

Regular Session, 2012

HOUSE BILL NO. 660

BY REPRESENTATIVE STUART BISHOP

COMMERCIAL REGULATIONS: Provides relative to certain misleading solicitations by nongovernmental entities which imply certain state governmental connections

1 AN ACT

2 To enact Subpart C of Part VIII of Chapter 1 of Title 51 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 51:391, relative to solicitations; to prohibit
4 solicitations with misleading governmental appearances; to provide for a disclaimer;
5 to provide for a civil penalty; to provide for a remedy; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Subpart C of Part VIII of Chapter 1 of Title 51 of the Louisiana Revised
9 Statutes of 1950, comprised of R.S. 51:391, is hereby enacted to read as follows:

10 SUBPART C. SOLICITATIONS

11 §391. Solicitations; misleading governmental appearance prohibited; disclaimer;
12 penalty

13 A. A solicitation by a nongovernmental entity, for the purchase of or
14 payment for a product or service, which is in the form of and reasonably could be
15 interpreted or construed as a bill, invoice, or statement of account due, but
16 constitutes, in fact, a solicitation for the order by the addressee of goods or services,
17 or both, shall not contain any material which:

18 (1) Reasonably could be interpreted or construed as implying any Louisiana
19 state government connection, approval, or endorsement through the use of a seal,
20 insignia, or name of a state agency, department, commission, or program, or a
21 citation to a state statute.

1 (2) Contains any reference to or a citation to a state statute that misrepresents
2 either the identity of the mailer or the protection or status afforded such matter by the
3 Louisiana state government.

4 B. The provisions of Subsection A of this Section shall not apply to any
5 solicitation which bears on its face, at the beginning, in conspicuous and legible type
6 which is not smaller than fourteen-point font and is in contrast by typography,
7 layout, or color with any other printing on the solicitation, the following disclaimer:

8 "THIS IS A SOLICITATION FOR THE ORDER OF GOODS OR
9 SERVICES, OR BOTH, AND NOT A BILL, INVOICE, OR STATEMENT OF
10 ACCOUNT DUE. YOU ARE UNDER NO OBLIGATION TO MAKE ANY
11 PAYMENTS ON ACCOUNT OF THIS OFFER UNLESS YOU ACCEPT THIS
12 OFFER. THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR
13 ENDORSED BY ANY LOUISIANA STATE GOVERNMENT AGENCY, AND
14 THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE LOUISIANA
15 STATE GOVERNMENT."

16 C. Any solicitation in violation of this Section shall subject the violator to
17 a civil fine of not more than one thousand dollars per violation. The attorney general
18 shall bring proceedings to recover all fines due pursuant to this Section. The
19 remedies and penalties provided in this Section shall be cumulative to all other
20 remedies and penalties provided by law.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Stuart Bishop

HB No. 660

Abstract: Prohibits solicitations by a nongovernmental entity for the purchase of or payment for a product or service that have a misleading appearance of a La. state government connection, approval, or endorsement.

Proposed law prohibits a solicitation by a nongovernmental entity, for the purchase of or payment for a product or service, which is in the form of and reasonably could be interpreted or construed as a bill, invoice, or statement of account due, but constitutes, in fact, a solicitation for the order by the addressee of goods or services, or both, from containing any material which:

- (1) Reasonably could be interpreted or construed as implying any La. state government connection, approval, or endorsement through the use of a seal, insignia, or name of a state agency, department, commission, or program or a citation to a state statute.
- (2) Contains any reference to or a citation to a state statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the La. state government.

Proposed law provides that the prohibition provisions of proposed law shall not apply to any solicitation which bears on its face, at the beginning, in conspicuous and legible type which is not smaller than 14-point font and is in contrast by typography, layout, or color with any other printing on the solicitation, the following disclaimer:

"THIS IS A SOLICITATION FOR THE ORDER OF GOODS OR SERVICES, OR BOTH, AND NOT A BILL, INVOICE, OR STATEMENT OF ACCOUNT DUE. YOU ARE UNDER NO OBLIGATION TO MAKE ANY PAYMENTS ON ACCOUNT OF THIS OFFER UNLESS YOU ACCEPT THIS OFFER. THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY ANY LOUISIANA STATE GOVERNMENT AGENCY, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE LOUISIANA STATE GOVERNMENT."

Proposed law provides that any solicitation in violation of proposed law shall subject the violator to a civil fine of not more than \$1,000 per violation.

Proposed law requires the attorney general to bring proceedings to recover all fines due under proposed law.

Proposed law provides that the remedies and penalties provided in proposed law shall be cumulative to all other remedies and penalties provided by law.

(Adds R.S. 51:391)