

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

RWH 5/7/08

P.L. 2007, CHAPTER 209, *approved December 20, 2007*
Assembly Committee Substitute (*Third Reprint*) for
Senate, No. 597

1 AN ACT concerning charitable clothing bins and supplementing
2 ¹[P.L.1994, c.16 (C.45:17A-18 et seq.)] chapter 48 of Title 40 of
3 the Revised Statutes¹ .
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 ¹1. For the purposes of P.L. , c. (C.) (pending before the
9 Legislature as this bill), “solicitation” or “solicit” means the
10 request, directly or indirectly, for money, credit, property, financial
11 assistance, or other thing of any kind or value. Solicitation shall
12 include, but not be limited to, the use or employment of canisters,
13 cards, receptacles or similar devices for the collection of money or
14 other thing of value. A solicitation shall take place whether or not
15 the person making the solicitation receives any contribution.¹
16 ³“Appropriate municipal agency” means the agency determined by
17 resolution of the municipal governing body.³
18

19 ¹[1] ²1. Notwithstanding any other provision of law to the
20 contrary, no person shall place, use, or employ a donation clothing
21 bin, for solicitation purposes, unless all of the following
22 requirements are met:

23 a. ¹[The donation clothing bin is owned by a charitable
24 organization registered pursuant to P.L.1994, c.16 (C.45:17A-18 et
25 seq.);

26 b.]¹ The ¹[registered charitable organization] person¹ has
27 obtained a permit, valid for a specified period of time, from the
28 ¹[local law enforcement] appropriate municipal¹ agency within the
29 municipality in which the donation clothing bin will be placed, in
30 accordance with the following:

31 (1) In ²[its application] applying² for such a permit, the
32 ¹[registered charitable organization] person¹ shall ¹[indicate]
33 include¹:

34 (a) the location where the bin would be situated, as precisely as
35 possible;

36 (b) the manner in which the ¹[charitable organization] person¹
37 anticipates any clothing or other donations collected via the bin

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted January 8, 2007.

² Senate SCM committee amendments adopted June 14, 2007

³ Assembly amendments adopted in accordance with Governor's
recommendations December 10, 2007.

1 would be used, sold, or dispersed, and the method by which the
2 proceeds of collected donations would ~~'[been] be'~~ allocated or
3 spent; ~~'[and]'~~

4 (c) the name, and telephone number of the bona fide office
5 required pursuant to subsection ~~'[c] b'~~. of this section, of any
6 entity which may share or profit from any clothing or other
7 donations collected via the bin; ~~'and'~~

8 (d) written consent from the property owner to place the bin on
9 his property.'

10 (2) The ~~'[local law enforcement] appropriate municipal'~~
11 agency shall not grant an application for a permit to place, use, or
12 employ a donation clothing bin if it determines that the placement
13 of the bin could constitute a safety hazard. Such hazards shall
14 include, but not be limited to, the placement of a donation clothing
15 bin within ~~'[200] 100'~~ yards of any ~~'[school, public building, or]'~~
16 place which stores large amounts of, or sells, fuel or other
17 flammable liquids or gases;

18 (3) The ~~'[local law enforcement] appropriate municipal'~~
19 agency may impose a fee for such application, not to exceed \$25, to
20 offset the costs involved in enforcing P.L. , c. (C.) (pending
21 before the Legislature as this bill);

22 (4) An expiring permit for a donation clothing bin may be
23 renewed upon application for renewal and payment of any fee
24 imposed by the ~~'[local law enforcement] appropriate municipal'~~
25 agency for such renewal, not to exceed \$25 annually, to offset the
26 costs involved in enforcing P.L. , c. (C.) (pending before
27 the Legislature as this bill). Such application shall include
28 ~~'[information detailing]'~~:

29 (a) the location where the bin is situated, as precisely as
30 possible, and, if the ~~'[charitable organization] person'~~
31 move it, the new location where the bin would be situated after the
32 renewal is granted ~~'and written consent from the property owner to~~
33 ~~'place the bin on his property'~~;

34 (b) the manner in which the ~~'[charitable organization] person'~~
35 has used, sold, or dispersed any clothing or other donations
36 collected via the bin, the method by which the proceeds of collected
37 donations have been allocated or spent, and any changes the
38 ~~'[charitable organization] person'~~ anticipates it may make in these
39 processes during the period covered by the renewal; and

40 (c) The name, and telephone number of the bona fide office
41 required pursuant to subsection ~~'[c] b'~~. of this section, of any
42 entity which shared or profited from any clothing or other donations
43 collected via the bin, and of any entities which may do so during the
44 period covered by the renewal; and

45 (5) the permit number and its date of expiration shall be clearly
46 and conspicuously displayed on the exterior of the donation

1 clothing bin, in addition to the information required pursuant to
2 subsection ²[d] c². of this section;

3 ¹[c] b¹. The ¹[registered charity] person¹, and any other entity
4 which may share or profit from any clothing or other donations
5 collected via the bin, maintains a bona fide office where a
6 representative of the ¹[charitable organization] person¹ or other
7 entity, respectively, can be reached at a telephone information line
8 during normal business hours for the purpose of offering
9 information concerning the ¹[charitable organization] person¹ or
10 other entity. For the purposes of this subsection, an answering
11 'machine or' service unrelated to the ¹[charitable organization]
12 person¹ does not constitute a bona fide office; and

13 ¹[d] c¹. The following information is clearly and conspicuously
14 displayed on the exterior of the donation clothing bin:

15 (1) The name and address of the registered ¹[charitable
16 organization] person¹ that owns the bin, and of any other entity
17 which may share or profit from any clothing or other donations
18 collected via the bin;

19 (2) ¹[The registered charitable organization's charitable
20 registration number;

21 (3)]¹ The telephone number of the ¹[registered charitable
22 organization's] person's¹ bona fide office and, if applicable, the
23 telephone number of the bona fide office of any other entity which
24 may share or profit from any clothing or other donations collected
25 via the bin;

26 ¹[(4) The following statement: "INFORMATION FILED WITH
27 THE NEW JERSEY ATTORNEY GENERAL'S DIVISION OF
28 CONSUMER AFFAIRS IN THE DEPARTMENT OF LAW AND
29 PUBLIC SAFETY CONCERNING THIS CHARITABLE
30 ORGANIZATION MAY BE OBTAINED FROM THE DIVISION
31 BY CALLING _____ AND IS AVAILABLE ON THE
32 INTERNET AT _____. REGISTRATION WITH THE
33 DIVISION OF CONSUMER AFFAIRS DOES NOT IMPLY
34 ENDORSEMENT," (with the telephone number and Internet
35 website address through which members of the general public may
36 obtain information from the Division of Consumer Affairs about the
37 information filed by the registered charitable organization inserted
38 in place of the appropriate blanks); and]¹

39 (¹[5] 3¹) In cases when any entity other than the ¹[registered
40 charitable organization which] person who¹ owns the bin may share
41 or profit from any clothing or other donations collected via the bin,
42 a notice, written in a clear and easily understandable manner,
43 indicating that clothing or other donations collected via the bin,
44 their proceeds, or both, may be shared, or given entirely to, an
45 entity other than the ¹[registered charitable organization which]

1 person who¹ owns the bin, and identifying all such entities which
2 may share or profit from such donations ¹; and

3 (4) A statement, consistent with the information provided to the
4 appropriate municipal agency in the most recent permit or renewal
5 application pursuant to subparagraph (b) of paragraph (1) of
6 subsection a. of this section and subparagraph (b) of paragraph (4)
7 of subsection a. of this section, indicating the manner in which the
8 person anticipates any clothing or other donations collected via the
9 bin would be used, sold, or dispersed, and the method by which the
10 proceeds of collected donations would be allocated or spent¹.

11
12 ¹[2. a] ³. The ²[Director of Consumer Affairs and the]²
13 ¹[local law enforcement] appropriate municipal¹ agency within the
14 municipality in which a donation clothing bin has been placed shall
15 receive and investigate, within 30 days, any complaints from the
16 public about the bin. Whenever it appears to the ²[director or the]²
17 ¹[local law enforcement] appropriate municipal¹ agency that a
18 person has engaged in, or is engaging in any act or practice in
19 violation of section ²[1] ² of P.L. , c. (C.) (pending
20 before the Legislature as this bill), the ¹[registered charitable
21 organization, or, in cases when the bin was not placed by a
22 registered charitable organization, the]¹ person who placed the bin
23 ²[,]² shall be issued a warning, stating that if the violation is not
24 rectified or ³[an administrative] ³ a³ hearing with the ³[division]
25 appropriate municipal agency³ is not requested within 45 days, the
26 bin will be seized or removed at the expense of the ¹[registered
27 charitable organization or]¹ person who placed the bin, and any
28 clothing or other donations collected via the bin will be sold at
29 public auction ³or otherwise disposed of³. In addition to any other
30 means used to notify the ¹[registered charitable organization or]¹
31 person who placed the bin, such warning shall be affixed to the
32 exterior of the bin itself.

33 In the event that the ¹[registered charitable organization or the]¹
34 person who placed the bin does not rectify the violation or request a
35 hearing within 45 days of the posting of the warning, the ¹[Director
36 of Consumer Affairs or the local law enforcement] appropriate
37 municipal¹ agency may seize the bin, remove it, or have it removed,
38 at the expense of the ¹[registered charitable organization or the]¹
39 person who placed the bin, and sell at public auction or otherwise
40 dispose of any clothing or other donations collected via the bin.
41 Any proceeds from the sale of the donations collected via the bin
42 shall be ¹[:

43 (1) deposited in the General Fund, if the Division of Consumer
44 Affairs seized the bin;

1 (2)]¹ paid to the ³[proper] chief³ financial officer of the
2 municipality ¹[if the local law enforcement agency within the
3 municipality in which the bin was located seized the bin; or

4 (3) divided equally between the State's General Fund and the
5 municipality, if both the division and the local law enforcement
6 agency participated in the seizure]¹ .

7 ¹[b. Whenever it appears to the Director of Consumer Affairs
8 that a person has engaged in, or is engaging in any act or practice
9 declared unlawful by the provisions of P.L.1994, c.16 (C.45:17A-18
10 et seq.), in addition to any other remedy or action available under
11 P.L.1994, c.16 (C.45:17A-18 et seq.), the director or the local law
12 enforcement agency may apply to Superior Court for an order to
13 seize the bin, remove it or have it removed at the expense of the
14 registered charitable organization or the person who placed the bin,
15 and forfeit any clothing or other donations collected via the bin, to
16 be sold at public auction. The proceeds from the sale of the
17 donations collected via the bin shall be:

18 (1) deposited in the General Fund, if the Division of Consumer
19 Affairs seized the bin; or

20 (2) divided equally between the State's General Fund and the
21 municipality, if both the division and the local law enforcement
22 agency participated in the seizure.]¹

23
24 ¹[3] 4¹. In addition to any other penalties or remedies
25 authorized by ²[P.L.1994, c.16 (C.45:17A-18 et seq.)] the laws of
26 this State², any person who violates any provision of
27 P.L. , c. (C.) (pending before the Legislature as this bill)
28 which results in seizure of the donation clothing bin shall be:

29 a. Subject to a penalty of up to \$20,000 for each violation. The
30 ³[Director of Consumer Affairs] appropriate municipal agency³
31 may bring this action in ³the municipal court or Superior Court as³
32 a summary proceeding under the "Penalty Enforcement Law of
33 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) ³, and any penalty
34 monies collected shall be paid to the chief financial officer of the
35 municipality³ ; and

36 b. Deemed ineligible to place, use, or employ a donation
37 clothing bin for solicitation purposes pursuant to section ²[1] 2² of
38 P.L. , c. (C.) (pending before the Legislature as this bill).
39 A ¹[registered charitable organization] person¹ disqualified from
40 placing, using, or employing a donation clothing bin by violating
41 the provisions of P.L. , c. (C.) (pending before the
42 Legislature as this bill) may apply to the ¹[Director of Consumer
43 Affairs] appropriate municipal agency¹ to have ²[its] that
44 person's² eligibility restored. The ¹[director] appropriate
45 municipal agency¹ may restore the eligibility of a ¹[registered
46 charitable organization which] person who¹:

- 1 (1) ~~‘[He deems acts] Acts’~~ within the public interest; and
2 (2) Demonstrates that ~~‘[it] he’~~ made a good faith effort to
3 comply with the provisions of P.L. , c. (C.) (pending
4 before the Legislature as this bill) and all other applicable laws and
5 regulations, or had no fraudulent intentions.

6
7 ~~‘[4] 5’~~. This act shall take effect on the first day of the
8 thirteenth month following enactment, and shall apply to all
9 donation clothing bins in place on the effective date of this act and
10 all donation clothing bins placed subsequent to the effective date of
11 this act ³, but appropriate municipal agencies may take such
12 anticipatory acts in advance of that date as may be necessary for the
13 timely implementation of this act upon its effective date³ ~~‘[~~, but the
14 Director of Consumer Affairs may take such anticipatory acts in
15 advance of that date as may be necessary for the timely
16 implementation of this act upon its effective date~~’]~~¹.

17

18

19

20

21 _____
Regulates donation clothing bins.

SENATE, No. 597

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Middlesex and Monmouth)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Requires certain disclosures for donation clothing bins placed by charities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/10/2006)

1 AN ACT concerning charitable clothing bins and supplementing
2 P.L.1994, c.16 (C.45:17A-18 et seq.).

3

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

6

7 1. In addition to all other requirements imposed by P.L.1994,
8 c.16 (C.45:17A-18 et seq.), every charitable organization that is
9 subject to the provisions of P.L.1994, c.16 (C.45:17A-18 et seq.),
10 and that for solicitation purposes uses or employs a donation
11 clothing bin which is placed at a location and is not directly and
12 continuously attended by a representative of the charitable
13 organization, shall clearly and conspicuously display the following
14 information on each donation clothing bin:

15 a. The name and address of the charitable organization for
16 whose benefit donations are being solicited;

17 b. The organization's charitable registration number;

18 c. The telephone number of the organization's office;

19 d. The charitable purpose of the organization; and

20 e. The following statement: "INFORMATION FILED WITH
21 THE ATTORNEY GENERAL CONCERNING THIS
22 CHARITABLE ORGANIZATION MAY BE OBTAINED FROM
23 THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY
24 BY CALLING 000-000-0000 AND IS AVAILABLE ON THE
25 INTERNET AT www.xxxxxxxxxx.xxx. REGISTRATION WITH
26 THE ATTORNEY GENERAL DOES NOT IMPLY
27 ENDORSEMENT."

28

29 2. This act shall take effect on the 90th day following
30 enactment.

31

32

33 STATEMENT

34

35 This bill supplements the "Charitable Registration and
36 Investigation Act" by imposing additional consumer disclosure
37 requirements on a charitable organization that places unattended
38 clothing bins in public places to solicit donations. The bill requires
39 that the charitable organization must display certain disclosure
40 information on each clothing bin including the organization's name,
41 address, phone number and charitable registration number. In
42 addition, under the bill the charitable organization must clearly
43 display on a disclosure label on each clothing bin the following
44 statement: "INFORMATION FILED WITH THE ATTORNEY
45 GENERAL CONCERNING THIS CHARITABLE
46 ORGANIZATION MAY BE OBTAINED FROM THE
47 ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY
48 CALLING 000-000-0000 AND IS AVAILABLE ON THE

S597 KYRILLOS, SCUTARI

3

1 INTERNET AT www.xxxxxxxxxx.xxx. REGISTRATION WITH
2 THE ATTORNEY GENERAL DOES NOT IMPLY
3 ENDORSEMENT."

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **SENATE, No. 597**

STATE OF NEW JERSEY

DATED: MAY 11, 2006

The Assembly Consumer Affairs Committee reports favorably an Assembly Committee Substitute for Senate Bill No. 597.

This Assembly Consumer Affairs Committee Substitute regulates donation clothing bins. The substitute supplements the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.), by requiring that all donation clothing bins be owned by a registered charitable organization and imposing additional reporting and consumer disclosure requirements on those organizations.

Under the substitute, the registered charitable organization must obtain a permit from the local law enforcement agency within the municipality in which the donation clothing bin will be placed. The substitute specifies that a permit shall not be granted if the local law enforcement agency determines that the placement of the bin could constitute a safety hazard.

The substitute requires the registered charity, and any other entity which may share or profit from collected donations, to maintain a bona fide office. In addition, certain disclosures are required on the exterior of the bin, including the name and contact information of any entity other than the registered charity which may share or profit from donations collected via the bin.

Under the substitute, the Director of Consumer Affairs and the local law enforcement agency must receive and investigate any complaints they receive from the public about the donation clothing bins. If it is determined that a violation of this substitute's provisions has occurred, the registered charitable organization would be issued a warning, which would have to be posted on the bin itself. If the violation is not rectified in 45 days, the director or the local law enforcement agency could seize or remove the bin at the expense of the registered charitable organization, and the organization would be required to forfeit any donations collected via the bin. The substitute permits the enforcing entity to either sell at public auction or otherwise dispose of any donations it seizes or removes. The proceeds from the sale would be retained by the entity that seized the bin. For other violations of the "Charitable Registration and Investigation Act," a warning would not be issued, but the director or local law enforcement

agency could apply to the Superior Court for an order to seize the bin and for forfeiture and sale of the donations.

In addition to any other penalties or remedies provided for in the "Charitable Registration and Investigation Act," the substitute would set penalties of up to \$20,000 for each violation of its provisions which results in seizure of the donation clothing bin. Also, registered charitable organizations which have had a bin seized would be ineligible to place unattended donation clothing bins in the future, unless their eligibility is restored by the Director of Consumer Affairs.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 597

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2006

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 597.

This bill, as amended, supplements the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.), by imposing additional consumer disclosure requirements on a charitable organization that places unattended clothing bins in public places to solicit donations.

The amended bill requires that a charitable organization display certain disclosure information on each clothing bin, including the organization's name, address, phone number, State registration number, and statement concerning the charitable purpose of the organization. If another person or entity, other than the charitable organization, maintains and services the bin, and collects clothing from the bin for that person's or entity's use, then the charitable organization shall also display the name, address, and phone number for the other person or entity.

In addition, the charitable organization must display on each clothing bin the following statement:

INFORMATION REGISTERED WITH THE NEW JERSEY
ATTORNEY GENERAL'S DIVISION OF CONSUMER
AFFAIRS IN THE DEPARTMENT OF LAW AND PUBLIC
SAFETY CONCERNING THIS CHARITABLE
ORGANIZATION MAY BE OBTAINED FROM THE
DIVISION BY TELEPHONE AND IS AVAILABLE ON
THE INTERNET. REGISTRATION WITH THE DIVISION
OF CONSUMER AFFAIRS DOES NOT IMPLY
ENDORSEMENT. FOR MORE INFORMATION
CONCERNING THIS CHARITABLE ORGANIZATION,
PLEASE CONTACT:,

followed by the appropriate phone number and Internet website as determined by the Director of the Division of Consumer Affairs.

If another person or entity, other than the charitable organization, maintains and services the bin, and collects clothing

from the bin for that person's or entity's use, then the charitable organization shall display the following additional statement:

CLOTHING DEPOSITED IN THIS BIN MAY BE RECYCLED INTO RAGS OR SOLD FOR COMMERCIAL PURPOSES. THIS CHARITABLE ORGANIZATION MAY ONLY RECEIVE A PORTION OF THE PROCEEDS.

A violation of the amended bill's provisions shall subject a charitable organization to a monetary penalty of not more than \$10,000 for the first violation of the "Charitable Registration and Investigation Act," and not more than \$20,000 for the second and any subsequent violation of the act, or two or more violations within a single proceeding in violation of the act. In addition, a violation can result in the revocation or suspension of a charitable organization's registration by the Attorney General.

The committee amendments to the bill:

- require charitable organizations to display the name, address, and telephone number of the person or entity, if other than the charitable organization, that maintains and services the bin, and collects clothing from the bin for the person's or entity's use;
- alter the statement for display on clothing bins concerning a person's ability to obtain information about a charitable organization generally, so that it names the Division of Consumer Affairs, not the Attorney General, as the more appropriate entity from which such information may be obtained;
- require the Director of the Division of Consumer Affairs to determine the most appropriate contact information (phone number and Internet website) to be included with the statement for obtaining information about a charitable organization; and
- add an additional statement for display on clothing bins regarding a charitable organization and its use of a clothing bin if the bin is maintained and serviced, and clothes collected from the bin, by a person or entity other than the charitable organization.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE COMMERCE COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR **SENATE, No. 597**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Senate Commerce Committee reports favorably and with committee amendments the Assembly Committee Substitute (1R) for Senate Bill No. 597.

This bill, as amended, regulates donation clothing bins by requiring persons to obtain a permit from an appropriate municipal agency to place such bins, and to disclose information to the municipality and the public, by way of notice displayed on the exterior of any placed bin, concerning bin collections. The bill supplements the general powers of municipalities, found in chapter 48 of Title 40 of the Revised Statutes, in order to provide municipalities greater local control and enforcement authority of the placement and operation of donation clothing bins.

A person, when applying for a permit to place and use a bin, shall include information concerning: the proposed location of the bin; the anticipated use, sale, or dispersal of clothing collected; the method by which any proceeds from donations will be allocated or spent; contact information for a bona fide office, as well as the office of any entity which may share or profit from the donations; and the written consent of the property owner where the bin will be placed.

In addition to the information provided to the municipality through the permit application, the person shall display similar information concerning a bin, the collection and dispersal of clothing and proceeds, and relevant contact information on the exterior of any placed bin.

The appropriate municipal agency shall receive and investigate, within 30 days, any complaints they receive from the public about any donation clothing bin. If it is determined that a violation of the bill's provisions has occurred, the municipal agency shall issue a warning to the person who placed the bin, and additionally affix the warning to the exterior of the bin.

In the event that the person who placed the bin does not rectify the violation or request an administrative hearing within 45 days of the affixing of the warning, the municipal agency may seize the bin,

remove it, or have it removed, at the expense of the person who placed the bin. Thereafter, the municipality may sell any donations collected via the bin at public auction or otherwise dispose of the donations, with any proceeds of their sale paid to the proper financial officer of the municipality.

In addition to any other penalties or remedies authorized by the laws of this State, the bill would establish penalties of up to \$20,000 for each violation of its provisions resulting in the seizure of a donation clothing bin. Further, any such violation would deem the person ineligible to place, use, or employ a donation clothing bin, but the person may apply to the appropriate municipal agency to restore the person's eligibility.

The committee amendments to the bill:

- eliminate unnecessary references to the Director of Consumer Affairs, as the provisions of the bill shall be administered and enforced primarily by appropriate municipal agencies and not the director;
- remove the reference in section 4, concerning penalties, to the remedies and penalties authorized by the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.), as the substitute bill, replacing the original bill, is no longer intended to supplement that act, but to supplement the general powers of municipalities found in chapter 48 of Title 40 of the Revised Statutes; and
- correct internal cross-references to sections and subsections throughout the bill to reflect its reorganization pursuant to previous Assembly floor amendments, approved by the Assembly on January 8, 2007.

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
SENATE, No. 597

with Assembly Floor Amendments
(Proposed By Assemblyman MORIARTY)

ADOPTED: JANUARY 8, 2007

The Assembly Consumer Affairs Committee Substitute for Senate Bill Number 597 regulates donation clothing bins.

These floor amendments:

- define the words “solicitation” and “solicit,” as used in the substitute, to apply to all instances where money or things of value are requested, regardless of whether they are requested for a charitable purpose or to benefit a charitable organization;
- eliminate the restriction that donation clothing bins may only be placed by registered charitable organizations;
- replace all references to the “local law enforcement” agency throughout the substitute with the “appropriate municipal” agency;
- require a person to include written consent from the property owner to place the bin on his property in his application for a permit to place a donation clothing bin;
- require a disclosure on donation clothing bins indicating the manner in which the proceeds of collected donations would be allocated or spent;
- reduce the minimum distance that a donation clothing bin must be placed from a school, public building, or place which stores or sells fuel or other flammable liquids or gases from 200 to 100 yards;
- clarify that an answering machine does not satisfy the substitute’s requirement of a bona fide office;
- remove the authorization for the Division of Consumer Affairs to seize donation clothing bins, or apply to Superior court for an order to seize them; and
- clarify that any proceeds from the sale of seized donations are to be paid to the proper financial officer of the municipality.

ASSEMBLY, No. 2969

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 11, 2006

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Assemblyman JON M. BRAMNICK

District 21 (Essex, Morris, Somerset and Union)

Assemblyman DAVID R. MAYER

District 4 (Camden and Gloucester)

Co-Sponsored by:

Assemblymen Fisher, Burzichelli, Albano, Van Drew, Chivukula,

Assemblywoman Lampitt, Assemblymen Gusciora and Prieto

SYNOPSIS

Regulates donation clothing bins.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT regulating donation clothing bins and supplementing
2 P.L.1994, c.16 (C.45:17A-18 et seq.).

3

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

6

7 1. Notwithstanding any other provision of law to the contrary,
8 no person shall place, use, or employ a donation clothing bin, for
9 solicitation purposes, at a location that is not directly and
10 continuously attended, unless all of the following requirements are
11 met:

12 a. The donation clothing bin is owned by a charitable
13 organization registered pursuant to P.L.1994, c.16 (C.45:17A-18 et
14 seq.);

15 b. The registered charitable organization has obtained a permit
16 from the local law enforcement agency within the municipality in
17 which the donation clothing bin will be placed, as follows:

18 (1) In its application for such a permit, the registered charitable
19 organization shall indicate the location where the bin would be
20 situated, as precisely as possible;

21 (2) The local law enforcement agency shall not grant an
22 application for a permit to place, use, or employ a donation clothing
23 bin if it determines that the placement of the bin could constitute a
24 safety hazard. Such hazards shall include, but not be limited to, the
25 placement of a donation clothing bin within 200 yards of any
26 school, public building, or place which stores large amounts of, or
27 sells, fuel or other flammable liquids or gases; and

28 (3) The local law enforcement agency may impose a fee for such
29 application, not to exceed \$25 annually, to offset the costs involved
30 in enforcing P.L. , c. (C.) (pending before the Legislature as
31 this bill);

32 c. The registered charity, and any other entity which may share
33 or profit from any clothing or other donations collected via the bin,
34 maintains a bona fide office where a representative of the charitable
35 organization or other entity, respectively, can be reached at a
36 telephone information line during normal business hours for the
37 purpose of offering information concerning the charitable
38 organization or other entity. For the purposes of this subsection, an
39 answering service unrelated to the charitable organization does not
40 constitute a bona fide office;

41 d. The following information is clearly and conspicuously
42 displayed on the exterior of the donation clothing bin:

43 (1) The name and address of the registered charitable
44 organization that owns the bin, and of any other entity which may
45 share or profit from any clothing or other donations collected via
46 the bin;

47 (2) The registered charitable organization's charitable
48 registration number;

1 (3) The telephone number of the registered charitable
2 organization's bona fide office and, if applicable, the telephone
3 number of the bonafide office of any other entity which may share
4 or profit from any clothing or other donations collected via the bin,
5 required pursuant to subsection c. of this section;

6 (4) The following statement: "INFORMATION FILED WITH
7 THE NEW JERSEY ATTORNEY GENERAL'S DIVISION OF
8 CONSUMER AFFAIRS IN THE DEPARTMENT OF LAW AND
9 PUBLIC SAFETY CONCERNING THIS CHARITABLE
10 ORGANIZATION MAY BE OBTAINED FROM THE DIVISION
11 BY CALLING _____ AND IS AVAILABLE ON THE
12 INTERNET AT _____. REGISTRATION WITH THE
13 DIVISION OF CONSUMER AFFAIRS DOES NOT IMPLY
14 ENDORSEMENT," (with the telephone number and Internet
15 website address through which members of the general public may
16 obtain information from the Division of Consumer Affairs about the
17 information filed by the registered charitable organization inserted
18 in place of the appropriate blanks);

19 (5) A copy of the permit granted pursuant to subsection b. of this
20 section; and

21 (6) In cases when any entity other than the registered charitable
22 organization which owns the bin may share or profit from any
23 clothing or other donations collected via the bin, a notice, written in
24 a clear and easily understandable manner, indicating that clothing or
25 other donations collected via the bin, their proceeds, or both, may
26 be shared, or given entirely to, an entity other than the registered
27 charitable organization which owns the bin, and identifying all such
28 entities which may share or profit from such donations;

29 e. The registered charitable organization:

30 (1) Assures that it has a representative present at the site when
31 clothing or other donations collected via the bin are collected and
32 counted; and

33 (2) Files with the Director of Consumer Affairs, within five days
34 after the last day of each month, a monthly accounting of the
35 clothing or other donations collected via the bin and any
36 disbursements, including but not limited to, any portion of the
37 donations collected, or their proceeds, which has been shared with
38 or given entirely to an entity other than the registered charitable
39 organization; and

40 f. The registered charitable organization files with the local law
41 enforcement agency within the municipality where the bin is
42 located, the address and telephone number of the site where the
43 clothing or other donations collected via the bin are counted and the
44 name of the representative of the registered charitable organization
45 who will be present, and obtains written consent from the local law
46 enforcement agency that the counting site is secure and otherwise
47 acceptable to the local law enforcement agency.

1 2. a. The Director of Consumer Affairs and the local law
2 enforcement agency within the municipality in which a donation
3 clothing bin has been placed shall receive and investigate, within 30
4 days, any complaints from the public about the bin. Whenever it
5 appears to the director or the local law enforcement agency that a
6 person has engaged in, or is engaging in any act or practice in
7 violation of section 1 of P.L. , c. (C.) (pending before the
8 Legislature as this bill), the registered charitable organization shall
9 be issued a warning. If the violation is not rectified in 30 days, the
10 director or the local law enforcement agency may apply to Superior
11 Court for an order to seize the bin, remove it or have it removed at
12 the expense of the registered charitable organization, and forfeit any
13 clothing or other donations collected via the bin, to be sold at public
14 auction. The proceeds from the sale of the donations collected via
15 the bin shall be:

16 (1) deposited in the General Fund, if the Division of Consumer
17 Affairs seized the bin;

18 (2) paid to the proper financial officer of the municipality if the
19 local law enforcement agency within the municipality in which the
20 bin was located seized the bin; or

21 (3) divided equally between the State's General Fund and the
22 municipality, if both the division and the local law enforcement
23 agency participated in the seizure.

24 b. Whenever it appears to the Director of Consumer Affairs that
25 a person has engaged in, or is engaging in any act or practice
26 declared unlawful by the provisions of P.L.1994, c.16 (C.45:17A-18
27 et seq.), in addition to any other remedy or action available under
28 P.L.1994, c.16 (C.45:17A-18 et seq.), the director or the local law
29 enforcement agency may apply to Superior Court for an order to
30 seize the bin, remove it or have it removed at the expense of the
31 registered charitable organization, and forfeit any clothing or other
32 donations collected via the bin, to be sold at public auction. The
33 proceeds from the sale of the donations collected via the bin shall
34 be:

35 (1) deposited in the General Fund, if the Division of Consumer
36 Affairs seized the bin; or

37 (2) divided equally between the State's General Fund and the
38 municipality, if both the division and the local law enforcement
39 agency participated in the seizure.

40
41 3. In addition to any other penalties or remedies authorized by
42 P.L.1994, c.16 (C.45:17A-18 et seq.), any person who violates any
43 provision of P.L. , c. (C.) (pending before the Legislature as
44 this bill) which results in seizure of the donation clothing bin, shall
45 be:

46 a. Subject to a penalty of up to \$20,000 for each violation. The
47 Director of Consumer Affairs may bring this action in a summary

1 proceeding under the "Penalty Enforcement Law of 1999,"
2 P.L.1999, c.274 (C.2A:58-10 et seq.); and

3 b. Deemed ineligible to place, use, or employ an unattended
4 donation clothing bin for solicitation purposes pursuant to section 1
5 of P.L. , c. (C.) (pending before the Legislature as this bill).
6 A registered charitable organization disqualified from placing,
7 using, or employing an unattended donation clothing bins by
8 violating the provisions of P.L. , c. (C.) (pending before the
9 Legislature as this bill) may apply to the Director of Consumer
10 Affairs to have its eligibility restored. The director may restore the
11 eligibility of a registered charitable organizations which:

12 (1) He deems acts within the public interest; and

13 (2) Demonstrate that it:

14 (i) Made a good faith effort to comply with the provisions of
15 P.L. , c. (C.) (pending before the Legislature as this bill) and
16 all other applicable laws and regulations; or

17 (ii) Had no fraudulent intentions.

18

19 4. This act shall take effect on the first day of the thirteenth
20 month following enactment, and shall apply to all donation clothing
21 bins in place on the effective date of this act and all donation
22 clothing bins placed subsequent to the effective date of this act, but
23 the Director of Consumer Affairs may take such anticipatory acts in
24 advance of that date as may be necessary for the timely
25 implementation of this act upon its effective date.

26

27

28 STATEMENT

29

30 This bill would regulate donation clothing bins. The bill would
31 supplement the "Charitable Registration and Investigation Act" by
32 requiring that all unattended donation clothing bins be owned by a
33 registered charitable organization and imposing additional reporting
34 and consumer disclosure requirements on those organizations.

35 Under the bill, the registered charitable organization must obtain
36 a permit from the local law enforcement agency within the
37 municipality in which the donation clothing bin will be placed.
38 The bill specifies that a permit shall not be granted if the local law
39 enforcement agency determines that the placement of the bin could
40 constitute a safety hazard.

41 The bill would require the registered charity, and of any other
42 entity which may share or profit from collected donations, to
43 maintain a bona fide office. In addition, certain disclosures would
44 be required on the exterior of the bin, including the name and
45 contact information of any entity other than the registered charity
46 which may share or profit from donations collected via the bin.

47 The bill would require the location where the donations are
48 counted to be approved by the local law enforcement agency and

1 specifies that the registered charitable organization must report
2 monthly on donations collected.

3 Under the bill, the Director of Consumer Affairs and the local
4 law enforcement agency must receive and investigate any
5 complaints from the public about the donation clothing bins. When
6 it is determined that a violation of this bill's provisions has
7 occurred, the registered charitable organization would be issued a
8 warning. If the violation is not rectified in 30 days, the director or
9 the local law enforcement agency could apply to Superior Court for
10 an order to seize the bin, remove it or contract to have it removed at
11 the expense of the registered charitable organization, and forfeit any
12 donations collected via the bin, to be sold at public auction. The
13 proceeds from the sale would be retained by the entity that seized
14 the bin. For other violations of the "Charitable Registration and
15 Investigation Act," a warning would not be issued, but a similar
16 process would be initiated for seizure of the bin and forfeiture and
17 sale of the donations.

18 In addition to any other penalties or remedies provided for in the
19 "Charitable Registration and Investigation Act," the bill would set
20 penalties of up to \$20,000 for each violation of its provisions which
21 results in seizure of the donation clothing bin. Also, registered
22 charitable organizations which have had a bin seized would be
23 ineligible to place unattended donation clothing bins in the future.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2969

STATE OF NEW JERSEY

DATED: MAY 11, 2006

The Assembly Consumer Affairs Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2969.

This Assembly Consumer Affairs Committee Substitute regulates donation clothing bins. The substitute supplements the "Charitable Registration and Investigation Act," P.L.1994, c.16 (C.45:17A-18 et seq.), by requiring that all donation clothing bins be owned by a registered charitable organization and imposing additional reporting and consumer disclosure requirements on those organizations.

Under the substitute, the registered charitable organization must obtain a permit from the local law enforcement agency within the municipality in which the donation clothing bin will be placed. The substitute specifies that a permit shall not be granted if the local law enforcement agency determines that the placement of the bin could constitute a safety hazard.

The substitute requires the registered charity, and any other entity which may share or profit from collected donations, to maintain a bona fide office. In addition, certain disclosures are required on the exterior of the bin, including the name and contact information of any entity other than the registered charity which may share or profit from donations collected via the bin.

Under the substitute, the Director of Consumer Affairs and the local law enforcement agency must receive and investigate any complaints they receive from the public about the donation clothing bins. If it is determined that a violation of this substitute's provisions has occurred, the registered charitable organization would be issued a warning, which would have to be posted on the bin itself. If the violation is not rectified in 45 days, the director or the local law enforcement agency could seize or remove the bin at the expense of the registered charitable organization, and the organization would be required to forfeit any donations collected via the bin. The substitute permits the enforcing entity to either sell at public auction or otherwise dispose of any donations it seizes or removes. The proceeds from the sale would be retained by the entity that seized the bin. For other violations of the "Charitable Registration and Investigation Act," a warning would not be issued, but the director or local law enforcement

agency could apply to the Superior Court for an order to seize the bin and for forfeiture and sale of the donations.

In addition to any other penalties or remedies provided for in the "Charitable Registration and Investigation Act," the substitute would set penalties of up to \$20,000 for each violation of its provisions which results in seizure of the donation clothing bin. Also, registered charitable organizations which have had a bin seized would be ineligible to place unattended donation clothing bins in the future, unless their eligibility is restored by the Director of Consumer Affairs.

**ASSEMBLY COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 597
(Second Reprint)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey State Constitution, I am returning Assembly Committee Substitute for Senate Bill No. 597 (Second Reprint) with my recommendations for reconsideration.

This bill seeks to regulate donation clothing bins by requiring the charity or other person operating the bin to inform donors of the likely destination and list of possible beneficiaries of their donated items. The bill will also require municipal registration of clothing bins and written consent from the property owner to place the bin on his or her property.

I support the objectives of this bill and commend the sponsors for their efforts. I agree that there is a need to regulate the used clothing donation industry on a consistent statewide basis. Those whose kindness and generosity cause them to donate should be fully informed of all likely beneficiaries of their kindness. I further agree that a property owner should have the power to refuse placement of a clothing bin on his or her property.

Nonetheless, the use of clothing bins remains a viable source of revenue for many worthy causes including veteran's quality-of-life programs, drug and gang resistance education, development projects in third-world countries, and police athletic leagues.

As drafted, however, this bill would prohibit placement of clothing bins within 100 yards of a school or public building, deeming such placement in all instances to be a safety hazard.

Hundreds of donation clothing bins - benefiting many worthy causes -- are presently located on public properties throughout the State without incident. These bins do not represent any more of an inherent safety risk than many other objects, including dumpsters or other trash receptacles. In fact, some such bins are placed at police stations, with the full knowledge and consent of the police departments. The Office of Homeland Security and Preparedness does not view clothing bins as presenting any particular safety or security threat and does not believe there is a need to designate them as a *per se* hazard.

For these reasons, I recommend that the bill be amended to remove language prohibiting placement of donation clothing bins within 100 feet of schools or public buildings. Under the proposed amendments, an affected municipality will still be required to deny a permit application if the municipality determines that the contemplated location of a particular clothing bin is a safety hazard. But there is no reason to mandate denial for bins within 100 feet of schools or public buildings, especially when the result would be the forced removal of hundreds of clothing bins from public properties and a negative impact on organizations providing worthwhile programs for needy citizens of this state.

I also recommend technical amendments to (i) ensure smoother implementation of the bill, and (ii) remove references to the Division of Consumer Affairs, which under the final version of this legislation as passed by both houses is not intended to be involved in the regulation of donation clothing bins under the bill.

Accordingly, I herewith return Assembly Committee Substitute for Senate Bill No. 597 (Second Reprint) and recommend that it be amended as follows:

- Page 2, Section 1, Line 15: After "contribution." insert "'Appropriate municipal agency' means the agency determined by resolution of the municipal governing body."
- Page 3, Section 2(a)(2), Line 8: Delete "school, public building, or"
- Page 5, Section 3, Line 16: After "or" delete "an administrative" and insert "a"; also, after "the" delete "division" and insert "appropriate municipal agency"
- Page 5, Section 3, Line 20: After "auction" insert "or otherwise disposed of"
- Page 5, Section 3, Line 36: After "to the" delete "proper" and insert "chief"
- Page 6, Section 4, Line 20: Delete "Director of Consumer Affairs" and insert "appropriate municipal agency"; also, after "in" insert "the municipal court or Superior Court as"
- Page 6, Section 4, Line 22: After "(C.2A:58-10 et. seq.)" insert ", and any penalty monies collected shall be paid to the chief financial officer of the municipality"
- Page 6, Section 5, line 44: After "act" insert ", but appropriate municipal agencies may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act upon its effective date"

Respectfully,

/s/ Jon S. Corzine

Governor

[seal]

Attest:

/s/ Kenneth H. Zimmerman

Chief Counsel to the Governor