



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB5383

Introduced 1/26/2006, by Rep. Randall M. Hultgren

#### SYNOPSIS AS INTRODUCED:

225 ILCS 460/1 from Ch. 23, par. 5101  
225 ILCS 460/2.5 new  
225 ILCS 460/7.3 new

Amends the Solicitation for Charity Act. Provides that charitable organization employees who are directly involved in the solicitation, receipt, or transportation of any motor vehicle for a charitable purpose must, prior to any solicitation, receipt, or transportation, register with the Attorney General in the form and manner prescribed by the Attorney General. Sets forth requirements for motor vehicle donations, including requirements for charitable organizations and third party contractors that pick up and dispose of vehicles. Effective July 1, 2006.

LRB094 18036 RAS 53341 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Solicitation for Charity Act is amended by  
5 changing Section 1 and by adding Sections 2.5 and 7.3 as  
6 follows:

7 (225 ILCS 460/1) (from Ch. 23, par. 5101)

8 Sec. 1. The following words and phrases as used in this Act  
9 shall have the following meanings unless a different meaning is  
10 required by the context.

11 (a) "Charitable organization" means any ~~any~~ benevolent,  
12 philanthropic, patriotic, or eleemosynary person or one  
13 purporting to be such which solicits and collects funds for  
14 charitable purposes and includes each local, county, or area  
15 division within this State of such charitable organization,  
16 provided such local, county or area division has authority and  
17 discretion to disburse funds or property otherwise than by  
18 transfer to any parent organization.

19 (a-5) "Charitable organization employee" means an  
20 individual employed by a charitable organization.

21 (b) "Contribution" means the ~~the~~ promise or grant of any  
22 money or property of any kind or value, including the promise  
23 to pay, except payments by union members of an organization.  
24 Reference to the dollar amount of "contributions" in this Act  
25 means in the case of promises to pay, or payments for  
26 merchandise or rights of any other description, the value of  
27 the total amount promised to be paid or paid for such  
28 merchandise or rights and not merely that portion of the  
29 purchase price to be applied to a charitable purpose.  
30 Contribution shall not include the proceeds from the sale of  
31 admission tickets by any not-for-profit music or dramatic arts  
32 organization which establishes, by such proof as the Attorney

1 General may require, that it has received an exemption under  
2 Section 501(c)(3) of the Internal Revenue Code and which is  
3 organized and operated for the presentation of live public  
4 performances of musical or theatrical works on a regular basis.  
5 For purposes of this subsection, union member dues and donated  
6 services shall not be deemed contributions.

7 (c) "Person" means any ~~." Any~~ individual, organization,  
8 group, association, partnership, corporation, trust or any  
9 combination of them.

10 (d) "Professional fund raiser" means any ~~." Any~~ person who  
11 for compensation or other consideration, conducts, manages, or  
12 carries on any solicitation drive or campaign in this State or  
13 from this State or on behalf of a charitable organization  
14 residing within this State for the purpose of soliciting  
15 contributions for or on behalf of any charitable organization  
16 or any other person, or who engages in the business of, or  
17 holds himself out to persons in this State as independently  
18 engaged in the business of soliciting contributions for such  
19 purposes. A bona fide director, officer, employee or unpaid  
20 volunteer of a charitable organization shall not be deemed a  
21 professional fund raiser unless the person is in a management  
22 position and the majority of the individual's salary or other  
23 compensation is computed on a percentage basis of funds to be  
24 raised, or actually raised.

25 (e) "Professional fund raising consultant" means any ~~." Any~~  
26 person who is retained by a charitable organization or trustee  
27 for a fixed fee or rate that is not computed on a percentage of  
28 funds to be raised, or actually raised, under a written  
29 agreement, to only plan, advise, consult, or prepare materials  
30 for a solicitation of contributions in this State, but who does  
31 not manage, conduct or carry on a fundraising campaign and who  
32 does not solicit contributions or employ, procure, or engage  
33 any compensated person to solicit contributions and who does  
34 not at any time have custody or control of contributions. A  
35 volunteer, employee or salaried officer of a charitable  
36 organization or trustee maintaining a permanent establishment

1 or office in this State is not a professional fundraising  
2 consultant. An attorney, investment counselor, or banker who  
3 advises an individual, corporation or association to make a  
4 charitable contribution is not a professional fundraising  
5 consultant as a result of the advice.

6 (f) "Charitable purpose" means any ~~any~~ charitable,  
7 benevolent, philanthropic, patriotic, or eleemosynary purpose.

8 (g) "Charitable Trust" means any relationship whereby  
9 property is held by a person for a charitable purpose.

10 (h) "Education Program Service" means any activity which  
11 provides information to the public of a nature that is not  
12 commonly known or facts which are not universally regarded as  
13 obvious or as established by common understanding and which  
14 informs the public of what it can or should do about a  
15 particular issue.

16 (i) "Primary Program Service" means the program service  
17 upon which an organization spends more than 50% of its program  
18 service funds or the program activity which represents the  
19 largest expenditure of funds in the fiscal period.

20 (j) "Professional solicitor" means any natural person who  
21 is employed or retained for compensation by a professional fund  
22 raiser to solicit contributions for charitable purposes from  
23 persons in this State or from this State or on behalf of a  
24 charitable organization residing within this State.

25 (k) "Program Service Activity" means the actual charitable  
26 program activities of a charitable organization for which it  
27 expends its resources.

28 (l) "Program Service Expense" means the expenses of  
29 charitable program activity and not management expenses or fund  
30 raising expenses. In determining Program Service Expense,  
31 management and fund raising expenses may not be included.

32 (m) "Public Safety Personnel Organization" means any  
33 person who uses any of the words "officer", "police",  
34 "policeman", "policemen", "troopers", "sheriff", "law  
35 enforcement", "fireman", "firemen", "paramedic", or similar  
36 words in its name or in conjunction with solicitations, or in

1 the title or name of a magazine, newspaper, periodical,  
2 advertisement book, or any other medium of electronic or print  
3 publication, and is not a governmental entity. No organization  
4 may be a Public Safety Personnel Organization unless 80% or  
5 more of its voting members or trustees are active, retired, or  
6 disabled police officers, peace officers, firemen, fire  
7 fighters, emergency medical technicians - ambulance, emergency  
8 medical technicians - intermediate, emergency medical  
9 technicians - paramedic, ambulance drivers, or other medical  
10 assistance or first aid personnel.

11 (m-5) "Public Safety Personnel" includes police officers,  
12 peace officers, firemen, fire fighters, emergency medical  
13 technicians - ambulance, emergency medical technicians -  
14 intermediate, emergency medical technicians - paramedic,  
15 ambulance drivers, and other medical assistance or first aid  
16 personnel.

17 (n) "Trustee" means any person, individual, group of  
18 individuals, association, corporation, not for profit  
19 corporation, or other legal entity holding property for or  
20 solicited for any charitable purpose; or any officer, director,  
21 executive director or other controlling persons of a  
22 corporation soliciting or holding property for a charitable  
23 purpose.

24 (Source: P.A. 91-301, eff. 7-29-99.)

25 (225 ILCS 460/2.5 new)

26 Sec. 2.5. Charitable organization employee registration.  
27 Any charitable organization employee who is directly involved  
28 in the solicitation, receipt, or transportation of any motor  
29 vehicle, including without limitation automobiles,  
30 motorcycles, and boats, for a charitable purpose must, prior to  
31 any solicitation, receipt, or transportation, register with  
32 the Attorney General in the form and manner prescribed by the  
33 Attorney General. The Attorney General may adopt any rules and  
34 procedures necessary for the administration of this Section.

1 (225 ILCS 460/7.3 new)

2 Sec. 7.3. Motor vehicle donations.

3 (a) To receive funds derived from the sale of a motor  
4 vehicle donated to it, including without limitation  
5 automobiles, motorcycles, and boats, a charitable organization  
6 registered under this Act must:

7 (1) be designated as a 501(c)(3) corporation under the  
8 Internal Revenue Code and operating in Illinois;

9 (2) be in good standing with the Illinois Secretary of  
10 State;

11 (3) keep all mandatory 990 tax returns up to date and  
12 filed with the Attorney General's Charitable Trust  
13 Division;

14 (4) comply with Internal Revenue Service (IRS)  
15 regulations governing vehicle donations; and

16 (5) be listed on IRS Publication 78 as an organization  
17 qualified to receive deductible donations.

18 (b) If a charitable organization uses a third party  
19 contractor to pick up and dispose of donated motor vehicles,  
20 then the third party contractor shall do all of the following:

21 (1) Be licensed or registered under the Illinois  
22 Vehicle Code as a used vehicle dealer, tower, or vehicle  
23 auctioneer.

24 (2) Be registered as a business within the municipality  
25 of operation.

26 (3) Develop a written contract specifying the services  
27 to be provided to the charitable organization and the costs  
28 of those services. The contract must include provisions  
29 for:

30 (A) procedures for the pick up, physical  
31 assessment, and disposal of the vehicle;

32 (B) procedures for the monthly reporting to the  
33 charitable organization of the year, make, model, and  
34 method of disposal of each donated motor vehicle and an  
35 assessment of the condition and range of value of each  
36 donated motor vehicle; and

1           (C) vehicle disposition reports that list the  
2           sale, salvage, or auction price of donated vehicles,  
3           minus the costs for services, such as towing,  
4           commissions, and handling, as well as a picture of the  
5           vehicle taken before disposition.

6           (c) A charitable organization must provide the following  
7           documentation to the donor of a motor vehicle:

8           (1) proof of compliance with IRS rules governing  
9           vehicle donation charitable deductions;

10           (2) within 30 days after the donation is received by  
11           the charitable organization, a letter specifying the date  
12           the donated motor vehicle was picked up and the year, make,  
13           and model of the donated motor vehicle; and

14           (3) after disposition of the vehicle, a letter  
15           specifying the final amount of the donation exclusive of  
16           all fees, such as towing fees, commission payments, or  
17           title transfer fees.

18           (d) A charitable organization receiving funds or vehicles  
19           pursuant to this Section must file with the IRS all information  
20           required by law.

21           (e) A charitable organization, or its designee, receiving  
22           funds derived from the sale of a motor vehicle donated to the  
23           organization must complete the State of Illinois Sales Tax  
24           Transaction Return (ST-556).

25           (f) A charitable organization to which a motor vehicle is  
26           donated, or its designee, must complete a State of Illinois  
27           Application for Vehicle Title and Registration form to insure  
28           that once the donor relinquishes the donated vehicle the  
29           vehicle's ownership and registration are transferred.

30           Section 99. Effective date. This Act takes effect July 1,  
31           2006.