



S.B. No. 776

1 use a public donations receptacle to collect donated clothing or  
2 household goods and subsequently sell the donated items unless the  
3 for-profit entity or individual attaches to the receptacle a notice  
4 that:

5 (1) is permanently and prominently displayed on the  
6 front and at least one side of the receptacle;

7 (2) is in bold print, with letters at least two inches  
8 in height and one inch in width;

9 (3) contains the business address, other than a post  
10 office box number, and telephone number of the for-profit entity or  
11 individual; and

12 (4) contains the appropriate disclosure prescribed by  
13 this section in English and Spanish.

14 (b) If none of the proceeds from the sale of the donated  
15 items will be given to a charitable organization, the disclosure  
16 required by Subsection (a)(4) must state:

17 "DONATIONS ARE NOT FOR CHARITABLE ORGANIZATIONS AND WILL BE  
18 SOLD FOR PROFIT."

19 (c) If any of the proceeds from the sale of the donated items  
20 will be given to a charitable organization, the disclosure required  
21 by Subsection (a)(4) must state:

22 "DONATIONS ARE TO (NAME OF FOR-PROFIT ENTITY OR INDIVIDUAL)  
23 AND WILL BE SOLD FOR PROFIT. \_\_\_\_\_ PERCENT (INSERT PERCENTAGE) OF  
24 ALL PROCEEDS WILL BE DONATED TO (NAME OF CHARITABLE ORGANIZATION)."

25 (d) If the for-profit entity or individual pays to a  
26 charitable organization a flat fee that is not contingent on the  
27 proceeds generated from the sale of the donated items and the

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1 for-profit entity or individual retains a percentage of the  
2 proceeds from the sale, the disclosure required by Subsection  
3 (a)(4) must state:

4 "THIS DONATION RECEIPT IS OPERATED BY (NAME OF FOR-PROFIT  
5 ENTITY OR INDIVIDUAL) ON BEHALF OF (NAME OF CHARITABLE  
6 ORGANIZATION). Donations are sold for profit by (name of  
7 for-profit entity or individual) and a flat fee of (insert amount)  
8 is paid to (name of charitable organization)."

9 Sec. 17.923. REQUIRED DISCLOSURES FOR TELEPHONE OR  
10 DOOR-TO-DOOR SOLICITATIONS. (a) A for-profit entity or  
11 individual who makes, or directs another person to make, a  
12 telephone or door-to-door solicitation requesting that the person  
13 solicited donate clothing or household goods may not subsequently  
14 sell the donated items unless the solicitor provides to each person  
15 solicited, before accepting a donation from the person, the  
16 appropriate disclaimer prescribed by this section.

17 (b) If none of the proceeds from the sale of the donated  
18 items will be given to a charitable organization, the solicitor  
19 must state:

20 "DONATIONS ARE NOT FOR CHARITABLE ORGANIZATIONS AND WILL BE  
21 SOLD FOR PROFIT."

22 (c) If any of the proceeds from the sale of the donated items  
23 will be given to a charitable organization, the solicitor must  
24 state:

25 "DONATIONS TO (NAME OF FOR-PROFIT ENTITY OR INDIVIDUAL) WILL  
26 BE SOLD FOR PROFIT AND \_\_\_\_\_ PERCENT (INSERT PERCENTAGE) OF ALL  
27 PROCEEDS WILL BE DONATED TO (NAME OF CHARITABLE ORGANIZATION)."

1 (d) If the for-profit entity or individual pays to a  
2 charitable organization a flat fee that is not contingent on the  
3 proceeds generated from the sale of the donated items and the  
4 for-profit entity or individual retains a percentage of the  
5 proceeds from the sale, the solicitor must state:

6 "SOLICITATIONS FOR DONATIONS ARE MADE BY (NAME OF FOR-PROFIT  
7 ENTITY OR INDIVIDUAL) ON BEHALF OF (NAME OF CHARITABLE  
8 ORGANIZATION). Donations will be sold for profit by (name of  
9 for-profit entity or individual) and a flat fee of (insert amount)  
10 is paid to (name of charitable organization)."

11 Sec. 17.924. REQUIRED DISCLOSURES FOR MAIL SOLICITATIONS.

12 (a) A for-profit entity or individual who mails, or directs  
13 another person to mail, a solicitation requesting that the  
14 recipient donate clothing or household goods may not subsequently  
15 sell the donated items unless the solicitor includes with the  
16 mailed solicitation the appropriate disclosure prescribed by this  
17 section, prominently displayed in boldfaced type or capital letters  
18 in English and Spanish.

19 (b) If none of the proceeds from the sale of the donated  
20 items will be given to a charitable organization, the disclosure  
21 required by Subsection (a) must state:

22 "DONATIONS ARE NOT FOR CHARITABLE ORGANIZATIONS AND WILL BE  
23 SOLD FOR PROFIT."

24 (c) If any of the proceeds from the sale of the donated items  
25 will be given to a charitable organization, the disclosure required  
26 by Subsection (a) must state:

27 "DONATIONS TO (NAME OF FOR-PROFIT ENTITY OR INDIVIDUAL) WILL

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1 BE SOLD FOR PROFIT AND \_\_\_\_\_ PERCENT (INSERT PERCENTAGE) OF ALL  
2 PROCEEDS WILL BE DONATED TO (NAME OF CHARITABLE ORGANIZATION)."

3 (d) If the for-profit entity or individual pays to a  
4 charitable organization a flat fee that is not contingent on the  
5 proceeds generated from the sale of the donated items and the  
6 for-profit entity or individual retains a percentage of the  
7 proceeds from the sale, the disclosure required by Subsection (a)  
8 must state:

9 "SOLICITATIONS FOR DONATIONS ARE MADE BY (NAME OF FOR-PROFIT  
10 ENTITY OR INDIVIDUAL) ON BEHALF OF (NAME OF CHARITABLE  
11 ORGANIZATION). Donations will be sold for profit by (name of  
12 for-profit entity or individual) and a flat fee of (insert amount)  
13 is paid to (name of charitable organization)."

14 Sec. 17.925. LOCAL ORDINANCE OR REGULATION. Nothing in  
15 this subchapter shall be construed to limit the authority of a local  
16 government to adopt an ordinance or regulation relating to the use  
17 of public donations receptacles as a collection point for donated  
18 clothing or household goods if the ordinance or regulation is  
19 compatible with and equal to or more stringent than a requirement  
20 prescribed by this subchapter.

21 Sec. 17.926. CIVIL PENALTY. (a) Except as provided by  
22 Subsection (b), a person who violates this subchapter is liable to  
23 this state for a civil penalty in an amount not to exceed \$500 for  
24 each violation. Each sale of a donated item is considered a  
25 separate violation for purposes of this subsection.

26 (b) The total amount of penalties that may be imposed under  
27 Subsection (a) may not exceed \$2,000 for donated items sold during a

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1 single transaction.

2 (c) In determining the amount of the civil penalty imposed  
3 under this section, the court shall consider the amount necessary  
4 to deter future violations.

5 (d) The attorney general or the prosecuting attorney in the  
6 county in which the violation occurs may bring an action to recover  
7 the civil penalty imposed under this section. In this subsection,  
8 "prosecuting attorney" has the meaning assigned by Section 41.101,  
9 Government Code.

10 SECTION 2. This Act takes effect September 1, 2009.

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Rand Newkirk  
President of the Senate

Jim Strawn  
Speaker of the House

I hereby certify that S.B. No. 776 passed the Senate on April 2, 2009, by the following vote: Yeas 31, Nays 0.

Sally Pau  
Secretary of the Senate

I hereby certify that S.B. No. 776 passed the House on May 20, 2009, by the following vote: Yeas 138, Nays 0, one present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

19 JUN '09  
Date  
RICK PERRY  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2 PM O'CLOCK  
JUN 19 2009

Colby Shuter III