An act to amend Section 12599.6 of the Government Code, relating to charitable organizations.

LEGISLATIVE COUNSEL’S DIGEST

AB 2556, as introduced, Irwin. Charitable organizations: enforcement. The Supervision of Trustees and Fundraisers for Charitable Purposes Act governs charitable corporations, unincorporated associations, trustees, commercial fundraisers, fundraising counsel, commercial coventurers, and other legal entities holding or soliciting property for charitable purposes over which the state or the Attorney General has enforcement and supervisory powers. Under the act, any person who violates any of the act’s provisions with intent to deceive or defraud any charity or individual is liable for a specified civil penalty. The act also authorizes the Attorney General to impose other specified civil penalties for related acts and omission.

The act, among other things, prohibits charitable organizations and commercial fundraisers for charitable purposes, in the planning, conduct, or execution of a solicitation or charitable sales promotion, from using or exploiting the fact of registration with the Attorney General’s Registry of Charitable Trusts so as to lead a person to believe that the registration constitutes an endorsement or approval by the Attorney General.

This bill would also prohibit charitable organizations and commercial fundraisers, in the circumstances described above, from using or exploiting the fact of filing with the Secretary of State so as to lead a
person to believe that this action constitutes an endorsement or approval by the Secretary of State.


The people of the State of California do enact as follows:

SECTION 1. Section 12599.6 of the Government Code is amended to read:

12599.6. (a) Charitable organizations and commercial fundraisers for charitable purposes shall not misrepresent the purpose of the charitable organization or the nature or purpose or beneficiary of a solicitation. A misrepresentation may be accomplished by words or conduct or failure to disclose a material fact.

(b) A charitable organization must establish and exercise control over its fundraising activities conducted for its benefit, including approval of all written contracts and agreements, and must ensure that fundraising activities are conducted without coercion.

(c) A charitable organization shall not enter into any contract or agreement with, or employ, any commercial fundraiser for charitable purposes or fundraising counsel for charitable purposes unless that commercial fundraiser or fundraising counsel is registered with the Attorney General’s Registry of Charitable Trusts or, if not registered, agrees to register prior to the commencement of any solicitation.

(d) A charitable organization shall not enter into any contract or agreement with, or raise any funds for, any charitable organization required to be registered pursuant to this act unless that charitable organization is registered with the Attorney General’s Registry of Charitable Trusts or, if not registered, agrees to register prior to the commencement of the solicitation.

(e) Each contribution in the control or custody of a commercial fundraiser for charitable purposes shall in its entirety and within five working days of receipt (1) be deposited in an account at a bank or other federally insured financial institution that is solely in the name of the charitable organization on whose behalf the contribution was solicited and over which the charitable organization has sole control of withdrawals or, (2) be delivered
to the charitable organization in person, by Express Mail, or by another method of delivery providing for overnight delivery.

(f) Regardless of injury, the following acts and practices are prohibited in the planning, conduct, or execution of any solicitation or charitable sales promotion:

(1) Operating in violation of, or failing to comply with, any of the requirements of this act or regulations or orders of the Attorney General, or soliciting contributions after registration with the Attorney General’s Registry of Charitable Trusts has expired or has been suspended or revoked.

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

(3) Using any name, symbol, emblem, statement, or other material stating, suggesting, or implying to a reasonable person that the contribution is to or for the benefit of a particular charitable organization when that is not the fact.

(4) Misrepresenting or misleading anyone in any manner to believe that the person on whose behalf a solicitation or charitable sales promotion is being conducted is a charitable organization or that the proceeds of the solicitation or charitable sales promotion will be used for charitable purposes when that is not the fact.

(5) Misrepresenting or misleading anyone in any manner to believe that any other person sponsors, endorses, or approves a charitable solicitation or charitable sales promotion when that person has not given consent in writing to the use of the person’s name for these purposes.

(6) Misrepresenting or misleading anyone in any manner to believe that goods or services have endorsement, sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities that they do not have or that a person has endorsement, sponsorship, approval, status, or affiliation that the person does not have.

(7) (A) Using or exploiting the fact of registration with the Attorney General’s Registry of Charitable Trusts so as to lead any person to believe that the registration in any manner constitutes an endorsement or approval by the Attorney General. The use of the following statement is not prohibited:
“The official registration and financial information regarding
(insert the legal name of the charity as registered with the Registry
of Charitable Trusts) can be obtained from the Attorney General’s
Web site at http://caag.state.ca.us/charities/. Registration does not
imply endorsement.”

(B) Using or exploiting the fact of filing with the Secretary of
State so as to lead any person to believe that the filing in any
manner constitutes an endorsement or approval by the Secretary
of State.

(8) Representing directly or by implication that a charitable
organization will receive an amount greater than the actual net
proceeds reasonably estimated to be retained by the charity for its
use.

(9) With respect to solicitations by commercial fundraisers for
charitable purposes on behalf of law enforcement personnel,
firefighters, or other persons who protect the public safety, issuing,
offering, giving, delivering, or distributing any honorary
membership cards, courtesy cards, or similar cards, or any stickers,
emblems, plates, or other items that could be used for display on
a motor vehicle, and that suggest affiliation with, or endorsement
by any public safety personnel or a group comprising such
personnel.

(10) (A) Soliciting for advertising to appear in a for-profit
publication that relates to, purports to relate to, or that could
reasonably be construed to relate to, any charitable purpose without
making the following disclosures at the time of solicitation:

(i) The publication is a for-profit, commercial enterprise.

(ii) The true name of the solicitor and the fact that the solicitor
is a professional solicitor.

(iii) The publication is not affiliated with or sponsored by any
charitable organization.

(B) Where a sale of advertising has been made, the solicitor,
prior to accepting any money for the sale, shall make to the
purchaser the disclosures required by subparagraph (A) in written
form and in conspicuous type.

(11) Representing that any part of the contributions solicited by
a charitable organization will be given or donated to any other
charitable organization unless that organization has consented in
writing to the use of its name prior to the solicitation. The written
consent shall be signed by one authorized officer, director, or trustee of the charitable organization.

(12) Representing that tickets to events will be donated for use by another, unless all of the following requirements have been met:

(A) The charitable organization or commercial fundraiser has commitments, in writing, from charitable organizations stating that they will accept donated tickets and specifying the number of tickets they are willing to accept.

(B) The donated tickets will not, when combined with other ticket donations, exceed either of the following:

(i) The number of ticket commitments the charitable organization or commercial fundraiser has received from charitable organizations.

(ii) The total attendance capacity of the site of the event.

(g) A person shall not knowingly submit for filing on behalf of any charitable organization any statement, report, financial statement, attachment, or other information to be filed with the Attorney General that contains information, a statement, or an omission that is false or misleading.

(h) A ticket commitment from a charitable organization alone, as described in clause (i) of subparagraph (B) of paragraph (12) of subdivision (f), does not constitute written consent to use of the organization’s name in the solicitation campaign.