**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3248**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Wylie, Allen, Allison, Ballentine, Bannister, Cato, Daning, Dillard, Hamilton, Littlejohn, Millwood, Parker, G.R. Smith, Sottile, Stringer and Erickson

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Introduced in the House on January 13, 2009

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Charities

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/13/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑102

1/13/2009 House Referred to Committee on **Ways and Means** [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑102

1/27/2009 House Recalled from Committee on **Ways and Means** [HJ](file:///h:\HJ%20Archive\2009\01-27-09.docx)‑36

1/27/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\01-27-09.docx)‑36

4/22/2009 House Member(s) request name added as sponsor: Erickson

**VERSIONS OF THIS BILL**

[1/13/2009](file:///p:\pprever\2009-10\3248_20090113.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 33‑56‑147 SO AS TO PROVIDE FOR ADDITIONAL PERMITTING REQUIREMENTS FOR PROFESSIONAL CHARITABLE SOLICITORS USING DONATION CLOTHING BINS, AND TO PROVIDE FOR ENFORCEMENT AND ADMINISTRATIVE PENALTIES; AND TO AMEND SECTION 33‑56‑20, RELATING TO DEFINITIONS FOR PURPOSES OF THE SOLICITATION OF CHARITABLE FUNDS, SO AS TO INCLUDE SOLICITATION BY WAY OF A DONATION CLOTHING BIN OR OTHER RECEPTACLE FOR THE COLLECTION OF THINGS OF VALUE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 56, Title 33 of the 1976 Code is amended by adding:

“Section 33‑56‑147. (A) In addition to the other requirements of this chapter, a person or organization may not place, use, or employ a donation clothing bin for solicitation purposes unless the:

(1) donation clothing bin is owned and operated by an organization that has been incorporated as a not‑for‑profit organization pursuant to Chapter 31, Title 33, and that has been declared exempt from the payment of federal income taxes by the United States Internal Revenue Service;

(2) donations collected at the donation clothing bin and the proceeds from the sale must be used only to benefit not‑for‑profit agencies providing services for the citizens of the State of South Carolina;

(3) operation of the donation clothing bin, the collection and distribution of donations and proceeds from the donations must be conducted by the not‑for‑profit organization and not by a licensee, subcontractor, or agent of the not‑for‑profit organization; and

(4) not‑for‑profit organization has obtained a permit, valid for a specified period of time, from the local government officer, designated by the Secretary of State pursuant to subsection (D), with the municipality or county in which the donation clothing bin is to be placed, in accordance with the following:

(a) in applying for the permit, the not‑for‑profit organization shall include the:

(i) location where the bin is to be situated, as precisely as possible;

(ii) manner in which the not‑for‑profit organization anticipates clothing or other donations collected by way of the bin are to be used, sold, or disbursed, and the method by which the proceeds of collected donations are to be allocated or spent;

(iii) name and telephone number of the bona fide office of an entity that may share or profit from the clothing or other donations collected by way of the bin; and

(iv) written consent from the property owner to place the bin on his property.

(b) the designated local government officer may not grant an application for a permit to place, use, or employ a donation clothing bin if it determines that the placement of the bin could constitute a safety hazard, such as, but not limited to, the placement of a donation clothing bin within one hundred yards of a school, public building, or place that stores large amounts of, or sells, fuel or other flammable liquids or gases;

(c) the designated local government officer may impose a fee for the permit application, not to exceed one hundred dollars, to offset the costs involved in enforcing this section;

(d) an expiring permit for a donation clothing bin may be renewed upon application for renewal and payment of a fee imposed by the designated local government officer for the renewal, not to exceed one hundred dollars annually, to offset the costs involved in enforcing this section. The renewal must include the:

(i) location where the bin is situated, as precisely as possible, and, if the not‑for‑profit organization intends to move it, the new location where the bin is to be situated after the renewal is granted and written consent from the property owner to place the bin on his property;

(ii) manner in which the not‑for‑profit organization has used, sold, or disbursed clothing or other donations collected by way of the bin, the method by which the proceeds of collected donations have been allocated or spent, and changes the not‑for‑profit organization anticipates it may make in these processes during the period covered by the renewal; and

(iii) name and telephone number of the bona fide office of an entity that shared or profited from clothing or other donations collected by way of the bin, and of entities that may do so during the period covered by the renewal; and

(e) the permit number and its date of expiration must be displayed clearly and conspicuously on the exterior of the donation clothing bin, in addition to the information required pursuant to item (6) of this section;

(5) not‑for‑profit organization shall maintain a bona fide office where a representative of the not‑for‑profit organization or other entity, respectively, may be reached at a telephone information line during normal business hours for the purpose of offering information concerning the not‑for‑profit organization or other entity. For the purposes of this item, an answering machine or service unrelated to the not‑for‑profit organization is not a bona fide office; and

(6) following information is clearly and conspicuously displayed on the exterior of the donation clothing bin:

(a) the name and address of the registered not‑for‑profit organization that owns the bin;

(b) the registered charitable organization’s charitable registration number:

(c) the telephone number of the not‑for‑profit organization’s bona fide office; and

(d) a statement, consistent with information provided to the designated local government officer in the most recent permit or renewal application, indicating the manner in which the not‑for‑profit organization anticipates clothing or other donations collected by way of the bin are to be used, sold, or disbursed, and the method by which the proceeds of collected donations are to be allocated or spent.

(B)(1) The designated local government officer within the municipality or county in which a donation clothing bin is placed shall receive and investigate, within thirty days of receipt, complaints from the public about the bin. If it appears to the designated local government officer that a not‑for‑profit organization has engaged in, or is engaging in, any act or practice in violation of this section, the not‑for‑profit organization that placed the bin must be issued a warning, stating that if the violation is not rectified or an administrative hearing with the Secretary of State is not requested within forty‑five days, the bin must be seized or removed at the expense of the not‑for‑profit organization who placed the bin, and clothing or other donations collected by way of the bin must be sold at public auction. In addition to other means used to notify the not‑for‑profit organization that placed the bin, the warning must be affixed to the exterior of the bin itself.

(2) If the not‑for‑profit organization that placed the bin does not rectify the violation or request a hearing within forty‑five days of the posting of the warning, the designated local government officer may seize the bin, remove it, or have it removed, at the expense of the not‑for‑profit organization that placed the bin, and sell at public auction or otherwise dispose of clothing or other donations collected by way of the bin. Proceeds from the sale of the donations collected by way of the bin must be paid to the proper financial officer of the local government.

(C) In addition to other penalties or remedies authorized pursuant to this chapter, a not‑for‑profit organization whose violation of a provision of this section results in seizure of the donation clothing bin is:

(1) subject to a penalty of up to twenty thousand dollars for each violation, payable to the proper financial officer of the local government; and

(2) ineligible to place, use, or employ a donation bin for solicitation purposes. A not‑for‑profit organization disqualified from placing, using, or employing a donation clothing bin by violating the provisions of this section may apply to the designated local government officer to have that not‑for‑profit organization’s eligibility restored. The designated local government officer may restore the eligibility of a not‑for‑profit organization who:

(a) acts within the public interest; and

(b) demonstrates that it made a good faith effort to comply with the provisions of this section and all other applicable laws and regulations, or had no fraudulent intentions.

(D) The Secretary of State shall administer and enforce this section and shall prescribe rules and regulations pertinent to the enforcement. Local government officers designated by the secretary shall assist in the administration by distributing regulations, giving information, granting permits and renewal of permits, reporting violations, and in other ways not inconsistent with their respective offices to the extent and in the manner required by regulations of the Office of the Secretary of State.”

SECTION 2. Section 33‑56‑20(10) of the 1976 Code is amended to read:

“(10) ‘Solicit’ and ‘solicitation’ means to request and the request, directly or indirectly, for money, credit, property, financial assistance, or other thing of value, or a portion of it, to be used for a charitable purpose or to benefit a charitable organization. ‘Solicitation’ includes, but is not limited to, the use or employment of canisters, cards, receptacles, bins, or similar devices for the collection of money, clothing, or other things of value. A solicitation takes place whether or not the person making the request receives a contribution.”

SECTION 3. This act takes effect upon approval by the Governor and applies beginning the first day of the third month following that date to all donation clothing bins in place on or after that date.

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