

By: Senator(s) Polk

To: Business and Financial
Institutions

SENATE BILL NO. 2545

1 AN ACT TO AMEND SECTION 79-11-501, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE DEFINITION OF MONETARY DONATIONS; AND FOR RELATED
3 PURPOSES.

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

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

7 79-11-501. The following words and phrases as used in
8 Sections 79-11-501 through 79-11-529 shall have the meanings as
9 defined in this section unless the context clearly indicates
10 otherwise:

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

(g) "Person" means any individual, organization, group, association, partnership, corporation, trust or any combination of



93 them or any other entity however established within or without
94 this state.

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



117 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



used for a charitable purpose or will benefit a charitable organization. "Solicitation" or "solicit" includes, but is not limited to, the following methods of requesting or securing money, credit, property, financial assistance or any other thing of value:

(i) Any oral or written request.

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

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

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



166 (v) The use or employment of containers,
167 canisters, cards, receptacles or similar devices for the
168 collection of money or other thing of value in connection with
169 which any appeal is made for any charitable organization or
170 purpose.

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

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

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

