

CHAPTER 40

CHARITABLE SOLICITATION ON ROADWAYS

Authority

27:1A-6, 27:1A-7 and 39:4-60

Source and Effective Date

R.2009 d.97, effective February 23, 2009.
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

Chapter Expiration Date

Chapter 40, Charitable Solicitation on Roadways, expires on February 23, 2014.

Chapter Historical Note

Chapter 40, Snow and Ice Control, became effective prior to September 1, 1969.

Chapter 40, Snow and Ice Control, was repealed by R.1990 d.158, effective March 5, 1990. See: 22 N.J.R. 20(a), 22 N.J.R. 837(a).

Chapter 40, Charitable Solicitation on Roadways, was adopted as R.1998 d.275, effective June 1, 1998. See: 30 N.J.R. 528(a), 30 N.J.R. 2066(b).

Chapter 40, Charitable Solicitation on Roadways, was readopted as R.2003 d.435, effective October 9, 2003. See: 35 N.J.R. 2788(a), 35 N.J.R. 5126(a).

Chapter 40, Charitable Solicitation on Roadways, was readopted as R.2009 d.97, effective February 23, 2009. As a part of R.2009 d.97, Subchapter 1, Scope, was renamed Purpose and Scope, effective April 6, 2009. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. PURPOSE AND SCOPE

16:40-1.1 Purpose

Charitable organizations shall be permitted to solicit contributions in the right-of-way of a State highway with approval of the Department pursuant to a charitable solicitation permit. Charitable solicitation shall not be permitted on interstate highways, freeways, toll roads maintained by the New Jersey Turnpike Authority or the South Jersey Transportation Authority and traffic circles or highway segments determined to be inappropriate by the Department in the interest of public safety. Solicitation shall be permitted only at signalized intersections or when the existing traffic control device causes temporary interruption in the flow of normal traffic, such as at the opening of a movable bridge.

Amended by R.2009 d.97, effective April 6, 2009.
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).
Section was "Scope". Rewrote the section.

16:40-1.2 Scope

These rules apply to charitable organizations as that term is defined in N.J.S.A. 45:17A-20.

New Rule, R.2009 d.97, effective April 6, 2009.
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

SUBCHAPTER 2. DEFINITIONS

16:40-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Charitable organization" means:

1. Any person determined by the Federal Internal Revenue Service to be a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3); or

2. Any person who is, or holds himself or herself out to be, established for any benevolent, philanthropic, humane,

social welfare, public health, or other charitable purpose, or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation, or an appeal, which has a tendency to suggest there is a charitable purpose to any such solicitation.

“Charitable purpose” means:

1. Any purpose described in section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3); or
2. Any benevolent, philanthropic, humane, social welfare, public health, or other charitable objective, or an objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.

“Charitable solicitation permit” means a permit issued by the Department pursuant to this chapter.

“Department” means the New Jersey Department of Transportation.

“Freeway” means a multi-lane, divided highway having a minimum of two lanes in each direction and limited access.

“Highway” means a public right-of-way, whether open or improved or not, including all existing factors of improvements.

“Right-of-way” means State highway property and property rights, including easements, owned and controlled by the Department.

“Shoulder” means the portion of the roadway that lies between the edge of the traveled way and curb line, excluding auxiliary lanes.

“State highway” means a road owned, taken over, controlled, built, maintained, or otherwise under the jurisdiction of the Department.

“Traveled way” means the portion of the roadway provided for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

Amended by R.2009 d.97, effective April 6, 2009.
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

In paragraph 2 of definitions “Charitable organization” and “Charitable purpose”, substituted “charitable” for “eleemosynary”; and in paragraph 2 of definition “Charitable organization”, inserted a comma after the second occurrence of “appeal”.

SUBCHAPTER 3. GENERAL PROVISIONS

16:40-3.1 General provisions and restrictions

(a) No person shall solicit charitable contributions on a State highway or intersection thereof without approval from the Department. In order to obtain the approval of the

Department, the charitable organization shall have prior approval from the respective municipal governing body via ordinance. Such municipality shall not authorize charitable solicitations on any county highway or intersection thereof without the approval of the county board of chosen freeholders.

(b) To obtain approval from the Department, the charitable organization shall obtain a charitable solicitation permit from the appropriate regional maintenance office, subject to the provisions of this chapter.

(c) Charitable solicitation permits shall be granted only to charitable organizations soliciting for charitable purposes.

(d) Each person soliciting charitable contributions on behalf of the charitable organization shall be at least 18 years old.

(e) Solicitation shall be subject to the specific terms and conditions of each permit granted.

(f) Permits shall be in possession of the solicitor during all times of solicitation and be available for inspection by local, county, and State police enforcement personnel.

(g) Solicitation shall be permitted on State right-of-way, but is strongly encouraged to be off the traveled way.

(h) Solicitation shall not stop traffic or impede the flow of traffic. Traffic shall already be stopped before solicitation may occur and shall cease while traffic is moving. Use of flagmen or any traffic control device, either portable or permanent, shall be prohibited.

(i) The charitable organization shall be responsible for cleaning up any debris from the right-of-way that arose out of the solicitation activity.

(j) Solicitation shall only be permitted during daylight hours.

(k) State, county, local police, or the Department may suspend solicitation operations at any time if any condition of the permit is violated, or, if in the police officer’s or the Department’s sole discretion, traffic is being impeded or delayed or the public safety is at risk.

(l) Solicitors shall not drink alcoholic beverages, use drugs, or be under the influence of drugs or alcohol when soliciting. Solicitors shall not harass the public.

(m) The Department shall not be liable in any civil action for damages for property damage or personal injury arising out of the solicitation activity conducted by charitable organizations in highway right of way.

Amended by R.2009 d.97, effective April 6, 2009.
See: 40 N.J.R. 6408(a), 41 N.J.R. 1507(a).

In (a), deleted “, via the issuance of a ‘Charitable Solicitation Permit.’” at the end of the first sentence, deleted the former second sentence, and inserted the last two sentences; added new (b); recodified