

CHAPTER 209

AN ACT concerning charitable clothing bins and supplementing chapter 48 of Title 40 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.40:48-2.60 Definitions relative to charitable clothing bins.

1. For the purposes of P.L.2007, c.209 (C.40:48-2.60 et seq.), “solicitation” or “solicit” means the request, directly or indirectly, for money, credit, property, financial assistance, or other thing of any kind or value. Solicitation shall include, but not be limited to, the use or employment of canisters, cards, receptacles or similar devices for the collection of money or other thing of value. A solicitation shall take place whether or not the person making the solicitation receives any contribution. “Appropriate municipal agency” means the agency determined by resolution of the municipal governing body.

C.40:48-2.61 Requirements for placement, use of clothing bin for solicitation purposes.

2. Notwithstanding any other provision of law to the contrary, no person shall place, use, or employ a donation clothing bin, for solicitation purposes, unless all of the following requirements are met:

a. The person has obtained a permit, valid for a specified period of time, from the appropriate municipal agency within the municipality in which the donation clothing bin will be placed, in accordance with the following:

(1) In applying for such a permit, the person shall include:

(a) the location where the bin would be situated, as precisely as possible;

(b) the manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;

(c) the name, and telephone number of the bona fide office required pursuant to subsection b. of this section, of any entity which may share or profit from any clothing or other donations collected via the bin; and

(d) written consent from the property owner to place the bin on his property;

(2) The appropriate municipal agency shall 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 hazards shall include, but not be limited to, the placement of a donation clothing bin within 100 yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases;

(3) The appropriate municipal agency may impose a fee for such application, not to exceed \$25, to offset the costs involved in enforcing P.L.2007, c.209 (C.40:48-2.60 et seq.);

(4) An expiring permit for a donation clothing bin may be renewed upon application for renewal and payment of any fee imposed by the appropriate municipal agency for such renewal, not to exceed \$25 annually, to offset the costs involved in enforcing P.L.2007, c.209 (C.40:48-2.60 et seq.). Such application shall include:

(a) the location where the bin is situated, as precisely as possible, and, if the person intends to move it, the new location where the bin would be situated after the renewal is granted and written consent from the property owner to place the bin on his property;

(b) the manner in which the person has used, sold, or dispersed any clothing or other donations collected via the bin, the method by which the proceeds of collected donations have been allocated or spent, and any changes the person anticipates it may make in these processes during the period covered by the renewal; and

(c) The name, and telephone number of the bona fide office required pursuant to subsection b. of this section, of any entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal; and

(5) the permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the donation clothing bin, in addition to the information required pursuant to subsection c. of this section;

b. The person, and any other entity which may share or profit from any clothing or other donations collected via the bin, maintains a bona fide office where a representative of the person or other entity, respectively, can be reached at a telephone information line during normal business hours for the purpose of offering information concerning the person or other entity. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office; and

c. The following information is clearly and conspicuously displayed on the exterior of the donation clothing bin:

(1) The name and address of the registered person that owns the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;

(2) The telephone number of the person's bona fide office and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin;

(3) In cases when any entity other than the person who owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared, or given entirely to, an entity other than the person who owns the bin, and identifying all such entities which may share or profit from such donations; and

(4) A statement, consistent with the information provided to the appropriate municipal agency in the most recent permit or renewal application pursuant to subparagraph (b) of paragraph (1) of subsection a. of this section and subparagraph (b) of paragraph (4) of subsection a. of this section, indicating the manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

C.40:48-2.62 Receipt, investigation of complaints relative to donation clothing bin.

3. The appropriate municipal agency within the municipality in which a donation clothing bin has been placed shall receive and investigate, within 30 days, any complaints from the public about the bin. Whenever it appears to the appropriate municipal agency that a person has engaged in, or is engaging in any act or practice in violation of section 2 of P.L.2007, c.209 (C.40:48-2.61), the person who placed the bin shall be issued a warning, stating that if the violation is not rectified or a hearing with the appropriate municipal agency is not requested within 45 days, the bin will be seized or removed at the expense of the person who placed the bin, and any clothing or other donations collected via the bin will be sold at public auction or otherwise disposed of. In addition to any other means used to notify the person who placed the bin, such warning shall be affixed to the exterior of the bin itself.

In the event that the person who placed the bin does not rectify the violation or request a hearing within 45 days of the posting of the warning, the appropriate municipal agency may seize the bin, remove it, or have it removed, at the expense of the person who placed the bin,

and sell at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceeds from the sale of the donations collected via the bin shall be paid to the chief financial officer of the municipality.

C.40:48-2.63 Additional penalties, remedies.

4. In addition to any other penalties or remedies authorized by the laws of this State, any person who violates any provision of P.L.2007, c.209 (C.40:48-2.60 et seq.) which results in seizure of the donation clothing bin shall be:

a. Subject to a penalty of up to \$20,000 for each violation. The appropriate municipal agency may bring this action in the municipal court or Superior Court as a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and any penalty monies collected shall be paid to the chief financial officer of the municipality; and

b. Deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to section 2 of P.L.2007, c.209 (C.40:48-2.61). A person disqualified from placing, using, or employing a donation clothing bin by violating the provisions of P.L.2007, c.209 (C.40:48-2.60 et seq.) may apply to the appropriate municipal agency to have that person's eligibility restored. The appropriate municipal agency may restore the eligibility of a person who:

- (1) Acts within the public interest; and
- (2) Demonstrates that he made a good faith effort to comply with the provisions of P.L.2007, c.209 (C.40:48-2.60 et seq.) and all other applicable laws and regulations, or had no fraudulent intentions.

C.40:48-2.64 Effective date; applicability.

5. This act shall take effect on the first day of the thirteenth month following enactment, and shall apply to all donation clothing bins in place on the effective date of this act and all donation clothing bins placed subsequent to the effective date of this act, but appropriate municipal agencies may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act upon its effective date.

Approved December 20, 2007.