

CITY OF BALTIMORE

SHEILA DIXON, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

February 20, 2009

The Honorable President and
Members of the Baltimore
City Council
c/o Karen Randle, Executive Secretary
409 City Hall
Baltimore, MD 21202

RE: City Council Bill 08-0253 – Street Regulations-Soliciting

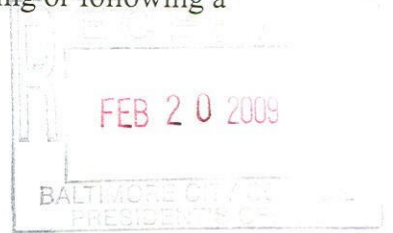
Dear President and Members

You have requested the advice of the Law Department regarding City Council Bill 08-0253. City Council Bill 253 amends Article 19, Section 50-56 by prohibiting obstructing of any street or sidewalk by catching hold of or soliciting person or in any way interfering with their free passage for the purpose of inducing or compelling the to donate any money or thing. The current language prohibits only obstructing passage for the purpose of inducing or compelling someone to buy something. The Bill also deletes Sections 50-57 and 50-58 which prohibit stopping someone in front of a store for the purpose of soliciting their business or enticing them away from the business. The bill provides for criminal penalties in addition the civil citations for violations of the subtitle.

The Law Department has no objection to removal of Sections 50-57 and 50-58 or the provision of criminal penalties. The addition of the donation language in Section 50-56, however, is unnecessary as this behavior is already largely prohibited in Article 19, Section, Subtitle 47, Aggressive Soliciting. Section 47-3 prohibits aggressive soliciting. Aggressive soliciting is defined in Section 47-1(a) as soliciting which is accompanied by 1 or more of the following:

- (1) approaching, speaking to, or following a person in such a manner as would cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or upon property in the person's immediate possession;
- (2) in the course of soliciting, touching another person without that person's consent;
- (3) continuously soliciting from a person or following the person after the person has made a negative response;
- (4) intentionally blocking or interfering with the safe passage of a person or a vehicle by any means, including unreasonably causing a person to take evasive action to avoid physical contact;
- (5) using obscene or abusive language either during the course of soliciting or following a refusal; or

E/A



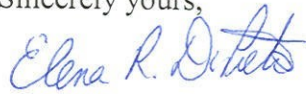
(6) acting with the intent of intimidating another person into giving money or another thing of value.

Soliciting is defined as any act by which 1 person requests an immediate donation of money or other thing of value from another or others in person, regardless of the solicitor's purpose or intended use of the money or other thing of value. See Sec. 47-1(c).

Requesting money or other thing of value on a street or sidewalk is substantially covered under these definitions, specifically by 47-1(a) which provides that soliciting by intentionally blocking or interfering with the safe passage of a person or a vehicle by any means, including unreasonably causing a person to take evasive action to avoid physical contact is prohibited. Considering the existing language in Subtitle 47, it is not necessary to amend Section 50-56 unless there is activity that the Council feels is not covered by the existing aggressive solicitation law.

Due to the fact that the amendment to Section 50-56 may not be necessary due to an existing City Code provision and to avoid redundancy, the Law Department recommends that the City Council only amend Section 50-56 if there is some activity that it feel is not covered by Article 19, Subtitle 47. Subject to that consideration, the Law Department approves the City Council Bill 08-0253 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro
Assistant Solicitor

cc: Honorable James Kraft
Angela Gibson, City Council Liaison
George A. Nilson, City Solicitor
Deepa Bhattacharyya, Assistant Solicitor
Ashlea Brown, Assistant Solicitor
Hilary Ruley, Assistant Solicitor