

Title 2, Ch. 11: Registration Of Lobbyists

§ 261. Definitions

As used in this chapter:

(1) "Administrative action" means any action taken by an administrative official or by any agency, department, division, office, board, or commission of State government with regard to any proposal, drafting, development, or consideration of a policy, practice, or rule. Actions as defined by this section do not include decisions of quasi-judicial boards in contested cases.

(2) "Administrative official" means a State officer, or an officer, employee, or consultant of any agency, department, division, office, board, or commission of State government who as part of his or her official duties participates in any administrative action, other than in a solely clerical, secretarial, or ministerial capacity.

(3) "Compensation" means any salary, reward, retainer, or reimbursement received or to be received by one acting as a lobbyist, whether in the form of a fee, salary, forbearance, forgiveness, or any other form of recompense, reward, retainer, reimbursement, or combination thereof.

(4) "Employer" means any person, other than a lobbying firm, who engages the services of a lobbyist for compensation for the purpose of lobbying. A lobbyist who employs another lobbyist shall be required to register and report both as an employer and a lobbyist.

(5) "Expenditure" means a payment, distribution, loan, advance, deposit, or gift of money or anything else of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. "Expenditure" includes sums expended in connection with lobbying, including research, consulting, and other lobbying preparation and travel, meals, and lodging.

(6)(A) "Gift" means:

(i) a political contribution;

(ii) anything of value, tangible or intangible, that is bestowed for less than adequate consideration, including travel expenses such as travel fare, room and board, and other expenses associated with travel;

(iii) a meal or alcoholic beverage;

(iv) a ticket, fee, or expenses for or to any sporting, recreational, or entertainment events;

(v) a speaking fee or honorarium, except actual and reasonable travel expenses;

(vi) a loan made on terms more favorable than those made generally available to the public in the normal course of business.

(B) "Gift" does not mean:

(i) anything given between immediate family members;

(ii) printed educational material such as books, reports, pamphlets, or periodicals;

(iii) a gift which is not used and which, within 30 days after receipt, is returned to the donor or for which the donor is reimbursed for its fair market value; and

(iv) a devise or inheritance.

(7) "Legislator" means any member or member-elect of the General Assembly.

(8) "Legislative action" means any action by a legislator with regard to introduction of a bill, resolution, or amendment or with regard to any bill, resolution, amendment, report, appointment, recommendation, nomination, election, proposed or final proposed rule, or other matter proposed for consideration by or pending in the General Assembly or in any committee of the General Assembly.

(9) "Lobby" or "lobbying" means:

(A) to communicate orally or in writing with any legislator or administrative official for the purpose of influencing legislative or administrative action;

(B) solicitation of others to influence legislative or administrative action;

(C) an attempt to obtain the goodwill of a legislator or administrative official by communications or activities with that legislator or administrative official intended ultimately to influence legislative or administrative action; or

(D) activities sponsored by an employer or lobbyist on behalf of or for the benefit of the members of an interest group, if a principal purpose of the

activity is to enable such members to communicate orally with one or more legislators or administrative officials for the purpose of influencing legislative or administrative action or to obtain their goodwill.

(10) "Lobbyist" means a person who receives or is entitled to receive, either by employment or contract, \$500.00 or more in monetary or in-kind compensation in any calendar year for engaging in lobbying, either personally or through his or her agents, or a person who expends more than \$500.00 on lobbying in any calendar year.

(11) "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, and Auditor of Accounts.

(12) "Lobbying firm" means a sole proprietorship, partnership, corporation, limited liability corporation, or unincorporated association which receives or is entitled to receive \$500.00 or more in monetary or in-kind compensation for engaging in lobbying, either personally or through its agents, in any calendar year and employs more than one individual lobbyist, contracts with at least one other lobbyist, or is affiliated with at least one other lobbyist.

(13) "Immediate family" means a person's spouse or civil union partner, parent, sibling, child, or in-law, including a parent, sibling, or child of a spouse or civil union partner. (Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990; amended 1993, No. 101, § 1; 2005, No. 99 (Adj. Sess.), § 1, eff. Jan. 1, 2007; 2007, No. 5, § 1, eff. April 12, 2007.)

§ 262. Exempted persons

The following persons are exempt from the registration and reporting provisions of this chapter:

(1) a person who engages in lobbying solely by testifying before committees of the General Assembly and agencies, departments, divisions, offices, boards, and commissions of State government and providing information requested by legislators or administrative officials;

(2) a duly-elected or appointed official or employee of the United States, the State of Vermont, or of any instrumentality, agency, or governmental subdivision of the foregoing, when acting solely in connection with matters relating to the person's office or public duties. However, if one of the foregoing individuals or entities contracts with a lobbyist, that person or entity, as well as that lobbyist, shall comply with the provisions of this chapter;

(3) the government of the United States, of the State of Vermont, or of any instrumentality, agency, or political subdivision of the foregoing;

(4) a person who owns, publishes, or is employed by any news medium while engaged solely in the acquisition or dissemination of news on behalf of the news medium. (Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990; amended 2005, No. 99 (Adj. Sess.), § 2, eff. Jan. 1, 2007.)

§ 263. Registration of lobbyists and employers; fees

(a) On forms provided by the Secretary of State, every lobbyist shall register with the Secretary of State before, or within 48 hours of, commencing lobbying activities. A lobbyist shall file a separate registration statement for each of the lobbyist's employers.

(b) On forms provided by the Secretary of State, every employer shall register with the Secretary of State before, or within 48 hours of, engaging a lobbyist. If an employer engages an additional lobbyist, the employer shall file a supplemental registration statement.

(c) A registration statement filed by a lobbyist shall be signed by the lobbyist and shall contain the following information:

(1) The name, mailing address, and telephone number of the lobbyist.

(2) The name of the employer and date of employment for the biennium.

(3) A description of the matters for which lobbying has been engaged by the employer.

(4) If a lobbyist is compensated, in whole or in part, by an employer for the purpose of lobbying on behalf of another person or group or coalition, the lobbyist shall provide the name of the employer, the name of the person, group, or coalition on whose behalf he or she lobbies, and a description of the matters for which lobbying has been engaged by the employer.

(5) A current passport-type photograph of the lobbyist.

(6) All subject areas for which lobbying is performed.

(d) A registration statement filed by an employer shall be signed by the employer and shall contain the following information:

(1) the name of the employer;

(2) the trade name, if any, of the employer;

(3) the mailing address and the telephone number of the employer;

(4) the contact person for the employer;

(5) the name and mailing address of each lobbyist engaged by the employer and the date of employment or contract for the biennium.

(e) A registration shall be valid from the date of filing to December 31 of the second year of a biennium, except that a registration may be made in December of an even-numbered year for the ensuing biennium.

(f) Every employer and every lobbyist shall pay an initial registration fee of \$60.00.

(g) An employer shall pay a fee of \$15.00 for each lobbyist engaged by the employer. A lobbyist shall pay a fee of \$15.00 for each employer represented.

(h) A person who fails to file on time a statement required by this section shall pay a late registration fee of \$25.00 for each day the statement is late, not to exceed \$350.00.

(i) A registration shall be terminated by the Secretary of State upon written notification by the employer or lobbyist that lobbying has ceased by or on behalf of the employer or lobbyist and that the registrant has filed a final disclosure report under section 264 of this title.

(j) The Secretary of State shall prepare a list of names and addresses of lobbyists and their employers, and the list shall be published at the end of the second legislative week of each regular or adjourned session. Supplemental lists shall be published monthly during the remainder of the legislative session. On or before March 15 of the first year of each legislative biennium, the Secretary of State shall publish no fewer than 500 booklets containing an alphabetical listing of all registered lobbyists, including, at a minimum, a current passport-type photograph of the lobbyist, the lobbyist's business address, telephone and fax numbers, a list of the lobbyist's clients, and a subject matter index. (Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990; amended 1993, No. 101, § 1a; 1997, No. 155 (Adj. Sess.), § 66e; 2005, No. 99 (Adj. Sess.), § 3, eff. Jan. 1, 2007; 2007, No. 5, § 2, eff. April 12, 2007; 2013, No. 142 (Adj. Sess.), § 1; 2013, No. 191 (Adj. Sess.), § 9; 2015, No. 131 (Adj. Sess.), § 17.)

§ 264. Reports of expenditures, compensation, and gifts; employers; lobbyists

(a) Every employer and every lobbyist registered or required to be registered under this chapter shall file disclosure reports with the Secretary of State as follows:

(1) on or before January 15, for the preceding period beginning on September 1 and ending with December 31;

(2) on or before February 15, for the preceding period beginning on January 1 and ending with January 31;

(3) on or before March 15, for the preceding period beginning on February 1 and ending with the last day of February;

(4) on or before April 15, for the preceding period beginning on March 1 and ending with March 31;

(5) on or before May 15, for the preceding period beginning on April 1 and ending with April 30;

(6) on or before June 15, for the preceding period beginning on May 1 and ending with May 31; and

(7) on or before September 15, for the preceding period beginning on June 1 and ending with August 31.

(b) An employer shall disclose for the period of the report the following information:

(1) A total of all lobbying expenditures made by the employer in each of the following categories:

(A) Advertising, including television, radio, print, and electronic media.

(B) Expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(C) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the employer and:

(i) a legislator or administrator;

(ii) a legislator's or administrator's spouse; or

(iii) a legislator's or administrator's dependent household member.

(D) The total amount of any other lobbying expenditures.

(2) The total amount of compensation paid to lobbyists or lobbying firms for lobbying. The employer shall report the name and address of each lobbyist or lobbying firm to which the employer pays compensation. It shall be sufficient to

include a prorated amount based on the value of the time devoted to lobbying where compensation is to be included for a lobbyist or lobbying firm whose activities under this chapter are incidental to regular employment or other responsibilities to the employer.

(3) An itemized list of every gift the value of which is greater than \$15.00, made by or on behalf of the employer to or at the request of one or more legislators or administrative officials or a member of a legislator's or administrative official's immediate family. With respect to each gift, the employer shall report the date the gift was made, the nature of the gift, the value of the gift, the identity of any legislators or administrative officials who requested the gift, and the identity of any recipients of the gift. Monetary gifts, other than political contributions, shall be prohibited.

(4) [Repealed.]

(c) A lobbyist shall disclose for the period of the report the following information:

(1) A total of all lobbying expenditures made by the lobbyist in each of the following categories:

(A) Advertising, including television, radio, print, and electronic media.

(B) Expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(C) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbyist and:

(i) a legislator or administrator;

(ii) a legislator's or administrator's spouse; or

(iii) a legislator's or administrator's dependent household member.

(D) The total amount of any other lobbying expenditures.

(2) The total amount of compensation paid to a lobbyist, who is not employed by, subcontracted by, or affiliated with a lobbying firm, for lobbying, including the name and address of each registered employer who engaged the services of the lobbyist reporting. It shall be sufficient to include a prorated amount based on the value of the time devoted to lobbying where compensation is

to be included for a lobbyist whose activities under this chapter are incidental to other responsibilities to the employer. A lobbyist who is employed by, subcontracted by, or affiliated with a lobbying firm shall not report individual compensation. The total compensation paid to the lobbying firm shall be reported pursuant to section 264b of this title.

(3) An itemized list of every gift, the value of which is greater than \$15.00, made by or on behalf of a lobbyist to or at the request of one or more legislators or administrative officials or a member of the legislator's or administrative official's immediate family. With respect to each gift, the lobbyist shall report the date the gift was made, the nature of the gift, the value of the gift, the identity of any legislators or administrative officials who requested the gift, and the identity of any recipients of the gift. Monetary gifts, other than political contributions, shall be prohibited.

(4) [Repealed.]

(d) Reports for the period July 1 through December 31 shall include, in addition to the totals for the period of the report, totals for the calendar year.

(e) At the same time a report itemizing gifts is filed, the employer or lobbyist shall mail or deliver a copy of the report to the legislators and administrative officials identified in the report.

(f) If an unsolicited gift is given to a legislator or administrative official by a lobbyist or employer and the recipient does not use it and returns it to the donor within 30 days or the donor is reimbursed for its fair market value, it shall not be considered a "gift" and shall not be required to be reported as such by the donor to the Secretary of State. If the item has already been reported as a gift, the lobbyist or employer shall file an amended report with the Secretary of State.

(g), (h) [Repealed.]

(i) A lobbyist, lobbying firm, or employer who fails to file a disclosure report on time shall pay a late reporting fee of \$25.00 for each day the disclosure report is late, not to exceed \$350.00.

(j) A gift from a member of an interest group to, or for the benefit of, a legislator or administrative official, which is made in connection with lobbying as defined in subdivision 261(9)(D) of this title, shall be deemed to be made on behalf of the employer or lobbyist who sponsored the activity and shall be reported and itemized. (Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990; amended 1993, No. 101, §§ 2, 3; 1997, No. 155 (Adj. Sess.), § 66f; 2005, No. 99 (Adj. Sess.), § 4, eff. Jan. 1, 2007; 2007, No. 5, § 3, eff. April 12, 2007; 2009, No. 33, § 83; 2013, No. 161 (Adj. Sess.), § 67; 2013, No. 191 (Adj. Sess.), § 10; 2015, No. 49, § 3.)

§ 264a. Repealed. 2005, No. 99 (Adj. Sess.), § 7.

§ 264b. Lobbying firm listings; reports of expenditures, compensation, and gifts; lobbying firms

(a) On forms provided by the Secretary of State, every lobbying firm shall file a listing of all lobbyists who are employed by, subcontracted by, members of, or affiliated with the lobbying firm within 48 hours of any such lobbyists commencing lobbying activities. The lobbying firm shall file an updated listing within 48 hours of any changes to the listing. Every lobbying firm shall pay an initial listing fee of \$150.00.

(b) Every lobbying firm shall file a disclosure report on the same day as lobbyist disclosure reports are due under subsection 264(a) of this title, which shall include:

(1) A total of all lobbying expenditures made by the lobbying firm in each of the following categories:

(A) Advertising, including television, radio, print, and electronic media.

(B) Expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(C) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbying firm and:

(i) a legislator or administrator;

(ii) a legislator's or administrator's spouse; or

(iii) a legislator's or administrator's dependent household member.

(D) The total amount of any other lobbying expenditures.

(2) The total amount of compensation paid to a lobbying firm for lobbying with the name and address of each registered employer who engaged the services of the lobbying firm reporting. It shall be sufficient to include a prorated amount based on the value of the time devoted to lobbying where compensation is to be included for a lobbying firm whose activities under this chapter are incidental to other responsibilities to the employer.

(3) An itemized list of every gift the value of which is greater than \$15.00, made by or on behalf of the lobbying firm to or at the request of one or more legislators or administrative officials or a member of a legislator's or administrative official's immediate family. With respect to each gift, the lobbying firm shall report the date the gift was made, the nature of the gift, the value of the gift, the identity of any legislators or administrative officials who requested the gift, and the identity of any recipients of the gift. Monetary gifts, other than political contributions, shall be prohibited.

(4) [Repealed.] (Added 2007, No. 5, § 4, eff. April 12, 2007; amended 2013, No. 161 (Adj. Sess.), § 68; 2013, No. 191 (Adj. Sess.), § 11; 2015, No. 23, § 138; 2015, No. 49, § 4.)

§ 264c. Identification in and report of certain lobbying advertisements

(a) Identification.

(1) An advertisement that is intended, designed, or calculated to influence legislative action or to solicit others to influence legislative action and that is made at any time prior to final adjournment of a biennial or adjourned legislative session shall contain the name of any lobbyist, lobbying firm, or lobbyist employer that made an expenditure for the advertisement and language that the advertisement was paid for, or paid in part, by the lobbyist, lobbying firm, or lobbyist employer; provided, however:

(A) if there are more than three such names, only the three lobbyists, lobbying firms, or lobbyist employers that made the largest expenditures for the advertisement shall be required to be identified; and

(B) if a lobbyist or lobbying firm made the expenditure on behalf of a lobbyist employer, the identification information set forth in subdivision (1) of this subsection shall be in the name of that lobbyist employer.

(2) This identification information shall appear prominently and in a manner such that a reasonable person would clearly understand by whom the expenditure has been made.

(b) Report.

(1) In addition to any other reports required to be filed under this chapter, a lobbyist, lobbying firm, or lobbyist employer shall file an advertisement report with the Secretary of State if he, she, or it makes an expenditure or expenditures:

(A) for any advertisement that is described in subsection (a) of this section and that has a cost totaling \$1,000.00 or more; or

(B) for any advertising campaign that contains advertisements described in subsection (a) of this section and that has a cost totaling \$1,000.00 or more.

(2) The report shall be made for each advertisement or advertising campaign described in subdivision (1) of this subsection and shall identify the lobbyist, lobbying firm, or lobbyist employer that made the expenditure; the amount and date of the expenditure and to whom it was paid; and a brief description of the advertisement or advertising campaign.

(3) The report shall be filed within 48 hours of the expenditure or the advertisement or advertising campaign, whichever occurs first.

(4) If a lobbyist or lobbying firm made an expenditure described in subdivision (1) of this subsection on behalf of a lobbyist employer and that lobbyist or lobbying firm filed the report required by this subsection, the report shall specifically identify the employer on whose behalf the expenditure was made.

(c) Definitions. As used in this section:

(1) "Advertisement" means a notice that appears in any of the following public media: radio, television, newspapers or other periodicals, or Internet websites.

(2) "Advertising campaign" means advertisements substantially similar in nature, regardless of the media in which they are placed. (Added 2015, No. 49, § 2.)

§ 265. Submission of and access to lobbying disclosures

(a) The Secretary of State shall provide on his or her website an online database of the lobbying disclosures required under this chapter.

(1) In this database, the Secretary shall provide digital access to each form he or she shall provide to enable a person to file the statements or reports required under this chapter. Digital access shall enable such a person to file these lobbying disclosures by completing and submitting the disclosure to the Secretary of State online.

(2) The Secretary shall maintain on the online database all disclosures that have been filed digitally on it so that any person may have direct machine-readable electronic access to the individual data elements in each disclosure and the ability to search those data elements as soon as a disclosure is filed.

(b) Any person required to file a disclosure with the Secretary of State under this chapter shall sign it, declare that it is made under the penalties of perjury, and

file it digitally on the online database. (Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990; amended 1993, No. 101, § 3a; 2007, No. 5, § 5, eff. April 12, 2007; 2015, No. 49, § 5.)

§ 266. Prohibited conduct

(a) It shall be prohibited conduct:

(1) to employ a lobbyist or lobbying firm, or accept employment as a lobbyist or lobbying firm, for compensation that is dependent on a contingency;

(2) for a legislator or administrative official to solicit a gift, other than a contribution, from a registered employer or registered lobbyist or a lobbying firm engaged by an employer, except that charitable contributions for nonprofit organizations qualified under 26 U.S.C. § 501(c)(3) may be solicited from registered employers and registered lobbyists or lobbying firms engaged by an employer; or

(3) when the General Assembly is in session, until adjournment sine die:

(A) for a legislator, a legislator's candidate's committee, a legislative leadership political committee, or an administrative official to solicit a contribution from a registered lobbyist, a registered employer, or a lobbying firm engaged by an employer; or

(B) for a registered lobbyist, registered employer, or a lobbying firm engaged by an employer to make or promise a contribution to a legislator, a legislator's candidate's committee, or a legislative leadership political committee.

(b)(1) A legislator or an Executive officer, for one year after leaving office, shall not be a lobbyist in this State.

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to a lobbyist exempted under section 262 of this chapter.

(c) As used in this section:

(1) "Candidate's committee," "contribution," and "legislative leadership political committee" shall have the same meanings as in 17 V.S.A. chapter 61 (campaign finance).

(2) "Executive officer" means:

(A) the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy. (Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990; amended 1993, No. 101, § 3b; 2007, No. 5, § 6, eff. April 12, 2007; 2015, No. 49, § 8; 2017, No. 79, § 1.)

§ 267. Repealed. 2015, No. 49, § 6.

§ 267a. Investigations

The Attorney General shall investigate, on his or her own initiative or in response to a complaint filed in writing with the Attorney General, whether a violation of this chapter has occurred. The Attorney General may administer oaths, require filing of a statement under oath, take evidence, and require the production, by subpoena or otherwise, of financial records, books, papers, correspondence, and other documents and records the Attorney General considers to be relevant and material to the investigation. The Attorney General shall make a determination of each complaint filed and, at the time of resolution of a complaint which is found to have merit, shall post on the website of the Office of the Attorney General a brief summary of the complaint and resolution. (Added 1997, No. 64, § 22; amended 2005, No. 99 (Adj. Sess.), § 5, eff. Jan. 1, 2007.)

§ 268. Penalties; enforcement

(a) The Attorney General shall enforce the provisions of this chapter, and may bring an action in Superior Court to ensure compliance and to obtain civil penalties in the amounts described in subsection (b) of this section.

(b) The Court may grant temporary and permanent injunctive relief, and may:

(1) Enjoin future activities.

(2) Order remedial actions to be taken to effect all registration and disclosure required by this chapter.

(3) Order reimbursement from any lobbyist or employer found to be in violation of this chapter.

(4) Levy a civil penalty as provided in this subdivision. A civil penalty of not more than \$10,000.00 may be levied for each violation. In addition, in the case of a continuing violation, a penalty of not more than \$1,000.00 may be imposed for each day the violation continues.