



## STATE ETHICS COMMISSION

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# MARYLAND PUBLIC ETHICS LAW

### LOBBYING LAW REQUIREMENTS

- \* LOBBYIST REGISTRATION
- \* REGISTRATION EXEMPTIONS
- \* REPORTING REQUIREMENTS
- \* GIFT LIMITATIONS
- \* STANDARDS OF CONDUCT
- \* ENFORCEMENT & ADVICE

This information is intended to be a general summary of the Law.  
It is not to be read as a substitute for the Law itself.



# State Ethics Commission

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# General Information - Lobbying:

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The Maryland Public Ethics Law provides that the State Ethics Commission shall administer the State's lobbying law, financial disclosure law, and conflict of interest law for officials and employees of the Executive Branch as well as the financial disclosure law for legislators; and it requires local governments to enact their own ethics law. The Public Ethics Law may be found in the Maryland Code Annotated, General Provisions, Title 5. For a definition of terms not specifically defined in this document, see Md. Code Ann., General Provisions §5-101.

The lobbyist disclosure program requires certain entities<sup>1</sup> who expend funds or receive compensation to influence legislative or executive action, to register with the State Ethics Commission and report their expenditures. The Ethics Law allows the public to know which persons or entities are making a significant effort to influence public policy and governmental decisions and establishes standards of conduct to insure the integrity of the lobbying process. The provisions of the lobbying law can be found in Subtitle 7 of the Ethics Law.

The lobbying provisions of the Ethics Law create a lobbying registration year that extends from November 1st through the following October 31<sup>st</sup> (§5-704). A registration is only valid for this one-year period. A new registration is required for each year in which a person engages in activities requiring registration. The person must register with the Commission within five days of engaging in such activities (§5-704(d)).

There are two lobbying reporting periods during the year: November 1<sup>st</sup> through April 30<sup>th</sup> and May 1<sup>st</sup> through October 31<sup>st</sup> (§ 5-705(a)). A person who is registered during any portion of a reporting period must file an Activity Report for that reporting period, even if that person had no activity during that reporting period.

The Public Ethics Law establishes lobbying registration requirements for persons undertaking activities for the purpose of influencing:

- **legislative action** - includes action or non-action as to introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto, or any other official action or non-action on any bill, resolution, amendment, nomination, appointment, report, or any other matter pending which is within the official jurisdiction of the General Assembly.
- **executive action** - any act taken by an official or employee of the Executive Branch for which the executive branch is responsible.

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<sup>1</sup> "Entity" includes "person (See Md. Code Ann., General Provisions § 5-101(i)). General Provisions § 1-114 defines "Person" as an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, corporation, partnership, business trust, statutory trust, limited liability company, firm, association or other nongovernmental entity.

# Requirements for Registration:

## LEGISLATIVE ACTION LOBBYING

A person is required to register as a legislative action lobbyist if any of the following is met:

1. The person communicates **in the presence** of an official or employee in the legislative branch for the purpose of influencing any legislative action during a lobbying reporting period and **incurs expenses of \$500 or more** for all such activities other than for personal travel or subsistence expenses. For example, a person who meets with members of the General Assembly, or the Governor (if the meeting with the Governor seeks the introduction of legislation), and provides gifts (including meals and beverages) that collectively total \$500 or more, will trigger this registration requirement. Costs associated with legislative receptions, invitations, and postage are examples of expenses that will also trigger this registration requirement.
2. The person communicates **in the presence** of an official or employee in the legislative branch for the purpose of influencing any legislative action during a lobbying reporting period and the person **earns \$2,500 or more** as compensation, from all lobbying employers cumulatively, for all such communication and activities.
3. The person is **not in the presence** of an official or employee in the legislative branch but communicates with such an official or employee for the purpose of influencing legislative action and **earns \$5,000 or more** from all lobbying employers cumulatively as compensation for all such communication and activities relating to the communication during a reporting period. For example, a person who makes/sends telephone calls, letters, e-mail, etc. to members of the General Assembly, or the Governor (if seeking the introduction of legislation), who earns cumulatively \$5,000 or more from such activity, will trigger this registration requirement

## EXECUTIVE ACTION LOBBYING

A person is required to register as an executive action lobbyist if one of the following registration requirements is met:

1. The person communicates with any official or employee in the executive branch for the purpose of influencing executive action during the reporting period and the person **spends a cumulative amount of \$100 or more** during the reporting period on one or more officials or employees of the executive branch for gifts including meals, beverages and special events. Any executive action activity is covered by this provision. Contrast this with numbers 2 and 3, which are not triggered unless the person's actions are for the purpose of influencing executive action **related to the development or adoption of regulations or the development or issuance of an executive order.**

2. The person communicates **in the presence** of an official or employee in the executive branch and **earns \$2,500 or more** in a reporting period, from all lobbying employers cumulatively, for all such communication and activities relating to the communication, for the purpose of influencing executive action relating to the development or adoption of regulations or the development or issuance of an executive order.
3. The person communicates in the presence of an official or employee in the executive branch and, exclusive of personal travel or subsistence expenses, incurs expenses **of \$500 or more** in a reporting period, for the purpose of influencing executive action relating to the development or adoption of regulations or the development or issuance of an executive order.
4. The person is **not in the presence** of an official or employee in the executive branch but communicates with such officials or employees and **earns \$5,000 or more** as compensation for all such communication and activities during the reporting period from all lobbying employers cumulatively, for the purpose of influencing the development or adoption of regulations or the development or issuance of an executive order.
5. The person is compensated to influence executive action in any procurement contract that **exceeds \$100,000**, even if not in the presence of the official or employee, unless the person or entity is a bona fide salesperson or commercial selling agency employed or maintained by the employer.
6. The person is compensated by a business entity to influence executive action to secure a business grant or loan **with a value of more than \$100,000** from the State (see Qualified Exemptions discussed below).

### **GRASSROOTS LOBBYING**

The Ethics Law requires registration for any person, group, organization or business entity that **spends \$2,000**, including salaries, contractual employees, postage, telecommunication services, electronic services, advertising, printing and delivery services, in a reporting period for the express purpose of soliciting others to communicate with any official to influence any legislative or executive action. For example, entity A spends \$2,000 to pay for a television advertisement asking voters to contact their State senator and delegate to urge them to support a particular piece of legislation. Entity A would be required to register as a grassroots lobbyist.

### **THE REGISTRATION PROCESS**

A lobbying registration form is to be submitted no later than five days after taking an action or actions requiring registration. The registration period runs from November 1 through October 31 of the following year unless the lobbyist registers for a shorter period of time. Included on the form are:

- the type(s) of lobbying to be done.
- the lobbyist's name and permanent address.
- the name of the employer.
- the period of activity and the nature of the lobbying matters to be addressed.

The form must be signed by the lobbyist and the lobbyist's employer and be accompanied by a fee of **\$100.00** per registration.

### **TERMINATION OF REGISTRATION**

A registrant may terminate his or her status as a regulated lobbyist by: 1) ceasing any activity that requires registration; 2) filing a notice of termination with the Commission (**there is no special form for this purpose**); and 3) filing the required activity report(s) within 30 days after filing the notice of termination.

### **PERSONS COMPENSATING LOBBYISTS**

Those who spend at least \$2,500 to provide compensation (employers) to one or more persons are required to register as lobbyists, unless they meet both registration and reporting exemption requirements listed below and claim this exemption on a registration form submitted by their registered lobbyist.

1. The employer must not engage in other acts (other than employing a lobbyist) that require registration.
2. The employed lobbyist must report all of the lobbying related expenses of the employer on the lobbying activity report, including compensation, other expenditures made by the lobbyist and any other support expenses, compensation or other lobbying related expenditures made by the lobbyist's employer. The exemption must be claimed on the lobbying registration form signed by the lobbyist and the employer.

If the lobbyist neglects to file any of the required reports, the employer will be responsible for doing so.

## **General Registration Exemptions:**

There are five situations listed below which the Ethics Law describes as general exemptions to the registration requirements.

1. Appearances before officials of the legislative or executive branch as part of the official duties of a duly elected or appointed official or employee of the State or a political subdivision of the State, or of the United States, and not on behalf of any other entity.

2. Actions of a member of the news media to the extent the actions are in the ordinary course of gathering and disseminating news or making editorial comments to the general public.
3. The representation of a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization.
4. Appearances as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in lobbying for counties and municipalities and not on behalf of any other entity. For example, individuals associated with the Maryland Association of Counties (MACO) or the Maryland Municipal League (MML) would be covered by this exemption.
5. Actions as part of the official duties of a trustee, administrator, or a faculty member of a non-profit independent college or university in the State provided the official duties of the individual do not consist primarily of attempting to influence legislative or executive action.

## **Qualified Registration Exemptions:**

The following activities are exempt from regulation if the person engages in no other acts for an employer during the reporting period that require registration:

1. Appearances before the General Assembly or any committee or subcommittee at the specific request of the body involved.
2. Appearances before an executive unit at the specific request of the executive unit involved.
3. An elementary, secondary, or postsecondary school student or student organization that communicates as part of a course or student activity is not subject to the registration requirements based solely on the \$500.00 expense threshold.
4. Appearances before a legislative committee at the specific invitation or request of a regulated lobbyist provided the witness notifies the committee that the testimony is at the request of a regulated lobbyist.
5. Professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending legislation where these services do not otherwise constitute activities as a regulated lobbyist.
6. Appearances before an executive unit at the specific request of a regulated lobbyist if the witness notifies the executive unit that the testimony is at the request of the regulated lobbyist.

7. A person who seeks to secure a business grant or loan for the purpose of locating, relocating, or expanding a business in or into the State.
8. A bona fide full-time official or employee of a business entity seeking to secure a business grant or loan.
9. A bona fide salesperson or commercial selling agency employed or maintained by an employer for the purpose of soliciting or securing a procurement contract if the sole activity involves attempting to influence executive action on a procurement contract that exceeds \$100,000.

## Gifts:

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The Ethics Law has a variety of provisions involving limitations on and disclosure of gifts. Lobbyists are required to report gifts on their activity reports in varying detail depending on the nature of the gift, the value of the gift, and the recipient. In most instances, officials are also required to disclose gifts received from lobbyists in excess of \$20 or a series of gifts of \$100 or more.

A regulated lobbyist and the lobbyist employer may not knowingly, directly or indirectly, make a gift to an official or employee if the donor knows, or has reason to know, that the employee or official may not receive the gift (§5-714). The Public Ethics Law prohibits both the lobbyist from giving and the employee or official from receiving the gift. Although the gift provisions of the Ethics Law for all employees and officials are similar, there may be some differences in the content and the interpretation of these laws. The Joint Committee on Legislative Ethics<sup>2</sup>, and not the State Ethics Commission, considers issues related to permissible gifts to legislators.

In addition to a general gift solicitation prohibition, Subtitle 5 of the Public Ethics Law prohibits officials from directly soliciting or facilitating the solicitation of a gift from an individual regulated lobbyist on behalf of another person or group, including charitable and community group solicitation. Section 5-714 prohibits a regulated lobbyist from making a gift directly or indirectly that the lobbyist knows the intended recipient is prohibited from accepting and from engaging in any charitable fund-raising activity at the request of an official or employee (including soliciting, transmitting the solicitation of, or transmitting a charitable contribution).

Officials and employees may receive gifts from regulated lobbyists and certain other donors if they are of insignificant value and would not tend to impair or appear to impair the impartiality or independent judgment of the recipient, and certain gifts specifically listed in the Ethics Law. These specific exceptions include:

- \* Meals and beverages in the presence of the donor<sup>3</sup>.

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<sup>2</sup> You may contact the Joint Committee by calling the Office of Counsel to the Joint Ethics Commission at 410-946-5200.

<sup>3</sup> This applies to Executive Branch only. See the Special Gift Limitations discussion for meals and beverages for legislators and staff.



- \* Ceremonial awards or gifts of insignificant monetary value.
- \* Other unsolicited nominal gifts (does not apply to State officials).
- \* Trivial gifts of informational value.
- \* Certain reasonable expenses for serving as a speaker at a meeting.
- \* As to elected officials, certain tickets as a courtesy to the office, other than for sporting events, such as charitable, cultural or political events.

**Special Gift Limitations: Meals and Beverages - Legislators and Staff – §5-505(c)(2)(i)**

1. A public official (primarily, professional staff) of the Legislative Branch may accept meals and beverages only at receptions to which all members of a designated legislative unit are invited, in the company of or on behalf of an invited member of the General Assembly.
2. Generally, legislators may accept meals and beverages only under specified circumstances, as follows:
  - A. Meals and beverages received and consumed by the member in the presence of the donor as part of a meal or reception to which all members of a legislative unit (a list of approved legislative units is available from the State Ethics Commission) were invited.
  - B. Meals and beverages received from the donor, **other than a regulated lobbyist**, while the General Assembly is not in session at a location within a county that contains the member’s district if the donor is located within the county that contains the member’s district.
  - C. Meals and beverages received at the time and in the geographic location of a meeting of a legislative organization for which the member’s presiding officer has approved the member’s attendance at State expense.

**Special Gift Limitations: Nominal Gifts §5-505 (c)(2)(iv)**

Elected officials in the Executive branch (Governor, Lt. Governor, Attorney General, Comptroller, Sheriff, States Attorney, Clerk of the Court and Register of Wills) and members of the General Assembly may accept from a regulated lobbyist only unsolicited gifts that do not exceed \$20 in value.

Generally, nominal gifts include such items as t-shirts, caps, flowers, paperweights, etc. NOTE: This category of gifts is separate from permissible reasonable travel expenses (see below) and ceremonial gifts such as plaques or trivial gifts of informational value.

**Special Gift Limitation: Tickets and Free Admission §5-505(c)(2)(viii)**

Elected constitutional officers may accept tickets, or free admission as a courtesy or ceremony to the office, to attend a charitable, cultural or political event from the person sponsoring or conducting the event. (**Note: tickets to sporting events may not be accepted.**)

# **Reporting Requirements:**

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## **ACTIVITY REPORTS**

A person required to register is also required to report expenses relating to lobbying activity (Form 4). A lobbying activity report is required for any part of a six-month reporting period during which the lobbyist is registered. The reporting periods are November 1 through April 30 (report is due by May 31) and May 1 through October 31 (report is due by November 30). If a person is registered as a lobbyist and has not participated in any lobbying activities during the lobbying reporting period, that person must still file a lobbying activity report and check “no activity” in the introductory paragraph of the form. Lobbyists are encouraged to file their activity report electronically at <https://lobby.ethics.state.md.us>, which provides the most accurate and timely approach. Each lobbyist will have an electronic account. If you do not know your username and password, please call the office.

## **CONTENTS OF ACTIVITY REPORTS**

Lobbying activity reports require careful documentation and record keeping. In addition to updating any information that has changed since the registration form was filed, disclosure is required regarding compensation, gifts, official expenses, research assistance, publications, witness fees and all other costs related to the lobbying effort. The description of the matter lobbied should include legislative bill numbers where possible. Lobbyists and registrants must retain any documents necessary to substantiate their reports for at least three years from the date the report is filed. After reasonable notice, these records are to be made available to the Ethics Commission for inspection.

In addition to the general lobbying activity report, there are a variety of special reports that may need to be filed. For example, organizations whose primary purpose is lobbying must file a report disclosing those persons or entities that finance 5% or more of the organization’s effort. Also, lobbyists are required to report campaign contributions and certain business transactions with officials.

# **Special Reports:**

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## **Grassroots - Contributors Report: § 5-705(d) (Form 12)**

A regulated lobbyist, other than an individual, that is organized and operated for the primary purpose of attempting to influence legislative or executive action, must file a report identifying the name and permanent address of each entity that provided at least 5% of the regulated lobbyist’s total receipts during the preceding 12 months.

## **Legislative Meals or Receptions: § 5-709 (Forms 13E & 13F)**

If a regulated lobbyist plans to hold a legislative meal or reception event to which a qualified legislative unit is invited, the following requirements apply:

1. The invitees must be a qualified group. Qualified groups include all members of the General Assembly, either house thereof, all members of any standing committee, or all members of a formally recognized (for ethics disclosure purposes) county or regional delegation.
2. At least five days before the event, there must be a written invitation to all members of the qualified legislative unit and an invitation disclosure form (Form 13 E) must be filed with the Department of Legislative Services.
3. Within fourteen days after the event, an expenditure report must be filed with the State Ethics Commission (Form 13 F). If the final costs for the event are not known by the time the Form 13F must be filed (14 days after the event), the lobbyist must estimate the cost and provide as much information as possible on the form. If the total cost has been accurately reported on the Form 13F, the regulated lobbyist should not include this event on the activity report (see immediately below). If the total cost has not been accurately reported on the Form 13F, then the regulated lobbyist must include this event and its final cost on the activity report (see below).

## **Lobbyists – Identification of Gift Recipient: § 5-705 and § 5-706**

Lobbyists must report the gross amounts of all gifts in the relevant reporting categories on the lobbying Activity Report (Form 4). There are other provisions of law that require the lobbyist to name the gift recipients:

1. When an official or employee receives more than \$200 for expenses to speak or participate at a meeting (§ 5-705(c)(2)(ii)). (Form 4, Line B-3)
2. When an elected executive official or immediate family member of such an official receives meals and beverages in any amount (§5-706(a)). (Forms 13A or 13B)
3. A gift of two or more tickets or free admissions during the reporting period totaling \$100 or more, made to a member of the General Assembly must be disclosed as to the recipient (§ 5-705( c)(2)(iii)). (Forms 13C or 13D)

## **Seventy-Five Dollar Gift Disclosure: § 5-705 (Forms 13C or 13D)**

Lobbyists must report each gift with a value of \$75 or more, given to an official, employee or member of the immediate family of an official or employee by a regulated lobbyist or by an entity on behalf of the regulated lobbyist, regardless of whether the gift is attributable to more than one

entity and whether or not it is in connection with lobbying. The lobbyist must include in the report the name of the recipient. The \$75 threshold pertains to an individual gift or a series of gifts given within the six-month reporting period. For example, if a lobbyist employer reaches the \$75 gifting level, the lobbyist must disclose the name of the recipient on the special reporting form. If a lobbyist using funds from more than one employer, or his or her own funds cumulatively, reaches the \$75 level for a gift or gifts to a single recipient, the lobbyist must disclose the name of the recipient on the special reporting form.

**The following gifts are not required to be included in the \$75 gift report:**

- A. Gifts of a ticket or free admission to a member of the General Assembly as a courtesy or ceremony to the office to attend a charitable, cultural or political event sponsored or conducted by the reporting entity (subject to the \$100 rule addressed in the previous section);
- B. Food and beverages for a meal or reception to which all members of a legislative unit are invited;
- C. Food and beverages received by members of the General Assembly at the time and geographic location of a meeting of a legislative organization for which the member's presiding officer has approved the member's attendance at State expense; and
- D. Food, lodging and expenses of a value of \$200 or less in return for participation in a panel or speaking engagement at a meeting.

**Business Transactions With Officials: § 5-707 (Form 21)**

Business transactions with officials or employees may be limited by §5-714(11) and are subject to the disclosure requirements of § 5-707 of the Ethics Law.

Section 5-707 requires a regulated lobbyist to file a report if, during a six month lobbying reporting period, the lobbyist engaged in a business transaction with a member of the General Assembly, Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, State Treasurer or Secretary of a principal State department. Doing business with any of the following is considered to be the same as doing business with an official:

- the spouse of the official.
- a business entity in which the official or the spouse participates as a proprietor or partner.
- a business entity in which the official or the spouse has an ownership interest of at least 30% in the entity.

Covered transactions are those involving the exchange of value of \$1,000 or more for a single transaction or \$5,000 or more for a series of transactions.

The reporting period of the transactions is the previous six-month lobbying reporting period (either November 1 through April 30, or May 1 through October 31). The disclosure form (Commission Form # 21) requires:

- The date(s) of the transaction(s).
- The name and title of the official involved in the transaction(s).
- The nature and value of anything exchanged. Value is determined by the actual consideration or fair market value.

### **Campaign Contributions from Lobbyists: § 5-708 (Form 22)**

Two regulated lobbyist campaign finance disclosure programs are part of the Ethics Law. One program addresses lobbyist disclosure and is fully administered by the State Ethics Commission and subject to all of the civil sanctions under the Ethics Law. This program requires a regulated lobbyist to disclose, on a separate report to be filed at the time of filing the six-month lobbyist activity report, any contribution made directly or indirectly by the regulated lobbyist during the reporting period for the benefit of the Governor, Lt. Governor, Attorney General, Comptroller, Member of the General Assembly or candidate for election to any of those offices. It is important to note that the law applies to direct and indirect contributions. For example, reported contributions would include those made to a political committee for an applicable candidate or a slate on which a candidate is a member, a contribution to a PAC created to support a specific candidate or a group of candidates, or a PAC contribution designated for transfer to a particular candidate or candidates. A lobbyist must also disclose any contributions made by other persons at the direction of the lobbyist which funds could be considered to be the lobbyist's funds or under the lobbyist's control. This may also include a contribution by a family member or a political action committee. A lobbyist may not solicit or transmit contributions on behalf of covered officials (§ 5-715).

### **Campaign Contributions from Lobbyists' Employers: § 5-716**

The second campaign contribution disclosure requirement applies to employers paying compensation to a lobbyist. The report must be submitted by an employer who spends at least \$500 to compensate one or more regulated lobbyists and makes a contribution or series of contributions of more than \$500 to the Governor, Lt. Governor, Attorney General, Comptroller or member of the General Assembly. The disclosure report is filed with the State Board of Elections, which has developed forms for this activity (see the "Disclosure of Contributions by Persons Doing Business with Maryland Government and/or Employing a Lobbyist". Found at <http://elections.state.md.us/forms/campaign.html> ). The State Board of Elections administers the filing of forms and is responsible for reporting any violations to the Commission. The Law provides criminal penalties for knowing and willful failure to comply with the reporting requirements. The reports are required twice each year, with the reporting period being the 6-month period ending on either January 31 or July 31. The filing deadline is 5 days after the end of the reporting period.

# Standards of Conduct:

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The standards of conduct for regulated lobbyists are set forth in § 5-714 of the Ethics Law. A regulated lobbyist may not:

- Be engaged for lobbying purposes for compensation that is dependent in any manner on the enactment or defeat of legislation, the outcome of executive action on a procurement contract, or any other contingency related to executive action or legislative action.
- Initiate or encourage the introduction of legislation for the purpose of opposing the legislation.
- Knowingly counsel any person to violate any provisions of the Ethics Law or any other State or Federal Law.
- Engage in or counsel any person to engage in fraudulent conduct.
- While engaging in lobbying activities, knowingly make to an official or employee a statement of material fact relating to lobbying activity that the regulated lobbyist knows to be false.
- Engage in lobbying without being properly registered as a regulated lobbyist in accordance with the lobbying law.
- Request an official or employee to recommend to a potential client the lobbying services of the regulated lobbyist or any other regulated lobbyist.
- Make a gift, directly or indirectly, to an official or employee if the regulated lobbyist knows or has reason to know the gift is in violation of the conflict of interest provisions concerning the receipt of gifts as set forth in subtitle 5 of the Ethics Law.
- Make a gift directly or indirectly as a result of a solicitation or facilitation by an official or employee which the regulated lobbyist knows or has reason to know is prohibited by the Ethics Law.
- If the regulated lobbyist is an individual, engage in any charitable fund-raising activity at the request of an official or employee, including soliciting, transmitting the solicitation of, or transmitting a charitable contribution.
- Unless in the ordinary course of the regular business of the regulated lobbyist, make or facilitate the making of any loan of money, goods, or services to an official or employee.
- While engaging in lobbying activities on behalf of an entity, knowingly conceal from an official or employee, the identity of the entity.

- Commit a criminal offense arising from lobbyist activity.
- If serving on the State or local central committee of a political party, participate as an officer of the central committee, or engage in fund-raising activity on behalf of the political party, or participate in actions relating to filling a vacancy in a public office.

In addition to the above restrictions, an individual regulated lobbyist<sup>4</sup> may not, for the benefit of the Governor, Lt. Governor, Attorney General, Comptroller or member of the General Assembly, or candidate for election to those offices, engage in:

- Soliciting or transmitting a political contribution from any person, including a political committee;
- Serving on a fund-raising committee or a political committee;
- Acting as a treasurer for a candidate or official or as treasurer or chairman of a political committee;
- Organizing or establishing a political committee for the purpose of soliciting or transmitting contributions from any person; or
- Forwarding tickets for fund-raising activities or other solicitation for political contributions, to a potential contributor.

### **Other Statutory Restrictions - Manner In Which Lobbyists Are Paid**

Section 7-221 of the State Finance and Procurement Law generally prohibits the disbursement of State funds to a recipient unless there is a signed affidavit that no money from State funds has been paid or promised to any legislative agent, lawyer, or lobbyist for any service to obtain the appropriation. The State Ethics Commission does not administer § 7-221.

## **Lobbyists Serving On Boards & Commissions:**

The Law has, as a general rule, determined that concurrently serving as a State employee and a regulated lobbyist are not compatible. Therefore, if a regulated lobbyist becomes an official or State employee, the regulated lobbyist shall immediately terminate the registration as a lobbyist by ceasing all activity that requires registration, filing a notice of termination with the Ethics Commission and filing all reports required within 30 days after the filing of the notice of termination. (§5-704(f)(3)(i))

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<sup>4</sup> A regulated lobbyist entity, registered under § 5-702(a)(5) of the Public Ethics Law (grassroots lobbyist), is not prohibited from soliciting or transmitting campaign contributions. (§ 5-715(b)).

However, there is an exception if the regulated lobbyist becomes a public official solely by the regulated lobbyist's appointment to a board or commission subject to the jurisdiction of the State Ethics Commission. While the lobbyist may serve on a State board or commission, pursuant to Ethics Commission regulations, the lobbyist is required to file certain disclosure forms with the Commission and send a copy to the Appointing Authority. Commission Form 23 must be submitted to the Commission if any of the following situations exist: 1) current representation of a person for compensation before a State governmental unit, except in a judicial or quasi-judicial proceeding; 2) current representation of a State agency for compensation, any contractual relationship with State government, or any transaction with State government for monetary consideration; and 3) any current interest held by the regulated lobbyist, the regulated lobbyist's spouse or dependent children, together or separately, having either 10 percent or more of the capital stock, or stock worth \$25,000 or more, in a corporation subject to regulation by or doing business with the board or commission, or any interest in a partnership, limited liability partnership, or limited liability company subject to regulation by or doing business with the board or commission. Additionally, whenever an issue arises within the board or commission related to the information disclosed on one of the forms, the regulated lobbyist member shall submit Commission Form 24, a statement of recusal from discussion of, voting on, or any other action required by the circumstances concerning the issue on a form provided by the Commission, to the board or commission for inclusion in the minutes to the meeting, under oath or affirmation, reciting the reason for recusal.

It is important to note that regulated lobbyists who are public officials solely because of their participation on boards or commissions are subject to the conflict of interest requirements of Subtitle 5 of the Public Ethics Law. If the service on a board or commission creates a conflict of interest that is not exempted by the Commission, the regulated lobbyist may not serve on the board or commission. In addition, lobbyists considering service on a board or commission should be aware that they will be subject to the post-employment provisions of the Public Ethics Law (§ 5-504(d)) at the conclusion of their service.

## **Enforcement & Penalties:**

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The Ethics Law enforcement provisions are found in § 5-405 and Subtitle 9 of the Public Ethics Law and include the potential for civil or criminal proceedings and sanctions. Civil proceedings are within the jurisdiction of the Ethics Commission and criminal proceedings fall within the aegis of the State Prosecutor. The Ethics Commission rules for civil proceedings are contained in Title 19A of the Code of Maryland Regulations (COMAR) and provide for confidentiality unless waived by the respondent, or until the Commission makes a finding of violation. The Regulations, in some instances, also permit the Commission to execute consent agreements for a confidential cure of the violation.

If the Ethics Commission determines that the respondent has not violated the law, it will dismiss the complaint, and the matter will remain confidential.



If the Ethics Commission determines that the respondent has violated the law, it may issue an order of compliance or issue a reprimand. If the Commission determines that the respondent has violated the lobbying provisions (Subtitle 7) of the Law, the Commission may require a respondent to file any additional reports or information and has the power to impose a fine not to exceed \$5,000 for each violation.

If the Ethics Commission determines it necessary to protect the public interest and the integrity of the governmental process, it may issue an order to suspend the registration of a regulated lobbyist upon a determination that the regulated lobbyist has knowingly and willfully violated the lobbying law or has been convicted of a criminal offense arising from lobbying activities.

If the Commission suspends the registration of a regulated lobbyist, the regulated lobbyist may not engage in lobbying for compensation for a period, not to exceed 3 years, as determined by the Commission as necessary to satisfy the purposes of the law.

The Commission may revoke the registration of a regulated lobbyist if it determines that, based on acts arising from lobbying activities; the regulated lobbyist has been convicted of bribery, theft, or other crime involving moral turpitude.

If the Commission revokes the registration of a regulated lobbyist, the regulated lobbyist may not engage in lobbying for compensation.

An individual whose registration as a regulated lobbyist is revoked or suspended may apply to the Ethics Commission for reinstatement. The Ethics Commission may reinstate the registration of a regulated lobbyist if it determines that reinstatement would not be detrimental to the public interest and the integrity of the governmental process, based on the nature and circumstances of the original misconduct or violation leading to revocation or suspension, the individual's subsequent conduct and reformation, and the present ability of the individual to comply with the provisions of the law.

Additionally, for each registration, activity report or other required report that the Ethics Commission determines to be late, a regulated lobbyist may be required to pay a fee of \$10 for each late day, not to exceed a total of \$1000. The Commission has adopted a zero tolerance policy with respect to late filed activity reports, in recognition of the importance of timely filing by lobbyists.

Orders issued by the Ethics Commission are judicially enforceable. A lobbyist may seek judicial review as provided in Title 10 Subtitle 2 of the State Government Article. An order of the Commission is stayed automatically until the time for seeking judicial review has expired, and, if a timely appeal is filed, the order is stayed until final disposition by the court.

A person who knowingly and willfully violates the lobbying provisions of the Ethics Law can be found guilty of a misdemeanor and is subject to a fine not to exceed \$10,000 or imprisonment not to exceed one year, or both.

If the lobbyist is not an individual, each officer or partner who knowingly authorizes or participates in a violation of the lobbying provisions of the Ethics Law may be guilty of a misdemeanor and be subject to the penalties set forth above.

## **Advisory Opinions & Public Information:**

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The Ethics Commission staff is available to provide assistance in completing forms. The staff may provide informal guidance in person, by email, and by phone. Formal written advice from the State Ethics Commission, in the form of an advisory opinion, can also be requested. Requests for advice are confidential unless the requestor waives confidentiality.

The State Ethics Commission will issue an advisory opinion concerning the application of the Public Ethics Law, including the lobbying disclosure provisions, at the request of any person. To the extent possible, the published opinion will not contain material identifying the person who is its subject. Requests for advisory opinions should be in writing and addressed to the State Ethics Commission, 45 Calvert Street, 3<sup>rd</sup> Floor, Annapolis, Maryland 21401. In lieu of a formal published opinion, the Commission may issue its opinion by letter relying on past opinions. All State Ethics Commission informational materials and forms can be accessed at the Commission's Website <http://ethics.gov.state.md.us>.

### **Information Available From The Commission**

Lobbying registration and activity report forms are available online. The Commission also publishes a list of registered lobbyists and compiles a summary of lobbyist expenditure reports and other related information which is also included in its annual report.

In addition to this summary, a regulated lobbyist should consult the forms, instructions and published advisory opinions available in COMAR Title 19A and the Public Ethics Law, as published in Title 5 of the General Provisions.

## **Local Government Lobbying:**

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Individual counties, school boards and municipalities may have their own lobbying regulations. The specific requirements of each jurisdiction may vary. Each jurisdiction should be contacted directly to determine the nature and extent of its local requirements. There are some special campaign finance lobbyist restrictions contained in §§ 5-848 and 849 of the Ethics Law relating to local lobbyist activity in Montgomery and Prince Georges Counties.

# Training & Continuing Education for Lobbyists:

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The Law requires a regulated lobbyist to attend training within six months of initially registering as a lobbyist (or if the initial registration is for less than six months, prior to any subsequent registration) and thereafter within two years of the previously-completed training. A regulated lobbyist's failure to comply with the training requirements of the Law can result in enforcement action. The Commission provides a live training program twice a year, including once in January. A schedule of training for regulated lobbyists can be obtained from the Commission or the Commission's website, <http://ethics.gov.state.md.us>. Registration forms may be downloaded from the website and mailed or faxed to the Commission. Training is also provided electronically; information is available on the Commission's website.