

PUBLIC OFFICERS (65 PA.C.S.) - LOBBYING DISCLOSURE
Act of Nov. 1, 2006, P.L. 1213, No. 134

Cl. 65

Session of 2006
No. 2006-134

HB 700

AN ACT

Amending Title 65 (Public Officers) of the Pennsylvania Consolidated Statutes, further providing for ethical standards definitions and for lobby regulation and disclosure.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1102 of Title 65 of the Pennsylvania Consolidated Statutes is amended by adding definitions to read:
§ 1102. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Gift." [Anything which is received without consideration of equal or greater value. The term shall not include a political contribution otherwise reported as required by law or a commercially reasonable loan made in the ordinary course of business.] **As defined in section 13A03 (relating to definitions).**

* * *

"Hospitality." **As defined in section 13A03 (relating to definitions).**

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Section 1.1. Section 1105(b)(7) of Title 65 is amended to read:

§ 1105. Statement of financial interests.

* * *

(b) Required information.--The statement shall include the following information for the prior calendar year with regard to the person required to file the statement:

* * *

(7) The name and address of the source and the amount of any payment for or reimbursement of actual expenses for transportation and lodging or hospitality received in connection with public office or employment where such actual expenses for transportation and lodging or hospitality exceed \$650 in [the course of a single occurrence] **an aggregate amount per year**. This paragraph shall not apply to expenses reimbursed by a governmental body or to expenses reimbursed by an organization or association of public officials or employees of political subdivisions which the public official or employee serves in an official capacity.

* * *

Section 2. Chapter 13 heading and sections 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310 and 1311 of Title 65

are amended to read:

[CHAPTER 13

LOBBY REGULATION AND DISCLOSURE

§ 1301. Short title of chapter.

This chapter shall be known and may be cited as the Lobbying Disclosure Act.

§ 1302. Statement of intent and jurisdiction.

(a) Intent.--The Constitution of Pennsylvania recognizes the principle that all free government is founded upon the authority of the people. It further provides that the power to make law in this Commonwealth is vested in the General Assembly and the power to enforce law is vested in the Executive Department. The ability of the people to exercise their fundamental authority and to have confidence in the integrity of the process by which laws are made and enforced in this Commonwealth demands that the identity and the scope of activity of those employed to influence the actions of the General Assembly and the Executive Department be publicly and regularly disclosed.

(b) Jurisdiction.--The authority to regulate persons employed to influence the actions of the General Assembly and the Executive Department lies within the jurisdiction of those branches of government. To insure that the intent of this chapter is not evaded and that all such persons are regulated in a fair and equitable manner, lobbyists and the practice of lobbying shall be subject to this chapter, which shall prevail over any other regulation of professional activity when that activity constitutes lobbying. This chapter is not intended to govern professional activities which do not include lobbying and which are properly the subject of regulation by the judicial branch of government or by any government agency. Membership in a regulated profession shall not excuse a lobbyist from compliance with the provisions of this chapter.

§ 1303. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Administrative action." Any of the following:

(1) An agency's:

(i) proposal, consideration, promulgation or rescission of a regulation;

(ii) development or modification of a guideline or a statement of policy; or

(iii) approval or rejection of a regulation.

(2) The review, revision, approval or disapproval of a regulation under the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(3) The Governor's approval or veto of legislation.

(4) The nomination or appointment of an individual as an officer or employee of the Commonwealth.

(5) The proposal, consideration, promulgation or rescission of an executive order.

"Affiliated political action committee." A political action committee as defined in section 1621(1) of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, which has a chairman, a treasurer or another officer who is a principal, an employee of a principal, a lobbyist or an employee of a lobbyist, provided if an employee of a registrant

serves as the officer of a political action committee in what is clearly a personal capacity and the goals and mission of that political action committee clearly have no relationship to the goals and mission of the registrant, such political action committee shall not be considered an affiliated political action committee for the purposes of this definition.

"Agency." A State agency, board, commission, authority or department.

"Commission." The State Ethics Commission.

"Compensation." Anything of value, including benefits, received or to be received from a principal by one acting as a lobbyist.

"Direct communication." An effort, whether written, oral or by any other medium, made by a lobbyist or principal, directed to a State official or employee, the purpose or foreseeable effect of which is to influence legislative action or administrative action.

"Economic consideration." Anything of value offered or received.

"Fund." The Lobbying Disclosure Fund established in section 1310(b) (relating to filing fees; fund established; regulations).

"Gift." As defined in section 1102 (relating to definitions).

"Immediate family." An individual's spouse, an individual's child and an individual's parent, brother, sister or like relative-in-law.

"Indirect communication." An effort, whether written, oral or by any other medium, to encourage others, including the general public, to take action, the purpose or foreseeable effect of which is to directly influence legislative action or administrative action. The term includes letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards, publications and educational campaigns on public issues. The term does not include regularly published periodic newsletters primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit corporation.

"Legislation." Bills, resolutions, amendments and nominations pending or proposed in either the Senate or the House of Representatives. The term includes any other matter which may become the subject of action by either chamber of the General Assembly.

"Legislative action." An action taken by a State official or employee involving the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of legislation; legislative motions; overriding or sustaining a veto by the Governor; or confirmation of appointments by the Governor or of appointments to public boards or commissions by a member of the General Assembly.

"Lobbying." An effort to influence legislative action or administrative action. The term includes:

- (1) providing any gift, entertainment, meal, transportation or lodging to a State official or employee for the purpose of advancing the interest of the lobbyist or principal; and

(2) direct or indirect communication.

"Lobbyist." Any individual, firm, association, corporation, partnership, business trust or business entity that engages in lobbying on behalf of a principal for economic consideration. The term includes an attorney who engages in lobbying.

"Principal." Any individual, firm, association, corporation, partnership, business trust or business entity:

(1) on whose behalf a lobbyist influences or attempts to influence an administrative action or a legislative action;
or

(2) that engages in lobbying on the principal's own behalf.

"Registrant." A registered lobbyist or a registered principal.

"Regulation." Any rule, regulation or order in the nature of a rule or regulation, including formal and informal opinions of the Attorney General, of general application and future effect, promulgated by an agency under statutory authority in the administration of a statute administered by or relating to the agency, or prescribing the practice or procedure before the agency.

"State official or employee." An individual elected or appointed to a position in State government or employed by State government, whether compensated or uncompensated, who is involved in legislative action or administrative action.

§ 1304. Registration.

(a) General rule.--Unless excluded under section 1306 (relating to exemption from registration and reporting), a lobbyist or a principal must register with the commission within ten days of acting in any capacity as a lobbyist or principal. Registration shall be biennial and be coincident with the terms of the members of the House of Representatives.

(b) Principals.--

(1) A principal required to register shall file the following information with the commission:

- (i) Name.
- (ii) Permanent address.
- (iii) Daytime telephone number.
- (iv) Name and nature of business.
- (v) Name, registration number and acronyms of affiliated political action committees.
- (vi) Name and permanent business address of each individual who will for economic consideration engage in lobbying on the principal's behalf.

(2) If an organization or association is a principal, the number of dues-paying members in the past calendar year shall also be disclosed.

(c) Lobbyist.--

(1) A lobbyist who is required to register shall file the following information with the commission:

- (i) Name.
- (ii) Permanent business address.
- (iii) Daytime telephone number.
- (iv) A recent picture of the lobbyist.
- (v) Name, permanent business address and daytime telephone number of the principal the lobbyist represents.

(vi) Name, registration number and acronyms of affiliated political action committees.

(2) Each lobbyist shall file a separate registration statement for each principal he or she represents.

(d) Amendments.--

(1) When there is a change of information required for the registration statement under subsection (b)(1) or (c), an amended statement shall be filed with the commission within 14 days after the change occurs.

(2) When there is a change in information required for the registration statement under subsection (b)(2), an amended statement shall be filed with the commission within 14 days of the end of the year in which the change occurs.

(e) Termination.--A lobbyist or a principal may terminate registration by filing notice with the commission. Within 30 days of filing the notice, the lobbyist or principal shall file a termination report, which shall include all information required by section 1305 (relating to reporting) through the final day of lobbying activity. After a reasonable review of the termination report but not later than 90 days after receipt of the notice, the commission shall issue to the lobbyist or principal a letter stating that the registrant has terminated registration. The filing of notice or a termination report shall not affect the commission's authority to conduct investigations and hearings pursuant to section 1308(h) (relating to administration and enforcement). No lobbying may occur after the filing of notice unless the lobbying is pursuant to a separate registration statement which is filed with the commission and which, at the time of the lobbying, has not been terminated.

§ 1305. Reporting.

(a) General rule.--A lobbyist as required by subsection (b)(6) or a registered principal shall, under oath or affirmation, file quarterly expense reports with the commission.

(b) Content.--

(1) Reports must list the names of all lobbyists by whom the lobbying is conducted and the general subject matter or issue being lobbied.

(2) Expense reports must contain the following categories:

(i) A single aggregate good faith estimate of the total amount spent for personnel and office expenses related to lobbying. This subparagraph includes salaries and other forms of compensation, benefits, vehicle allowances, bonuses and reimbursable expenses for those involved in lobbying. If compensation is to be reported by or for an individual or entity whose lobbying is incidental to regular employment, it shall be sufficient to report a good faith prorated estimate based on the value of the time devoted to lobbying. Reportable personnel costs include costs for lobbying staff, research and monitoring staff, consultants, lawyers, lobbyists, publications and public relations staff, technical staff and clerical and administrative support staff who engage in lobbying but are exempt from reporting under section 1306(6) (relating to exemption from registration and reporting). This subparagraph includes costs for offices, equipment and supplies

utilized for lobbying.

(ii) A single aggregate good faith estimate of the total amount spent for direct communication.

(iii) The total costs for gifts, entertainment, meals, transportation, lodging and receptions given to or provided to State officials or employees or their immediate families.

(iv) A single aggregate good faith estimate of the total amount spent for indirect communication.

(3) In addition to reporting the totals required under this subsection, the expense report must identify, by name, position and each occurrence, a State official or employee who receives from a principal or lobbyist anything of value which must be included in the statement under section 1105(b)(6) or (7) (relating to statement of financial interests) as implemented by section 1105(d).

(i) For purposes of this chapter, the amount referred to in section 1105(b)(7) shall be considered an aggregate amount per year.

(ii) Written notice must be given to each public official or employee of inclusion in the expense report within seven days of the report's submission to the commission. Notice under this subparagraph shall include the information which will enable the public official or employee to comply with section 1105(b)(6) and (7). For purposes of this chapter and Chapter 11 (relating to ethics standards and financial disclosure), section 1105(b)(6) and (7) shall constitute mutually exclusive categories.

(iii) Regulations shall be promulgated under section 1310(c) (relating to filing fees; fund established; regulations) to define mutually exclusive categories under section 1105(b)(6) and (7) and to determine whether a thing of value is subject to disclosure under section 1105(b)(6) or (7).

(4) A lobbyist must sign the reports submitted by each principal represented to attest to the validity and accuracy to the best of the lobbyist's knowledge. A lobbyist may attach a statement to the report of any principal, describing the limits of the lobbyist's knowledge concerning the expenditures contained in the report.

(5) The expense report shall also include the name, permanent business address and daytime telephone number of any individual, firm, association, corporation, partnership, business trust or business entity which contributed more than 10% of the total resources received by the principal during the reporting period.

(6) A lobbyist shall submit a separate report if, during the reporting period, the lobbyist engaged in lobbying which was not contained in the reports filed by the principal or principals represented by the lobbyist. A separate lobbyist report shall contain the identity of the principal for whom such lobbying was performed and shall contain all information required under paragraphs (2) and (3).

(7) A registered principal or registered lobbyist that attempts to influence an agency's preparing, bidding, entering into or approving a contract shall ensure that the

related expenses are included under paragraph (2).

(c) Records retention.--A registrant shall retain all documents reasonably necessary to substantiate the reports to be made under this section for four years from the date of filing the subject report. Upon request by the Office of the Attorney General or the commission, these materials shall be made available for inspection within a reasonable period of time.

(d) Thresholds for reporting.--An expense report shall be filed when total expenses for lobbying exceed \$500 for a registered principal or a registered lobbyist in a reporting period. In a reporting period in which total expenses are \$500 or less, a statement to that effect shall be filed.

(e) Voluntary disclosure.--Nothing in this section shall prevent a principal or lobbyist from disclosing expenses in greater detail than required.

§ 1306. Exemption from registration and reporting.

The following individuals and activities shall be exempt from registration under section 1304 (relating to registration) and reporting under section 1305 (relating to reporting):

(1) An individual who limits lobbying activities to preparing testimony and testifying before a committee of the legislature or participating in an administrative proceeding of an agency.

(2) An individual who is an employee of an entity engaged in the business of publishing, broadcasting or televising while engaged in the gathering and dissemination of news and comment thereon to the general public in the ordinary course of business.

(3) Any of the following:

(i) An individual who does not receive compensation, other than traveling expenses, for lobbying.

(ii) An individual whose compensation for lobbying, from all principals represented, does not exceed \$2,500 in the aggregate during any reporting period.

(iii) An individual who engages in lobbying on behalf of the individual's employer and where lobbying activity represents less than the equivalent of \$2,500 of the employee's time during any reporting period, based on an hourly proration of the employee's compensation.

(iv) A principal whose total expenses for lobbying purposes do not exceed \$2,500 during any reporting period.

(4) Any of the following:

(i) An elected State officer acting in an official capacity.

(ii) A State executive officer appointed by the Governor acting in an official capacity.

(iii) An elected or appointed official or employee of a political subdivision acting in an official capacity.

(iv) An employee of the Commonwealth or independent agency of the Commonwealth acting in an official capacity.

(5) An individual representing a bona fide church of which the individual is a member and the purpose of the lobbying is solely for the purpose of protecting the constitutional right to the free exercise of religion.

(6) An employee, who is not a registered lobbyist, of a corporation which:

- (i) is registered as a principal under section 1304;
- (ii) has one or more registered lobbyists; and
- (iii) includes in its reports under section 1305 all of the employee's expenses related to lobbying.

§ 1307. Prohibited activities.

(a) Contingent compensation.--

(1) No one may compensate or incur an obligation to compensate any lobbyist, principal or individual to engage in lobbying for compensation contingent in whole or in part upon any of the following:

(i) Passage or defeat, or approval or veto, of legislation.

(ii) Occurrence or nonoccurrence of an administrative action.

(2) No lobbyist, principal or individual may engage or agree to engage in lobbying for compensation contingent in whole or in part upon any of the following:

(i) Passage or defeat, or approval or veto, of legislation.

(ii) Occurrence or nonoccurrence of an administrative action.

(b) Political committees.--A lobbyist may not serve as a treasurer or another officer for a candidate's political committee or a candidate's political action committee.

(c) Fee restrictions.--A lobbyist may not charge a fee or receive compensation or economic consideration based upon an understanding, either written or oral, that any part of the fee, compensation or economic consideration will be converted into a contribution to a candidate for public office or a political committee.

(d) Falsification.--No lobbyist or principal may, for the purpose of influencing legislative action or administrative action, transmit, utter or publish to any State official or employee any communication, knowing that such communication or any signature on the communication is false, forged, counterfeit or fictitious.

§ 1308. Administration and enforcement.

(a) Criminal enforcement.--If the commission believes an intentional violation of this chapter has been committed, it shall refer all relevant documents and other information to the Office of Attorney General.

(b) Attorney General.--In addition to the authority conferred upon the Attorney General under the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General has the authority to investigate and prosecute a violation of this chapter.

(c) Advice and opinions.--The commission shall provide advice and opinions in accordance with procedures set forth in section 1107 (relating to powers and duties of commission) to a lobbyist, principal or State official or employee who has a question regarding compliance with this chapter. A principal, a lobbyist or an individual who acts in good faith based on the written advice or opinion of the commission shall not be held liable for a violation of this chapter.

(d) Public inspection and copying.--The commission shall

make completed registration statements, expense reports, termination notices and termination reports which have been filed with the commission available for public inspection and provide copies of these documents at a price which shall not exceed the actual cost of copying. Documents that are maintained and reproducible in an electronic format shall be provided in that format upon request.

(e) Annual reporting.--The commission shall prepare and publish an annual report on lobbying activities in this Commonwealth. The commission shall also annually publish a listing of principals, identifying affiliated political action committees and lobbyists, and a listing of lobbyists, identifying affiliated political action committees and principals.

(f) Retention of records.--Completed registration statements, expense reports, termination notices and termination reports shall remain on file with the commission for a four-year period.

(g) Audits.--The commission shall initiate, by lottery, random annual audits of the registration statements and disclosure reports in sufficient number to ensure compliance with this chapter. The audit report and findings shall be confidential; however, the commission shall include the relevant portion of an audit as part of its findings of fact in a commission order which results from an investigation arising out of an audit.

(h) Investigation and hearings.--The commission, through its executive director, may initiate an investigation and hold a hearing concerning negligent conduct by a lobbyist or principal in accordance with sections 1107 and 1108 (relating to investigations by commission).

(i) Directory.--On or before May 1 of each odd-numbered year, the commission shall produce and distribute a directory of all registered lobbyists, including photographs. Copies of this directory shall be made available to the public at a price not to exceed the actual cost of production. All revenue received by the commission from the sales of this directory shall be deposited into the fund.

(j) Computer file.--The Legislative Data Processing Committee shall maintain updated registration statements, expense reports, termination notices and termination reports.

(k) Cost-of-living adjustment.--On a biennial basis commencing in January 2002, the commission shall review the threshold for reporting under section 1305(d) (relating to reporting) and the threshold for exemption under section 1306(3)(ii) through (iv) (relating to exemption from registration and reporting) and may increase these amounts to rates deemed reasonable for assuring appropriate disclosure. The commission shall publish any such adjusted threshold amounts in the Pennsylvania Bulletin by June 1, 2002, and every two years thereafter as necessary.

§ 1309. Penalties.

(a) Notice of noncompliance.--The commission shall issue a notice of noncompliance to any lobbyist, principal or individual that has failed to register or report as required by this chapter. The notice shall state the nature of the alleged noncompliance and the civil and criminal penalties for failure

to register, failure to file or filing a report containing a false statement. The notice shall also advise of the right to a hearing before the commission and the time and manner in which to request a hearing.

(b) Hearing.--If a hearing is requested, the commission shall determine at the hearing whether the recipient of the notice is required to register or report under this chapter, whether the failure to register or report was negligent and, if the failure was negligent, the amount of the civil penalty to be imposed. If the commission finds that the failure to register or report was intentional, it shall refer the matter to the Attorney General for investigation and prosecution. Hearings under this subsection shall be conducted by the commission in accordance with sections 1107(14) (relating to powers and duties of commission) and 1108(e) (relating to investigations by commission).

(c) Negligent failure to register or report.--Negligent failure to register or report as required by this chapter is punishable by a civil penalty not exceeding \$50 for each late day. After a hearing under subsection (b), in the case of negligent failure to register or report, the commission may, upon the majority vote of its members, levy a civil penalty as provided for in this subsection. The total amount of the civil penalty levied shall not be limited by any other provision of law. The commission shall have standing to apply to Commonwealth Court to seek enforcement of an order imposing a civil penalty under this section.

(d) Failure to comply after notice.--After notice of noncompliance and after a hearing, if one is requested, a lobbyist or principal who fails to comply with the requirements of this chapter may be prohibited from lobbying for up to five years. The prohibition shall be imposed as provided by subsection (e)(4).

(e) Intentional violations.--

(1) Any lobbyist, principal or individual that intentionally fails to register or report as required by this chapter commits a misdemeanor of the second degree.

(2) A registrant that files a report under this chapter with knowledge that the report contains a false statement commits a misdemeanor of the second degree.

(3) Except as set forth in paragraph (1) or (2), any lobbyist, principal or individual that intentionally violates this chapter commits a misdemeanor of the third degree.

(4) In addition to the criminal penalties imposed by this subsection, the commission may prohibit a lobbyist or principal from lobbying for up to five years for doing an act which constitutes an offense under this subsection. No criminal prosecution or conviction shall be required for the imposition of the prohibition authorized by this paragraph. The prohibition under this paragraph shall not be imposed unless the defendant has been afforded the opportunity for a hearing, which shall be conducted by the commission in accordance with sections 1107(14) and 1108(e).

§ 1310. Filing fees; fund established; regulations.

(a) Filing fees.--A principal or lobbyist required to be registered under this chapter shall pay a biennial filing fee of \$100 to the commission.

(b) Fund established.--All money received from filing fees under subsection (a) shall be deposited in a restricted receipts account to be known as the Lobbying Disclosure Fund. The money deposited in the fund is hereby appropriated to the commission as a continuing appropriation for the exclusive purpose of carrying out the provisions of this chapter.

(c) Regulations.--A committee comprised of the Secretary of the Senate, the Chief Clerk of the House of Representatives, the chairman of the State Ethics Commission, the Attorney General, the Secretary of the Commonwealth, the Auditor General and the General Counsel, or their designees, shall have continuing authority to promulgate regulations necessary to carry out this chapter. The chairman of the commission shall be designated as the chairman of the committee. The initial proposed regulations shall be submitted within 180 days of the effective date of this section to the Independent Regulatory Review Commission under section 5 of the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act. Any meeting at which the committee plans to approve proposed regulations shall be held in accordance with Chapter 7 (relating to open meetings). The committee shall also prepare and publish a manual setting forth guidelines for accounting and reporting. The regulations and manual shall be drafted to accommodate the use of computerized recordkeeping, electronic filing of the reports provided for under this chapter and retention of registration statements and reports provided for under this chapter by electronic means. The Department of State shall provide sufficient staff and other administrative support to assist the committee.

§ 1311. Severability.

(a) General rule.--Except as provided in subsection (b):

(1) The provisions of this chapter are severable.

(2) If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application.

(b) Practice of law.--If any provision of this chapter or its application to any person or circumstance is held invalid on the basis of improper regulation of the practice of law, the remaining provisions or applications of this chapter are void.]

Section 3. Title 65 is amended by adding a chapter to read:

CHAPTER 13A

LOBBYING DISCLOSURE

Sec.

13A01. Scope of chapter.

13A02. Statement of intent and jurisdiction.

13A03. Definitions.

13A04. Registration.

13A05. Reporting.

13A06. Exemption from registration and reporting.

13A07. Prohibited activities.

13A08. Administration.

13A09. Penalties.

13A10. Registration fees; fund established; system; regulations.

13A11. Nonapplicability.

§ 13A01. Scope of chapter.

This chapter relates to lobbying disclosure.

§ 13A02. Statement of intent and jurisdiction.

(a) Intent.--The Constitution of Pennsylvania recognizes that all free governments are founded upon the authority of the people. It further provides that the power to make law in this Commonwealth is vested in the General Assembly, and the power to enforce law is vested in the Executive Department. The Constitution also guarantees the people the right to petition those invested with the powers of government for redress of grievances. The ability of the people to exercise their fundamental authority and to have confidence in the integrity of the processes by which laws are made and enforced in this Commonwealth demands that the identity and scope of activity of those who are paid to influence the actions of the General Assembly and the Executive Department be publicly and regularly disclosed.

(b) Jurisdiction.--The authority to regulate persons employed to influence the actions of the General Assembly and the Executive Department lies within the jurisdiction of those branches of government. To ensure that the intent of this chapter is not evaded and that all such persons are regulated in a fair and equitable manner, lobbyists and the practice of lobbying shall be subject to this chapter, which shall prevail over any other regulation of professional activity when that activity constitutes lobbying. This chapter is not intended to govern professional activities which do not include lobbying and are properly the subject of regulation by the judicial branch of government or by any government agency.

(c) Regulated profession.--Membership in a regulated profession shall not excuse a lobbyist from compliance with this chapter.

(d) Administrative agency law.--Proceedings of the commission are subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

§ 13A03. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Administrative action." Any of the following:

(1) An agency's:

(i) proposal, consideration, promulgation or rescission of a regulation;

(ii) development or modification of a statement of policy;

(iii) approval or rejection of a regulation; or

(iv) procurement of supplies, services and construction under 62 Pa.C.S. (relating to procurement).

(2) The review, revision, approval or disapproval of a regulation under the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(3) The Governor's approval or veto of legislation.

(4) The nomination or appointment of an individual as an officer or employee of the Commonwealth.

(5) The proposal, consideration, promulgation or rescission of an executive order.

"Affiliated political action committee." As follows:

(1) Except as set forth in paragraph (2), a "political action committee" as defined in section 1621(1) of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, which has an officer who:

(i) must be included in a registration statement under section 1624(b)(2) and (3) of the Pennsylvania Election Code; and

(ii) is:

- (A) a principal;
- (B) an officer or an employee of a principal;
- (C) a lobbyist; or
- (D) an employee of a lobbyist.

(2) If an employee of a registrant serves as the officer of a political action committee in what is clearly a personal capacity and the goals and mission of that political action committee clearly have no relationship to the goals and mission of the registrant, that political action committee shall not be considered an affiliated political action committee for the purposes of this definition.

"Agency." An agency, board, commission, authority or department of the executive department of the Commonwealth.

"Attorney at law." An individual admitted to practice law by a court of record of this Commonwealth.

"Bidder." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Board." The Disciplinary Board of the Supreme Court of Pennsylvania.

"Commission." The State Ethics Commission.

"Compensation." Anything of value, including benefits, received or to be received from a principal by one acting as a lobbyist.

"Contractor." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Department." The Department of State of the Commonwealth.

"Direct communication." An effort, whether written, oral or by any other medium, made by a lobbyist or principal, directed to a State official or employee, the purpose or foreseeable effect of which is to influence legislative action or administrative action. The term may include personnel expenses and office expenses.

"Economic consideration." Anything of value offered or received. The term includes compensation and reimbursement for expenses.

"Fund." The Lobbying Disclosure Fund established in section 13A10 (b) (relating to registration fees; fund established; system; regulations).

"Gift." Anything which is received without consideration of equal or greater value. The term shall not include a political contribution otherwise reportable as required by law or a commercially reasonable loan made in the ordinary course of business. The term shall not include hospitality, transportation or lodging.

"Hospitality." Includes all of the following:

- (1) Meals.
- (2) Beverages.
- (3) Recreation and entertainment.

The term shall not include gifts, transportation or lodging.

"Immediate family." An individual's spouse, child, parent, brother, sister and like relative-in-law.

"Indirect communication." An effort, whether written, oral or by any other medium, to encourage others, including the general public, to take action, the purpose or foreseeable effect of which is to directly influence legislative action or administrative action.

(1) The term includes letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards, publications and educational campaigns on public issues.

(2) The term does not include regularly published periodic newsletters primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit corporation.

(3) The term may include personnel expenses and office expenses.

"Legislation." Bills, resolutions, amendments and nominations pending or proposed in either the Senate or the House of Representatives. The term includes any other matter which may become the subject of action by either chamber of the General Assembly.

"Legislative action." An action taken by a State official or employee involving the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of:

(1) legislation;

(2) legislative motions;

(3) a veto by the Governor; or

(4) confirmation of appointments by the Governor or appointments to public boards or commissions by a member of the General Assembly.

"Lobbying." An effort to influence legislative action or administrative action in this Commonwealth. The term includes:

(1) direct or indirect communication;

(2) office expenses; and

(3) providing any gift, hospitality, transportation or lodging to a State official or employee for the purpose of advancing the interest of the lobbyist or principal.

"Lobbying firm." An entity that engages in lobbying for economic consideration on behalf of a principal other than the entity itself.

"Lobbyist." Any individual, association, corporation, partnership, business trust or other entity that engages in lobbying on behalf of a principal for economic consideration. The term includes an attorney at law while engaged in lobbying.

"Offeror." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Office expense." An expenditure for an office, equipment or supplies, utilized for lobbying.

"Personnel expense." An expenditure for salaries or other forms of compensation, benefits, vehicle allowances, bonuses and reimbursable expenses paid to lobbyists, lobbying staff, research and monitoring staff, consultants, publications and public relations staff, technical staff, clerical and administrative support staff and includes individuals who engage

in lobbying but are exempt from reporting under section 13A06 (relating to exemption from registration and reporting). For an individual for whom lobbying is incidental to regular employment, the term means a good faith prorated estimate based on the value of the time devoted to lobbying.

"Principal." An individual, association, corporation, partnership, business trust or other entity:

- (1) on whose behalf a lobbying firm or lobbyist engages in lobbying; or
- (2) that engages in lobbying on the principal's own behalf.

"Registrant." A registered lobbyist, registered lobbying firm or registered principal.

"Regulation." Any rule, regulation or order in the nature of a rule or regulation, including formal and informal opinions of the Attorney General, of general application and future effect, promulgated by an agency under statutory authority in the administration of a statute administered by or relating to the agency or prescribing the practice or procedure before the agency.

"Reporting period." Any of the following periods:

- (1) January 1 through March 31.
- (2) April 1 through June 30.
- (3) July 1 through September 30.
- (4) October 1 through December 31.

"State budget process." The consideration and passage of acts relating to expenditures of funds and the generation of revenues by the General Assembly.

"Statement of policy." The term includes a guideline.

"State official or employee." An individual elected or appointed to a position in State government or employed by State government, whether compensated or uncompensated, who is involved in legislative action or administrative action.

"Vendor." Any offeror, bidder or contractor that, for economic consideration, sells or provides a service or supply or engages in construction. The term does not include an attorney at law, a lobbyist or a lobbying firm.

§ 13A04. Registration.

(a) General rule.--Unless excluded under section 13A06 (relating to exemption from registration and reporting), a lobbyist, lobbying firm or a principal must register with the department within ten days of acting in any capacity as a lobbyist, lobbying firm or principal. Registration shall be biennial and shall begin January 1, 2007.

(b) Principals and lobbying firms.--

(1) A principal or lobbying firm required to register under subsection (a) shall file a single registration statement setting forth the following information with the department:

- (i) Name.
- (ii) Permanent address.
- (iii) Daytime telephone number.
- (iv) E-mail address, if available.
- (v) Name and nature of business.
- (vi) Name, registration number and acronym of any affiliated political action committees.
- (vii) Name and permanent business address of each

individual who will for economic consideration engage in lobbying on behalf of the principal or lobbying firm.

(viii) Registration number when available.

(2) A lobbying firm shall include in its statement under paragraph (1) the following information for each principal it represents:

(i) Name.

(ii) Permanent business address.

(iii) Telephone number.

(iv) Registration number when available.

(3) A principal that is an association or organization shall include in its statement under paragraph (1) the number of dues-paying members of the association or organization in the most recently completed calendar year.

(c) Lobbyist.--A lobbyist who is required to register under subsection (a) shall file a single registration statement setting forth the following information with the department:

(1) Name.

(2) Permanent business address.

(3) Daytime telephone number.

(4) E-mail address, if available.

(5) A recent photograph of the lobbyist.

(6) Name, permanent business address, daytime telephone number and registration number when available of each principal for whom the lobbyist will engage in lobbying.

(7) Name and registration number when available of any lobbying firm with which the lobbyist has a relationship involving economic consideration.

(8) Name, registration number and acronym of any affiliated political action committees.

(9) Name, registration number and acronym of any candidate political committee of which the lobbyist is an officer who must be included in a registration statement under section 1624(b)(2) and (3) of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(d) Amendments.--

(1) If there is a change of information required for the registration statement under subsection (b)(1) or (2) or (c), an amended registration statement shall be filed with the department within 14 days after the change occurs.

(2) When there is a change in information required for the registration statement under subsection (b)(3), an amended registration statement shall be filed with the department within 14 days of the end of the year in which the change occurs.

(e) Termination.--

(1) A lobbyist, lobbying firm or principal may terminate registration by filing notice of termination with the department.

(2) After a review of the notice of termination, but no later than 15 days after receipt of the notice, the department shall issue to the lobbyist, lobbying firm or principal a letter stating that the registrant has terminated registration. The filing of notice shall not affect the commission's authority to conduct investigations and hearings under section 13A08(g) (relating to administration).

(3) No lobbying may occur after the filing of notice of

termination unless the lobbying is pursuant to a separate registration statement which is filed with the department and which, at the time of the lobbying, has not been terminated.

(4) Nothing in this subsection shall be construed to exempt a lobbyist, lobbying firm or principal from any of the requirements in section 13A05 (relating to reporting).

§ 13A05. Reporting.

(a) General rule.--A registered principal shall, under oath or affirmation, file quarterly expense reports with the department no later than 30 days after the last day of the quarter.

(b) Content.--

(1) Each expense report must list the names and registration numbers when available of all lobbyists by whom lobbying is conducted on behalf of the principal and the general subject matter or issue being lobbied.

(2) Each expense report shall include the total costs of all lobbying for the period. The total shall include all office expenses, personnel expenses, expenditures related to gifts, hospitality, transportation and lodging to State officials or employees, and any other lobbying costs. The total amount reported under this paragraph shall be allocated in its entirety among the following categories:

(i) The costs for gifts, hospitality, transportation and lodging given to or provided to State officials or employees or their immediate families.

(ii) The costs for direct communication.

(iii) The costs for indirect communication.

(iv) Expenses required to be reported under this subsection shall be allocated to one of the three categories listed under this section and shall not be included in more than one category.

(2.1) For purposes of filing an expense report under this subsection, a registrant may use any reasonable methods of estimation and allocation.

(3) The following apply:

(i) In addition to reporting the totals required under this subsection, the expense report must identify, by name, position and each occurrence, a State official or employee who receives from a principal or lobbyist anything of value which must be included in the statement under section 1105(b)(6) or (7) (relating to statement of financial interests) as implemented by section 1105(d).

(ii) For purposes of this chapter, the amount referred to in section 1105(b)(7) shall be considered an aggregate amount per year.

(iii) For purposes of this chapter, the amount referred to in section 1105(b)(7) shall not include the cost of a reception which the State official or employee attends in connection with public office or employment.

(iv) Written notice must be given to each State official or employee who is listed in an expense report under this paragraph at least seven days prior to the report's submission to the department. Notice under this subparagraph shall include the information which will enable the State official or employee to comply with section 1105(b)(6) and (7). For purposes of this chapter

and Chapter 11 (relating to ethics standards and financial disclosure), section 1105(b)(6) and (7) shall constitute mutually exclusive categories. For each category enumerated in paragraph (2)(i), each notice shall include both the amount incurred during the quarter and the cumulative amount incurred from January 1 through the end of the applicable quarter.

(v) This paragraph shall not apply to anything of value received from immediate family when the circumstances make it clear that motivation for the action was the personal or family relationship.

(4) A lobbying firm or a lobbyist not associated with a lobbying firm shall sign the reports submitted by each principal for whom the lobbying firm or lobbyist is registered to attest to the validity and accuracy to the best of the attestor's knowledge. A lobbying firm or lobbyist may attach a statement to the report of a principal, describing the limits of the knowledge of the lobbying firm or lobbyist concerning the information contained in the expense report.

(5) The expense report shall also include the name, permanent business address and daytime telephone number of any individual, association, corporation, partnership, business trust or other business entity which contributed more than 10% of the total resources received by the principal during the reporting period.

(6) A lobbying firm or a lobbyist not associated with a lobbying firm shall submit an expense report if during the reporting period the lobbying firm or lobbyist engaged in lobbying which was not contained in any expense report filed by a principal or principals represented.

(7) A registered principal that attempts or that retains a lobbying firm or lobbyist to attempt to influence an agency's preparing, bidding, entering into or approving a contract shall ensure that the related expenses are included under paragraph (2).

(8) A lobbying firm or a lobbyist not associated with a lobbying firm shall submit a report if the lobbying firm or lobbyist engaged in lobbying on behalf of any entity that is exempt under section 13A06(7), (8), (9) or (10) (relating to exemption from registration and reporting).

(c) Records retention.--A registrant shall retain all documents reasonably necessary to substantiate the reports to be made under this section for four years from the date of filing the subject report. Upon request by the Office of Attorney General, the board, the commission or the department, these materials shall be made available for inspection within a reasonable period of time.

(d) Thresholds for reporting.--An expense report required under this section shall be filed when total expenses for lobbying exceed \$2,500 for a registered principal in a reporting period. In a reporting period in which total expenses are \$2,500 or less, a statement to that effect shall be filed.

(e) Indirect communication disclosure.--Whenever any person makes an expenditure for indirect communication under this chapter, for the purpose of disseminating or initiating a communication, such as a mailing, telephone bank, print or electronic media advertisement, billboard, publication or

education campaign, the communication shall clearly and conspicuously state the name of the person who made or financed the expenditure for the communication.

§ 13A06. Exemption from registration and reporting.

The following persons and activities shall be exempt from registration under section 13A04 (relating to registration) and reporting under section 13A05 (relating to reporting):

(1) An individual who limits lobbying to preparing testimony and testifying before a committee of the General Assembly or participating in an administrative proceeding of an agency.

(2) An individual who is an employee of an entity engaged in the business of publishing or broadcasting while engaged in the gathering and dissemination of news and comment on the news to the general public in the ordinary course of business.

(3) An individual who does not receive economic consideration for lobbying.

(4) An individual whose economic consideration for lobbying, from all principals represented, does not exceed \$2,500 in the aggregate during any reporting period.

(5) An individual who engages in lobbying on behalf of the individual's employer if the lobbying represents less than 20 hours during any reporting period.

(6) Except as required under section 13A05(d), a principal whose total expenses for lobbying purposes do not exceed \$2,500 during any reporting period.

(7) An elected State official who acts in an official capacity.

(8) An appointed State official acting in an official capacity.

(9) An elected or appointed official of a political subdivision who is acting in an official capacity for the political subdivision.

(10) An employee of the Commonwealth or an agency of the Commonwealth who is acting in an official capacity for the Commonwealth or agency.

(11) An individual representing a bona fide church or bona fide religious body of which the individual is a member where the lobbying is solely for the purpose of protecting the constitutional right to the free exercise of religion.

(12) An individual who is not a registered lobbyist and who serves on an advisory board, working group or task force at the request of an agency or the General Assembly.

(13) Participating as a party or as an attorney at law or representative of a party, case or controversy in any administrative adjudication pursuant to 2 Pa.C.S. (relating to administrative law and procedure).

(14) Expenditures and other transactions subject to reporting under Article XVI of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(15) Vendor activities under 62 Pa.C.S. §§ 514 (relating to small procurements), 516 (relating to emergency procurements) and efforts directly related to responding to publicly advertised invitations to bid and requests for proposals.

§ 13A07. Prohibited activities.

(a) Political committees.--A lobbyist may not serve as a treasurer or other officer who must be included in a registration statement under section 1624(b)(2) and (3) of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, for a candidate's political committee or a candidate's political action committee if the candidate is seeking a Statewide office or the office of Senator or Representative in the General Assembly.

(b) Fee restrictions.--A lobbyist may not charge a fee or receive economic consideration based on a contract, either written or oral, that any part of the fee or economic consideration will be converted into a contribution to a candidate for public office or a political committee subject to reporting under Article XVI of the Pennsylvania Election Code.

(c) Falsification.--A lobbyist, lobbying firm or principal may not, for the purpose of influencing legislative action or administrative action, transmit, utter or publish to a State official or employee a communication, knowing that the communication or a signature on the communication is false, forged, counterfeit or fictitious.

(d) Conflicts of interest.--

(1) Except as permitted by paragraph (2), a registrant may not lobby on behalf of a principal on any subject matter in which the principal's interests are directly adverse to the interests of another principal currently represented by the lobbyist or previously represented by the lobbyist during the current session of the General Assembly or the lobbyist's own interests.

(2) A lobbyist may represent a principal in circumstances described in paragraph (1) if:

(i) the lobbyist reasonably believes that the lobbyist will be able to provide competent and diligent representation to each affected principal;

(ii) the lobbyist provides written notice to each affected principal upon becoming aware of the conflict; and

(iii) each affected principal provides informed consent waiving the conflict of interest.

(3) If a lobbyist represents a principal in violation of this section or if multiple representation properly accepted becomes improper under this section and the conflict is not waived, the lobbyist shall promptly withdraw from one or more representations to the extent necessary for remaining representation to not be in violation of this section.

(4) If a lobbyist is prohibited by this section from engaging in particular conduct, an employer of the lobbyist or a partner or other person associated with the lobbyist may not engage in the particular conduct.

(5) A principal or lobbyist required to report under section 13A05 (relating to reporting) shall include in the report a statement affirming that to the best of the principal's or lobbyist's knowledge the principal or lobbyist has complied with this section.

(6) Except as provided in paragraph (8), the commission may receive complaints regarding violations of this subsection. If the commission determines a violation of this subsection has occurred, the commission, after investigation,

notice and hearing:

(i) shall impose an administrative penalty in an amount not to exceed \$2,000; and

(ii) may prohibit a lobbyist from lobbying for economic consideration for up to five years.

(7) A lobbyist and principal shall maintain the records relating to the conflict of interest set forth in paragraph (2) for a four-year period beginning on the date the conflict is discovered and, in the case of an investigation conducted under paragraph (6), provide copies of the records to the commission upon request.

(8) Complaints regarding violations of this subsection involving a lobbyist or principal who is an attorney at law shall be referred to the board to be investigated, considered and resolved in a manner consistent with the Rules of Professional Conduct.

(d.1) Multiple principals.--Nothing in this section shall be construed to require a lobbyist representing multiple principals who each have an interest in the State Budget process to comply with subsection (d)(2) unless a conflict of interest exists under subsection (d)(1).

(e) Contingent compensation.--

(1) A person may not compensate or incur an obligation to compensate a person to engage in lobbying for compensation contingent in whole or in part upon any of the following:

(i) Occurrence, nonoccurrence or amendment of legislative action.

(ii) Occurrence, nonoccurrence or amendment of an administrative action other than procurement described in paragraph (1)(iv) of the definition of "administrative action" under section 13A03 (relating to definitions).

(2) A person may not engage in or agree to engage in lobbying for compensation contingent in whole or in part upon any of:

(i) Occurrence, nonoccurrence or amendment of legislative action.

(ii) Occurrence, nonoccurrence or amendment of an administrative action other than procurement described in paragraph (1)(iv) of the definition of "administrative action" under section 13A03.

(3) This subsection shall not apply to vendors.

(f) Unlawful acts.--

(1) A lobbyist or principal may not:

(i) Instigate the introduction of legislation for the purpose of obtaining employment to lobby in opposition to that legislation.

(ii) Knowingly counsel a person to violate this chapter or any other Federal or State statute.

(iii) Engage in or counsel a person to engage in fraudulent conduct.

(iv) Attempt to influence a State official or employee on legislative or administrative action by making or facilitating the making of a loan to the State official or employee.

(v) While engaging in lobbying on behalf of the principal, refuse to disclose to a State official or employee, upon request, the identity of the principal.

(vi) Commit a criminal offense arising from lobbying.

(vii) Influence or attempt to influence, by coercion, bribery or threat of economic sanction, a State official or employee in the discharge of the duties of office.

(viii) Extort or otherwise unlawfully retaliate against a State official or employee by reason of the State official's or employee's position with respect to or vote on administrative or legislative action.

(ix) Attempt to influence a State official or employee on legislative or administrative action by the promise of financial support or the financing of opposition to the candidacy of the State official or employee at a future election.

(x) Engage in conduct which brings the practice of lobbying or the legislative or executive branches of State government into disrepute.

(2) The commission may receive complaints regarding violations of this subsection. If the commission determines a violation of this subsection has occurred, the commission, after investigation, notice and hearing:

(i) shall impose an administrative penalty in an amount not to exceed \$2,000; and

(ii) may prohibit a lobbyist from lobbying for economic consideration for up to five years.

(3) The commission:

(i) may, as it deems appropriate, refer an alleged violation of this subsection to the Attorney General for investigation and prosecution; and

(ii) shall, if the subject of the complaint is an attorney at law, refer an alleged violation of this subsection to the board.

§ 13A08. Administration.

(a) Advice and opinions.--The commission shall provide advice and opinions under section 1107 (relating to powers and duties of commission) to a lobbyist, a lobbying firm, a principal, the department, the board or a State official or employee, that seeks advice regarding compliance with this chapter. A person that acts in good faith based on the written advice or opinion of the commission shall not be held liable for a violation of this chapter if the material facts are as stated in the request.

(b) Forms.--The department shall prescribe registration and reporting forms to be used under this chapter. The forms shall be available on a publicly accessible Internet website. All information requested on the forms shall be provided to the best of the knowledge, information and belief of the person required to file and shall be signed under oath or equivalent affirmation.

(c) Public inspection and copying.--The department shall make completed registration statements, expense reports and notices of termination, which have been filed with the department, available for public inspection and provide copies of these documents at a price not in excess of the actual cost of copying. The department shall make all registrations and reports available on a publicly accessible Internet website.

Documents maintained and reproducible in an electronic format shall be provided in that format upon request.

(d) Annual reporting.--

(1) The department shall prepare and publish an annual report on lobbying activities in this Commonwealth.

(2) The department shall at least annually publish a list of all of the following:

(i) Registered principals. The department shall identify affiliated political action committees and lobbying firms and lobbyists that are registered to lobby for the principal.

(ii) Lobbying firms and lobbyists not associated with lobbying firms. The department shall identify affiliated political action committees and the principals for whom the lobbying firm or lobbyist is registered to lobby.

(iii) Registered lobbyists for each lobbying firm.

(e) Retention of records.--Completed registration statements, expense reports and notices of termination shall be available for public inspection with the department for a four-year period commencing on the date of filing.

(f) Audits.--The following shall apply:

(1) Every two years the Secretary of the Commonwealth shall contract for the services of one or more certified public accountants or certified public accounting firms. The contract shall be awarded in a manner consistent with the provisions of 62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code), and no certified public accountant or certified public accounting firm shall be eligible to obtain a contract for two successive contract periods.

(2) The secretary shall randomly select, at a public drawing 60 days following the close of each fourth quarter reporting period, 3% of all completed registrations and expense reports filed with the department under this chapter.

(3) The certified public accountant shall conduct the audits in accordance with generally accepted auditing standards and shall test as to whether each registration or expense report is materially correct.

(4) The audit report and findings shall be confidential, except that the department shall make an audit report and findings available to the commission if the commission is investigating an alleged violation of this chapter involving the audited registration or expense report. The commission shall include the relevant portion of an audit as part of its findings of fact in a commission order which results from an investigation arising out of an audit.

(g) Investigation and hearings.--The commission, through its executive director, may initiate an investigation and hold a hearing concerning an alleged violation of this chapter by a lobbyist or principal in accordance with sections 1107 (relating to powers and duties of commission) and 1108 (relating to investigations by commission).

(h) Directory.--By May 1 of each odd-numbered year, the department shall produce and distribute a directory of all registered lobbyists, including photographs and registered lobbying firms. Copies of the directory shall be made available to the public at a price not to exceed the actual cost of

production. All revenue received by the department from the sales of the directory shall be deposited into the fund.

(i) Computer file.--The department shall provide the Legislative Data Processing Committee data relating to registration statements and amendments to registration statements, expense reports and notices of termination. The committee shall make information under this subsection available on a publicly accessible Internet website.

(j) Inflation adjustment.--On a biennial basis commencing in January 2009, the department shall review the threshold under section 13A06 (relating to exemption from registration and reporting) for registration under section 13A04 (relating to registration) and the threshold for reporting under section 13A05(d) (relating to reporting) and shall increase these amounts to rates deemed reasonable for assuring appropriate disclosure. On a biennial basis commencing in January 2009, the department shall review the filing fee established under section 13A10 (relating to registration fees; fund established; system; regulations) and may by regulation adjust this amount if the department determines that a higher fee is needed to cover the costs of carrying out the provisions of this chapter. The department shall publish adjusted amounts in the Pennsylvania Bulletin by June 1, 2009, and by June 1 every two years thereafter as necessary.

§ 13A09. Penalties.

(a) Notice of alleged noncompliance.--

(1) The commission shall issue a notice of alleged noncompliance to a person that has failed to register or report as required by this chapter.

(2) The notice shall state:

- (i) the nature of the alleged noncompliance; and
- (ii) the administrative and criminal penalties for:
 - (A) failure to register;
 - (B) failure to file; or
 - (C) filing a report which contains a false statement or which is incomplete.

(3) The notice shall advise that if the person disagrees with the alleged noncompliance, the person may appeal the determination before the commission.

(4) The notice shall set forth the deadline and manner in which to request a hearing.

(5) If the person does not request a hearing in accordance with the notice, the alleged noncompliance shall be deemed to constitute noncompliance with this chapter, and the commission shall impose a penalty in accordance with subsection (b)(3) or (4).

(b) Hearing.--

(1) If a hearing is requested, the commission shall determine at the hearing:

- (i) whether the recipient of the notice is required to register or report under this chapter;
- (ii) whether the recipient of the notice is an attorney at law; and
- (iii) whether the failure to register or report was negligent or intentional.

(2) If the commission finds that failure to register or report was intentional, it shall refer the matter to the

Attorney General and, if the person is an attorney at law, to the board.

(3) If the commission finds that failure to register or report was negligent, it shall determine the amount of the administrative penalty to be imposed.

(4) A hearing under this subsection shall be conducted by the commission in accordance with sections 1107(14) (relating to powers and duties of commission) and 1108(e) (relating to investigations by commission).

(5) Appeals of the commission's determination shall be in accordance with section 1108(i). If a court of competent jurisdiction determines that any complaint or investigation which involves an attorney at law is under the jurisdiction of the board, the matter shall be referred by the court to the board to be investigated, considered and resolved in a manner consistent with the Rules of Professional Conduct.

(c) Negligent failure to register or report.--

(1) Negligent failure to register or report as required by this chapter is punishable by an administrative penalty not exceeding \$50 for each late day.

(2) After a hearing under subsection (b), the commission may, upon the majority vote of all of its members, levy an administrative penalty. The total amount of the administrative penalty levied shall not be limited by any other provision of law.

(3) The commission shall notify the board of any lobbyist or principal who is an attorney at law against whom a civil penalty is imposed.

(4) The commission has standing to apply to the Commonwealth Court to seek enforcement of an order imposing an administrative penalty under this section.

(d) Failure to comply after notice.--A person that fails to comply with the requirements of this chapter, after notice of noncompliance and after a hearing if one is requested, may be prohibited from lobbying for economic consideration for up to five years. The prohibition shall be imposed under subsection (e)(4).

(e) Intentional violations.--

(1) A person that intentionally fails to register or report as required by this chapter commits a misdemeanor of the second degree.

(2) A registrant who files a report under this chapter with knowledge that the report contains a false statement or is incomplete commits a misdemeanor of the second degree.

(3) Except as set forth in paragraph (1) or (2), a person that intentionally violates this chapter commits a misdemeanor of the third degree. In addition to any other penalties imposed under this chapter, the court may impose a fine not to exceed \$25,000 against a principal who is found guilty under this paragraph.

(4) In addition to any criminal penalties imposed under this chapter, the commission may prohibit a person from lobbying for economic consideration for up to five years for conduct which constitutes an offense under this subsection. Criminal prosecution or conviction is not required for the imposition of the prohibition authorized by this paragraph. The commission shall not impose the prohibition under this

paragraph unless the person has been afforded the opportunity for a hearing, which shall be conducted by the commission in accordance with sections 1107(14) and 1108(e).

(f) Attorneys.--Nothing in this chapter shall be construed as restricting the board's authority to discipline an attorney at law who is acting as a lobbyist or principal.

(g) Affirmative defense.--Any of the following is an affirmative defense to an action brought under Chapter 11 (relating to ethics standards and financial disclosure) or this chapter:

(1) The respondent or defendant relied on advice and opinions of the commission.

(2) The respondent or defendant relied on notice under section 13A05(b)(3)(iv).

(3) The respondent or defendant did not receive notice under section 13A05(b)(3)(iv).

(h) Criminal enforcement.--If the department or commission has reason to believe an intentional violation of this chapter has been committed, it shall refer all relevant documents and other information to the Office of Attorney General and, if the lobbyist or principal is an attorney at law, to the board. The Attorney General shall have exclusive jurisdiction to prosecute criminal violations under this chapter.

(i) Attorney General.--In addition to the authority conferred upon the Attorney General under the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General has the authority to investigate and prosecute a violation of this chapter.

§ 13A10. Registration fees; fund established; system; regulations.

(a) Registration fees.--At the time of registration, a person required to be registered under this chapter shall pay a biennial registration fee of \$100 to the department.

(b) Fund.--

(1) The Lobbying Disclosure Fund is established as a special fund in the State Treasury.

(2) Money received from registration fees under subsection (a) shall be deposited in the fund. Money remaining in the fund established under former 65 Pa.C.S. § 1310(b) shall be transferred to the fund.

(3) Money deposited in the fund is appropriated to the department as a continuing appropriation for the exclusive purpose of carrying out this chapter.

(c) Computerized filing system.--The department shall implement a fully accessible system to accommodate the use of computerized filing. Each registrant shall elect on an annual basis whether the registrant will file all of the documents required by this chapter either electronically or on paper with the department.

(d) Regulations.--

(1) A committee comprised of the chairman of the commission, the Attorney General, the chief counsel of the board, the Secretary of the Commonwealth, an individual appointed by the President pro Tempore of the Senate, an individual appointed by the Minority Leader of the Senate, an individual appointed by the Speaker of the House of Representatives, an individual appointed by the Minority

Leader of the House of Representatives, or their designees, and a lobbyist appointed by the Governor shall have authority to promulgate regulations necessary to carry out this chapter. The Attorney General shall be chairman of this committee. A vacancy occurring among the appointed members of the committee shall be filled in the same manner as the original appointment. A committee member who is a member of the General Assembly shall serve for a term that is coincident with the member's term of office.

(2) The committee shall submit the initial proposed regulations within 180 days of the effective date of this section to the Independent Regulatory Review Commission under section 5 of the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(3) A meeting at which the committee plans to approve proposed regulations or other official actions shall be held in accordance with Chapter 7 (relating to open meetings).

(4) The department shall provide sufficient staff and other administrative support to assist the committee.

(5) The committee shall prepare and publish a manual setting forth guidelines for accounting and reporting.

(6) The regulations and manual shall be drafted to accommodate the use of computerized recordkeeping, electronic filing of required registrations and reports under this chapter and retention of registration statements and reports under this chapter by electronic means.

§ 13A11. Nonapplicability.

Nothing in this chapter shall be construed to affect 18 Pa.C.S. § 7515 (relating to contingent compensation).

Section 4. The Secretary of the Commonwealth shall transmit to the Legislative Reference Bureau, for publication in the Pennsylvania Bulletin, notice of full implementation of the computerized filing system required under 65 Pa.C.S. § 13A10(c).

Section 5. Any funds remaining in the restricted receipts account created under 65 Pa.C.S. § 1310(b) may be utilized by the Department of State to implement the provisions of 65 Pa.C.S. Ch. 13A.

Section 6. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) 65 Pa.C.S. § 13A08(b) and § 13A10(d).

(ii) This section.

(2) The remainder of this act shall take effect January 1, 2007.

APPROVED--The 1st day of November, A. D. 2006.

EDWARD G. RENDELL