

vote of a majority of the members of the hospital board of said hospital district and upon compliance with Laws 1959, Chapter 368.

Approved April 11, 1961.

CHAPTER 309—H. F. No. 8

[Coded]

An act relating to and regulating the solicitation of charitable funds, and providing penalties for violations thereof.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **[309.50] Solicitation of charitable funds; definitions.** Subdivision 1. As used in sections 1 to 12 the words, terms and phrases, defined in this section have the meanings given them.

Subd. 2. "Person" means any individual, organization, group, association, partnership, corporation or trust.

Subd. 3. "Charitable purpose" means any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose.

Subd. 4. "Charitable organization" means any person who engages in or purports to engage in solicitation for a charitable purpose and includes each local county or area division within the state of such charitable organization, provided such local county or area division has authority and discretion to disburse funds or property otherwise than by transfer to any parent organization.

Subd. 5. "Contribution" means the promise or grant of any money or property of any kind or value, including the promise to pay, or payment for merchandise or rights of any other description when representation is made by or on behalf of the seller or solicitor that the whole or any part of the price will be applied to a charitable purpose. Reference to the dollar amount of "contributions" in section 2, subdivision 2(c) means in the case of promises to pay, or payment for merchandise or rights of any other description the value of the total amount promised to be paid or paid for such merchandise or rights and not merely that portion of the purchase price to be applied to a charitable purpose.

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

Subd. 6. "Professional fund raiser" means any person who for financial compensation or profit participates in public solicitation in this state of contributions for, or on behalf of any charitable organization. A bona fide officer or employee of a charitable organization is not a professional fund raiser unless his salary or other compensation is computed on the basis of funds to be raised, or actually raised.

Subd. 7. "Department" means the department of the secretary of state of the state of Minnesota.

Sec. 2. [309.51] **Exemptions.** Subdivision 1. (a) Subject to the provisions of paragraph (b) of this subdivision, sections 1 to 12 shall not apply to any group or association serving a bona fide religious purpose when the solicitation is connected with such a religious purpose, nor shall such sections apply when the solicitation for such a purpose is conducted for the benefit of such a group or association by any other person with the consent of such group or association. Nothing contained in sections 1 to 12 shall prevent such a group or association or any such other person from voluntarily filing a registration statement or annual report under sections 3 and 4.

(b) Where any such group or association or person soliciting for the benefit of such group or association employs a professional fund raiser to solicit or assist in the solicitation of contributions, sections 1 to 12 shall apply and such group or association or person shall file a registration statement as provided in section 3 and an annual report as provided in section 4. Such registration statement and annual report shall be required to cover contributions solicited or to be solicited by or with the assistance of such professional fund raiser but shall not be required to cover contributions solicited or to be solicited independently of the services of such professional fund raiser. The other provisions of sections 1 to 12 shall likewise apply only in relation to contributions solicited or to be solicited by or with the assistance of a professional fund raiser.

Subd. 2. In addition to the exemption granted by subdivision 1, the following charitable organizations may, but need not, file registration statements or annual reports with the department:

(a) The University of Minnesota and any other educational institution which is under the general supervision of the state board of education, the state college board, or is

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

accredited by the University of Minnesota or the North Central Association of Colleges and Secondary Schools, or by any other national or regional accrediting association.

(b) A fraternal, patriotic, social, educational, alumni, professional, trade or learned society which limits solicitation of contributions to persons who either have, or shall have upon making a contribution, the right to vote as a member.

(c) A charitable organization which does not employ a professional fund raiser and which does not plan to solicit from the public within or outside this state gross contributions in excess of \$5,000 during any 12 months period ending June 30th of any year. If gross contributions received by such charitable organization during any 12-months period ending June 30 is in excess of \$5,000, it shall within 30 days after the date it shall have received total contributions in excess of \$5,000 file a registration statement as provided in section 3. A charitable organization shall be deemed to receive in addition to such contributions as are solicited from the public by it, such contributions as are solicited from the public by any other person and transferred to it. Any organization constituted for a charitable purpose receiving an allocation from a community chest, united fund or similar organization shall be deemed to have solicited that allocation from the public.

Sec. 3. [309.52] **Registration statement.** Subdivision 1. Every charitable organization, except as otherwise provided in section 2, which solicits contributions from persons in this state by any means whatsoever shall, prior to any solicitation, file with the department upon forms provided by it, a registration statement which shall include the following information:

- (a) Legally established name.
- (b) Name or names under which it solicits contributions.
- (c) Form of organization.
- (d) Date and place of incorporation, if any.
- (e) Address of principal office in this state, or, if none, the name and address of the person having custody of books and records within this state.
- (f) Names and addresses of officers, directors, trustees, and chief executive officer.

Changes or additions indicated by *italics*; deletions by ~~strikeout~~.

- (g) Federal and state tax exempt status.
- (h) Denial at any time by any governmental agency or court of the right to solicit contributions.
- (i) Date on which accounting year of the charitable organization ends.
- (j) General purposes for which organized.
- (k) General purposes for which contributions to be solicited will be used.
- (l) Methods by which solicitation will be made.
- (m) Copies of contracts between charitable organization and professional fund raisers relating to financial compensation or profit to be derived by the professional fund raisers. Where any such contract is executed after filing of the registration statement, a copy thereof shall be filed within 7 days of the date of execution.
- (n) Board, group or individual having final discretion as to the distribution and use of contributions received.

Subd. 2. The first registration statement filed by a charitable organization shall include a financial statement of its operation for its most recent 12-months period immediately preceding the filing of the first registration statement.

Subd. 3. The registration statement shall be executed by any two duly constituted officers of the charitable organization who shall acknowledge that it was executed pursuant to resolution of the board of directors or trustees, or if there be no such board, then by its managing group which has approved the content of the registration statement, and shall certify that the board of directors or trustees, or if there be no such board, its managing group, have assumed, and will continue to assume responsibility for determining matters of policy and have supervised, and will continue to supervise the finances of the charitable organization.

Subd. 4. Where any local county or area division of a charitable organization is supervised and controlled by a superior or parent organization located within the state, such local county or area division shall not be required to register under this section if the superior or parent organization files a registration statement on behalf of the local county or area division in addition to or as part of its own registration statement.

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

Subd. 5. For filing each registration statement the department shall receive a fee of \$10 to be paid at the time of filing, which fee shall be deposited in the state treasury.

Subd. 6. Each registration statement shall be effective for a period of not more than 12 months from the date of filing thereof, and in any event shall expire on June 30 next following the date of filing.

Subd. 7. In no event shall the registration of a charitable organization continue in effect after the date such organization should have filed, but has failed to file an annual report in accordance with the requirements of section 4, and such organization, if in default under such section, shall not be eligible to file a new registration statement until it shall have filed the required annual report with the department.

Sec. 4. **[309.53] Annual report.** Subdivision 1. Every charitable organization required to file a registration statement pursuant to section 3 shall file an annual report with the department upon forms provided by the department on or before June 30 of each year if its books are kept on a calendar year basis, or within six months after the close of its fiscal year if its books are kept on a fiscal year basis. For cause shown the department may extend the time for filing the annual report for a period of not to exceed an additional three months. The annual report shall be accompanied by a filing fee of \$5 which fee shall be deposited in the state treasury.

Subd. 2. Such annual report shall include a financial statement covering the immediately preceding 12-months period of operation, and shall be executed by any two duly constituted officers of the charitable organization, who shall acknowledge that it was executed pursuant to resolution of the board of directors or trustees, or if there be no such board, then by its managing group which has approved the content of the annual report.

Subd. 3. Such financial statement shall include a balance sheet and statement of income and expense, shall be consistent with forms furnished by the department, and shall be prepared so as to make a full disclosure of the following, including necessary allocations between each item and the basis of such allocations:

(a) Gross receipts and gross income from all sources, broken down into total receipts and income from each separate solicitation project or source;

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

- (b) Cost of administration;
- (c) Cost of solicitation;
- (d) Cost of programs designed to inform or educate the public;
- (e) Funds or properties transferred out of state, with explanation as to recipient and purpose;
- (f) Total net amount disbursed or dedicated within this state, broken down into total amounts disbursed or dedicated for each major purpose, charitable or otherwise;
- (g) Names of professional fund raisers used during the 12-months period and the financial compensation or profit resulting to each professional fund raiser.

It shall be accompanied by an opinion signed by a certified public accountant that such statement fairly represents the financial operations of the charitable organization in sufficient detail to permit public evaluation of its operations. In giving such opinion the certified public accountant shall take into consideration capital, endowment or other reserve funds, if any, controlled by the charitable organization.

Subd. 4. Where a registration statement has been filed by a superior or parent organization as provided in section 3, subdivision 4, it shall file the annual report required under this section on behalf of the local county or area division in addition to or as part of its own report, but the accounting information required under this section shall be set forth separately and not in consolidated form with respect to every local county or area division which raises or expends more than \$5,000.

Sec. 5. [309.54] **Public record.** Subdivision 1. Registration statements, annual reports, and other documents required to be filed shall become public records in the office of the department.

Subd. 2. Every person subject to sections 1 to 12 shall maintain accurate and detailed books and records to provide the information required by sections 1 to 12. All such books and records shall be open to inspection at all reasonable times by the department or by the attorney general.

Subd. 3. Every charitable organization which is required to file a registration statement under section 3 shall keep and maintain within Minnesota, at the place designated

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

in its registration statement, the original books and records, or true copies thereof, pertaining to all money or other property collected from residents of this state and to the disbursement of such money or property. Such books and records shall be preserved for a period of not less than 10 years from the date of preparation thereof.

Sec. 6. [309.55] **Use of names.** Subdivision 1. No charitable organization or person acting for a charitable organization shall use the name of any other person (except that of an officer, director or trustee of the charitable organization by or for which contributions are being solicited) in public solicitation literature without the written consent of such other person. Nothing herein contained shall prevent the publication of names of contributors, without their written consent, in an annual or other periodic report issued by a charitable organization for the purpose of reporting to its membership. Nothing in sections 3 or 4 shall require the disclosure in any registration statement or annual report of the names of individual contributors and the amount contributed by each one individually.

Subd. 2. No charitable organization soliciting contributions shall use a name, symbol or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public.

Subd. 3. Registration under sections 1 to 12 shall not be deemed to constitute an endorsement by the state of Minnesota of the charitable organizations so registered, and no person shall directly or indirectly misrepresent the registration hereunder to any donor or prospective donor.

Sec. 7. [309.56] **Service of process.** Subdivision 1. Any charitable organization which solicits contributions in this state, but does not maintain an office within the state shall be subject to service of process, as follows:

(a) By service thereof on its registered agent within the state, or if there be no such registered agent, then upon the person who has been designated in the registration statement as having custody of books and records within this state; where service is effected upon the person so designated in the registration statement a copy of the process shall, in addition, be mailed to the charitable organization at its last known address;

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

(b) When a charitable organization has solicited contributions in this state, but maintains no office within the state, has no registered agent within the state, and no designated person having custody of its books and records within the state, or when a registered agent or person having custody of its books and records within the state cannot be found as shown by the return of the sheriff of the county in which such registered agent or person having custody of books and records has been represented by the charitable organization as maintaining an office, service may be made by delivering to and leaving with the secretary of state, or with any deputy or clerk in the corporation department of his office, three copies thereof and a fee of \$6.

(c) Following service upon the secretary of state the provisions of law relating to service of process on foreign corporations contained in Minnesota Statutes 1957, Section 303.13, Subdivisions 2, 3, 4, and 5, shall thereafter govern.

Subd. 2. The solicitation of any contribution within this state shall be deemed to be the agreement of the charitable organization that any process against it which is so served in accordance with the provisions of this section shall be of the same legal force and effect as if served personally within this state.

Sec. 8. [309.57] **District court jurisdiction.** Upon the application of the attorney general the district court is vested with jurisdiction to restrain and enjoin violations of sections 1 to 12.

Sec. 9. [309.58] **Violations; witnesses; testimony.** Subdivision 1. Whenever the attorney general has reason to believe that a violation of sections 1 to 12 has been committed or may be committed by a charitable organization, or its officers, directors, trustees, agents or servants, he may request information relevant to the provisions of sections 1 to 12 from such charitable organization. If, in the opinion of the attorney general, such charitable organization, through its managing group, fails to furnish the information requested, or fails to satisfy the attorney general that the charitable organization or its officers, directors, trustees, agents or servants do not have or cannot acquire the information requested, he may cancel the registration statement of such charitable organization. Such cancellation shall be effected by notification of his decision to the organization and any further solicitation after five days from the mailing of such notification shall be in violation of sections 1 to 12. Notification for

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

the purposes of this section shall be deemed given when mailed to the organization named in the registration statement at the address there stated pursuant to paragraph 3 of section 3, subdivision 1.

Subd. 2. Any charitable organization whose registration statement has been cancelled may bring an action in the district court for reinstatement of the registration. If the court finds that the requested information was not reasonably relevant to the purposes of this act or that there was valid reason or excuse for the failure to furnish the requested information, or that the cancellation was not effected in accordance with the provisions of subdivision 1, it shall order reinstatement of the cancelled registration upon such terms as may be proper under the circumstances.

Sec. 10. [309.59] **Construction; powers of attorney general.** Sections 1 to 12 shall not be construed to limit or to restrict the exercise of the powers or the performance of the duties of the attorney general which he otherwise is authorized to exercise or perform under any other provision of law.

Sec. 11. [309.60] **Reciprocal agreements, other states.** The department may enter into reciprocal agreements with a like authority of any other state or states for the purpose of exchanging information made available to the department or to such other like authority.

Sec. 12. [309.61] **Severability.** If any provision of sections 1 to 12 or the application thereof to any person or circumstance is held invalid the invalidity shall not affect other provisions or application of said sections which can be given effect without the invalid provision or application, and to this end the provisions of said sections are severable.

Sec. 13. **Effective date.** This act shall become effective July 1, 1961.

Approved April 13, 1961.

CHAPTER 310—H. F. No. 66

An act relating to salaries of court reporters, amending Minnesota Statutes 1957, Section 486.05, Subdivision 1, as amended.

Be it enacted by the Legislature of the State of Minnesota:

Changes or additions indicated by italics, deletions by ~~strikeout~~.