

Introduced: 2/14/78  
Referred: Commerce and  
Judiciary

1 IN THE SENATE

BY COLLETTA BY REQUEST

2 SENATE BILL NO. 504

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of charitable  
7 organizations and the solicitation of contributions  
8 for charitable purposes."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 10 is amended by adding a new chapter to read:

11 CHAPTER 50. CHARITABLE ORGANIZATIONS AND

12 SOLICITATION OF CONTRIBUTIONS.

13 ARTICLE 1. INTRODUCTORY PROVISIONS.

14 Sec. 10.50.010. LEGISLATIVE FINDINGS, PURPOSE. The legislature  
15 finds that charities perform valuable social services at a cost-saving  
16 to the state -- responsibilities that otherwise would have to be  
17 assumed by state government. However, many sales solicitations for  
18 charitable purposes have involved situations in which funds are  
19 solicited from the people of this state for charitable purposes, but  
20 an insignificant amount, if any, of the money solicited and collected  
21 actually is received by any charity. Therefore, in the interest of  
22 protecting the public welfare, the state should ensure that money and  
23 other property collected in fund-raising campaigns are used solely for  
24 the charitable purposes promised during that campaign, to preclude the  
25 diversion of funds from necessary philanthropies for personal use or  
26 gain, and to make certain that full information concerning charities,  
27 their purposes, management, and method of solicitation is made avail-  
28 able to protect the public from the unscrupulous so that worthwhile  
29 charitable organizations will thrive while those unworthy of public

1 support will be exposed.

2 ARTICLE 2. CHARITABLE ORGANIZATIONS.

3 Sec. 10.50.020. REGISTRATION OF CHARITABLE ORGANIZATIONS. (a) A  
4 charitable organization, except one exempted by sec. 30 of this chapter,  
5 which intends to solicit contributions from persons in the state or  
6 from a governmental agency shall, before solicitation, register with  
7 the department by filing a statement, on a form prescribed by it,  
8 which includes the following information:

9 (1) the name of the organization and any name under which  
10 it intends to solicit contributions;

11 (2) the names and addresses of the officers, directors,  
12 trustees, and executive personnel of the organization and of the  
13 individuals responsible for the distribution of the funds;

14 (3) the addresses of the organization and the addresses of  
15 offices in this state; if the organization does not maintain an  
16 office, the name and address of the person having custody of its  
17 financial records;

18 (4) where and when the organization was legally established,  
19 the form of its organization, and its tax-exempt status;

20 (5) the purposes for which the organization is organized  
21 and the purposes for which the contributions to be solicited will be  
22 used;

23 (6) the date on which the fiscal year of the organization  
24 ends;

25 (7) whether the organization is authorized by a govern-  
26 mental agency to solicit contributions and whether it is or has been  
27 enjoined by a court from soliciting contributions;

28 (8) the names and addresses of professional fund raisers  
29 who are acting or have agreed to act on behalf of the organization;

1 (9) a description of the methods of solicitation;

2 (10) the period of time during which the solicitation is to  
3 be conducted;

4 (11) whether the solicitation is to be conducted by volun-  
5 tary unpaid solicitors, by paid solicitors, or by both.

6 (b) The registration form must be signed by the president or  
7 other authorized officer and the chief fiscal officer of the organiza-  
8 tion.

9 (c) A filing fee of \$10 must be paid to the department at the  
10 time of registration.

11 (d) The registration remains in effect unless it is either  
12 cancelled as provided in this chapter or withdrawn by the organization.

13 (e) A registered organization shall notify the department within  
14 10 days of a change in the information required to be furnished by the  
15 organization under (a) of this section.

16 (f) No registration of a charitable organization continues in  
17 effect after the date the organization should have filed, but failed  
18 to file, an annual report in accordance with sec. 40 of this chapter,  
19 and the organization may not file a new registration until it has  
20 filed the required annual report with the department. If the report  
21 is subsequently filed, the organization may file a new registration  
22 upon the payment of a fee of \$10 to the department.

23 (g) Registration statements, financial reports, professional  
24 fund raisers' contracts, and other documents required to be filed  
25 under this chapter are public records in the department's office.

26 Sec. 10.50.030. EXEMPTIONS. The following persons are not  
27 required to register with the department:

28 (1) an educational institution the curricula of which in  
29 whole or in part are registered or approved by the Department of

1 Education either directly or by acceptance of accreditation by an  
2 accrediting body recognized by the Department of Education, an educa-  
3 tional institution confining its solicitation of contributions to its  
4 student body, alumni, faculty and trustees, and their families, or a  
5 public library, if the annual financial report of the institution or  
6 library is kept open for public inspection;

7 (2) the following when soliciting contributions from only  
8 their members: religious corporations, organizations, or charities;  
9 agencies or organizations operated, supervised, or controlled by or in  
10 connection with a religious corporation or organization; fraternal,  
11 patriotic, social, alumni, historical, or veterans organizations and  
12 societies;

13 (3) persons requesting a contribution for the relief of an  
14 individual, specified by name at the time of the solicitation, if all  
15 of the contributions collected, without deductions, are turned over to  
16 the named beneficiary.

17 Sec. 10.50.040. ANNUAL REPORTS. (a) A charitable organization  
18 registered under sec. 20 of this chapter shall, within six months  
19 after the close of its fiscal year, file a written report with the  
20 department on forms prescribed by the department. The report must  
21 include a financial statement covering the fiscal year, clearly set-  
22 ting out the gross income, expenses, and net income inuring to the  
23 benefit of the charitable organization, a balance sheet as of the  
24 close of the fiscal year, and a schedule of the activities carried on  
25 by the organization in the performance of its purposes, and the amounts  
26 expended for them, during the fiscal year. An organization shall  
27 report its expenditures in accordance with standards and classification  
28 of accounts prescribed by the department to effect uniform reporting  
29 by organizations having similar activities and programs. The report

1 must also include a statement of changes in the information required  
2 to be contained in the registration form filed on behalf of the organi-  
3 zation. The report must be signed by the president or other authorized  
4 officer and the chief fiscal officer of the organization, and accom-  
5 panied by an opinion signed by an independent public accountant that  
6 the financial statement and balance sheet fairly represent the finan-  
7 cial operations and position of the organization.

8 (b) A charitable organization registered under sec. 20 of this  
9 chapter, which is the parent organization of one or more chapters in  
10 the state, and its chapters, may comply with the reporting require-  
11 ments of (a) of this section by filing a consolidated written report  
12 on forms prescribed by the department. As used in this section,  
13 "chapter" means a branch, auxiliary, affiliate, or other subordinate  
14 unit of a registered charitable organization of whatever designation,  
15 whose policies, fund-raising activities, and expenditures are supervised  
16 or controlled by the parent organization. There must be appended to a  
17 consolidated report a schedule containing the information that may be  
18 prescribed by the department, reflecting the activities of each chapter.  
19 The schedule shall contain a certification, under penalty of perjury,  
20 by an official of the organization certifying that the information  
21 contained in it is true. The failure of a parent organization to file  
22 an appropriate consolidated written report does not excuse either the  
23 parent organization or any of its chapters from complying with (a) of  
24 this section.

25 (c) The department shall cancel the registration of an organiza-  
26 tion which fails to comply with (a) of this section within the time  
27 prescribed, or fails to furnish the additional information that is  
28 requested by the department within the required time. However, the  
29 department may extend the period of time in which the report required

1 by this section or information requested by the department must be  
2 filed. This extension of time may not exceed six months.

3 Sec. 10.50.050. EXAMINATION BY ATTORNEY GENERAL. (a) The  
4 records, books, and reports maintained by a charitable organization  
5 registered or required to register under sec. 20 of this chapter must  
6 be kept available for inspection by the attorney general at the prin-  
7 cipal office of the organization.

8 (b) A charitable organization is subject to examination by the  
9 attorney general to ascertain the condition of its affairs and to what  
10 extent, if at all, it has failed to comply with trusts which it has  
11 assumed or has departed from the general purpose for which it was  
12 formed. In case of a failure or departure, the attorney general shall  
13 institute the proceedings necessary to correct the noncompliance or  
14 departure.

15 Sec. 10.50.060. ENFORCEMENT BY ATTORNEY GENERAL. (a) In addi-  
16 tion to any other action authorized by law, the attorney general may  
17 bring an action in the superior court against a charitable organiza-  
18 tion and any other persons acting for it or on its behalf to enjoin  
19 the organization and persons from soliciting or collecting funds or  
20 property or doing acts in furtherance of soliciting or collecting, and  
21 to cancel the registration statement previously filed with the depart-  
22 ment, when the attorney general believes that the charitable organiza-  
23 tion:

- 24 (1) is operating in violation of this chapter;  
25 (2) has made a material false statement in an application,  
26 registration, or statement required to be filed under this chapter;  
27 (3) has refused or failed, or its principal officers have  
28 refused or failed, after notice, to produce records of the organiza-  
29 tion;

1 (4) is employing or about to employ, in the solicitation or  
2 collection of funds or other property for the organization, a device,  
3 scheme, or artifice to defraud or to obtain money or property by means  
4 of a false pretense, representation, or promise; or

5 (5) is soliciting funds by mail when the solicitation  
6 includes sending goods, wares, or merchandise not ordered or requested  
7 by the recipient and less than 50 per cent of the total amount of the  
8 funds so raised is or will be devoted to the purported purposes of the  
9 charitable organization.

10 (b) The activity described in (a) of this section is a fraud on  
11 the people of the state.

12 (c) The attorney general may exercise the authority granted in  
13 this section against a charitable organization which operates under  
14 the pretense of being an organization exempted by the provisions of  
15 sec. 30 of this chapter and is not in fact an organization entitled to  
16 an exemption.

17 Sec. 10.50.070. NONRESIDENT CHARITABLE ORGANIZATIONS; SERVICE OF  
18 PROCESS. (a) A charitable organization, having its principal place  
19 of business outside the state or which is organized under the laws of  
20 another state, which solicits contributions from people in this state  
21 is considered to have irrevocably appointed the commissioner of commerce  
22 and economic development as its agent upon whom may be served a summons,  
23 subpoena, subpoena duces tecum, or other process directed to the charit-  
24 able organization, or a partner, principal, officer, or director in a  
25 proceeding brought by the attorney general under this chapter. A  
26 charitable organization may file with the commissioner a designation,  
27 properly acknowledged, irrevocably appointing the commissioner as its  
28 agent upon whom process may be served. However, a designation filed  
29 with the commissioner under AS 10.05.057 or 10.20.046 also is suffi-

1           cient designation for the purposes of this section.

2           (b) Service is made upon the commissioner as agent by filing  
3 with him or his designee within his department duplicate copies of the  
4 process, notice, or demand. When process, notice, or demand is served  
5 on the commissioner, he shall immediately forward a copy of it by  
6 registered mail to the corporation at its registered office.

7           ARTICLE 3. PROFESSIONAL FUND RAISERS AND SOLICITORS.

8           Sec. 10.50.080. PROFESSIONAL FUND RAISERS. (a) No person may  
9 act as a professional fund raiser for a charitable organization  
10 required to register under sec. 20 of this chapter before he has  
11 registered with the department or after the expiration or cancellation  
12 of the registration or its renewal. Applications for registration and  
13 re-registration must be in writing, under oath, in the form prescribed  
14 by the department and accompanied by an annual fee of \$25. The appli-  
15 cant at the time of making application shall file with, and have  
16 approved by, the department a bond in which the applicant is the  
17 principal obligor in the sum of \$5,000 with one or more sureties whose  
18 liability in the aggregate as sureties will equal at least that sum.  
19 The bond must run to the attorney general for the use of the state to  
20 pay a person who may have a cause of action against the obligor of the  
21 bond for malfeasance or misfeasance in the conduct of solicitation.  
22 Registration or re-registration when effected is for a period of one  
23 year, or a part of it, expiring on March 31. Registration may be  
24 renewed for additional one-year periods. Applications for registra-  
25 tion and re-registration and bonds, when filed with the department,  
26 are public records.

27           (b) A professional fund raiser shall maintain accurate, current  
28 books and records of his activities while required to be registered  
29 under this section. He shall keep the books and records in his office

1 available for inspection and examination by the attorney general until  
2 at least three years have elapsed after the end of the effective  
3 period of the registration to which they relate.

4 (c) A professional fund raiser and his or her agents and employees  
5 shall disclose the following within 30 seconds of the beginning of  
6 each solicitation for a sale or a donation:

7 (1) the fact that the caller is a paid professional solici-  
8 tor;

9 (2) the name of the professional fund raiser employing the  
10 solicitor;

11 (3) the percentage of gross or net proceeds to be received  
12 by the charitable organization from the fund-raising activities.

13 Sec. 10.50.090. CONTRACTS. Contracts entered into between pro-  
14 fessional fund raisers and charitable organizations must be in writing  
15 and a copy of the contract filed with the department within 10 days  
16 after it is made by the professional fund raiser who is a party to it.  
17 Copies of these contracts shall be kept on file in the offices of the  
18 charitable organization and the professional fund raiser during the  
19 contract's term and until the expiration of a period of three years  
20 after the date the solicitation of contributions provided for in the  
21 contract terminates.

22 Sec. 10.50.100. PROFESSIONAL SOLICITOR. No person may act as a  
23 professional solicitor in the employ of a professional fund raiser  
24 required to register under sec. 80 of this chapter before he has  
25 registered with the department or after the expiration or cancellation  
26 of the registration or its renewal. Application for registration or  
27 re-registration shall be in writing, under oath, on the form prescribed  
28 by the department and accompanied by a fee of \$10. The registration  
29 or re-registration when effected shall be for a period of one year, or

1 part of it, expiring on March 31, and may be renewed by written appli-  
2 cation, under oath, on the form prescribed in this section for addi-  
3 tional one-year periods. Applications for registration and re-registra-  
4 tion, when filed with the department, are public records in the depart-  
5 ment's office.

6 Sec. 10.50.110. ENFORCEMENT BY ATTORNEY GENERAL. In addition to  
7 any other action authorized by law, the attorney general may bring an  
8 action in the superior court against a professional fund raiser,  
9 professional solicitor, or any other person to enjoin a solicitation  
10 or collection or any act in furtherance of a solicitation or collection,  
11 or to cancel a registration statement previously filed with the  
12 department, when the attorney general believes that the professional  
13 fund raiser, professional solicitor, or other person

14 (1) is operating in violation of this chapter;

15 (2) has made a false statement in an application, registra-  
16 tion, or statement required to be filed under this chapter;

17 (3) has refused or failed, after notice, to produce a  
18 record demanded of him; or

19 (4) is employing or about to employ, in a solicitation or  
20 collection of contributions for a charitable organization a device,  
21 scheme, or artifice to defraud or to obtain money or property by means  
22 of a false pretense, representation, or promise.

23 Sec. 10.50.120. NONRESIDENT PROFESSIONAL FUND RAISERS AND PRO-  
24 FESSIONAL SOLICITORS; SERVICE OF PROCESS. (a) A professional fund  
25 raiser or professional solicitor who has his principal place of  
26 business outside the state or is organized under the laws of another  
27 state and who solicits contributions from people in this state is  
28 considered to have irrevocably appointed the commissioner of commerce  
29 and economic development as his agent upon whom may be served any

1 summons, subpoena, subpoena duces tecum, or other process directed to  
2 the professional fund raiser, professional solicitor, or any partner,  
3 principal, officer, or director of it, in an action or proceeding  
4 brought under this chapter. A professional fund raiser or professional  
5 solicitor may file with the commissioner a designation, properly  
6 acknowledged, irrevocably appointing the commissioner as his agent  
7 upon whom process may be served. However, a designation filed with  
8 the commissioner under AS 10.05.057 or 10.20.046 also is a sufficient  
9 designation for the purposes of this section.

10 (b) Service is made upon the commissioner as agent by leaving  
11 with him, or his designee within his department, duplicate copies of  
12 the process, notice, or demand. When process, notice, or demand is  
13 served on the commissioner, he shall immediately forward a copy of it  
14 by registered mail to the corporation at its registered office.

15 ARTICLE 4. MISCELLANEOUS PROVISIONS.

16 Sec. 10.50.800. IDENTIFICATION CARDS REQUIRED. (a) Every  
17 person, soliciting contributions for or on behalf of a charitable  
18 organization which is required to register under sec. 20 of this  
19 chapter, shall have readily available for prospective contributors an  
20 identification card which includes the following information in legible  
21 form:

22 (1) the name of the charitable organization for which the  
23 contributions are solicited;

24 (2) a statement that the charitable organization has  
25 registered with the department;

26 (3) the date of registration;

27 (4) other information, from the registration statement,  
28 that may be required by regulations of the department.

29 Sec. 10.50.810. UNAUTHORIZED USE OF NAMES. (a) No person may,

1 for the purpose of soliciting contributions from persons in this state,  
2 use the name of any person other than an officer, director, or trustee  
3 of the charitable organization by or for which contributions are  
4 solicited, without the written consent of that other person.

5 (b) A person is considered to have used the name of another  
6 person for the purpose of soliciting contributions if the latter  
7 person's name is listed on stationery, in an advertisement, a brochure  
8 or in correspondence in or by which a contribution is solicited by or  
9 on behalf of a charitable organization or his name is listed or  
10 referred to in connection with a request for a contribution as one who  
11 has contributed to, sponsored, or endorsed the charitable organization  
12 or its activities.

13 (c) Nothing in this section prevents the publication of names of  
14 contributors, without their written consents, in an annual or other  
15 periodic report issued by a charitable organization for the purpose of  
16 reporting contributions to contributors.

17 Sec. 10.50.820. USE OF SIMILAR NAME, SYMBOL, OR STATEMENT. No  
18 charitable organization, professional fund raiser, or other person  
19 soliciting contributions for or on behalf of a charitable organization  
20 may use a name, symbol, or statement so closely related or similar to  
21 that used by another charitable organization or governmental agency  
22 that the use of it would tend to confuse or mislead the public.

23 Sec. 10.50.830. SOLICITATION BY UNREGISTERED ORGANIZATIONS OR  
24 FUND RAISER. (a) No charitable organization required to register  
25 under this chapter may employ a professional fund raiser required to  
26 register under this chapter unless the fund raiser is registered.

27 (b) No professional fund raiser required to register under this  
28 chapter may enter into a contract or raise funds for an organization  
29 required to register under this chapter unless the organization is

1 registered.

2 (c) No professional fund raiser required to register under this  
3 chapter may employ a professional solicitor who is not registered  
4 under this chapter.

5 (d) In addition to other remedies provided by law, the attorney  
6 general may bring an action to enjoin a violation of this section.

7 Sec. 10.50.840. NONEXISTENT ORGANIZATIONS, SOLICITING CONTRI-  
8 BUTIONS FOR. It is unlawful for any person to solicit or collect  
9 contributions on behalf of a nonexistent or fictitious organization.

10 Sec. 10.50.850. WRITTEN RECEIPT REQUIRED. No charitable organiza-  
11 tion may accept any contribution exceeding five dollars in cash or  
12 tangible property without providing on request of the donor a written  
13 receipt acknowledging the contribution and personally signed by the  
14 person accepting the contribution.

15 Sec. 10.50.860. PROHIBITED REPRESENTATIONS. No person may, in  
16 connection with the solicitation of contributions or the sale of  
17 tangible personal property or services, represent or lead anyone by  
18 any manner to believe that the person on whose behalf the solicitation  
19 or sale is being conducted is a bona fide charitable organization or  
20 that the proceeds of the solicitation or sale will be used for charit-  
21 able purposes, if he has reason to believe it is not the fact.

22 Sec. 10.50.870. VIOLATIONS UNFAIR PRACTICE UNDER AS 45.50.471 --  
23 45.50.561. The commission of an act or practice prohibited by this  
24 chapter is an unfair or deceptive act or practice in the conduct of  
25 trade or commerce for the purposes of the consumer protection Act (AS  
26 45.50.471 -- 45.50.561).

27 Sec. 10.50.880. ADMINISTRATIVE REGULATIONS. The attorney  
28 general shall adopt under the Administrative Procedure Act (AS 44.62)  
29 regulations he considers necessary for the effective administration of

1 this chapter.

2 Sec. 10.50.890. EXCHANGE OF INFORMATION, RECIPROCAL AGREEMENTS.

3 The attorney general may enter into reciprocal agreements with a like  
4 authority in another state to exchange information made available to  
5 the department under this chapter. Under these agreements the attorney  
6 general may accept information filed by a charitable organization,  
7 professional fund raiser, or professional solicitor, with another  
8 state in place of the information required to be filed under secs. 20,  
9 80, or 100 of this chapter, if the information is substantially  
10 similar to the information required to be filed under those sections.

11 Sec. 10.50.900. CONSTRUCTION; POWERS. This chapter shall be  
12 liberally construed to meet its objectives, and the attorney general  
13 has all the powers necessary to carry out the purposes of this chapter.

14 ARTICLE 5. GENERAL PROVISIONS.

15 Sec. 10.50.910. DEFINITIONS. In this chapter

16 (1) "charitable organization" means any benevolent, philan-  
17 thropic, patriotic, or eleemosynary person or one purporting to be the  
18 same;

19 (2) "commissioner" means the commissioner of commerce and  
20 economic development;

21 (3) "contribution" means the promise or grant of money or  
22 property of any kind or value, including a grant or other financial  
23 assistance from an agency of government, whether or not property or  
24 services are received by the contributors, so long as the solicitation  
25 is made on behalf of a charitable organization; it does not include  
26 payments by members of an organization for membership fees, dues,  
27 fines, assessments, or for services rendered to individual members, if  
28 membership in the organization confers a bona fide right, privilege,  
29 professional standing, honor, or direct benefit other than the right

1 to vote, elect officers, or hold office;

2 (4) "department" means the Department of Law;

3 (5) "professional fund raiser" means a person who, for com-  
4 pensation or other consideration, plans, conducts, manages, or carries  
5 on a drive or campaign in this state for the purpose of soliciting  
6 contributions for or on the behalf of a charitable organization or  
7 other person, or who engages in the business of or holds himself out  
8 to persons in the state as independently engaged in the business of  
9 soliciting contributions for that purpose; a bona fide officer or  
10 employee of a charitable organization is not considered a professional  
11 fund raiser;

12 (6) "professional solicitor" means a person who is employed  
13 or retained for compensation by a professional fund raiser to solicit  
14 contributions for charitable purposes from persons in this state.

15 Sec. 10.50.910. SHORT TITLE. This chapter may be cited as the  
16 Alaska Charitable Organizations and Solicitation Act.  
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