

H. B. 2055

(By Delegate Hamilton)

[Introduced January 12, 2011; referred to the Committee on Roads and Transportation then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-19-13a, relating to prohibiting charitable organizations from soliciting contributions on public highways; and prescribing criminal penalties for violations.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §17-19-13a, to read as follows:

ARTICLE 19. GENERAL CRIMINAL PROVISIONS.

§17-19-13a. Prohibiting solicitation by charitable organizations on public highways; penalties.

(a) For purposes of this section:

(1) "Charitable organization" means:

(A) A person who is or holds itself out to be a benevolent,

1 educational, philanthropic, humane, patriotic, religious or
2 eleemosynary organization; or

3 (B) Any person who solicits or obtains contributions solicited
4 from the public for charitable purposes; or

5 (C) Any person who in any manner employs any appeal for
6 contributions which may be reasonably interpreted to suggest that
7 any part of such contributions will be used for charitable
8 purposes.

9 (2) "Contribution" means a promise or grant of any money or
10 property of any kind or value.

11 (3) "Solicitation" means a request, directly or indirectly,
12 for any contribution on the representation the contribution will be
13 used for a charitable purpose, including, but not limited to:

14 (A) Any oral or written request;

15 (B) Any announcement to the press, over the radio, television,
16 telephone or telegraph, requesting the public make a contribution
17 for any charitable purpose;

18 (C) Distributing, circulating, posting or publishing any
19 handbill, written advertisement or other publication which directly
20 or by implication seeks to obtain public support; or

21 (D) The selling of, offering or attempting to sell, any
22 advertisement, advertising space, subscription, ticket or any
23 service or tangible item in connection with any request made for
24 any charitable purpose, or where the name of any charitable or

1 civic organization is used or referred to as an inducement or
2 reason for making any such sale, or when or where in connection
3 with any such sale, any statement is made that the whole or any
4 part of the proceeds from any such sale will be donated to any
5 charitable purpose.

6 "Solicitation" shall occur when the request is made or at the
7 place the request is received, whether or not the solicitor
8 actually receives any contribution.

9 (b) No person may approach a motor vehicle on a public highway
10 with a federal or state highway designation for the purpose of
11 soliciting a contribution from the occupant of the motor vehicle on
12 behalf of a charitable organization.

13 (c) A person violating the provisions of this section shall be
14 issued a warning citation upon a first offense, and the name of the
15 charitable organization conducting the solicitation shall be
16 forwarded to the Secretary of State for investigation to determine
17 whether the charitable organization is properly registered and in
18 compliance with the provisions of article nineteen, chapter twenty-
19 nine of this code, and the name of the charitable organization
20 shall also be forwarded to the Department of Revenue for
21 investigation to determine whether the charitable organization is
22 in compliance with state tax laws. Upon a second or subsequent
23 violation of the provisions of this section, a person is guilty of
24 a misdemeanor and, upon conviction thereof, shall be fined not less

1 than \$50 nor more than \$500.

NOTE: The purpose of this bill is to prohibit charitable organizations from soliciting contributions on public highways and providing a penalty for violation.

This section is new; therefore, it has been completely underscored.