

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE

December 12, 2019

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Suite 504
Washington, DC 20004

2019 DEC 12 AM 11:02
OFFICE OF THE
SECRETARY

Dear Chairman Mendelson:


I am writing to transmit the “Charitable Solicitation Consumer Protection Amendment Act of 2019.” This legislation would prohibit deceptive practices in the context of charitable solicitation and give the Office of the Attorney General (“OAG”) enforcement authority with respect to these practices. The bill would amend the District of Columbia Charitable Solicitation Act, approved July 10, 1957 (71 Stat. 278; D.C. Official Code § 44-1701 *et seq.*), to prohibit specific deceptive practices and make these actions unlawful trade practices enforceable by OAG.

The Office of the Attorney General looks forward to working with the Council and other stakeholders on this important measure. If you have any questions, your staff may contact Deputy Attorney General for Legislative Affairs, James A. Pittman, at James.Pittman@DC.Gov.

Sincerely,

Karl A. Racine / by NOL

Karl A. Racine
Attorney General


Chairman Phil Mendelson
at the request of the Attorney General

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Attorney General, introduced the following bill,
which was referred to the Committee on _____.

To amend the District of Columbia Charitable Solicitation Act to prohibit certain fraudulent actions related to charitable solicitations and to make these actions unlawful trade practices subject to the remedies and penalties in Chapter 39 of Title 28 of the District of Columbia Official Code; and to amend § 28-3904 to make these actions unlawful trade practices under that section.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Charitable Solicitation Consumer Protection Amendment Act of 2019”.

Sec. 2. The District of Columbia Charitable Solicitation Act, approved July 10, 1957 (71 Stat. 278; D.C. Official Code § 44-1701 *et seq.*), is amended as follows:

(a) A new section 12a is added to read as follows:

“Sec. 12a. (a) Whether or not any person is misled, deceived, or damaged thereby, the following acts and practices are prohibited in the planning, conduct, or execution of a charitable solicitation:

“(1) Using any unfair or deceptive acts or practices or engaging in any fraudulent conduct that creates a likelihood of confusion or misunderstanding;

“(2) Making any representation that implies that the contribution is for or on behalf of a charitable organization, or using any emblem, device, or printed matter associated

1 with a charitable organization without first being authorized in writing to do so by the charitable
2 organization;

3 “(3) Using a name, symbol, or statement so closely related or similar to that used
4 by another charitable organization or person that the use would tend to confuse or mislead a
5 person solicited;

6 “(4) Misrepresenting or misleading a person in any manner that would lead the
7 person to believe that the solicitation is being made on behalf of a charitable organization or that
8 the proceeds of the solicitation will be used for charitable purpose when this is not the case;

9 “(5) Misrepresenting or misleading a person in any manner that would lead the
10 person to believe that another person sponsors, endorses, or approves the solicitation when the
11 other person has not given written consent to the use of his or her name for this purpose;

12 “(6) Misrepresenting or misleading a person in any manner that would lead the
13 person to believe that goods or services have sponsorship, approval, characteristics, ingredients,
14 uses, benefits or qualities that they do not have, or that a person has a sponsorship, approval,
15 status, affiliation, or connection that the person does not have;

16 “(7) Representing directly or by implication that a charitable organization will
17 receive an amount greater than the net proceeds of a contribution reasonably estimated to be
18 retained by the organization for its use;

19 “(8) Representing that a contribution is tax-deductible unless it so qualifies under
20 the federal internal revenue code;

21 “(9) Representing that a person to whom a solicitation is made:

22 “(A) Is under an obligation to make a contribution;

23 “(B) Previously agreed to make a contribution when this is not the case;

1 “(C) Previously contributed to the same organization or for the same
2 purpose when the person has not so contributed;

3 “(D) Will suffer an adverse effect on his or her credit rating if the person
4 fails to make a contribution; or

5 “(E) Will receive favorable or unfavorable treatment from a government
6 entity based on whether or not the person makes a contribution.

7 “(b) For the purposes of this section, a representation or misrepresentation is any
8 manifestation or assertion by words or conduct, including a failure to disclose a material fact.

9 “(c) The actions prohibited under this section shall constitute unlawful trade practices
10 pursuant to § 28-3904.”.

11 (b) Section 13 (D.C. Official Code § 44-1712) is amended by adding new subsections (c-
12 1) and (c-2) to read as follows:

13 “(c-1) Violations of section 12a shall be subject to the remedies and penalties applicable
14 to unlawful trade practices pursuant to Chapter 39 of Title 28.

15 “(c-2) A person, non-profit organization, or public interest organization that brings an
16 action pursuant to § 28-3905(k) for a violation of section 12a shall provide the Attorney General
17 with written notice of the action within 30 days after the initiation of the action in Superior
18 Court. The Attorney General may issue rules to implement this notice requirement.”.

19 Sec. 3. Section 28-3904 of the District of Columbia Official Code is amended by adding
20 a new subsection (kk) to read as follows:

21 “(kk) violate any of the prohibitions in section 12a of the District of Columbia Charitable
22 Solicitation Act.”.

23 Sec. 3. Fiscal impact statement.

1 The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal
2 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
3 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

4 Sec. 4. Effective date.

5 This act shall take effect following approval by the Mayor (or in the event of veto by the
6 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
7 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
8 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
9 Columbia Register.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

KARL A. RACINE
ATTORNEY GENERAL



Legal Counsel Division

MEMORANDUM

TO: James Pittman
Deputy Attorney General for Legislative Affairs

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: October 15, 2019

SUBJECT: Legal Sufficiency Certification of the “Charitable Solicitation
Consumer Protection Amendment Act of 2019”
(AE-18-431)

This is to Certify that this Office has reviewed the above-referenced bill and has found it to be legally sufficient. If you have any questions regarding this certification, please do not hesitate to contact me at 724-5524.

A handwritten signature in black ink, appearing to read 'Brian K. Flowers', written over a horizontal line.

Brian K. Flowers