

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:



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

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

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

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

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



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

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

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

91 (g) "Person" means any individual, organization, group,  
92 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



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 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.

