; 606

(2) Require the attendance during the examination of any 607
person or require the production of any documentary material and 608
the attendance of any person who has knowledge of the material, 609
and take their testimony under oath. The testimony and 610
examination shall take place in the county in which the person 611
resides or has a place of business, or in Franklin county if the 612
person consents to it, is a nonresident of this state, or has no 613
place of business in this state. 614

(3) Require any professional solicitor, fund-raising 615
counsel that at any time has custody of contributions from a 616
solicitation, or charitable organization to produce an audited 617
financial report prepared in accordance with generally accepted 618
accounting principles pursuant to section 1716.04 of the Revised 619
Code and that has been examined by an independent certified 620
public accountant for the purpose of expressing an opinion on 621
the report. 622

(B) The attorney general shall give notice of the time, 623
date, place, and cause of the examination or the taking of 624
testimony not less than ten days prior to its date. Service of 625
the notice may be made by any of the following means: 626

(1) Personal delivery of a duly executed copy of the 627
notice to the person to be served or to a partner, officer, or 628
agent authorized by appointment or by law to receive service of 629
process on behalf of that person; 630

(2) Delivery by leaving a duly executed copy of the notice 631
at the principal place of business in this state of the person 632
to be served; 633

(3) Certified mail, return receipt requested, of a duly 634
executed copy of the notice to the person to be served at ~~his~~ 635
the person's principal place of business in this state or, if 636
the person has no principal place of business in this state, to 637
the last address of that person known to the attorney general. 638

(C) The notice specified in division (B) of this section 639
shall contain all of the following: 640

(1) The time, date, and place of the examination or the 641
taking of testimony and, if known, the name and address of each 642
person to be examined or to testify, or if that is not known, a 643
general description sufficient to identify the person or the 644
particular class or group to which ~~he~~ the person belongs; 645

(2) The section of the Revised Code, if any, or the 646
chapter of the Administrative Code containing the rule adopted 647
by the attorney general, if any, that is allegedly violated and 648
the general subject matter of the investigation; 649

(3) A description with reasonable specificity of the class 650
or classes of documentary material that is required to be 651
produced, if any, and the return date within which the 652
documentary material is to be produced, which date shall be not 653
less than ten days after the mailing of the notice. 654

(D) Every person upon whom the attorney general made 655
service of the notice pursuant to this section shall comply with 656
the terms of the notice unless otherwise provided by order of 657
any court in this state. 658

(E) No person shall do any of the following: 659

(1) Fail to appear at any investigation under this section 660
if ~~he~~ the person is required to do so; 661

(2) With the purpose to avoid, evade, or prevent 662
compliance in whole or in part with any investigation under this 663
section, remove, conceal, withhold, destroy, mutilate, alter, or 664
by any means falsify any documentary material in the possession, 665
custody, or control of any person who is subject to the notice 666
prescribed in division (B) of this section; 667

(3) With the purpose to avoid, evade, or prevent 668
compliance in whole or in part with any investigation under this 669
section, knowingly conceal any information. 670

(F) The attorney general may file a petition in the court 671
of common pleas of the county in which the person who is subject 672
to the notice resides or has its principal place of business or 673
in the court of common pleas of Franklin county if that person 674
is not a resident of this state or has no principal place of 675
business in this state, asking the court to issue an order for 676
the enforcement of this section. The court may assess a civil 677
penalty of not more than ten thousand dollars for each violation 678
against any person who violates division (E) of this section, 679
and may award the attorney general the costs of investigation 680
and litigation and reasonable attorney's fees. 681

(G) Any disobedience of any final order issued by the 682
court under this section may be punished as for contempt of 683
court or by imposing an additional civil penalty of not more 684
than ten thousand dollars. 685

Section 2. That existing sections 1716.01, 1716.07, 686
1716.08, 1716.14, and 1716.15 of the Revised Code are hereby 687
repealed. 688