LOBBYISTS, LOBBYING AGENTS, AND LOBBYING ACTIVITIES

Act 472 of 1978

AN ACT to regulate political activity; to regulate lobbyists, lobbyist agents, and lobbying activities; to require registration of lobbyists and lobbyist agents; to require the filing of reports; to prescribe the powers and duties of the department of state; to prescribe penalties; and to repeal certain acts and parts of acts.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978
Popular Name: Lobby Act

The People of the State of Michigan enact:

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4.411 Meanings of words and phrases.

Sec. 1.

Except as otherwise defined in this act, the words and phrases defined in sections 2 to 6 have the meanings ascribed to them in those sections.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978
Constitutionality: In Pletz v Secretary of State, 125 Mich App 335; 336 NW2d 789 (1983), the Michigan Court of Appeals upheld all portions of 1978 PA 472 from facial attack except for "the disclosure requirements contained in MCL 7(1)(c) and 7(2)(d) and except for failure to provide an exemption for religious institutions." Further, the Court of Appeals held that "the parts of the statute held to be invalid, namely MCL 7(1)(c), which requires registrants to disclose the identities of persons who contribute to their lobbying organizations, and MCL 7(2)(d), which imposes similar disclosure duties upon lobbyist agents, may be severed and separated from 1978 PA 472 because the remainder is consistent with the aim of the Legislature to regulate lobbyists, lobbyist agents, and lobbying activities." Leave to appeal and cross-appeal denied September 21, 1983. Pletz v Secretary of State, 417 Mich 1100.20 (1983).
Popular Name: Lobby Act

4.412 Definitions generally.

Sec. 2.

(1) "Administrative action" means the proposal, drafting, development, consideration, amendment, enactment, or defeat of a nonministerial action or rule by an executive agency or an official in the executive branch of state government. Administrative action does not include a quasi-judicial determination as authorized by law.

(2) "Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity, or entity which is organized for profit or nonprofit purposes.

(3) "Business with which the individual is associated" means a business in which any of the following applies:

(a) The individual is a partner, director, officer, or employer.

(b) A member of the individual's immediate family is a partner, director, officer, or employer.

(c) The individual or a member of the individual's immediate family is a stockholder of close corporation stock worth $1,000.00 or more at fair market value or which represents more than 5% equity interest, or is a stockholder of publicly traded stock worth $10,000.00 or more at fair market value or which represents more than 10% equity interest. This subdivision does not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker.

(4) "Compensation" means anything of monetary value received or to be received from a person, whether in the form of a fee, salary, forbearance, forgiveness, or another form of recompense.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978
Popular Name: Lobby Act

4.413 Additional definitions.

Sec. 3.

(1) "Department" means the department of state.

(2) "Expenditure" means an advance, compensation for labor, honorarium, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, or subscription of money or anything of value including a contract, agreement, promise, or other obligation, whether or not legally enforceable, to make an expenditure. Expenditure does not include the payment of a membership fee otherwise reported pursuant to section 8(1)(d) or the cost of travel to visit and return from visiting a public official for the purpose of communicating with the public official.

(3) "Financial transaction" means a loan, purchase, sale, or other type of transfer or exchange of money, goods, other property, or services for value.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978
Popular Name: Lobby Act

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4.414 Additional definitions.

Sec. 4.

(1) "Gift" means a payment, advance, forbearance, or the rendering or deposit of money, services, or anything of value, the value of which exceeds $25.00, as adjusted under section 19a, in any 1-month period, unless consideration of equal or greater value is received therefor. Gift includes a payment, advance, forbearance, or the rendering or deposit of money, services, or anything of value to aid the defense of an official in the legislative branch or an official in the executive branch against a legal action not directly related to the governmental duties of the official. Gift does not include the following:

(a) A campaign contribution otherwise reported as required by the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

(b) A loan made in the normal course of business by an institution as defined in chapter 1 of the banking code of 1999, 1999 PA 276, MCL 487.11101 to 487.11203, a national bank, a branch bank, an insurance company issuing a loan or receiving a mortgage in the normal course of business, a premium finance company, a mortgage company, a small loan company, a state or federal credit union, a savings and loan association chartered by this state or the federal government, or a licensee as defined by the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141.

(c) A gift received from a member of the person's immediate family, a relative of a spouse, a relative within the seventh degree of consanguinity as computed by the civil law method, or from the spouse of the relative.

(d) A breakfast, luncheon, dinner, or other refreshment consisting of food and beverage provided for immediate consumption.

(e) A contribution to a legal defense fund that is registered with the secretary of state under the legal defense fund act and whose purpose is to defend an elected official against any criminal, civil, or administrative action, that arises directly out of the conduct of the elected official's governmental duties.

(2) "Immediate family" means a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.

(3) "Loan" means a transfer of money, property, or anything of ascertainable value in exchange for an obligation, conditional or not, to repay in whole or in part.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978 ;-- Am. 2008, Act 289, Imd. Eff. Oct. 6, 2008
Popular Name: Lobby Act

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4.415 Additional definitions.

Sec. 5.

(1) "Legislative action" means introduction, sponsorship, support, opposition, consideration, debate, vote, passage, defeat, approval, veto, delay, or an official action by an official in the executive branch or an official in the legislative branch on a bill, resolution, amendment, nomination, appointment, report, or any matter pending or proposed in a legislative committee or either house of the legislature. Legislative action does not include the representation of a person who has been subpoenaed to appear before the legislature or an agency of the legislature.

(2) "Lobbying" means communicating directly with an official in the executive branch of state government or an official in the legislative branch of state government for the purpose of influencing legislative or administrative action. Lobbying does not include the providing of technical information by a person other than a person as defined in subsection (5) or an employee of a person as defined in subsection (5) when appearing before an officially convened legislative committee or executive department hearing panel. As used in this subsection, "technical information" means empirically verifiable data provided by a person recognized as an expert in the subject area to which the information provided is related.

(3) "Influencing" means promoting, supporting, affecting, modifying, opposing or delaying by any means, including the providing of or use of information, statistics, studies, or analysis.

(4) "Lobbyist" means any of the following:

(a) A person whose expenditures for lobbying are more than $1,000.00 in value in any 12-month period.

(b) A person whose expenditures for lobbying are more than $250.00 in value in any 12-month period, if the amount is expended on lobbying a single public official.

(c) For the purpose of subdivisions (a) and (b), groups of 25 or more people shall not have their personal expenditures for food, travel, and beverage included, providing those expenditures are not reimbursed by a lobbyist or lobbyist agent.

(d) The state or a political subdivision which contracts for a lobbyist agent.

(5) "Lobbyist agent" means a person who receives compensation or reimbursement of actual expenses, or both, in a combined amount in excess of $250.00 in any 12-month period for lobbying.

(6) "Representative of the lobbyist" means any of the following:

(a) An employee of the lobbyist or lobbyist agent.

(b) For purposes of section 8(1)(b)(i) and 9(1)(b), a member of the lobbyist or employee of a member of the lobbyist, when the lobbyist is a membership organization or association, and when the lobbyist agent or an employee of the lobbyist or lobbyist agent is present during any part of the period during which the purchased food or beverage is consumed.

(c) A person who is reimbursed by the lobbyist or lobbyist agent for an expenditure, other than an expenditure for food or beverage, which was incurred for the purpose of lobbying.

(7) Lobbyist or lobbyist agent does not include:

(a) A publisher, owner, or working member of the press, radio, or television while disseminating news or editorial comment to the general public in the ordinary course of business.

(b) All elected or appointed public officials of state or local government who are acting in the course or scope of the office for no compensation, other than that provided by law for the office.

(c) For the purposes of this act, subdivision (b) shall not include:

(i) Employees of public or private colleges, community colleges, junior colleges or universities.

(ii) Employees of townships, villages, cities, counties or school boards.

(iii) Employees of state executive departments.

(iv) Employees of the judicial branch of government.

(d) A member of a lobbyist, if the lobbyist is a membership organization or association, and if the member of a lobbyist does not separately qualify as a lobbyist under subsection (4).

(8) "Mass mailing" means not less than 1,000 pieces of substantially similar material mailed within a 7-day period.

(9) "Official in the executive branch" means the governor, lieutenant governor, secretary of state, attorney general; or an individual who is in the executive branch of state government and not under civil service; a classified director, chief deputy director, or deputy director of a state department. This includes an individual who is elected or appointed and has not yet taken, or an individual who is nominated for appointment to, any of the offices or agencies enumerated in this subsection. An official in the executive branch does not include a person serving in a clerical, nonpolicy-making, or nonadministrative capacity. In addition to all of the foregoing, an official in the executive branch includes all of the following:

(a) In the executive office of the governor, the chief and deputy chief of staff, press secretary, director of job training, and director of personnel.

(b) In the department of agriculture, the racing commissioner and a member of the agriculture commission.

(c) In the department of civil rights, a member of the civil rights commission.

(d) In the department of civil service, a member of the civil service commission.

(e) In the department of commerce, the commissioner of financial institutions, the executive director of the housing development authority, and a member of the liquor control commission, strategic fund board, state housing development authority, travel commission, or public service commission.

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(f) In the department of education, a member of the state board of education, higher education facilities commission, higher education facilities authority, higher education assistance authority, higher education student loan authority, or state tenure commission.

(g) In the department of labor, the director of the bureau of workers' disability compensation, the director of the employment security commission, and a member of the construction code commission, employment relations commission, employment security board of review, employment security commission, or wage deviation board.

(h) In the department of licensing and regulation, the state insurance commissioner.

(i) In the department of management and budget, the lottery commissioner, the director of the office of services to the aging, the director of the office of state employer, the chairperson of the crime victims compensation board, and a member of the council for the arts, state administrative board, state building authority, toxic substance control commission, or utility consumer participation board.

(j) In the department of natural resources, the supervisor of wells and a member of the air pollution control commission, natural resources commission, or water resources commission.

(k) In the department of public health, a member of the occupational health standards commission.

(l) In the department of transportation, a member of the aeronautics commission and a state transportation commissioner.

(m) In the department of treasury, a member of the hospital finance authority, investment advisory committee, or state tax commission.

(10) "Official in the legislative branch" means a member of the legislature, the auditor general, the deputy auditor general, an employee of the consumer's council, the director of the legislative retirement system, or any other employee of the legislature other than an individual employed by the state in a clerical or nonpolicy-making capacity.

(11) "Governmental body" means any state legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, which is empowered by state constitution, statute, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function, or a lessee thereof performing an essential public purpose and function under the lease agreement.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978 ;-- Am. 1986, Act 83, Imd. Eff. Apr. 15, 1986
Popular Name: Lobby Act

4.416 Additional definitions.

Sec. 6.

(1) "Person" means a business, individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly, including a state agency or a political subdivision of the state.

(2) "Public official" means an official in the executive or legislative branch of state government.

(3) "Nonministerial action" means an action other than an action which a person performs in a prescribed manner under prescribed circumstances in obedience to the mandate of legal authority, without the exercise of personal judgment regarding whether to take the action.

(4) "Local government" means a city, village, township, county, school district, or community college district.

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History: 1978, Act 472, Imd. Eff. Oct. 19, 1978
Popular Name: Lobby Act

4.416a Resignation from office; lobbying during remainder of term; violation as misdemeanor; penalty.

Sec. 6a.

(1) A member of the Michigan senate or house of representatives who resigns from office shall not make expenditures for or receive compensation or reimbursement for actual expenses for lobbying for the remainder of the term of office from which the person resigned.

(2) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than $1,000.00 or by imprisonment for not more than 90 days, or both.

History: Add. 1994, Act 383, Eff. Jan. 1, 1995
Popular Name: Lobby Act

4.417 Registration forms; filing; contents; failure to register; late registration fee; penalty; notice of termination.

Sec. 7.

(1) Not later than 15 days after becoming a lobbyist, a lobbyist shall file a registration form with the secretary of state. The registration shall contain the following information:

(a) The name and office address of the lobbyist.

(b) The name and address of each person employed, reimbursed for expenses which exceed $10.00, or compensated by the lobbyist for lobbying in this state.

(c) The name, address and nature of business of a person who gives compensation to or reimburses the lobbyist or the representative of a lobbyist for lobbying.

(d) The fiscal year of the lobbyist.

(2) Not later than 3 days after becoming a lobbyist agent, a lobbyist agent shall file a registration form with the secretary of state. The registration form shall contain the following information:

(a) The name and office address of the lobbyist agent, if the lobbyist agent is not an individual.

(b) The name, permanent residence address, and office address of the lobbyist agent, if the lobbyist agent is an individual.

(c) The name and address of each person employed, reimbursed for expenses which exceed $10.00, or compensated by the lobbyist agent for lobbying in this state.

(d) The name, address, and nature of business of a person who gives compensation to or reimburses the lobbyist agent or the representative of a lobbyist agent for lobbying.

(3) A person who fails to register under subsection (1) or (2), shall pay a late registration fee of $10.00 for each day the person remains not registered in violation of subsection (1) or (2), not to exceed $300.00. A person who is in violation by failing to register as required by this section more than 30 days is guilty of a misdemeanor, and shall be fined not more than $1,000.00.

(4) A lobbyist shall file a notice of termination with the secretary of state within 30 days after ceasing lobbying, but this will not relieve the lobbyist of the reporting requirements of this section for that reporting period. A lobbyist agent shall file a notice of termination with the secretary of state within 30 days after ceasing to lobby for a lobbyist.

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History: 1978, Act 472, Eff. June 16, 1981
Constitutionality: In Pletz v Secretary of State, 125 Mich App 335; 336 NW2d 789 (1983), the Michigan Court of Appeals upheld all portions of 1978 PA 472 from facial attack except for "the disclosure requirements contained in MCL 7(1)(c) and 7(2)(d) and except for failure to provide an exemption for religious institutions." Further, the Court of Appeals held that "the parts of the statute held to be invalid, namely MCL 7(1)(c), which requires registrants to disclose the identities of persons who contribute to their lobbying organizations, and MCL 7(2)(d), which imposes similar disclosure duties upon lobbyist agents, may be severed and separated from 1978 PA 472 because the remainder is consistent with the aim of the Legislature to regulate lobbyists, lobbyist agents, and lobbying activities." Leave to appeal and cross-appeal denied September 21, 1983. Pletz v Secretary of State, 417 Mich 1100.20 (1983).
Popular Name: Lobby Act

4.418 Signed report; filing; form; extension; filing amended report; contents of report; reporting expenditures for food and beverage; failure to report; late filing fee; penalty; reporting activities of employee lobbyist agent; report to elected public official; preservation and destruction of statements and reports.

Sec. 8.

(1) A lobbyist or a lobbyist agent shall file a signed report in a form prescribed by the secretary of state under this section. A report shall be filed on January 31 covering the calendar year ending on the immediately preceding December 31, and on August 31 covering the immediately preceding December 31 to July 31. A report shall be filed by a lobbyist or for the lobbyist by the lobbyist agent who acts on behalf of the lobbyist, and the lobbyist agent who acts on his or her own behalf. A lobbyist or a lobbyist agent may request from the secretary of state an extension of the deadline for filing the report for a period not to exceed 60 days. The secretary of state shall respond in writing to the request, either approving or disapproving the request, and if approval is granted, the period of the extension, not later than 9 days after receipt of the request. A lobbyist or lobbyist agent may file an amended report within 1 year after the date the report is required to be filed, including an extension period. The report shall be on a prescribed form and shall include the following information:

(a) A statement updating to the end of the reporting period the information required to be filed under section 7.

(b) An account of expenditures made by a lobbyist, lobbyist agent, or representative of a lobbyist. The expenditures shall be reported by category, with the report showing the total amount expended in each category during the preceding reporting period and the cumulative amount expended in each category for the current year from January 1 through the month covered by the report. Expenditures shall be reported in the following categories:

(i) Expenditures for food and beverage provided for public officials as specified in subsection (2).

(ii) Advertising and mass mailing expenses directly related to lobbying.

(iii) Other expenditures for lobbying made or incurred by a lobbyist, a lobbyist agent, or an employee of a lobbyist or lobbyist agent, other than expenditures for lobbying made or incurred by a lobbyist, a lobbyist agent, or an employee of a lobbyist or a lobbyist agent of less than $5.00 made for goods or services for which a receipt or proof of purchase is not normally available.

(c) An account of every financial transaction during the immediately preceding reporting period between the lobbyist or lobbyist agent, or a person acting on behalf of the lobbyist or lobbyist agent, and a public official or a member of the public official's immediate family, or a business with which the individual is associated, in which goods and services having value of

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at least $775.00, or travel and lodging expenses paid for or reimbursed to a public official in connection with public business by that public official in excess of $500.00, are involved. The account shall include the date and nature of the transaction, the parties to the transaction, and the amount involved in the transaction. This subdivision does not apply to the following:

(i) A financial transaction in the ordinary course of the business of the lobbyist, if the primary business of the lobbyist is other than lobbying, and if consideration of equal or greater value is received by the lobbyist.

(ii) A financial transaction undertaken in the ordinary course of the lobbyist's business, in which fair market value is given or received for a benefit conferred.

(d) A brief description of the lobbying activities engaged in during the previous reporting period.

(e) In the case of travel and lodging expenses described in subdivision (c), the lobbyist or lobbyist agent shall prepare a separate document detailing the expenditure required to be reported. The lobbyist or lobbyist agent shall send, simultaneously with the filing of the report to the secretary of state, a copy of the document to the affected legislator.

(2) Expenditures for food and beverage provided a public official shall be reported if the expenditures for that public official exceed $25.00 in any month covered by the report or $150.00 during that calendar year from January 1 through the month covered by the report. The report shall include the name and title or office of the public official and the expenditures on that public official for the months covered by the report and for the year. If more than 1 public official is provided food and beverage and a single check is rendered, the report may reflect the average amount of the check for each public official. If the expenditures are a result of an event at which more than 25 public officials were in attendance, are a result of an event to which an entire standing committee of the legislature was invited in writing to be informed concerning a bill that was assigned to that standing committee, or are a result of an event to which an entire caucus of either house of the legislature was invited in writing, a lobbyist or a lobbyist agent shall report the total amount expended on the public officials in attendance for food and beverage and is not required to report the amount expended on the public officials individually. In reporting those amounts, the lobbyist or lobbyist agent shall file a statement providing a description by category of the persons in attendance and the nature of each event or function held during the preceding reporting period.

(3) A person who, without good cause, fails to report under subsection (1) shall pay a late filing fee of $10.00 for each day the report remains not filed in violation of subsection (1), not to exceed $300.00. A person who without good cause is in violation of subsection (1) more than 30 days is guilty of a misdemeanor, punishable by a fine of not more than $1,000.00.

(4) If a lobbyist agent employs another lobbyist agent to engage in lobbying, the activities of the employee lobbyist agent shall be reported by the employer lobbyist agent under this section.

(5) Within a reasonable time after receipt of a request from an elected public official in regard to a report of a lobbyist or a lobbyist agent, the secretary of state shall report to the elected public official on any reported activity by the lobbyist or lobbyist agent in that report, and shall notify the elected public official of the specific occurrence and the specific nature of the reported activity.

(6) The secretary of state shall preserve statements and reports filed under this act for 5 years after filing. The statements and reports may be reproduced pursuant to the records media act. After the required preservation period, the statements and reports, or the reproductions of the statements and reports, other than those necessary to complete an investigation by the attorney general or pertinent to a matter being adjudicated in a court of law, shall be destroyed.

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History: 1978, Act 472, Eff. June 16, 1981 ;-- Am. 1986, Act 83, Imd. Eff. Apr. 15, 1986 ;-- Am. 1992, Act 189, Imd. Eff. Oct. 5, 1992 ;-- Am. 1994, Act 412, Eff. Jan. 1, 1995
Popular Name: Lobby Act

4.419 Preservation of accounts, bills, receipts, books, papers, and documents; inspection of records; contents of records; violation; penalty.

Sec. 9.

(1) A lobbyist or a lobbyist agent acting on behalf of the lobbyist, and a lobbyist agent acting on his or her own behalf, shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the reports required to be made pursuant to section 8 for 5 years after the report containing those items is filed. These records shall be made available for inspection upon request by the secretary of state after reasonable notice. The records shall include the following:

(a) An itemized account of all expenditures related to the performance of lobbying. Single expenditures of $100.01 or more shall be recorded separately with the record showing the date, purpose, and name and address of the recipient of the expenditures.

(b) An itemized account of all expenditures for food and beverage provided for public officials. The account shall reflect the date and amount of the expenditure and the name and title or office of the public official for whom the expenditure was made, and the name of the lobbyist agent or representative of the lobbyist who purchased the food or beverage for the public official, except that when more than 1 public official is provided food and beverage and a single check or voucher is rendered, the account may reflect the average amount of the check for each public official. A lobbyist shall record amounts expended on public officials for food and beverage where the expenditures are a result of an event at which more than 25 public officials were in attendance or are a result of an event to which an entire standing committee of the legislature has been invited in writing to be informed concerning a bill which has been assigned to that standing committee. The record shall not list the expenditures for public officials individually. The lobbyist shall record the names of all public officials in attendance and the nature of each event or function held.

(2) A person who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than $1,000.00, or imprisoned for not more than 90 days, or both, and if the person is other than an individual, the person shall be fined not more than $10,000.00.

History: 1978, Act 472, Eff. June 16, 1981
Popular Name: Lobby Act

4.420 Accounting of lobbying and expenditures; waiver; violation; penalty.

Sec. 10.

A lobbyist agent who is compensated, reimbursed, or otherwise employed by a lobbyist, and whose activities and expenditures must be reported by the employing lobbyist pursuant to section 8, shall provide to the employing lobbyist a full accounting of all lobbying and expenditures required to be reported under this act at least 10 days before the employing lobbyist's report is due to be filed. If the lobbyist agent files an authorized report on behalf of the lobbyist, said accounting is waived. A person who violates this subsection is guilty of a misdemeanor and shall be punished by a fine of not more than $1,000.00.

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History: 1978, Act 472, Eff. June 16, 1981
Popular Name: Lobby Act

4.421 Employment of lobbyist agent for compensation contingent on outcome of administrative or legislative action; gifts, loans, or preferential interest rates; selling or utilizing certain information for commercial purpose; compensation or reimbursement of public official engaging in lobbying; violations; penalties.

Sec. 11.

(1) A person shall not be employed as a lobbyist agent for compensation contingent in any manner upon the outcome of an administrative or legislative action. A person who knowingly violates this subsection is guilty of a felony and if the person is an individual shall be punished by a fine of not more than $10,000.00, or imprisoned for not more than 3 years, or both, and if the person is other than an individual shall be punished by a fine of not more than $25,000.00.

(2) A lobbyist or lobbyist agent or anyone acting on behalf of a lobbyist or lobbyist agent shall not give a gift or loan, other than a loan made in the normal course of business by an institution as defined in section 5 of Act No. 319 of the Public Acts of 1969, as amended, a national bank, a branch bank, an insurance company issuing a loan or receiving a mortgage in the normal course of business, a premium finance company, a mortgage company, a small loan company, a state or federal credit union, a savings and loan association chartered by this state or the federal government, or a licensee as defined by Act No. 27 of the Public Acts of the Extra Session of 1950 , as amended. For the purpose of this section, a preferential interest rate shall not be given solely on the basis of the credit applicant being a public official or a member of the public official's immediate family. A person who gives a gift in violation of this subsection is guilty of a misdemeanor if the value of the gift is $3,000.00 or less, and shall be punished by a fine of not more than $5,000.00, or imprisoned for not more than 90 days, or both, and if the person is other than an individual the person shall be fined not more than $10,000.00. A person who knowingly gives a gift in violation of this subsection and the value of the gift is more than $3,000.00 is guilty of a felony and if the person is an individual shall be punished by a fine of not more than $10,000.00, or imprisoned for not more than 3 years, or both, and if the person is other than an individual shall be punished by a fine of not more than $25,000.00.

(3) Information copied from registration forms or activity reports required by this act or from lists compiled from the forms or reports may not be sold or utilized by any person for any commercial purpose. A person who violates this subsection is subject to a civil penalty of not more than $1,000.00.

(4) A public official, other than an individual who is appointed or elected to a board or commission and is not an ex officio member or prohibited by law from having other employment, shall not accept compensation or reimbursement, other than from the state, for personally engaging in lobbying. A person who violates this subsection is guilty of a misdemeanor and shall be punished by a fine of not more than $1,000.00, or imprisoned for not more than 90 days, or both.

History: 1978, Act 472, Eff. June 16, 1981
Popular Name: Lobby Act

4.422 Summaries of statements and reports.

Sec. 12.

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The department 2 times a year and annually shall prepare and publish summaries of the statements and reports received. The summaries shall include a list of the names of the lobbyists and lobbyist agents. The summaries shall be given wide public dissemination.

History: 1978, Act 472, Eff. June 16, 1981
Popular Name: Lobby Act

4.423 Statement or report; determination of filing; deadline for filing; notice of error or omission; notice of failure to file; failure to give notice; making corrections; reporting errors, omissions, or failure to file; copy; investigations and hearings.

Sec. 13.

(1) The secretary of state shall determine whether a statement or report, which is required to be filed under this act, is in fact filed.

(2) A statement or report required to be filed under this act shall be filed not later than 4 p.m. of the day on which it is required to be filed. A statement or report which is postmarked by certified mail not less than 2 days before the deadline for filing shall be considered filed within the prescribed time regardless of when it is actually delivered.

(3) Within 10 days after the deadline for filing a statement or report under this act, the secretary of state shall give notice to the filer by certified mail of an error or omission in the statement or report and shall give notice to a person whom the secretary of state finds probable cause exists that a person is required to file, but who has failed to file, a statement or report. A failure to give notice by the secretary of state under this section is not a defense to a criminal action against the person required to file.

(4) Within 20 days after the report or statement is required to be filed, the filer shall make any corrections in the statement or report filed with the secretary of state.

(5) When 30 days have expired after the deadline for filing a statement or report, the secretary of state shall report errors or omissions which were not corrected and failures to file to the attorney general. A copy of the notice to the attorney general shall be mailed to the person who was required to file or was required to correct errors or omissions.

(6) The secretary of state shall conduct investigations and 1 or more hearings as may be necessary to determine if probable cause exists that a violation of this act has occurred. A hearing conducted pursuant to this subsection shall be in accordance with the procedures set forth in Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1978, Act 472, Eff. June 16, 1981
Popular Name: Lobby Act

4.424 Enforcement of penalties; filing sworn complaint; determination of probable cause; notices; cooperation in conduct of investigations.

Sec. 14.

(1) If the secretary of state, upon investigation of a report filed under this act, determines that there is probable cause a violation of this act occurred, the secretary of state shall forward the results of that investigation to the attorney general for enforcement of the penalties provided by this act.

(2) A sworn complaint alleging a violation of this act or the rules promulgated under this act shall be filed with the secretary of state. Upon receipt of a sworn complaint, the attorney

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general shall determine whether there is probable cause that there was a violation of this act or the rules promulgated under this act. Notice shall be given to a person within 5 days after a sworn complaint is filed against that person. Notice shall include a copy of the sworn complaint. Every 60 days after the date of a request for an investigation and until the matter is terminated, the attorney general shall mail to the complainant and to the alleged violator notice of the action taken to date by the attorney general, together with the reasons for the action or nonaction. If it is determined that there is no probable cause that a violation of this act did occur, the attorney general shall immediately give notice thereof to the complainant and to the person previously given notice under this subsection.

(3) All governmental bodies shall cooperate with the department of attorney general in the conduct of its investigations.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978
Popular Name: Lobby Act
Admin Rule: R 4.411 et seq. of the Michigan Administrative Code.

4.425 Ordinance or resolution.

Sec. 15.

A county, city, township, village, or school district may not adopt an ordinance or resolution that is more restrictive than the provisions contained in this act.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978
Popular Name: Lobby Act

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4.426 Rules.

Sec. 16.

The secretary of state shall promulgate rules and issue declaratory rules to implement this act pursuant to Act No. 306 of the Public Acts of 1969, as amended.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978
Popular Name: Lobby Act
Admin Rule: R 4.411 et seq. of the Michigan Administrative Code.

4.427 Civil action; criminal prosecution.

Sec. 17.

The attorney general upon investigation and determination that this act or a rule promulgated under this act was violated, shall do either of the following:

(a) Initiate a civil action to enforce this act.

(b) Begin criminal prosecution for the imposition of criminal penalties provided by this act in the judicial district in which the alleged violation occurred.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978
Popular Name: Lobby Act
Admin Rule: R 4.411 et seq. of the Michigan Administrative Code.

4.428 Severability.

Sec. 18.

If any portion of this act or the application of this act to any person or circumstances is found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978
Popular Name: Lobby Act

4.429 Declaratory ruling or interpretive statement.

Sec. 19.

(1) A declaratory ruling shall be issued by the secretary of state under this section only if the person requesting the ruling has provided a reasonably complete statement of facts necessary for the ruling or if the person requesting the ruling has, with the permission of the secretary of state, supplied supplemental facts necessary for the ruling. A request for a declaratory ruling that is submitted to the secretary of state shall be made available for public inspection within 48 hours after its receipt. An interested person may submit written comments regarding the request to the secretary of state within 10 business days after the date the request is made available to the public. Within 45 business days after receiving a declaratory ruling request, the secretary of state shall make a proposed response available to the public. An interested person may submit written comments regarding the proposed response to the secretary of state within 5 business days after the date the proposal is made available to the public. Except as otherwise provided in this section, the secretary of state shall issue a declaratory ruling within 60 business days after a request for a declaratory ruling is received. If the secretary of state refuses to issue a declaratory ruling, the secretary of state shall notify the person making the request of the reasons for the refusal and shall issue an interpretive statement providing an informational response to the question presented within the same time limitation applicable to a declaratory ruling. A declaratory ruling or interpretive statement issued under this section shall not state a general rule of law, other than that which is stated in this act, until the general rule of law is promulgated by the secretary of state as a rule under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or under judicial order.

(2) Under extenuating circumstances, the secretary of state may issue a notice extending for not more than 30 business days the period during which the secretary of state shall respond to a request for a declaratory ruling. The secretary of state shall not issue more than 1 notice of extension for a particular request. A person requesting a declaratory ruling may waive, in writing, the time limitations provided by this section.

(3) The secretary of state shall make available to the public an annual summary of the declaratory rulings and interpretive statements issued under this act by the secretary of state.

History: Add. 2008, Act 289, Imd. Eff. Oct. 6, 2008
Compiler's Notes: Former MCL 4.429, which pertained to applicability of certain penalty provisions, was repealed by Act 83 of 1986, Imd. Eff. Apr. 15, 1986.
Popular Name: Lobby Act

4.429a Adjustment of monetary amounts established for registration and reporting thresholds and for penalties; applicability, determination, and announcement of adjustments; approximation if index unavailable.

Sec. 19a.

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(1) Effective January 1, 1986, the monetary amounts established in this act for registration and reporting thresholds and for penalties shall be adjusted as of January 1 pursuant to the percentage increase or decrease in the Detroit consumer price index—all items. The adjustment for 1986 shall be made by comparing the Detroit consumer price index for June, 1981 to the corresponding Detroit consumer price index for August, 1985. The resultant percentage change shall then be multiplied by the monetary amounts established in this act on the effective date of this section. These results shall be rounded up to the nearest dollar and added to the amounts established by this act which are $100.00 or less, and rounded up to the nearest $25.00 and added to the amounts established by this act which are more than $100.00, which shall then be the new amounts for 1986.

(2) Effective January 1, 1987 and each year thereafter, the monetary amounts established in this act for registration and reporting thresholds and for penalties shall be adjusted each January 1 pursuant to the annual average percentage increase or decrease in the Detroit consumer price index—all items. The adjustment for each year shall be made by comparing the percentage increase or decrease in the Detroit consumer price index for the preceding August by the corresponding Detroit consumer price index—all items 1 year earlier. The resultant percentage change shall then be multiplied by the affected monetary amounts. These results shall be rounded up to the nearest dollar for amounts established on the effective date of this section which are $100.00 or less, and rounded up to the nearest $25.00 for amounts established on the effective date of this section which are more than $100.00, and added to or subtracted from the current monetary amounts as previously adjusted by this section which shall be the new amounts for that year.

(3) The adjustments shall apply only to expenditures or violations occurring after the date of the adjusting of the amounts.

(4) The adjusted amounts shall be determined and announced by the secretary of state on or before December 15 of each year and shall be provided to all persons requesting the adjusted amounts.

(5) If the index is unavailable, the secretary of state shall make a reasonable approximation.

History: Add. 1986, Act 83, Imd. Eff. Apr. 15, 1986
Popular Name: Lobby Act

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4.430 Effective date of MCL 4.417, 4.418, 4.419, 4.420, 4.421, 4.422, 4.423, and 4.431.

Sec. 20.

Sections 7, 8, 9, 10, 11, 12, 13 and 21 shall not take effect until April 1, 1979, or before 6 months after the promulgation of a rule, as defined in section 5(6) of Act No. 306 of the Public Acts of 1969, being section 24.205 of the Michigan Compiled Laws, pursuant to section 16 of this act, whichever occurs later.

History: 1978, Act 472, Imd. Eff. Oct. 19, 1978
Compiler's Notes: The Secretary of State promulgated rules entitled “Lobbyist Registration and Reporting,” being R 4.411 et seq. of the Michigan Administrative Code, on December 16, 1980.
Popular Name: Lobby Act

4.431 Repeal of MCL 4.401 to 4.410.

Sec. 21.

Act No. 214 of the Public Acts of 1947, being sections 4.401 to 4.410 of the Compiled Laws of 1970, is repealed.

History: 1978, Act 472, Eff. June 16, 1981
Popular Name: Lobby Act

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