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HOUSE BILL NO. 1549

Offered January 25, 1996

A BILL to amend and reenact § 57-48 of the Code of Virginia, relating to solicitation of contributions.

Patron—Cranwell

Consent to introduce

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 57-48 of the Code of Virginia is amended and reenacted as follows:****§ 57-48. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Agriculture and Consumer Services.

"Commissioner" means the Commissioner of Agriculture and Consumer Services, or a member of his staff to whom he may delegate his duties under this chapter.

"Charitable organization" means any person which is or holds itself out to be organized or operated for any charitable purpose, or any person which solicits or obtains contributions solicited from the public. This definition shall not be deemed to include (i) any church or convention or association of churches, primarily operated for nonsecular purposes and no part of the net income of which inures to the direct benefit of any individual; (ii) any political party as defined in § 24.2-101 or any political campaign committee required by state or federal law to file a report or statement of contributions and expenditures; (iii) any labor union ~~registered under § 40.1-76~~ nor any trade association; or (iv) any authorized individual who solicits, by authority of such organization, solely on behalf of a registered or exempt charitable organization or on behalf of an organization excluded from the definition of charitable organization.

"Charitable purpose" means any charitable, benevolent, humane, philanthropic, patriotic, or eleemosynary purpose and the purposes of influencing legislation or influencing the actions of any public official or instigating, prosecuting, or intervening in litigation.

"Civic organization" means any local service club, veterans' post, fraternal society or association, volunteer fire or rescue groups, or local civic league or association of ten or more persons not organized for profit but operated exclusively for educational or charitable purposes as defined herein, including the promotion of community welfare, and the net earnings of which are devoted exclusively to charitable, educational, recreational or social welfare purposes.

"Contribution" means any gift, bequest, devise or other grant of any money, credit, financial assistance or property of any kind or value, including the promise to contribute, except payments by the membership of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, and except money, credit, financial assistance or property received from any governmental authority. The term "contribution" shall not include any donation of blood or any gift made pursuant to Article 2 (§ 32.1-289 et seq.) of Chapter 8 of Title 32.1.

"Federated fund-raising organization" means any federation of independent charitable organizations which have voluntarily joined together, including but not limited to a United Fund or Community Chest, for purposes of raising and distributing money for and among themselves and where membership does not confer operating authority and control of the individual agencies upon the federated group organization.

"Fund-raising expenses" means the expenses of all activities that constitute or are an integral and inseparable part of a solicitation.

"Membership" means those persons to whom, for payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor or other direct benefit, in addition to the right to vote, elect officers, or hold offices. The term "membership" shall not include those persons who are granted a membership upon making a contribution as the result of solicitation.

"Parent organization" means that part of a charitable organization which coordinates, supervises or exercises control over policy, fund raising, and expenditures, or assists or advises one or more chapters, branches or affiliates.

"Person" means any individual, organization, trust, foundation, association, partnership, corporation, society, or other group or combination acting as a unit.

"Professional fund-raising counsel" means any person who for a flat fixed fee under a written

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60 agreement plans, conducts, manages, carries on, advises or acts as a consultant, whether directly or
61 indirectly, in connection with soliciting contributions for, or on behalf of, any charitable or civic
62 organization, but who actually solicits no contributions as a part of such services. A bona fide salaried
63 officer or employee of a registered or exempt charitable organization or the bona fide salaried officer or
64 employee of a registered parent organization shall not be deemed to be a professional fund-raising
65 counsel.

66 "Professional solicitor" means any person who, for a financial or other consideration, solicits
67 contributions for, or on behalf of, a charitable or civic organization, whether such solicitation is
68 performed personally or through his agents, servants, or employees or through agents, servants, or
69 employees specially employed by, or for a charitable or civic organization, who are engaged in the
70 solicitation of contributions under the direction of such person, or any person who, for a financial or
71 other consideration, plans, conducts, manages, carries on, advises or acts as a consultant to a charitable
72 or civic organization in connection with the solicitation of contributions but does not qualify as a
73 professional fund-raising counsel. A bona fide salaried officer or employee of a registered or exempt
74 charitable organization or a bona fide salaried officer or employee of a registered parent organization
75 shall not be deemed to be a professional solicitor.

76 "Sale," "sell" and "sold" mean the transfer of any property or the rendition of any service to any
77 person in exchange for consideration, including any purported contribution without which such property
78 would not have been transferred or such services would not have been rendered.

79 "Solicit" and "solicitation" mean the request or appeal, directly or indirectly, for any contribution on
80 the plea or representation that such contribution will be used for a charitable purpose, including, without
81 limitation, the following methods of requesting such contribution:

82 1. Any oral or written request;

83 2. Any announcement to the press, over the radio or television, or by telephone or telegraph
84 concerning an appeal or campaign to which the public is requested to make a contribution for any
85 charitable purpose connected therewith;

86 3. The distribution, circulation, posting or publishing of any handbill, written advertisement or other
87 publication which directly or by implication seeks to obtain public support; or

88 4. The sale of, offer or attempt to sell, any advertisement, advertising space, subscription, ticket, or
89 any service or tangible item in connection with which any appeal is made for any charitable purpose or
90 where the name of any charitable or civic organization is used or referred to in any such appeal as an
91 inducement or reason for making any such sale, or when or where in connection with any such sale, any
92 statement is made that the whole or any part of the proceeds from any such sale will be donated to any
93 charitable purpose.

94 "Solicitation" as defined herein, shall be deemed to occur when the request is made, at the place the
95 request is received, whether or not the person making the same actually receives any contribution.