

# **WEST VIRGINIA LEGISLATURE**

**2025 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 2710**

By Delegates Akers and Fehrenbacher

[Originating in the Subcommittee on Legal Services;

Reported on February 28, 2025.]



A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §29-19A-1, §29-19A-2, §29-19A-3, §29-19A-4, and §29-19A-5, relating to the Truth in Giving Act; providing a short title and purpose; defining terms; requiring certain information to be disclosed by thrift operators to donors and customers; specifying manner of disclosure; authorizing the Secretary of State to investigate violations; establishing criminal and civil penalties; providing for deposit of recovered funds; and authorizing Secretary of State to promulgate legislative rules.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE                    19A.                    TRUTH                    IN                    GIVING                    ACT.**

**§29-19A-1.                    Short                    title;                    legislative                    intent.**

(a) This article may be cited as the Truth in Giving Act.

(b) The purpose of this article is to provide individuals who donate consumer goods for resale by thrift operators or who purchase consumer goods that have been donated for resale with information about whether their donations are benefiting non-profit charitable organizations or for-profit businesses.

**§29-19A-2.                    Definitions.**

For purposes of this article:

"Charitable organization" means any charitable organization, as defined by §29-19-2 of this code, which is registered with the Secretary of State pursuant to §29-19-1 et seq. of this code.

"Drop box" means any publicly accessible container intended to receive donated consumer goods.

"Mobile pickup unit" means any automobile used by a thrift operator to receive donated consumer goods.

"501(c)(3) tax-exempt organization" means any organization which is currently tax-exempt as determined by the Internal Revenue Service under the provisions of 26 U.S.C. §501(c)(3).

"Thrift operator" means any retailer licensed to conduct business in this state that sells consumer goods that have been obtained by donations.

"Thrift sale" means the sale of consumer goods that were received by the thrift operator via donation.

**§29-19A-3. Information required to be disclosed to donors and customers; requirements for signage and documentation.**

(a) Any thrift operator that is a charitable organization or 501(c)(3) tax-exempt organization and that sells consumer goods that have been obtained via drop boxes, on-site donations at the thrift operator's retail location, mobile pickup units, or at-home pickup shall disclose the name, business address, and telephone number of the charitable organization or 501(c)(3) tax-exempt organization for which the donation is made to each donor at the location where donations are made and to each customer at the location where any such thrift sale is made.

(b) Any thrift operator that is not is a charitable organization or 501(c)(3) tax-exempt organization and that sells consumer goods that have been obtained via drop boxes, on-site donations at the thrift operator's retail location, mobile pickup units, or at-home pickup shall disclose the following information to each donor at the location where donations are made and to each customer at the location where any such thrift sale is made:

(1) The name, business address, and telephone number of the entity that owns the drop box or mobile pickup unit or that is providing at-home pickup of donated consumer goods;

(2) The statement: "THIS IS NOT A CHARITY. DONATIONS MADE HERE SUPPORT A FOR-PROFIT BUSINESS."

(c) The information required to be disclosed under subsections (a) and (b) of this section shall be provided in the following manner, as applicable:

(1) A notice containing the required information shall be clearly and prominently displayed on the front and at least one side of each drop box;

(2) A notice containing the required information shall be clearly and prominently displayed at the location where on-site donations are received at the thrift operator's retail location or at a mobile pickup unit;

(3) A notice containing the required information shall be provided to a person making a donation via at-home pickup prior to accepting the donated consumer goods; and

(4) A notice containing the required information shall be clearly and prominently displayed at the location where customers pay for consumer goods sold at the thrift operator's retail location.

**§29-19A-4. Enforcement; criminal penalties; civil penalties.**

(a) The Secretary of State, upon his or her own motion, or upon complaint of any person using forms prescribed by the Secretary of State, may, if he or she finds reasonable ground to suspect a violation, investigate any thrift operator selling consumer goods that have been obtained via drop boxes, on-site donations at the thrift operator's retail location, mobile pickup units, or at-home pickup to determine whether the thrift operator has violated the provisions of §29-19A-3 of this code.

(b) Any person who willfully and knowingly violates §29-19A-3 of this code is guilty of a misdemeanor and, upon conviction thereof, for a first offense, shall be fined an amount not less than \$100 nor more than \$500, or be confined in jail for not more than six months, or be both fined and confined, and for the second and any subsequent offense to pay a fine of not less than \$500 nor more than \$1,000, or be confined for not more than one year, or be both fined and confined.

(c) Whenever the Secretary of State, Attorney General, or any prosecuting attorney has reason to believe that any thrift operator is soliciting donations or making thrift sales in violation of §29-19A-3 of this code, the Secretary of State, Attorney General, or prosecuting attorney may bring an action in the name of the state against the thrift operator and its officers in the circuit court of the county in which the cause of action arises to enjoin the thrift operator from continuing the violation, or from engaging therein or from doing any acts in furtherance thereof, and for such other relief as the court deems appropriate.

19        (d) Any thrift operator who willfully and knowingly violates §29-19A-3 of this code by  
20 employing any device, scheme, artifice, false representation, or promise with intent to defraud or  
21 obtain money or other property is guilty of a misdemeanor and, upon conviction thereof, for a first  
22 offense, shall be fined not less than \$100 nor more than \$500, or be confined in jail not more than  
23 six months, or be both fined and imprisoned; and for a second and any subsequent offense, shall  
24 be fined not less than \$500 nor more than \$1,000, or confined in jail not more than one year, or be  
25 both fined and confined.

26        (e) Of any funds recovered as provided for in this section and any other funds recovered by  
27 the state as the result of an award for damages, penalties, or settlements in enforcing this article,  
28 one-half shall be deposited in the state General Revenue Fund and one-half shall be deposited in  
29 the service fees and collections account established by §59-2-1 of this code for the operations of  
30 the office of the Secretary of State.

**§29-19A-5.**

**Rulemaking.**

1        The Secretary of State may propose rules for legislative approval pursuant to §29A-3-1 *et*  
2 *seq.* of this code to effectuate the purposes of this article.