



House of Representatives

General Assembly

File No. 219

February Session, 2000

House Bill No. 5593

House of Representatives, March 23, 2000

The Committee on General Law reported through REP. FOX of the 144th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

An Act Concerning Charitable Solicitations.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-190c of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) Every charitable organization required to register pursuant to
4 section 21a-190b shall annually file with the department a report for its
5 most recently completed fiscal year, which report shall include a
6 financial statement and such other information as the commissioner
7 may require. Such charitable organization shall file such report not
8 more than five months following the close of its fiscal year, which
9 report shall be accompanied by a fee of twenty-five dollars and shall be
10 signed by two authorized officers of the organization, one of whom
11 shall be the chief fiscal officer of the organization. Such officers shall
12 certify that such report is true and correct to the best of their
13 knowledge. The commissioner shall prescribe the form of the report
14 and may prescribe standards for its completion. The commissioner

15 may accept, under such conditions as he may prescribe, a copy or
16 duplicate original of financial statements, reports or returns filed by
17 the charitable organization with the Internal Revenue Service or
18 another state having requirements similar to the provisions of sections
19 21a-190a to 21a-190l, inclusive, as amended by this act.

20 (b) A charitable organization with gross revenue in excess of [one]
21 two hundred thousand dollars in the year covered by the report shall
22 include with its financial statement an audit report of a certified public
23 accountant. For purposes of this section, gross revenue shall not
24 include grants or fees from government agencies.

25 (c) The commissioner may, upon written request and for good cause
26 shown, grant an extension of time, not to exceed three months, for the
27 filing of such report.

28 (d) An additional late filing fee of [twenty-five] forty dollars shall
29 accompany any report which is not filed in a timely manner.

30 (e) Every charitable organization required to file an annual report
31 and every charitable organization subject to the provisions of
32 subdivision (6) of section 21a-190d, as amended by this act, shall keep
33 true fiscal records which shall be available to the department for
34 inspection upon request. Such organization shall retain such records
35 for no less than three years after the end of the fiscal year to which they
36 relate.

37 Sec. 2. Section 21a-190d of the general statutes is repealed and the
38 following is substituted in lieu thereof:

39 The following charitable organizations shall not be subject to the
40 provisions of sections 21a-190b and 21a-190c, as amended by this act,
41 provided each such organization shall submit such information as the
42 department may require to substantiate an exemption under this
43 section:

- 44 (1) Any duly organized religious corporation, institution or society;
- 45 (2) Any parent-teacher association or educational institution, the
46 curricula of which in whole or in part are registered or approved by
47 any state or the United States either directly or by acceptance of
48 accreditation by an accrediting body;
- 49 (3) Any nonprofit hospital licensed in accordance with the
50 provisions of section 19a-630 or any similar provision of the laws of
51 any other state;
- 52 (4) Any governmental unit or instrumentality of any state or the
53 United States;
- 54 (5) Any person who solicits solely for the benefit of organizations
55 described in subdivisions (1) to (4), inclusive, of this section; and
- 56 (6) Any charitable organization which normally receives less than
57 [twenty-five] fifty thousand dollars in contributions annually,
58 provided such organization does not compensate any person primarily
59 to conduct solicitations.

60 Sec. 3. Section 21a-190l of the general statutes is repealed and the
61 following is substituted in lieu thereof:

62 (a) The commissioner may deny, suspend or revoke the registration
63 of any charitable organization, fund-raising counsel or paid solicitor
64 which has violated any provision of sections 21a-190a to 21a-190l,
65 inclusive, as amended by this act. The commissioner may accept a
66 written assurance of compliance when he determines that a violation
67 of said sections is not material and that the public interest would not
68 be served by a denial, suspension or revocation of such registration.

69 (b) The Attorney General, at the request of the commissioner, may
70 apply to the Superior Court for, and the court may grant, a temporary
71 injunction or a permanent injunction to restrain violations of sections

72 21a-190a to 21a-190l, inclusive, as amended by this act, the
73 appointment of a receiver, an order of restitution, an accounting and
74 such other relief as may be appropriate to ensure the due application
75 of charitable funds. Proceedings thereon shall be brought in the name
76 of the state.

77 (c) Any person who knowingly violates any provision of sections
78 21a-190a to 21a-190l, inclusive, as amended by this act, shall be fined
79 not more than [one] five thousand dollars or imprisoned not more than
80 one year, or both.

81 (d) In any action brought under subsection (b) of section 21a-190l, as
82 amended by this act, if the court finds that a person has wilfully
83 engaged in conduct prohibited by section 21a-190h, the Attorney
84 General, upon petition to the court, may recover, on behalf of the state,
85 a civil penalty of not more than two thousand five hundred dollars for
86 each violation. For purposes of this subsection, a wilful violation
87 occurs when the party committing the violation knew or should have
88 known that such conduct was prohibited by section 21a-190h, as
89 amended by this act.

GL Committee Vote: Yea 14 Nay 0 JF

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Revenue Loss, Revenue Gain

Affected Agencies: Department of Consumer Protection, Attorney General

Municipal Impact: None

Explanation

State Impact:

	Current FY	Future Years
State Revenue Gain	None	\$13,875
State Revenue Loss	None	(\$12,310)
Net State Gain	None	\$1,565
Municipal Impact	None	None

The bill increases the threshold from \$25,000 to \$50,000 for charities that must register as a public charity and file an annual report. Based on FY 99 figures 320 currently registered charities would no longer be required to register and an estimated 33 fewer new charities would need to register. Thus an estimated total of 353 charities would not register and pay the annual registration fee of \$25, resulting in a revenue loss of \$ 8,825 (353 x \$25).

The bill increases the late filing fee from \$25 to \$40, and the FY 99

collections for late filings were \$26,550. Based on previous history, it is anticipated that 87 filers who are exempted under this bill would not pay the \$40 late fee resulting in a future revenue loss of \$3,485 (87x \$40). Based on FY 99 data it is anticipated that 925 organizations would be subject to the increased late fee resulting in a revenue gain of \$13,875 (925 x \$15).

Thus, lowering the threshold for agencies that must register will result in a revenue loss of \$12,310 in registration fees and late filing fees. Increasing the late filing fee will result in a revenue gain of \$13,875, for a net revenue gain of \$1,565.

Finally, the bill increases the maximum civil penalties from \$1,000 to \$5,000 for violations of charitable solicitation laws. This may result in a revenue gain, the extent of which is dependent on the number of penalties imposed and the amount of such penalties.

OLR Bill Analysis

HB 5593

AN ACT CONCERNING CHARITABLE SOLICITATIONS.**SUMMARY:**

This bill:

1. increases the maximum criminal penalty from \$1,000 to \$5,000 for violating the charitable solicitation law and applies the penalty only to knowing rather than all violations,
2. allows the attorney general to seek up to \$2,500 as a civil penalty in suits brought to restrain violations of the charitable solicitation law,
3. exempts charities that raise less than \$50,000 rather than \$25,000 from the requirements that they register with the state and file an annual report,
4. increases from \$100,000 to \$200,000 the threshold for the requirement that a charity's annual report be audited, and
5. increases the late fee from \$25 to \$40 for failing to file the required annual report on time.

EFFECTIVE DATE: October 1, 2000

CIVIL PENALTY

When requested by the commissioner of consumer protection, the law allows the attorney general to seek a temporary or permanent restraining order, restitution order, accounting, or other relief to make certain that charitable funds are "duly applied." The bill also allows the attorney general to seek up to \$2,500 as a civil penalty in cases in which a person has willfully engaged in conduct prohibited by the charitable funds law. For this purpose, a "willful violation" has

occurred when the violator knew, or should have known, that the conduct was prohibited.

ANNUAL REPORT

The law requires each registered charity to file an annual report that includes a financial statement. Under current law, if the organization's revenue is over \$100,000, it must include a copy of an audit report prepared by a certified public accountant. The bill raises this threshold to \$200,000.

BACKGROUND

Registration Requirements

The law requires most charities to register with the Department of Consumer Protection (DCP). The law exempts:

1. an organized religious corporation, institution, or society;
2. a parent-teacher organization or an accredited educational institution;
3. a licensed nonprofit hospital;
4. a governmental organization;
5. anyone who solicits solely for one of the above; and
6. charities that normally receive less than \$25,000 annually (the amount being raised by this bill).

COMMITTEE ACTION

General Law Committee

Joint Favorable Report
Yea 14 Nay 0