

By: Representative Yancey

To: Judiciary A

HOUSE BILL NO. 936

1 AN ACT TO AMEND SECTION 79-11-501, MISSISSIPPI CODE OF 1972,
2 TO DEFINE THE TERM "MONETARY DONATIONS" FOR PURPOSES OF THE
3 SECTIONS OF LAW REGULATING SOLICITATIONS BY CHARITABLE
4 ORGANIZATIONS; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 79-11-501, Mississippi Code of 1972, is
7 amended as follows:

8 79-11-501. The following words and phrases as used in
9 Sections 79-11-501 through 79-11-529 shall have the meanings as
10 defined in this section unless the context clearly indicates
11 otherwise:

12 (a) (i) "Charitable organization" means either of the
13 following:

14 (A) Any person determined by the Internal
15 Revenue Service to be a tax exempt organization pursuant to
16 Section 501(c) (3) of the Internal Revenue Code; or

17 (B) Any person actually or purporting to be
18 established for any voluntary health and welfare, benevolent,
19 philanthropic, patriotic, educational, humane, scientific, public



20 health, environmental conservation, civic, or other eleemosynary
21 purpose or for the benefit of law enforcement personnel,
22 firefighters, or other public safety organizations, or any person
23 employing in any manner a charitable appeal as the basis of any
24 solicitation or an appeal that suggests that there is a charitable
25 purpose to any solicitation and includes each local, county or
26 area division within this state of such charitable organization,
27 provided such local, county or area division has authority and
28 discretion to disburse funds or property otherwise than by
29 transfer to any parent organization.

30 (ii) "Charitable organization" is not limited to
31 only those organizations to which contributions are tax deductible
32 under Section 170 of the Internal Revenue Code.

33 (iii) "Charitable organization" does not include
34 any bona fide duly constituted religious institutions and such
35 separate groups or corporations which form an integral part of
36 religious institutions, provided that:

37 (A) Such religious institutions, groups or
38 corporations are tax exempt pursuant to the Internal Revenue Code;

39 (B) No part of their net income inures to the
40 direct benefit of any individual; and

41 (C) Their conduct is primarily supported by
42 government grants or contracts, funds solicited from their own
43 membership, congregations and fees charged for services rendered.

44 (b) "Charitable purpose" means either of the following:



45 (i) Any purpose described in Section 501(c)(3) of
46 the Internal Revenue Code; or

47 (ii) Any voluntary health and welfare, charitable,
48 benevolent, philanthropic, patriotic, educational, humane,
49 scientific, public health, environmental conservation, civic, or
50 other eleemosynary purpose or for the benefit of law enforcement
51 personnel, firefighters, or other public safety organizations;

52 "Charitable purpose" is not limited to only those purposes
53 for which contributions are tax deductible under Section 170 of
54 the Internal Revenue Code.

55 (c) "Container" means any box, carton, package,
56 receptacle, canister, jar, dispenser, or machine that offers a
57 product for sale or distribution which is or purports to be a
58 solicitation of contributions for a charitable purpose.

59 (d) "Contribution" means the promise or grant of any
60 money or property of any kind or value, including the promise to
61 pay, except payments by members of an organization for membership
62 fees, dues, fines, assessments or for services rendered to
63 individual members, if membership in such organization confers a
64 bona fide right, privilege, professional standing, honor or other
65 direct benefit, other than the right to vote, elect officers or
66 hold offices, and except money or property received from any
67 governmental authority. Reference to the dollar amount of
68 "contributions" in Sections 79-11-501 through 79-11-529 means in
69 the case of promises to pay, or payments for merchandise or rights



70 of any other description, the value of the total amount promised
71 to be paid or paid for such merchandise or rights and not merely
72 that portion of the purchase price to be applied to a charitable
73 purpose.

74 (e) "Fundraising counsel" means a person (i) who for a
75 fixed fee or rate under a written agreement plans, manages,
76 advises or consults with respect to the solicitation in this state
77 of contributions by a charitable organization, (ii) who neither
78 solicits contributions nor directly or indirectly employ, procure
79 or engage any person compensated to solicit contributions, and
80 (iii) who does not at any time, whether directly or indirectly,
81 receive or have custody or control of contributions. A bona fide
82 nontemporary salaried officer or employee of a charitable
83 organization shall not be deemed to be a fundraising counsel. No
84 attorney, accountant or banker who renders professional services
85 to a charitable organization or advises a person to make a
86 charitable contribution during the course of rendering
87 professional services to that person shall be deemed, as a result
88 of the professional service or advice rendered, to be a
89 fundraising counsel.

90 (f) "Monetary donations" means cash or cash
91 equivalents.

92 (* * *g) "Person" means any individual, organization,
93 group, association, partnership, corporation, trust or any



94 combination of them or any other entity however established within
95 or without this state.

96 (* * *h) "Professional fundraiser" means any person
97 who for compensation or other consideration is retained by a
98 charitable organization to solicit in or from this state
99 contributions for charitable purposes directly or in the form of
100 payment for goods, services or admission to fundraising events,
101 whether such solicitation is performed personally or through his
102 agents, servants or employees or through agents, servants or
103 employees especially employed by or for a charitable organization
104 who are engaged in the solicitation of contributions, the sale of
105 goods or services or the production of fundraising events under
106 the direction of such person, or a person who plans, conducts,
107 manages, carries on, advises or consults, whether directly or
108 indirectly, in connection with the solicitation of contributions,
109 sale of goods or services or the production of fundraising events
110 for or on behalf of any charitable organization, but does not
111 qualify as a fundraising counsel within the meaning of Sections
112 79-11-501 through 79-11-529, or who engages in the business of or
113 holds himself out as independently engaged in the business of
114 soliciting contributions for such purposes. A bona fide officer
115 or employee of a charitable organization shall not be deemed a
116 professional fundraiser unless his salary or other compensation is
117 paid as a commission which is computed on the basis of funds to be
118 raised or actually raised.



119 (* * *i) "Professional solicitor" means any person who
120 is employed or retained for compensation by a professional
121 fundraiser to solicit contributions for charitable purposes from
122 persons in this state.

123 (* * *j) "Public safety organization" means a
124 nongovernmental organization that uses in its name, whether in a
125 publication of the organization, in a solicitation for
126 contributions to the organizations, for membership in the
127 organization, or to purchase advertising in a publication of the
128 organization, or in a solicitation to purchase products or tickets
129 to an event sponsored by or for the benefit of the organization by
130 a solicitor, the term officer, peace officer, police officer,
131 police law enforcement, reserve officer, deputy, deputy sheriff,
132 constable, deputy constable, fireman, firefighter, volunteer
133 fireman, emergency medical service provider, civil employee or any
134 other term in a manner that reasonably implies that the
135 organization or that a contribution, purchase or membership will
136 benefit public safety personnel.

137 (* * *k) "Solicitation" or "solicit" means the
138 request, directly or indirectly, for money, credit, property,
139 financial assistance, or any other thing of value on the plea or
140 representation that such money, credit, property, financial
141 assistance, or any other thing of value or a portion of it will be
142 used for a charitable purpose or will benefit a charitable
143 organization. "Solicitation" or "solicit" includes, but is not



144 limited to, the following methods of requesting or securing money,
145 credit, property, financial assistance or any other thing of
146 value:

147 (i) Any oral or written request.

148 (ii) The making of any announcement in the press,
149 over the radio or television, by telephone, through the mail or
150 any other media concerning an appeal or campaign by or for any
151 charitable organization or purpose.

152 (iii) The distribution, circulation, posting or
153 publishing of any handbill, written advertisement or other
154 publication which directly or by implication seeks to obtain a
155 contribution.

156 (iv) The offer of, attempt to sell, or sale of any
157 advertising space, book, card, tag, coupon, device, magazine,
158 membership, merchandise, subscription, flower, ticket, candy,
159 cookies or other tangible item in connection with which any appeal
160 is made for any charitable organization or purpose, or where the
161 name of any charitable organization is used or referred to in any
162 appeal as an inducement or reason for making any sale, or where
163 any statement is made that the whole or any part of the proceeds
164 from the sale will be used for any charitable purpose or will
165 benefit any charitable organization.

166 (v) The use or employment of container, canisters,
167 cards, receptacles or similar devices for the collection of money



168 or other thing of value in connection with which any appeal is
169 made for any charitable organization or purpose.

170 (vi) Any announcement requesting the public to
171 attend an appeal, assemblage, athletic or competitive event,
172 carnival, circus, concert, contest, dance, entertainment,
173 exhibition, exposition, game, lecture, meal, party, show, social
174 gathering or other performance or event of any kind.

175 A solicitation shall take place whether or not the person
176 making the solicitation receives any contribution, except that a
177 charitable organization's use of its own name in any communication
178 shall not alone be sufficient to constitute a solicitation.

179 **SECTION 2.** This act shall take effect and be in force from
180 and after July 1, 2024.

