

Title 3 M.R.S.
Chapter 15: Lobbyist Disclosure Procedures

§ 311. Declaration of purpose

The Constitution of Maine guarantees the right of the people to petition their government for the redress of grievances and to freely express their opinions on legislation and issues. The Legislature reaffirms its obligation to hear the requests and opinions of all of the people, and to preserve and maintain the integrity and accessibility of the legislative process.

The Legislature recognizes that groups of citizens may choose one among them to present their views to Legislators, and, because of the amount and complexity of proposed legislation, may employ persons knowledgeable in the legislative process to present their views. Such activities are proper methods of expressing the opinion of a group of citizens.

The Legislature also recognizes that such activities must be carried out openly so that other citizens are aware of the opinions and requests made in this manner. Legislative decisions can fully reflect the will of all the people only if the opinions expressed by any citizen are known to all and debated by all, and if the representatives of groups of citizens are identified and their expenditures and activities are regularly disclosed.

Therefore, the Legislature declares that, in order to insure the full participation of all the people of the State in the legislative process, full disclosure of the identity, expenditures and activities of any persons who engage in professional lobbying is required. Such disclosure will insure the openness and integrity of the legislative process and encourage the expression of the will of all the people of the State.

§ 312. Definitions (Repealed)

§ 312-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings.

1. Campaign fund raising activity. “Campaign fund raising activity” means any event or solicitation by letter or any other means that is held for the purpose of receiving contributions for a political party, political committee, political action committee, candidate for political office in any primary or election, any elected official or a referendum committee.

1-A. Campaign contribution. “Campaign contribution” is a contribution, as defined in Title 21-A, section 1012, subsection 2.

2. Committee. “Committee” means any committee, subcommittee, joint or select committee of the Legislature or any special committee or commission, by whatever

name, established by the Legislature to make recommendations for legislative action or to develop legislation.

2-A. Commission. “Commission” means the Commission on Governmental Ethics and Election Practices as defined in Title 1, chapter 25.

3. Communicate. “Communicate” means the act of expressing, imparting or conveying information or impressions from one person to another, by either oral or written means.

4. Compensation. “Compensation” means anything of value that is received or to be received in return for, or in connection with, services rendered or to be rendered.

4-A. Covered official. “Covered official” means an official in the executive branch, an official in the legislative branch, a constitutional officer, the Governor and the Governor’s cabinet and staff.

4-B. Domestic partner. “Domestic partner” means the partner of an individual who:

- A. Is a mentally competent adult as is the individual;
- B. Has been legally domiciled with the individual for at least 12 months;
- C. Is not legally married to or legally separated from another individual;
- D. Is the sole partner of the individual and expects to remain so; and
- E. Is jointly responsible with the individual for each other’s common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.

5. Employer. “Employer” means a person who agrees to reimburse for expenditures or to compensate a person who in return agrees to provide services. Employer includes any political action committee as defined in this section which communicates through or uses the services of a lobbyist to make campaign contributions or to influence in any way the political process.

6. Employment. “Employment” means an agreement to provide services in exchange for compensation or reimbursement of expenditures.

7. Expenditure. “Expenditure” means anything of value or any contract, promise or agreement to transfer anything of value, whether or not legally enforceable.

A. [Repealed]

B. [Repealed]

C. [Repealed]

7-A. Immediate family. “Immediate family” means a person’s spouse or domestic partner and dependent children.

7-B. Grassroots lobbying. “Grassroots lobbying” means to communicate with members of the general public to solicit them to communicate directly with any covered

official for the purpose of influencing legislative action, other than legislation that is before the Legislature as a result of a direct initiative in accordance with the Constitution of Maine, Article IV, Part Third, Section 18, when that solicitation is made by:

- A. A broadcast, cable or satellite transmission;
- B. A communication delivered by print media;
- C. A letter or other written communication delivered by mail or by comparable delivery service;
- D. A communication delivered by e-mail, a website or any other digital format;
- E. Telephone; or
- F. A method of communication similar to those listed in paragraphs A to E.

“Grassroots lobbying” does not include a person communicating with the person’s stockholders, employees, board members, officers or dues-paying members.

8. Legislative action. “Legislative action” means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature, by either the House of Representatives or the Senate, any committee or an official in the Legislative Branch acting in the official’s official capacity, or action of the Governor in approving or vetoing any legislative document presented to the Governor for the Governor’s approval.

8-A. Legislative designee. “Legislative designee” means any employee of a state department or agency who is designated by the head of the department or agency as the primary employee to lobby on behalf of the department or agency or who is reasonably expected to lobby on behalf of the department or agency for more than 10 hours during a legislative session.

9. Lobbying. “Lobbying” means to communicate directly with any official in the legislative branch or any official in the executive branch or with a constitutional officer for the purpose of influencing any legislative action or with the Governor or the Governor’s cabinet and staff for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. “Lobbying” includes the time spent to prepare and submit to the Governor, an official in the legislative branch, an official in the executive branch, a constitutional officer or a legislative committee oral and written proposals for, or testimony or analyses concerning, a legislative action. “Lobbying” does not include time spent by any person providing information to or participating in a subcommittee, stakeholder group, task force or other work group regarding a legislative action by the appointment or at the request of the Governor, a Legislator or legislative committee, a constitutional officer, a state agency commissioner or the chair of a state board or commission.

9-A. Lobbying firm. “Lobbying firm” means a partnership, corporation, limited liability company or unincorporated association that employs or contracts with more than one lobbyist or lobbyist associate and that receives or is entitled to receive compensation for engaging in lobbying either directly or through its employees.

10. Lobbyist. “Lobbyist” means any person who is specifically employed by another person for the purpose of and who engages in lobbying in excess of 8 hours in any calendar month, or any individual who, as a regular employee of another person, expends an amount of time in excess of 8 hours in any calendar month in lobbying. “Lobbyist” does not include a lobbyist associate. “Lobbyist” does not include an individual who receives no compensation for lobbying other than reimbursement for lobbying-related travel within the State and reimbursement for other out-of-pocket expenditures made by the individual for printing, postage and food and lodging connected with lobbying activities paid for by the individual. For the purposes of this subsection, “reimbursement for other out-of-pocket expenditures” does not include reimbursement for the individual’s time spent lobbying that would have been otherwise compensated by an employer or in the course of the individual’s employment.

10-A. Lobbyist associate. “Lobbyist associate” means an individual who:

- A. Is a partner, associate or employee of a lobbyist or is a coemployee of a regular employee of another person if that regular employee is registered as a lobbyist;
- B. Lobbies on behalf of the employer named on the lobbyist registration; and
- C. Expends more than 8 hours in any calendar month lobbying on behalf of an employer of the lobbyist.

10-B. Media outlet. “Media outlet” means a radio or television station, a cable television system, newspapers, magazines and other published written materials.

10-C. Official in the executive branch. “Official in the executive branch” means an individual in a major policy-influencing position in a department or agency listed in section 959 or in Title 5, chapter 71 and the Governor’s cabinet and staff. As used in this chapter, “major policy-influencing position” means those positions listed in Title 5, chapter 71 and officers or employees of departments and agencies listed in section 959 and in Title 5, chapter 71 who have policy development as a major function of their positions.

11. Official in the legislative branch. “Official in the Legislative Branch” means a member, member-elect, candidate for or officer of the Legislature or an employee of the Legislature.

11-A. Original source. “Original source” means any person who pays \$1,000 or more in any lobbying year directly or indirectly to any employer of a lobbyist for purposes of lobbying or grassroots lobbying or to any other person for purposes of grassroots lobbying, except that payments of membership dues to nonprofit corporations formed

under Title 13-B, under any equivalent state law or by legislative enactment are not considered payments by an original source.

12. Person. “Person” means an individual, corporation, proprietorship, joint stock company, business trust, syndicate, association, professional association, labor union, firm, partnership, club or other organization, whether profit or nonprofit, or any municipality or quasi-municipality or group of persons acting in concert, but does not include this State or any other agency of this State.

13. Political action committee. “Political Action Committee” includes:

A. Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question; and

B. Any person, as defined in subsection 12 which serves as a funding and transfer mechanism and by which moneys are expended to advance, promote, defeat, influence in any way, or initiate a candidate, campaign, political party, referendum or initiated petition in this State.

14. Reimbursement. “Reimbursement” means anything of value received or to be received as repayment for expenditures.

14-A. Solicit. “Solicit” means to entreat, implore, urge or ask.

15. Year. “Year” means a 12-month period starting December 1st and ending the following November 30th.

16. Anything of value. “Anything of value” means, but is not limited to:

A. Negotiable items:

(1) Money;

(2) A bank bill or note;

(3) A stock, bond, note or other investment interest in an entity;

(4) A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;

(5) An honorarium or compensation for services;

(6) The granting of a discount or rebate:

(a) Not extended to the public generally; or

(b) By a media outlet not extended equally to all candidates for the same office; and

(7) The sale or trade of something for reasonable compensation that is not available ordinarily to a member of the public;

B. Obligations:

- (1) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, pledge or transfer of money;
- (2) A receipt given for the payment of money or other property;
- (3) A right in action;
- (4) A promise or offer of employment; and
- (5) An interest in tangible goods or chattel;

C. Property. The retail or fair market value, whichever is greater, of:

- (1) A work of art, an antique or a collectible;
- (2) An automobile or other means of personal transportation;
- (3) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future interest contingent or vested in realty, a leasehold interest or other beneficial interest in realty; and
- (4) Other tangible goods; and

D. Other goods or services. The retail or fair market value, whichever is greater, of:

- (1) The purchase of tickets for an event such as a reception, rally or fund-raising event;
- (2) A meal or lodging; and
- (3) Any service not extended free of charge to other members of the public.

17. State employee or state agency employee. “State employee or state agency employee” means employees of the executive branch, the judicial branch, the Department of the Attorney General, the Department of Secretary of State, the Department of the Treasurer and any employee who directly or indirectly represents an entity listed in Title 5, chapter 379.

§ 312-B. Required training regarding harassment

A lobbyist or lobbyist associate shall complete the training required under section 170-B, retain proof of completion of the training for 2 years following completion and certify completion of that training to the commission at the time of registration under section 313. If completion of the required training prior to registration is not possible due to circumstances that are beyond a lobbyist’s or lobbyist associate’s control, the commission may provide a limited extension to that lobbyist or lobbyist associate for completion of the training. If a lobbyist or lobbyist associate has a very limited physical presence in the State

House and the Burton M. Cross Building, the commission may exempt the lobbyist or lobbyist associate from the requirements of this section.

§ 313. Registration of lobbyists, lobbyist associates and employers

1. Registration. No later than 10 calendar days after lobbying more than 8 hours in a calendar month on behalf of an employer, a lobbyist shall submit a joint registration to the commission for the employer, the lobbyist and any lobbyist associates and pay a registration fee of \$250. The lobbyist shall pay an additional \$125 for each lobbyist associate included in the joint registration.

2. Fee waiver. The commission may waive the fee or fees required under subsection 1 in whole or in part if the commission determines that the fee or fees constitute an economic hardship to the employer. A lobbyist or employer may submit an application for a waiver under this subsection on a form or in the format approved by the commission. After receiving an application for a fee waiver, the commission may request relevant information from the lobbyist or employer, including, but not limited to, the amount of compensation the employer expects to pay the lobbyist in the coming lobbying year, the employer's budgeted expenditures for personnel or for all programs and activities in the coming year and the employer's revenues or expenses in the prior year.

§ 313-A. Registration of state employees or state agency employees

Within 15 business days of the convening of a regular legislative session, a department or agency shall register with the commission those state employees or state agency employees who will serve as the department's or agency's legislative designees for the session by submitting to the commission a list that must include the name and position of each employee, the name of the department or agency and the name of the bureau or division within the department for which each employee works and the mailing address, e-mail address and phone number of each employee. The department or agency shall notify the commission in writing of any changes of its designees within 15 business days of the change.

1. Legislative designee. [Repealed]

2. Lobbying requirements. [Repealed]

An employee who is required to be registered under this section is exempt from all other requirements under the law regarding lobbyists.

§ 314. Duration of registration

Each joint registration filed pursuant to this chapter automatically expires on the last day of the year during which the person was registered to lobby, unless as otherwise provided.

A joint registration expires if the lobbyist or employer notifies the commission in writing that the lobbyist is no longer engaged by the employer to lobby. If termination occurs prior to November 30th, the notification must be given within 30 days of the termination.

If termination is effected prior to November 30th, no further reports are required.

Any new registration must be filed pursuant to section 313 before any lobbying is commenced after the lobbyist's employment has been terminated.

§ 315. Registration docket (Repealed)

§ 315-A. Registration docket; disclosure website

1. Registration. The commission shall prepare and maintain a docket for the registration of lobbyists and employers of lobbyists required to register pursuant to this chapter. The registration docket and all supplementary files of information and materials filed pursuant to this chapter must be open to public inspection during the office hours of the commission. The docket must contain the name of the lobbyist and the person employing the lobbyist, the business address of each, the nature of the business of the person employing the lobbyist and a statement as to the compensation that the lobbyist will receive for lobbying services or, if an exact amount is not ascertainable, the basis upon which the lobbyist will charge for services. This docket must be updated on a monthly basis and arranged and indexed as follows:

- A.** An alphabetical listing of those persons who have employed a lobbyist, which listing must indicate the names of all lobbyists employed by the employer; and
- B.** An alphabetical listing of those persons employed as lobbyists, which listing must indicate the names of all persons by whom each lobbyist is employed.

The docket must be reestablished annually by the commission and the docket for any year must be maintained and be available for public inspection in the office of the commission for 4 years from the expiration of the docket.

2. Disclosure website. The commission shall develop and maintain a publicly accessible website that displays:

- A.** A list of all persons who have employed a lobbyist during the current year;
- B.** A list of all lobbyists and lobbyist associates registered for the year;
- C.** A profile of each registered lobbyist and lobbyist associate, including contact information, the name of the lobbyist's employer or employers and, if provided by the lobbyist or lobbyist associate, a photograph of the lobbyist or lobbyist associate;
- D.** A profile of each person employing a lobbyist, including contact information for the employer, and a list of lobbyists and lobbyist associates engaged by the employer;

E. For each employer, a list of all legislative actions that have been the subject of lobbying for the year, including hyperlinks to the summary page of the Legislature’s publicly accessible website for each legislative document listed;

F. A list of officials in the executive branch as defined in section 312-A, subsection 10-C; and

G. The monthly reports filed under section 317 and an annual summary of those monthly reports.

§ 316. Registration forms

The commission shall prepare and make available registration forms for the registration of lobbyists and employers required to register pursuant to section 313. These forms must include the following information:

1. Names. The name of the lobbyist, a list of the lobbyist associates, the name of the person authorized by the lobbyist to sign the registration and reports for the lobbyist and the name of the person employing the lobbyist;

2. Business addresses. The business address and other contact information for the lobbyist, the lobbyist associates and the person employing the lobbyist;

3. Date. The date upon which lobbying commenced and the date on which the lobbyist exceeded 8 hours of lobbying in a calendar month or a statement that the lobbyist is registering without having reached the 8-hour threshold for registering pursuant to section 313;

4. Nature of business. A description of the employer’s business activity or mission or a description of the industry, trade or profession that the employer represents;

4-A. Legislative interests. The general areas of legislation that the employer is attempting to influence;

4-B. Legislative committees. The joint standing committees of the Legislature that the lobbyist expects to lobby during the year;

4-C. Website of employer. The address for the employer’s publicly accessible website;

4-D. Date of completion or request for extension of or exemption from required harassment training. The date that the lobbyist and each lobbyist associate completed the training required under section 170-B or, if the lobbyist or lobbyist associate has not completed the required training, a statement that the lobbyist or lobbyist associate has requested or is requesting an extension or exemption pursuant to section 312-B; and

5. Compensation. The amount of compensation that the lobbyist will receive for that lobbyist’s services or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for those services.

The lobbyist must certify that the information on that form is true, correct and complete and that the employer has approved the information in the registration.

§ 316-A. Registration forms for state employees or state agency employees (Repealed)

§ 317. Reports

A registered lobbyist shall file a report for each month that the Legislature is in session on forms prescribed or approved by the commission, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month.

1. Monthly session reports. During the period in which the Legislature is in session, a registered lobbyist shall file with the commission, no later than 11:59 p.m. on the 15th calendar day of each month, a report concerning the lobbyist's activities for the previous month regarding each employer.

The monthly report must contain the following information:

- A. The month to which the report pertains;
- B. The name and address of the lobbyist and employer;
- C. The names of the individuals who lobbied during the month;
- D. The total amount of compensation the lobbyist and lobbyist associates received or expect to receive for lobbying during the month. The amount of compensation for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.

In the case of a lobbyist or lobbyist associate who is a regular employee of the employer, the amount of compensation must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week;

E. The total amount of expenditures made or incurred by the lobbyist and lobbyist associates during the month for purposes of lobbying for which they have been or expect to be reimbursed. The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately;

E-1. When expenditures made or incurred for the purposes of grassroots lobbying exceed \$2,000 during the month that is the subject of the report, the specific dollar amount of expenditures for grassroots lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, and the legislative actions that are the

subject of the grassroots lobbying. Salaries paid to the employer's regular employees are not expenditures for the purposes of this paragraph and are exempt from disclosure under this paragraph;

F. The total amount of expenditures by the lobbyist and lobbyist associates on behalf of the employer for which they have been or expect to be reimbursed and by the employer directly to or on behalf of one or more covered officials, including members of the official's immediate family;

G. For each expenditure of \$25 or more reported under paragraph F, the person making the expenditure and the date, amount and purpose of the expenditure and the name of the covered official or official's immediate family member on whose behalf the expenditure was made;

G-1. If the total cost for covered officials and the officials' immediate family members to attend an event paid for by the employer or by the lobbyist, lobbyist associate or lobbying firm on the employer's behalf is \$250 or more, the date and a description of the event, a list of the names of covered officials and the officials' immediate family members in attendance and the total cost for the covered officials and the officials' immediate family members to attend the event;

H. A list of each legislative action by Legislative Document number, specific issue, nomination or other matter in connection with which the lobbyist is engaged in lobbying;

I. A list specifically identifying each legislative action for which the lobbyist and lobbyist associates were compensated or expect to be compensated, or expended in excess of \$1,000 for lobbying related to those actions and a statement of the amounts compensated or expended for each; and

J. A list of all of the employer's original sources and a statement of the dollar amounts contributed or paid by the original sources to the employer. If the original source is a corporation formed under Title 13 or 13-C or former Title 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source.

1-A. Lobbyist expenditure reports. A lobbyist or lobbyist associate who makes an expenditure directly to or on behalf of a covered official or a member of the covered official's immediate family that is not reportable under subsection 1, paragraphs F, G or G-1 shall file a report pursuant to this subsection. If such an expenditure is made by a lobbying firm, a lobbyist or lobbyist associate from that lobbying firm shall report the expenditure.

A. A report under this subsection is required if:

- (1) The total amount of expenditures directly to or on behalf of covered officials and their immediate family members is more than \$300 in a calendar month; and
- (2) The lobbyist or lobbyist associate has not been and does not expect to be reimbursed by any employer.

B. The report must include:

- (1) The date of the expenditure;
- (2) The name and address of the lobbyist, lobbyist associate or lobbying firm;
- (3) The amount of the expenditure made or incurred by the lobbyist, lobbyist associate or lobbying firm either directly to or on behalf of a covered official or a covered official's immediate family member;
- (4) A description of the goods or services purchased by the lobbyist, lobbyist associate or lobbying firm;
- (5) The date and a description and location of an event paid for by the lobbyist, lobbyist associate or lobbying firm at which covered officials and the covered officials' immediate family members were in attendance; and
- (6) The names of all covered officials and their immediate family members to whom the expenditures were directly made or on whose behalf the expenditures were made or who attended an event paid for by the lobbyist, lobbyist associate or lobbying firm.

C. A report under this subsection is due no later than 11:59 p.m. on the 15th calendar day of the month following the month in which the expenditure was made or incurred.

2. Annual report. [Repealed]

2-A. Electronic filing. Beginning January 1, 2006, a lobbyist shall file monthly session reports under subsection 1 through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted at least 10 days prior to the deadline for the first report that the lobbyist is required to file for the lobbying year. The commission shall grant all reasonable requests for exceptions.

3. Facsimile copies. The commission may, by rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, establish procedures and fees by which facsimile copies of duly executed reports required by this section may be received and filed with the commission.

4. Monthly nonsession reports. When the Legislature is not in regular session, every registered lobbyist must either file:

A. With the lobbyist's last monthly report for that regular session a statement that the lobbyist and lobbyist associate will not engage in lobbying when the Legislature is not in session. The lobbyist is required to file a monthly report for lobbying conducted during a special session; or

B. If the lobbyist or lobbyist associate is engaged in lobbying, if the lobbyist, lobbyist associate or employer conducts indirect lobbying or if the employer makes any expenditures directly to or on behalf of a covered official or a covered official's immediate family member in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month.

If the lobbyist did not expect to be engaged in lobbying when the Legislature was not in session, the commission may waive the requirement for the months between the end of the session and the renewal of lobbying.

§ 317-A. Grassroots lobbying report

Except for a lobbyist filing a monthly report under section 317, subsection 1, paragraph E-1, a person who makes or incurs expenditures in excess of \$2,000 during a calendar month for purposes of grassroots lobbying shall file with the commission a report no later than 11:59 p.m. on the 15th day of the calendar month following the date on which that amount was exceeded. For purposes of this section, expenditures include payments of money made to independent contractors and other vendors to purchase goods and services such as advertising, graphic or website design, video or audio production services, telecommunications services, printing and postage. Salaries paid to the person's employees are not expenditures for the purposes of this section and are exempt from disclosure under this section.

1. Report. A grassroots lobbying report filed pursuant to this section must include:

A. The name of the person required to file the report;

B. The name of an individual serving as the contact for the person;

C. The business address and other contact information for the person;

D. A description of the business activity or mission of the person;

E. The specific amount of expenditures for grassroots lobbying made or incurred during the month that is the subject of the report, with separate totals for expenditure categories as determined by the commission;

F. The legislative actions that are the subject of the grassroots lobbying; and

G. A list of all of the person's original sources and a statement of the amount paid by each original source. If an original source is a corporation formed under Title 13 or former Title 13-A, a nonprofit corporation formed under Title 13-B or a limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members, must be listed as the original source.

§ 318. Restricted activities

1. **Contingent compensation.** No person shall accept employment as a lobbyist on a basis which makes that person's compensation contingent in any manner upon the outcome of any legislative action.
2. **Instigation of legislative action.** No person shall instigate the introduction or commencement of any legislative action for the purpose of obtaining employment as a lobbyist to oppose or support such legislative action.

§ 318-A. Prohibition

Beginning January 1, 2015, a person may not engage in activities that require registration as a lobbyist or lobbyist associate as defined by section 312-A, subsections 10 and 10-A if that person has within the previous 12 months been employed in a position for which the salary is subject to adjustment by the Governor under Title 2, section 6 or that is described as a major policy-influencing position under Title 5, chapter 71. A person who violates this section may be assessed a fine of \$100 for every day the person engages in lobbying.

This section is repealed December 4, 2024

§ 318-B. Former executive branch employee lobbying prohibited

1. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
 - A. "Classified service" has the same meaning as in Title 5, section 7032, subsection 3.
 - B. "Compensated lobbying" means lobbying conducted by an individual who is specifically employed by another person other than the State or an agency of the State for that purpose or lobbying conducted by an individual as a regular employee of another person other than the State or an agency of the State. "Compensated lobbying" does not include activities for which the individual receives no compensation other than reimbursement for lobbying-related travel within the State and reimbursement for other out-of-pocket expenditures made by the individual for printing, postage and food and lodging connected with lobbying activities paid for by the individual. For the purposes of this paragraph, "reimbursement for other out-of-pocket expenditures" does not include reimbursement for the individual's

time spent lobbying that would have been otherwise compensated by an employer or in the course of the individual's employment.

C. "Employee from the executive branch in the unclassified service" has the same meaning as in Title 5, section 7032, subsection 6-A.

D. "Lobbying" has the same meaning as in section 312-A, subsection 9.

2. Lobbying prohibited. Beginning December 4, 2024, a former officer or employee in the classified service or a former employee from the executive branch in the unclassified service of this State or a person who was employed in a position for which the salary is subject to adjustment by the Governor under Title 2, section 6 or that is described as a major policy-influencing position under Title 5, chapter 71 may not engage in compensated lobbying until one year after the termination of the employee's executive branch employment.

3. Complaints and investigations. A person may file a complaint with the commission specifying an alleged violation of this section. The commission staff shall notify the person against whom the complaint has been filed and may undertake an investigation of the alleged violation if directed by the commission. The commission may direct commission staff to undertake an investigation of an alleged violation of this section on its own motion.

4. Penalty. A person who intentionally violates this section is subject to a civil penalty not to exceed \$1,000, payable to the State and recoverable in a civil action.

§ 319. Penalty

1. Failure to file registration or report. Any person who fails to file a registration or report as required by this chapter is subject to a civil penalty, payable to the commission, of \$100 for every month the person fails to register or is delinquent in filing a report pursuant to section 317. If a registration or report is filed late, the commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty. If a lobbyist files a report required pursuant to section 317 within 24 hours after the deadline, the amount of the preliminary penalty is \$50. The preliminary penalty is increased by \$50 for each successive violation during a lobbying year. The commission may waive the penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances or the penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public from the late registration or report. For purposes of this subsection, "mitigating circumstances" means:

- A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;
- B. An error by the commission; or

C. Circumstances determined by the commission to warrant the waiver of the penalty in whole or in part, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with this chapter, including, but not limited to, unexplained delays in Internet service.

1-A. Notice of suspension. Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.

2. [Repealed]

3. Exemption. Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.

§ 319-A. Testimony before Legislature; lobbyist

1. Disclosure of compensation. A lobbyist or lobbyist associate who testifies before a joint select or joint standing committee of the Legislature shall disclose to the committee as part of the testimony the name of the person or organization that the lobbyist or lobbyist associate is representing. A lobbyist or lobbyist associate shall disclose to the committee orally or in written form the name of any person who is being compensated by the lobbyist or lobbyist associate or by the person or organization that the lobbyist or lobbyist associate is representing to testify before that committee.

2. Report of violation. A member of the Legislature may file a complaint with the commission alleging a violation of this section in accordance with the Joint Rules of the Legislature. The commission shall notify all interested parties and shall investigate any apparent violations of this section.

3. Penalty. If a lobbyist or lobbyist associate fails to disclose information required in subsection 1, the commission may:

- A. Suspend the lobbyist or lobbyist associate from further lobbying by written notice of the commission; and
- B. Assess a penalty of up to \$5,000 against the lobbyist or lobbyist associate.

§ 320. Disposition of fees

Fees collected pursuant to this chapter must be deposited into a special revenue account of the commission to be used for the purposes of administering and enforcing the provisions of this chapter, including the costs of obtaining, maintaining and upgrading technology to facilitate disclosure of lobbying and campaign finance information to the public.

The commission shall, no later than November 15th of the year prior to any proposed change, establish the amount of the registration fee required to be paid pursuant to section 313 for the subsequent year.

§ 321. Powers and duties of the commission

In order to carry out the purposes of this chapter, the commission shall have the following powers and duties.

- 1. Furnishing of forms.** The commission shall furnish forms to persons required to register or file reports.
- 2. Availability of copying facilities.** The commission shall make copying facilities available to the public during regular office hours and, notwithstanding any other provisions of law fixing the cost of such services, shall charge the actual cost of such services.
- 3. Filing of voluntary information.** The commission may accept and file any information voluntarily supplied that exceeds the requirements of this chapter.
- 4. Preservation of registrations and reports.** The commission shall preserve all registrations and reports filed pursuant to this chapter for 4 years from date of receipt and may dispose of same.
- 5. Acceptance or rejection of forms.** The commission may prescribe forms for all documents required or permitted to be filed with the commission and may refuse to accept documents not filed on those forms.
- 6. Refusal of filing.** The commission may refuse to accept any document that is not legible or that can not be clearly reproduced photographically.
- 7. Review reports for completeness.** The commission may reject reports that are incomplete.
- 8. Investigations.** The commission may undertake investigations into the failure to file a registration or to determine the accuracy and completeness of the registration and reporting of lobbyists and their employers if the members of the commission have found cause to believe that a violation may have occurred based on a properly filed complaint or other information received by the commission.
- 9. Reject registrations.** The commission shall reject registrations that do not include certification of completion of training required under section 170-B or requests for extensions or exemptions pursuant to section 312-B.

§ 322. Enforcement

- 1. Filing of a complaint.** Any person may file a complaint with the commission specifying any alleged violation of this chapter. The commission staff shall notify the

party against whom the complaint has been filed and then may undertake the investigation of the alleged violation if directed by members of the commission.

2. Attorney General. The Attorney General may enforce the provisions of this chapter upon request by the commission.

3. Use of subpoena. In the conduct of an investigation under section 321, subsection 8, the commission may subpoena witnesses and take evidence under oath. The commission may also subpoena records when a lobbyist, employer or other person refuses to provide relevant records requested by the commission in the course of investigating a violation of the registration, reporting or other requirements in this chapter. All subpoenas must be approved by the members of the commission and signed by the chair or the chair's designee. Any record or information obtained by the commission in the course of an investigation that is covered by a privilege against discovery or use as evidence is not a public record unless the privilege is waived.

§§ 323 to 325. (Repealed)

§ 326. Construction

Nothing in this chapter shall be construed to authorize the giving or receiving of a pecuniary benefit where otherwise prohibited by law.

§ 327. Name tag requirement

A person who is required to register as a lobbyist or a lobbyist associate in accordance with this chapter shall wear a clearly visible name tag whenever the lobbyist or lobbyist associate is engaged in the act of lobbying. The name tag must clearly display the lobbyist's name and must include either the name of the firm the lobbyist works for, the name of the lobbyist's employer, the organization the lobbyist represents or the term "lobbyist."