

A hand is shown dropping a coin into a glass jar. The jar is filled with coins and has a white label with the word "DONATE" written on it. The background is a blurred green and blue gradient.

Cause Marketing Compliance

 What Businesses and Nonprofits
Should Know

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Introduction

Cause Marketing: A Win-Win

Nonprofits and Businesses Working Together for a Greater Good

Cause marketing programs are powerful opportunities for nonprofits and businesses to raise awareness and support for worthy causes. Many companies have made charitable collaboration a core part of their operations. Retailers in particular have embraced cause marketing as a way to generate positive publicity, increase brand awareness, and promote employee and customer loyalty. For nonprofits, these strategic partnerships can energize fundraising campaigns, attract volunteers, and enhance program visibility and impact.

Cause partnerships may include a share of sales donated to a charity, charitable events underwritten by a business, and other corporate activities to benefit charitable organizations. Partnerships with a contractual agreement to share revenue from a commercial activity with a nonprofit are considered commercial co-ventures. Co-ventures require licensing and other regulatory filings in many states. This paper discusses the importance of co-venture compliance and addresses related state requirements including co-venture licenses, contract filings, financial reports, and campaign disclosures.

Today's socially aware consumers are enthusiastic supporters of cause marketing campaigns. Fulfilling charitable solicitation requirements and promoting transparent partnerships engenders trust and encourages higher donation levels. Compliance also protects for-profit and nonprofit co-venturers by ensuring contract terms are fulfilled. The reward is a successful cause partnership that promotes social good and brand loyalty.

TYPES OF CAUSE MARKETING PARTNERSHIPS

- Share-of-sales campaigns
- Buy one, give one campaigns
- Co-branded merchandise
- Checkout donation campaigns
- Sponsored charity events
- Employee volunteer programs
- Matching gift programs
- Social influencer campaigns

Forming a Compliant Commercial Co-Venture: Registration and Filing Requirements

State governments often employ regulatory oversight over cause partnerships to help ensure campaign dollars raised from the public go to the causes they support. Licensing and other regulatory filings are required for many types of commercial co-venture agreements, and both businesses and charities have obligations to fulfill. Commercial co-venturers must register or meet other regulatory requirements in more than half of states. With different requirements in each state, the paperwork requires careful attention.

Licenses and Other Business Requirements

Alabama, California, Illinois, Massachusetts, Mississippi, and South Carolina require businesses to obtain a commercial co-venture license from the state charities bureau or another state agency. License fees range from \$0 to \$350, and must generally be paid for both first-time registrations and renewals. Alabama and Massachusetts also require businesses participating in co-ventures to secure surety bonds.

Maintaining Registrations

Several states require commercial co-venturers to register prior to conducting a cause marketing campaign. In most states, active co-venturers must renew their registrations annually. Fundraising registrations also must generally be renewed by charities each year. In addition, it's important to check requirements periodically as they often change over time.

Contract Filings

Many states require co-venturers to submit a copy of the partnership contract to the state charity office within a stipulated period before a charitable campaign begins. These include Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Hawaii, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Utah, and Virginia. Some states also require certain provisions to be included in the co-venture contract language. Such required provisions may include a detailed description of the offer to the public, an estimate of the total campaign profits, the charity's right to a financial accounting at the conclusion of the campaign, and the circumstances under which the contract may be terminated. Businesses that partner with multiple charities will generally need a separate contract with each individual charity. In some cases, charities are responsible for reporting commercial co-venture activity on their annual solicitation registration application.

Financial Reports

In many states, co-venturers must file a financial statement at the end of a campaign to disclose the funds raised and the funds submitted to charity. For campaigns benefiting multiple charities, a unique financial statement is generally required for each partnership, just as separate contracts are filed for each individual partnership. In some states, copies of the advertisements from the campaign must also be submitted with the report. States requiring financial report filings include Alabama, Arkansas, California, Florida, Massachusetts, Mississippi, New Jersey, North Carolina, and South Carolina.

Commercial Co-Venture Disclosures

Several states require disclosure statements to be included on promotional materials relating to a co-venture campaign. These statements disclose co-venture campaign details such as the charity's contact information, the purpose for which the donated funds will be used, campaign start and end dates, the funding amount donated per purchase, minimum guarantees or donation caps, and any other promotional details. States requiring disclosures include: Arkansas, California, Colorado, Connecticut, Florida, Louisiana, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Oregon, Utah, Vermont, and Wisconsin.

Co-venture partners should check with their state charitable registration office for specific guidelines on information that must be included in campaign disclosures. While only 15 states specifically require disclosures for commercial co-ventures, 17 other states have disclosure requirements for charitable organizations that may or may not apply during cause marketing campaigns. These states include: Delaware, Georgia, Illinois, Iowa, Maine, Maryland, Michigan, Minnesota, Mississippi, Nevada, North Carolina, Pennsylvania, Rhode Island, Texas, Virginia, Washington, and West Virginia.

Unrelated Business Taxable Income

Charities should consult with a tax professional about the inclusion of language in both co-venture contracts and disclosures to clarify that the charity's participation in the campaign is not an endorsement or promotion of any product or co-venture partner. A tax professional can also advise charities on the line between acknowledgment of a co-venturer's support and advertisement on behalf of a co-venturer or their product. Any advertising on behalf of a partner or product may result in some or all of the charity's share of the campaign proceeds being viewed as unrelated business taxable income. Under certain circumstances, too much unrelated business taxable income can even jeopardize a charity's tax exempt status.

Charitable Solicitation Registrations

Since commercial co-ventures are considered charitable solicitation in most states, nonprofits must meet applicable fundraising registration requirements wherever the campaign is active. For online co-venture campaigns, charities may need to meet requirements nationwide. Fulfilling these requirements is especially important since state charity offices generally verify a nonprofit's fundraising registration status as part of a commercial co-venture contract review.

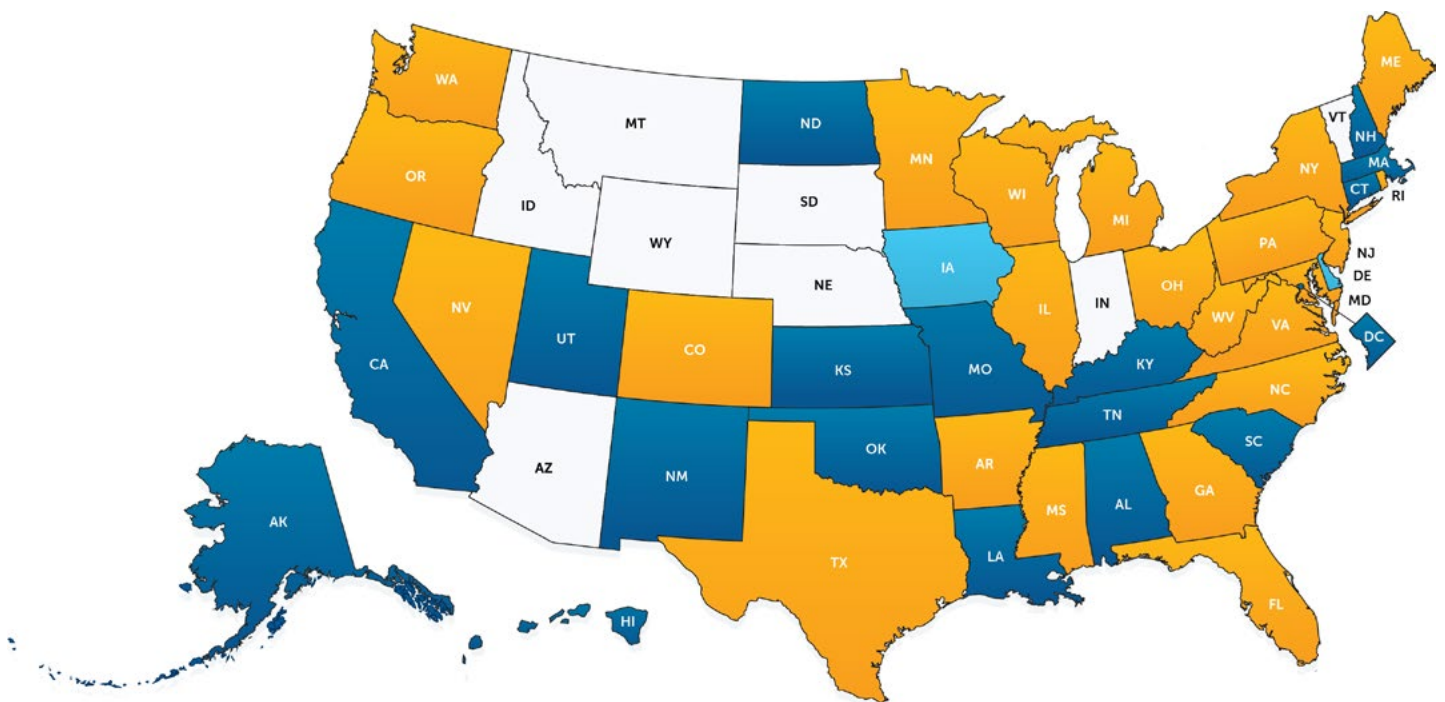
These requirements are explained in greater detail under "Charitable Solicitation Registration."

CHARITABLE SOLICITATION REGISTRATION

In addition to following the specific rules for engaging in commercial co-ventures, charities need to fulfill state requirements for charitable solicitation registration.

Forty-one states require charities to register to solicit funds from their residents, and 25 states require certain disclosures to be included in charitable solicitation materials. These requirements may vary based on factors such as charitable organization type, solicitation methods, and revenue levels. As charities take advantage of online fundraising, they encounter registration requirements for states across the nation.

Beyond meeting legal requirements, maintaining fundraising compliance can yield positive dividends for your organization. According to a survey by Fidelity Charitable, 8 out of 10 donors identify nonprofit transparency and trustworthiness as primary factors impacting their giving decisions.⁷ Embracing fundraising compliance as a badge of honor builds credibility and can set an organization apart from the crowd. When charities advertise that they are fully registered for solicitation, as required by law, and clearly feature solicitation disclosures on all campaign materials, they demonstrate their commitment to responsible governance and foster trust among supporters.



41 STATES Require Charitable Solicitation Registration	25 STATES Require a Disclosure Statement
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STATE REQUIREMENTS

- Charitable solicitation registration and disclosure statement
- Charitable solicitation registration
- Disclosure statement

CHARITABLE SOLICITATION REGISTRATION

Types of Charitable Solicitation

Charitable solicitation is the act of asking for donations for a charitable cause. In most states, the act of soliciting is what triggers registration requirements, not necessarily the receipt of funds. Solicitation may include mailing letters, making phone calls, sending emails, applying for grants, placing a Donate Now button on a charity's website, and using professional solicitors or fundraising consultants. It is the charity's responsibility to understand the requirements of a given state before soliciting contributions from its residents.

The Impact of Online Fundraising

"Donate" sections on charity websites, emails to newsletter subscribers, and social media are all solicitations that can reach citizens of every state, and may subject a charity to fundraising requirements nationwide. When charities receive donations because of those solicitations and follow up with those donors to ask for additional donations, by email or any other method, they are furthering their charitable solicitation activities.

The Registration Process

In most states, charities are required to register before soliciting. Organizations submit a fundraising registration application, articles of incorporation, and financial statements to the state charity official, often the attorney general. A few states also require nonprofits to register with the secretary of state, a process known as "foreign qualification." This further requires appointing a registered agent to receive legal documents on their behalf.

Fundraising registrations must generally be renewed annually. The District of Columbia and Georgia are exceptions, requiring renewal every two years. Due dates vary by state and are often based on the organization's fiscal year end. Penalties for late or missed registration can be costly. In several states, extensions can be filed to keep a registration in good standing without penalty. Tracking due dates and extensions is integral to avoiding late or missed registrations.

Learn More

Charitable solicitation registration is a vast subject with many implications for both newly-formed and long-established nonprofits. To learn about all the ins and outs of fundraising registration, you are welcome to download Harbor Compliance's free white papers on this topic:

[Charitable Solicitation Compliance: An Explanation of State Charitable Registration Requirements](#)

[Charitable Solicitation Registration: Navigating the Complexities](#)

[How Compliance Affects Grantseeking: A Guide for Foundations, Nonprofits, and Fundraising Professionals](#)

Charitable Solicitation Disclosures

Twenty-five states require charities to include written disclosure statements in their fundraising promotions. Donors may rely on disclosure statements to help them make informed decisions about which organizations they give to. Each state's disclosure requirements differ. These disclosures generally provide details on a nonprofit's registration status and directions for finding additional information about the nonprofit.

Cause Marketing Best Practices

Successful cause marketing campaigns begin with successful partnerships. Following are tips for forging sustainable cause partnerships that drive the social change you're looking for.

- Seek partners with aligned missions and audiences. Businesses and charities whose culture, supporters, and missions align are more likely to produce successful campaigns. For example, an outdoor gear retailer and an environmental nonprofit could be logical partners, while a children's clothing chain might align more closely with the mission of a youth-oriented charity.
- Be transparent about the terms of revenue shares and uses of campaign funds and include solicitation disclosures where required in campaign marketing materials. Consider including a link to a campaign's website with additional campaign details in the disclosures.
- Make sure your contract meets state requirements, which are designed to provide structure to the campaign and ensure proceeds go to benefit the advertised cause.
- Use record-keeping tools or compliance software to track all government filings, including upcoming license applications, renewals, contract submissions, and reports.
- Track expenses and profits related to the co-venture campaign as needed to fulfill financial reporting requirements.
- After the campaign, celebrate your achievement. Publicizing your final fundraising tally (including on the campaign website) and thanking your supporters keeps everyone engaged in the campaign's cause and its continued success.



Risks of Missed Requirements

Meeting commercial co-venture and charitable solicitation requirements protects co-venturers from the potential penalties of missed requirements, which may include:

X Suspensions and Revocations. Upon uncovering violations, state regulators may issue a warning or a court order to halt a campaign, revoke licenses, or cancel registrations.

X Fines and Other Penalties. States can levy fines for violations of up to \$20 per day.⁶ Penalties for general violations of commercial co-venture regulations can run into the thousands. Penalties can be greater for intentional violations and may even include imprisonment.⁴

X Negative Publicity. Many civil and criminal penalties are public record, and several states publish charitable solicitation and co-venture infractions on their websites. This bad publicity can do lasting damage to an organization's reputation and operations.

X Loss of Customers and Supporters. Public records of noncompliant operations can quickly degrade support. Most states with solicitation regulations have searchable websites cataloging each nonprofit's registration status, making it easier for savvy donors to conduct research before deciding whether to support cause partnerships and other campaigns.

X Loss of Accreditations. Infractions can jeopardize industry, business, or charitable accreditations. For example, the Better Business Bureau (BBB) outlines disclosure standards that closely mirror the guidelines in many state commercial co-venture laws, as one of 20 charity accountability standards that certified BBB Accredited Charities must maintain.⁸

X Loss of Solicitation Rights and Tax Exempt Status. In serious cases, a nonprofit can lose its right to fundraise or its tax exempt status in a state.

X Personal Liability. Corporate officers and senior staff members who knowingly allow a business or nonprofit to operate without proper registrations, or who sign inaccurate charitable registration filings, can be held financially responsible for penalties or even criminally liable in some states.

INCOMPLETE CAMPAIGN DISCLOSURES CAUSE COMPLICATIONS FOR CO-VENTURE

The widely publicized Save Lids to Save Lives co-venture between Yoplait and Susan G. Komen for the Cure demonstrates how a regulatory oversight can derail a cause marketing campaign. Yoplait advertised that it would make a donation for each yogurt lid collected by consumers during the promotion. The company failed to disclose, however, that it had set an upward limit of \$100,000 on donations.

Following an investigation by the Georgia attorney general, Yoplait's parent company, General Mills, avoided legal action by agreeing to donate an additional \$63,000 to the Breast Cancer Research Foundation to reflect lids collected by Georgia residents. The company later clarified the wording on its yogurt containers and marketing materials and went on to successfully raise funds for breast cancer initiatives for many years to come.

This frequently-cited case illustrates the importance of being well-informed and compliant when conducting campaigns.¹¹

COMMERCIAL CO-VENTURE VIOLATIONS LEAD TO MULTI-STATE ENFORCEMENT AND CHARITY'S DISSOLUTION

In 2018, a Tennessee-based charity entered into a commercial co-venture with a New York-based retailer to fund care packages for armed service members through the sale of novelty teddy bears. Unfortunately, the co-venture did not have a written agreement and the charity later acknowledged it failed to request detailed records from its commercial partner on the quantity of bears sold, and neglected to verify that charitable funds were disbursed uniformly for each sale. The charity also failed to ensure that donations were used for its stated charitable purpose and spent campaign funds without oversight from its board of directors.

Once officials investigated, 16 state agencies brought enforcement actions against the nonprofit for violating state charitable solicitation laws. The charity was ultimately dissolved and its chief executive was barred from future charitable employment or solicitation. A \$10,000 civil penalty was also part of the settlement.^{9,10}

This case underscores the importance of keeping detailed records and diligently meeting state requirements for every campaign.

Compliance Benefits

The benefits of compliance are numerous, from building donor trust to ensuring contract terms are fulfilled. Maintaining a compliant co-venture:

- **Supports Transparency and Trust.** Co-venture compliance facilitates a transparent, effective partnership between nonprofit and commercial entities. Properly obtaining the required licenses and registrations, submitting required filings, and publishing the proper disclosure statements also help strengthen the trust of campaign supporters.
- **Enhances Consumer Confidence and Donations.** Compliance reassures consumers and donors who want to make sure their dollars are well spent and that their contributions will make a difference. More than 80 percent of donors report charitable transparency is a primary factor in their giving decisions.⁷
- **Promotes Positive Brand Image.** Compliance protects the co-venturers' brands and the impact of the campaign.
- **Protects Public Interests.** Compliant co-venture partnerships, including contract fulfillment and the financial documentation of campaigns, all help ensure the public's contributions are applied to the charitable programs they intend to support.
- **Promotes Partner Interests and Safeguards Partners From Penalties.** Commercial co-ventures are built on the premise of a mutually beneficial partnership. By adhering to state guidelines, partners will avoid unintended legal consequences and reinforce public trust. And compliance best practices such as clear co-venture contract agreements and careful financial tracking all help yield a positive campaign with measurable results.
- **Develops Future Partnership Opportunities.** Taking the time to ensure a cause partnership is built on a transparent, compliant foundation lays the groundwork for successful partnerships that drive measurable social value. Building public trust in a campaign and demonstrating successful outcomes may promote other fruitful opportunities. This might include future co-venture campaigns with the same partners or new partners with similarly aligned goals.

Harnessing the Power of Cause Partnerships

Cause marketing continues to grow in popularity and success. Commercial co-ventures are an excellent vehicle to raise awareness and financial support for worthy causes. Taking time to ensure a cause partnership is built on a transparent, compliant foundation lays the groundwork for a successful collaboration that drives measurable social value and positive outcomes for both partners. Regulatory oversight helps ensure that campaign dollars raised from the public go to the appropriate causes and protects co-venturers from unfavorable agreements.

Meeting commercial co-venture and charitable solicitation requirements fosters successful campaigns and promotes public support. If you would like additional information or help with meeting co-venture requirements, Harbor Compliance can help. We've helped many businesses and nonprofits with commercial co-venture registrations, contract filings, charitable solicitation registration, and charitable disclosures, and we're happy to help with your campaign. Just [get in touch](#) or give us a call, 1-888-995-5895.



ABOUT HARBOR COMPLIANCE

Harbor Compliance helps co-venturers build successful partnerships by assisting with charitable solicitation registration, fundraising disclosures, commercial co-venture licensing, contract and reporting requirements, and other aspects of compliance. Through dynamic data, advanced software, and expert service options, Harbor Compliance empowers nonprofits and businesses to reach their goals at every phase of their lifecycles.

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