



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:123

NJSA: 45:17A-32

"Charitable organizations -- misleading appeals"

BILL NO: S1055

SPONSOR(S):Connors and Cardinale

DATE INTRODUCED: May 18, 1998

COMMITTEE:

ASSEMBLY: Consumer Affairs

SENATE: Commerce

AMENDED DURING PASSAGE:No

DATE OF PASSAGE:

ASSEMBLY: September 28, 1998

SENATE: June 29, 1998

DATE OF APPROVAL: November 9, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Original

S1055

SPONSORS STATEMENT: *Yes* (Begins on page 3 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*Yes*

SENATE:*Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

To check for circulating copies contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 102 or refdesk@njstatelib.org

REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES:

"Whitman approves law protecting charity givers," 11-11-98, Trenton Times, p.4."

SENATE, No. 1055

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MAY 18, 1998

Sponsored by:

Senator LEONARD T. CONNORS, JR.
District 9 (Atlantic, Burlington and Ocean)
Senator GERALD CARDINALE
District 39 (Bergen)

Co-Sponsored by:

**Senators McNamara, Robertson, Bucco, Schluter, Ciesla, Kosco, Palaia,
Bassano, Bark, Gormley, Littell, Bennett, Sinagra, Allen, Martin and Baer**

SYNOPSIS

Prohibits fund raising practices that have the capacity to mislead the average consumer by certain charitable organizations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/1998)

S1055 CONNORS, CARDINALE

2

1 AN ACT concerning fund raising activities of certain charitable
2 organizations and amending P.L.1994, c.16.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 15 of P.L.1994, c.16 (C.45:17A-32) is amended as
8 follows:

9 15. a. Any statement, whether oral or written, made by a
10 charitable organization, or on behalf of a charitable organization by
11 persons including, but not limited to commercial co-venturers, fund
12 raising counsels, independent paid fund raisers or solicitors shall be
13 truthful.

14 b. A charitable organization shall establish and exercise control
15 over fund raising activities conducted for its benefit, including
16 approval of all written contracts and agreements, and shall assure that
17 fund raising activities are conducted without coercion.

18 c. The following acts and practices are declared unlawful as applied
19 to the planning, conduct, or execution of any solicitation or charitable
20 sales promotion:

21 (1) To misrepresent the purpose or nature of the charitable
22 institution or the purpose or beneficiary of a solicitation; to solicit
23 contributions for a purpose other than the charitable purpose
24 expressed in the statement of the charitable organization or expend
25 contributions in a manner inconsistent with that purpose, or to fail to
26 disclose any material fact. A misrepresentation may be accomplished
27 by words or conduct;

28 (2) To violate or fail to comply with any of the applicable
29 provisions of this act or the rules adopted under authority of this act;

30 (3) To violate or fail to comply with any of the applicable
31 provisions of the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et
32 seq.) or the regulations adopted pursuant to that act;

33 (4) To utilize a name, symbol or statement so closely related or
34 similar to that used by another charitable organization and registered
35 by that organization with the United States Patent and Trademark
36 Office or registered pursuant to R.S.56:2-1 et seq. that its use would
37 tend to confuse or mislead a solicited person or to solicit contributions
38 in a manner or through representations that falsely imply or are likely
39 to create the mistaken belief that the contributions are solicited by or
40 on behalf of another charitable organization;

41 (5) To utilize or exploit registration so as to lead any person to
42 believe that registration constitutes or implies an endorsement or
43 approval by the State;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (6) To distribute honorary membership or courtesy cards or cards
2 of a similar nature identifying the organization in connection with or
3 in any manner related to the solicitation of funds or contributions for
4 or on behalf of the organization in the case of any charitable
5 organization that limits its membership to persons who are or formerly
6 were employed as officers statutorily authorized to enforce the
7 criminal laws of this State or that is a parent organization that includes
8 local units that so limit membership;

9 (7) To utilize information, statements or communications that,
10 although literally true, are presented in a manner that has the capacity
11 to mislead the average consumer; and

12 (8) To engage in other unlawful acts and practices as may be
13 determined by rules adopted by the Attorney General.

14 d. It shall be unlawful for any charitable organization to enter into
15 any contract with any person who is required to have registered and
16 failed to do so.

17 e. It shall be unlawful for any person to represent that tickets to
18 events will be donated by another, unless the following requirements
19 have been met:

20 (1) The fund raising counsel or independent paid fund raiser shall
21 obtain commitments, in writing and notarized, from charitable
22 organizations stating that they will accept donated tickets and
23 specifying the number of tickets they are willing to accept and for
24 which they are able to provide transportation; copies of such written
25 commitments shall be filed with the Attorney General;

26 (2) The independent paid fund raiser has taken measures to prevent
27 solicitation of contributions for donated tickets in excess of the
28 number of ticket commitments received from charitable organizations;
29 and

30 (3) The number of tickets sold will not be greater than the number
31 of seats available at the facility for each event or performance.

32 (cf: P.L.1994, c.16, s.15)

33
34 2. This act shall take effect immediately, and shall apply to all
35 causes of action accruing after the effective date.

36
37
38 STATEMENT

39
40 Recently certain charitable organizations have engaged in fund
41 raising activities that mislead contributors into believing that their
42 donations are being used for charitable purposes, when in fact the
43 donations are used to fund legal costs and other administrative costs
44 of the charitable organization. In some instances, the information,
45 statements and communications used by charitable organizations to
46 solicit donations are truthful, but are presented in such a way that the

S1055 CONNORS, CARDINALE

4

1 contributor is misled into making a contribution.

2 This bill amends the "Charitable Registration and Investigation
3 Act," P.L.1994, c.16 (C.45:17A-18 et seq.) to make it clear that
4 information, statements or communications used in a manner that has
5 the capacity to mislead the average consumer are violations of the act.
6 The "capacity to mislead" standard has been adopted by the courts in
7 this State in cases of consumer fraud. Persons violating the act can be
8 fined \$7,500 for an initial offense or \$15,000 for a subsequent offense.

SENATE, No. 1055

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MAY 18, 1998

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21 (1) To misrepresent the purpose or nature of the charitable
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29 provisions of this act or the rules adopted under authority of this act;

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36 Office or registered pursuant to R.S.56:2-1 et seq. that its use would
37 tend to confuse or mislead a solicited person or to solicit contributions
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7 criminal laws of this State or that is a parent organization that includes
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6 The "capacity to mislead" standard has been adopted by the courts in
7 this State in cases of consumer fraud. Persons violating the act can be
8 fined \$7,500 for an initial offense or \$15,000 for a subsequent offense.

ASSEMBLY CONSUMER AFFAIRS AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 1055

STATE OF NEW JERSEY

DATED: AUGUST 6, 1998

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably Senate Bill No. 1055.

This bill amends the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.) to stipulate that information, statements or communications used in a manner that has the capacity to mislead the average consumer are violations of the act. The "capacity to mislead" standard has been adopted by the courts in this State in cases of consumer fraud. Violators are subject to penalties, which may include a fine of no more than \$7,500 for a first offense and no more than \$15,000 for any subsequent offense. In addition, the Attorney General is authorized to seek and obtain in a summary action an injunction prohibiting any violator from continuing to engage in such unlawful practice.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1055

STATE OF NEW JERSEY

DATED: JUNE 15, 1998

The Senate Commerce Committee reports favorably Senate Bill No. 1055.

This bill amends the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.) to make it clear that information, statements or communications used in a manner that has the capacity to mislead the average consumer are violations of the act. The "capacity to mislead" standard has been adopted by the courts in this State in cases of consumer fraud. Persons violating the act can be fined \$7,500 for an initial offense or \$15,000 for a subsequent offense.

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Jayne O'Connor
Gene Herman
609-777-2600

RELEASE: November 10, 1998

Gov. Christie Whitman today signed the following legislation:

A-63 allows beneficiaries of the Pharmaceutical Assistance for the Aged and Disabled (PAAD) program to receive the longer of 100 pills or a 34-day supply of medication for both the initial prescription and refills. Changes in the Fiscal Year 1999 Appropriations bill had limited to a 34-day maximum supply.

The bill was sponsored by Assembly Members Francis J. Blee (R-Atlantic), John C. Gibson (R-Cape May/Atlantic/Cumberland) and Kenneth C. LeFevre (R-Atlantic) and Guy F. Talarico (R-Bergen) and Senators Norman M. Robertson (R-Essex/Passaic) and Robert W. Singer (R-Burlington/Monmouth/Ocean).

A-809, sponsored by Assembly Member Charlotte Vandervalk (R-Bergen) and Senator Jack Sinagra (R-Middlesex), permits physician assistant to order or prescribe drugs, excluding controlled dangerous substances, both outpatient and inpatient settings. The bill requires that a supervising physician countersign and order or prescription for drugs within 48 hours of its entry by a physician assistant in an outpatient setting. The bill changes current law, which permits physician assistants to order or prescribe drugs only in an inpatient setting.

A-1332, sponsored by Assembly Members Rose Marie Heck (R-Bergen) and Guy F. Talarico (R-Bergen) and Senators Anthony R. Bucco (R-Morris) and Joseph M. Kyrillos, Jr. (R-Middlesex/Morris), clarifies that the depiction and dissemination of child pornography on the Internet is a crime under the endangering the welfare of a child statute. Endangering the welfare of a child is a second-degree crime when, among other things, a person causes or permits a child under 16 to engage in a sexual act knowing the act will be photographed or otherwise reproduced; photographs or reproduces a child engaged in a sexual act; or receives for the purpose of selling, sells or transfers a photograph of a child engaged in a sexual act.

The bill also upgrades to a crime of the first degree the offense of causing or permitting a child to engage in a sexual act knowing the act will be photographed, filmed or otherwise reproduced when the defendant is the child's parent or guardian. A first-degree crime is punishable by a prison term of between 10 and 20 years, a fine of \$200,000 or both, while a second-degree crime is punishable by a prison term of between five and 10 years and a fine of up to \$150,000 or both.

A-1511 amends current law to require that certain parents undergo substance abuse assessment when a court makes a finding of abuse or neglect and orders out-of-home

placement for a child. If the law reveals positive evidence of substance abuse, the parent must demonstrate that he or she is receiving treatment and complying with the treatment program before the child is returned to the parental home. Under previous law, a parent was required to demonstrate progress in reaching the goals that Division of Youth and Family Services established as part of a treatment program in order for a child to be returned to the home. The bill also appropriates \$50,000 for substance abuse treatment.

The bill was sponsored by Assembly Members Joseph R. Malone, 3d (R-Burlington/Monmouth/Ocean and Melvin Cottrell (R-Burlington/Monmouth/Ocean) and Senator Robert W. Singer (R-Burlington/Monmouth/Ocean).

A-1632, sponsored by Assembly Members Gerald J. Luongo (R-Camden/Gloucester) and Peter J. Biondi (R-Morris/Somerset) and Senators Diane B. Allen (R-Burlington/Camden) and Norman M. Robertson (R-Essex/Passaic), establishes the Senior and Disabled Cooperative Housing Finance Incentive Program. The bill assists non-profit corporations in providing cooperative living opportunities for low and moderate-income senior citizens and citizens with disabilities.

The bill authorizes the New Jersey Housing and Mortgage Finance Agency to set aside some portion of its bonding capacity in order to provide mortgage loans to eligible purchasers and to assist qualified non-profit corporations in creating eligible projects.

A-1976, sponsored by Assembly Members Joseph V. Doria, Jr. (D-Hudson) and Alex DeCroce (R-Essex/Morris/Passaic), provides that surcharges levied by the Division of Motor Vehicles (DMV) are extinguished upon an individual's death once the DMV obtains a copy of the driver's death certificate. The bill also requires that the DMV obtain a death certificate when the decedent's family or estate representative does not provide the DMV with a copy of the document. Under previous practice, the DMV extinguished a decedent's surcharges when a death certificate was provided by the family of the deceased. If the certificate was not received from the family, the DMV continued to mail surcharge notices to the decedent's family

A-2077 rectifies a problem created by a previous law, A-2323, which inadvertently changed the definitions regarding modifications of open-ended and close-ended loans.

The bill clarifies that an advance of principal made with respect to any mortgage (open-ended or close-ended) other than a line of credit does not have the lien priority of the original mortgage and is not a mortgage modification.

The bill was sponsored by Assembly Members Christopher "Kip" Bateman (R-Morris/Somerset) and Peter J. Biondi (R-Morris/Somerset) and Senators Walter J. Kavanaugh (R-Morris/Somerset) and Peter A. Inverso (R-Mercer/Middlesex).

A-2223, expands the number of persons eligible to receive the New Jersey Distinguished Service Medal (DSM) from the Governor to include any state resident who was a resident of the state at the time of entry into active military service and saw active military service in a combat theater and received an honorable discharge. The expansion would also apply to deceased persons. The bill also gives the Governor the

authority to issue the DSM to residents who saw active combat service and were officially listed as a POW/MIA by the United States Department of Defense. The Department of Military and Veterans' Affairs will establish regulatory standards requiring a finding of distinguished service prior to its recommendation to the Governor to award the medal.

Under previous law, the Governor, on behalf of the state, could issue a DSM to persons who distinguished themselves by especially meritorious service and who had been cited or were expected to be cited in orders for distinguished service by the Governor or appropriate federal authority.

The legislation was sponsored by Assembly Members Louis D. Greenwald (D-Camden) and Joseph Azzolina (R-Middlesex/Morris) and Senators Diane B. Allen (R-Burlington/Camden) and John J. Mattheusen (R-Camden/Gloucester).

S-158, sponsored by Senators Joseph M. Kyrillos, Jr. (R-Middlesex/Monmouth) and Andrew R. Ciesla (R-Monmouth/Ocean) and Assembly Members Joseph Azzolina (R-Middlesex/Monmouth) and Michael J. Arnone (R-Monmouth), exempts certain shops operated to raise money for charity from state sales and use tax. The bill applies to shops run in support of organizations that are already exempt from paying the sales tax. The exemption includes any organization operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes. It also exempts any organizations operated for the prevention of cruelty to children or animals; any voluntary fire, rescue, ambulance, first aid or emergency company or squad, and any parent-teachers association.

S-700, sponsored by Senator Diane B. Allen (R-Burlington/Camden), allows Burlington Island to enter into a long-term lease to promote development designed only for recreational, conservational, educational and cultural purposes. The island's charter, established in 1852, limited to five the number of years island property could be leased for any purpose.

S-877, sponsored by Senator Shirley K. Turner (D-Mercer), requires the State Board of Education, in consultation with the Commissioner of the Department of Health and Senior Services (DHSS) to promulgate rules and regulations for the certification of persons employed by boards of education to teach swimming in public schools. The bill requires that the regulations include appropriate swimming and first aid skills necessary to protect the health and safety of students. Currently, safety standards specified in DHSS regulations require the presence of at least one person currently certified in standard first aid and cardiopulmonary resuscitation (CPR). That person must be available and readily accessible when the pool is in use. Additionally, the regulations require that at least one lifeguard be on duty for 60 or less swimmers or 2,000 square feet of surface space at all times when the pool is in use. Additional lifeguards are required based on a variety of specified factors.

S-888, sponsored by Senator Norman M. Robertson (R-Essex/Passaic) and Assembly Members Kenneth C. LeFevre (R-Atlantic) and Francis J. Blee (R-Atlantic), permits the release of certain account information by a financial institution under certain

circumstances. The bill allows the release of account information to a law enforcement agency or a county protective adult services provider if the customer account is held by a senior citizen or "vulnerable" person -- defined in the bill as a person over 18 that appears to have a physical or mental illness, disability or deficiency, etc. The bill parallels federal law allowing financial institutions to release account information to certain federal law enforcement officials.

S-955, revises the Garage Keepers Lien Act by eliminating the requirement that a motor vehicle owner post the full amount of a disputed bill or a double bond before a pre-sale hearing. The bill provides that if possession of a vehicle is refused because of a dispute over the amount owned or nonpayment, the owner may immediately bring an action in court for possession of the vehicle. The bill was sponsored by Senator John Q. Bennett (R-Monmouth) and Assembly Members Richard A. Merkt (R-Morris) and Michael Patrick Carroll (R-Morris).

S-1055, sponsored by Senator Leonard T. Connors, Jr. (R-Atlantic/Burlington/Ocean) and Gerald Cardinale (R-Bergen), prohibits charitable organizations from misleading contributors to believe their donations are to be used for charitable purposes when, in fact, the donations are used to fund legal costs and other administrative costs of the charitable organization. The bill also prohibits organizations from presenting truthful information, statements and communications in such a way that the contributor is misled into making a contribution.

AJR-21, sponsored by Assembly Member Alex DeCroce (R-Essex/Morris/Passaic), establishes an 18-member Regional Intergovernmental Transportation Coordinating Study Commission to increase regional transportation decision-making among various levels of government and to identify incentives to promote cooperation. The commission will consist of 12 public members to be appointed by the Governor; two members of both the Senate and the General Assembly; Commissioner of the Department of Transportation and the Director of the Office of State Planning.

AJR-30, sponsored by Assembly Members Marion Crecco (R-Essex/Passaic) and Gerald J. Luongo (R-Camden/Gloucester), designates November 20 of each year as "Bill of Rights Day" in New Jersey. The first ten amendments of the U. S. Constitution, known as the Bill of Rights, were ratified by the State of New Jersey on November 20, 1789.