

## **Could You Be Running Afoul of Maryland's New Ethics Laws?**

**By Tanya C. Bernstein**

Have you written letters to your state delegates to express your opinion on an issue? Have you visited a member of the state senate to discuss pending legislation? If so, you may be subject to ethics laws governing lobbying activities in the State of Maryland.

Maryland's ethics law was largely overhauled during the 2001 and 2002 sessions of the Maryland General Assembly, primarily to combat mistrust in the governmental system and to close certain loopholes that unwittingly permitted manipulation of the prior lobbying system. With more and more individuals and entities exercising their right to influence government, the Commission, through the ethics laws, seeks to insure trust, impartiality, and independent judgment in the conduct of State business. The new law is administered by the State Ethics Commission, an independent, five-member commission that appoints its own executive director, general counsel, and staff counsel.

The primary vehicle for regulating legislative and executive conduct is the requirement that certain individuals and entities register with the Commission as lobbyists and report their activities. The conditions that trigger the registration requirement can be overwhelming and unclear, even for those of us presumably schooled in understanding them. In order to assist the average Joe and Josephine Public in deciphering these laws, the following is a list of the "Top Ten Lobbying Rules to Live By."

1. Remember the Reporting Period. The lobbyist reporting periods run from November 1 through April 30 and May 1 through October 31 every year. Lobbying Activity Reports are due on May 31 and November 30, respectively.

Don't forget that if you engage in any lobbying activities that require registration during these periods, and you are not currently registered, you must register as a lobbyist within 5 days of engaging in such activities.

2. Be Mindful of the "In Person" Threshold. If you, or people compensated by you, communicate **in person** with an official or employee of the legislative or executive branch for the purpose of influencing any legislative or executive action during the reporting period and earn \$2,500 or incur expenses of \$500 or more for those activities, you must register as a lobbyist and comply with the reporting requirements.
3. Be Mindful of the "Not in Person" Threshold. If you, or people compensated by you, communicate with an official or employee of the legislative or executive branch **in writing or by any other means that does not require in person contact** for the purpose of influencing any legislative or executive action during the reporting period and earn \$5,000 or incur expenses of \$500 or more for those activities, you must register as a lobbyist and comply with the reporting requirements.
4. Stay In School. If you qualify as a registered lobbyist, you are required to attend training once every 2 year period during which you are registered. The Ethics Commission will send a notice to all lobbyists require to attend training.
5. Be A Scrooge. Giving gifts to legislative or executive branch elected officials is risky, and almost always triggers the registration and reporting requirements. Typically, only unsolicited gifts that **do not exceed \$20.00 in value** (such as t-shirts, caps, magnets, pens, etc.), and tickets and/or free admission to attend a

charitable, cultural, or political event, will let you bypass registration and reporting (this does not include tickets to sporting events). Any individual gift in excess of \$20.00, or a series of gifts totaling \$100.00 or more, will require you to register and file a report.

6. Don't Do Lunch. Meals and beverages may be accepted by elected officials and their staff in very limited circumstances, and all such circumstances will trigger the registration and reporting requirements.
7. Et Tu, Grassroots Campaigns. If you are an individual or entity that **expends \$2,000 or more** during the reporting period (including salaries, postage, advertising, printing and delivery services, etc.) for the purpose of soliciting others to communicate with any official to influence legislative or executive action, you must register as a lobbyist and comply with the reporting requirements. Similarly, if you respond to such a call-to-action by making telephone calls, sending emails or letters, or engaging in other communication with your representative, and earn **at least \$5,000 cumulatively** for your efforts, you must register as a lobbyist and comply with the reporting requirements.
8. Don't Mix Business With Lobbying. If you qualify as a registered lobbyist and are appointed to serve on a board or commission subject to the ethics laws, you have additional reporting and other requirements, including recusal from any issue involving your own personal or business concerns. If your appointment creates a prohibited conflict of interest as defined by the ethics laws, you will not be permitted to serve on the board or commission.

9. Don't Expect a "Get Out of Jail Free" Card. If a complaint filed against you is found by the Ethics Commission to be valid, the Commission is authorized to require compliance, issue a reprimand, impose a fine not to exceed \$5,000 per violation, suspend registration for up to 3 years, or revoke registration. If any violations of the ethics laws result in criminal prosecution, the penalties may include a fine not exceeding \$10,000, imprisonment not exceeding 1 year, or both.
10. Journalists (And Others) Need Not Apply. There are several unique exceptions to the registration, reporting, and other requirements of the ethics laws. For example, registration is not required for certain members of the news media and religious organizations; attorneys acting in a volunteer or pro bono capacity; students acting as part of a course or educational activity; or individuals acting as part of their official duties provided that lobbying is not a primary function of their office. In addition, if you communicate with an official of the legislative or executive branch at the specific request of a registered lobbyist or the body involved, provided that certain conditions apply, you do not need to register.

This list is by no means exhaustive and should not be relied upon as the sole determinant of whether certain activity requires registration or reporting under the law. Perhaps the most valuable resource available to any individual or entity with regard to Maryland's ethics laws is the ability to request advice from Commission staff on any ethics related issue. However, more details can be obtained on the State Ethics Commission's website at [www.ethics.gov.state.md.us](http://www.ethics.gov.state.md.us), or by contacting Furey, Doolan & Abell, LLP at 301-652-6880.