

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.2-419, 2.2-420, and 2.2-426 of the Code of Virginia, relating to lobbyist registration and disclosure.

[H 543]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-419, 2.2-420, and 2.2-426 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-419. Definitions.

As used in this article, unless the context requires a different meaning:

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;
 2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
 3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 4. A stock, bond, note, or other investment interest in an entity;
 5. A receipt given for the payment of money or other property;
 6. A right in action;
 7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
 8. A loan or forgiveness of indebtedness;
 9. A work of art, antique, or collectible;
 10. An automobile or other means of personal transportation;
 11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
 12. An honorarium or compensation for services;
 13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;
 14. A promise or offer of employment; or
 15. Any other thing of value that is pecuniary or compensatory in value to a person.
- "Anything of value" does not mean a campaign contribution properly received and reported pursuant to Chapter 9 (§ 24.2-900 et seq.) of Title 24.2.

"Compensation" means:

1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value; or
2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value, for services rendered or to be rendered.

"Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.

"Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or official of legislation or executive orders issued by the Governor.

"Executive agency" means an agency, board, commission, or other body in the executive branch of state government. "Executive agency" includes the State Corporation Commission, the Virginia Department of Workers' Compensation, and the State Lottery Department.

"Executive official" means:

1. The Governor;
2. The Lieutenant Governor;
3. The Attorney General;
4. Any officer or employee of the office of the Governor or Lieutenant Governor other than a clerical or secretarial employee;
5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each

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57 executive agency; or

58 6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100,
59 however selected.

60 "Expenditure" means:

61 1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third
62 party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything
63 of value for any purpose;

64 2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person
65 employing, retaining, or contracting for the services of the lobbyist separately or jointly with other
66 persons;

67 3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct
68 payment of expenses incurred at the request or suggestion of the lobbyist;

69 4. A payment that directly benefits an executive or legislative official or a member of the official's
70 immediate family;

71 5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses
72 of an employee for or in connection with direct communication with an executive or legislative official;

73 6. A payment for or in connection with soliciting or urging other persons to enter into direct
74 communication with an executive or legislative official; or

75 7. A payment or reimbursement for categories of expenditures required to be reported pursuant to
76 this chapter.

77 "Expenditure" does not mean a campaign contribution properly received and reported pursuant to
78 Chapter 9 (§ 24.2-900 et seq.) of Title 24.2.

79 *"Fair market value" means the price that a good or service would bring between a willing seller and
80 a willing buyer in the open market after negotiations. If the fair market value cannot be determined, the
81 actual price paid for the good or service shall be given consideration.*

82 "Gift" means anything of value to the extent that a consideration of equal or greater value is not
83 received.

84 "Gift" does not mean:

85 1. Printed informational or promotional material;

86 2. A gift that is not used and, no later than sixty days after receipt, is returned to the donor or
87 delivered to a charitable organization and is not claimed as a charitable contribution for federal income
88 tax purposes;

89 3. A gift, devise, or inheritance from an individual's spouse, child, parent, grandparent, brother, sister,
90 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of
91 that individual, if the donor is not acting as the agent or intermediary for someone other than a person
92 covered by this subdivision; or

93 4. A gift of a value of ~~twenty-five dollars~~ \$50 or less.

94 "Immediate family" means (i) the spouse and (ii) any other person who resides in the same
95 household as the executive or legislative official and is the dependent of the official.

96 "Legislative action" means:

97 1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval,
98 passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion,
99 report, nomination, appointment, or other matter by the General Assembly or a legislative official;

100 2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by
101 the General Assembly; or

102 3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering
103 amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of
104 the Governor.

105 "Legislative official" means:

106 1. A member or member-elect of the General Assembly;

107 2. A member of a committee, subcommittee, commission, or other entity established by and
108 responsible to the General Assembly or either house of the General Assembly; or

109 3. Persons employed by the General Assembly or an entity established by and responsible to the
110 General Assembly.

111 "Lobbying" means:

112 1. Influencing or attempting to influence executive or legislative action through oral or written
113 communication with an executive or legislative official; or

114 2. Solicitation of others to influence an executive or legislative official.

115 "Lobbying" does not mean:

116 1. Requests for appointments, information on the status of pending executive and legislative actions,
117 or other ministerial contacts if there is no attempt to influence executive or legislative actions;

2. Responses to published notices soliciting public comment submitted to the public official designated in the notice to receive the responses;

3. The solicitation of an association by its members to influence legislative or executive action; or

4. Communications between an association and its members and communications between a principal and its lobbyists.

"Lobbyist" means:

1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

2. An individual who represents an organization, association, or other group for the purpose of lobbying; or

3. A local government employee who lobbies.

"Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members.

"Local government" means:

1. Any county, city, town, or other local or regional political subdivision;

2. Any school division;

3. Any organization or entity that exercises governmental powers that is established pursuant to an interstate compact; or

4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of this definition.

"Local government employee" means a public employee of a local government.

"Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.

"Value" means the ~~retail~~ actual cost or fair market ~~worth~~ value of an item or items, whichever is greater. *If the fair market value cannot be determined, the actual amount paid for the item or items shall be given consideration.*

§ 2.2-420. Exemptions.

The registration and reporting provisions of this article shall not apply to:

1. The Governor, Lieutenant Governor, Attorney General, and their immediate staffs or the Governor's Secretaries and their immediate staffs, acting in an official capacity;

2. Members of the General Assembly and other legislative officials and legislative employees acting in an official capacity;

3. Local elected officials acting in an official capacity;

4. Any employee of a state executive agency acting in an official capacity;

5. A duly elected or appointed official or employee of the United States acting in an official capacity;

6. An individual who limits lobbying solely to (i) formal testimony before a public meeting of an executive agency or legislative body and registers the appearance in the records of the agency or body and (ii) testimony and information compelled by action of an executive agency or legislative body;

7. A person who receives \$500 or less in compensation and reimbursements, excluding personal living and travel expenses *that are not reimbursed from any other source*, in a calendar year for his lobbying activities;

8. A person who receives no compensation or anything of value for lobbying, and does not expend more than \$500, excluding personal living and travel expenses *that are not reimbursed from any other source*, in lobbying in the calendar year; or

9. An employee of a business, other entity, or local government whose job duties do not regularly include influencing or attempting to influence legislative or executive action.

§ 2.2-426. Lobbyist reporting; penalty.

A. Each lobbyist shall file a separate annual report of expenditures, including gifts, for each principal for whom he lobbies by July 1 for the preceding 12-month period complete through April 30.

B. Each principal who expends more than \$500 to employ or compensate multiple lobbyists shall be responsible for filing a consolidated lobbyist report pursuant to this section in any case in which the lobbyists are each exempt under the provisions of subdivision 7 or 8 of § 2.2-420 from the reporting requirements of this section.

C. The report shall be on a form provided by the Secretary of the Commonwealth, which shall be substantially as follows and shall be accompanied by instructions provided by the Secretary.

LOBBYIST'S DISCLOSURE STATEMENT

PART I:

- (1) PRINCIPAL:
 In Part I, item 2a, provide the name of the individual authorizing your employment as a lobbyist. The lobbyist filing this statement MAY NOT list his name in item 2a. THE INDIVIDUAL LISTED IN PART I, ITEM 2A, MUST SIGN THE PRINCIPAL'S STATEMENT.
- (2a) Name:
 (2b) Permanent Business Address:
 (2c) Business Telephone:
 (3) Provide a list of executive and legislative actions (with as much specificity as possible) for which you lobbied and a description of activities conducted.

 (4) INCORPORATED FILINGS: If you are filing an incorporated disclosure statement, please complete the following:
 Individual filing financial information:.....
 Individuals to be included in the filing:

 (5) Please indicate which schedules will be attached to your disclosure statement:
☐ Schedule A: Entertainment Expenses
☐ Schedule B: Gifts
☐ Schedule C: Other Expenses
- (6) EXPENDITURE TOTALS:
 a) ENTERTAINMENT \$
 b) GIFTS \$
 c) OFFICE EXPENSES \$
 d) COMMUNICATIONS \$
 e) PERSONAL LIVING AND TRAVEL EXPENSES \$
 f) COMPENSATION OF LOBBYISTS \$
 g) HONORARIA \$
 h) REGISTRATION COSTS \$
 i) OTHER \$
 TOTAL \$

PART II:

- (1a) NAME OF LOBBYIST:
 (1b) Permanent Business Address:
 (1c) Business Telephone:
 (2) As a lobbyist, you are (check one)
☐ EMPLOYED (on the payroll of the principal)
☐ RETAINED (not on the payroll of the principal, however compensated)
☐ NOT COMPENSATED (not compensated; expenses may be reimbursed)
 (3) List all lobbyists other than yourself who registered to represent your principal.

 (4) If you selected "EMPLOYED" as your answer to Part II, item 2, provide your job title.

~~(5) If you selected "NOT COMPENSATED" as your answer to Part II, item 2, please indicate why you received no compensation.~~

PLEASE NOTE: Some lobbyists are not individually compensated for lobbying activities. This may occur when several members of a firm represent a single principal. The principal, in turn, makes a single payment to the firm. If this describes your situation, do not answer Part II, items ~~6a~~ 5a and ~~6b~~ 5b. Instead, complete Part III, items 1 and 2.

(~~6a~~ 5a) What was the DOLLAR AMOUNT OF YOUR COMPENSATION as a lobbyist? (If you have job responsibilities other than those involving lobbying, you may have to prorate to determine the part of your salary attributable to your lobbying activities.) Transfer your answer to this item to Part I, item 6f.

(~~6b~~ 5b) Explain how you arrived at your answer to Part II, item ~~6a~~ 5a.

PART III:

PLEASE NOTE: If you answered Part II, items ~~6a~~ 5a and ~~6b~~ 5b, you WILL NOT complete this section.

(1) List all members of your firm, organization, association, corporation, or other entity who furnished lobbying services to your principal.

(2) Indicate the total amount paid to your firm, organization, association, corporation or other entity for services rendered. Transfer your answer to this item to Part I, item 6f.

SCHEDULE A ENTERTAINMENT EXPENSES

PLEASE NOTE: Any single entertainment event included in the expense totals of the principal, with a value greater than \$~~50~~ 100, should be itemized below. Transfer any totals from this schedule to Part I, item 6a. (Please duplicate as needed.)

Date and Location of Event:

Description of Event:

~~Number of Legislative and Executive Officials Invited:~~

~~Number of Legislative and Executive Officials~~ Total Number of Persons
Attending:

Names of Legislative and Executive Officials Attending: (List names only if the average value for each person attending the event was greater than \$50.)

Food	\$	
Beverages	\$	
Transportation of Legislative and Executive Officials	\$	
Lodging of Legislative and Executive Officials	\$	

291 Performers, Speakers, Etc. \$
 292 Displays \$
 293 Rentals \$
 294 Service Personnel \$
 295 Miscellaneous \$
 296 TOTAL \$

SCHEDULE B GIFTS

299 PLEASE NOTE: Any single gift reported in the expense totals of the
 300 principal, with a value greater than \$25 50, should be itemized below.
 301 (Report meals, entertainment and travel under Schedule A.) Transfer any
 302 totals from this schedule to Part I, item 6b. (Please duplicate as needed.)

Date of gift:	Description of gift:	Name of each legislative or executive official who is a recipient of a gift:	Cost of individual gift:
303	\$.....
304	\$.....
305	\$.....
306	\$.....
307	\$.....
308	\$.....
309	\$.....
310	\$.....
311	\$.....
312	\$.....
313	TOTAL COST TO PRINCIPAL		\$.....

SCHEDULE C OTHER EXPENSES

316 PLEASE NOTE: This section is provided for any lobbying-related expenses
 317 not covered in Part I, items 6a - 6h. An example of an expenditure to be
 318 listed on schedule C would be the rental of a bill box during the General
 319 Assembly session. Transfer the total from this schedule to Part I, item
 320 6i. (Please duplicate as needed.)

DATE OF EXPENSE	DESCRIPTION OF EXPENSE	AMOUNT
321	\$
322	\$
323	\$
324	\$
325	\$
326	\$
327	\$
328	\$
329	\$
330	\$
331	TOTAL "OTHER" EXPENSES	\$

PART IV: STATEMENTS

332 Both the lobbyist and principal officer must sign the disclosure
 333 statement, attesting to its completeness and accuracy. The following items
 334 are mandatory and if they are not properly completed, the entire filing
 335 will be rejected and returned to the lobbyist:

- 337 (1) All signatures on the statement must be ORIGINAL in the format
 338 specified in the instructions provided by the Secretary that accompany
 339 this form. No stamps, or other reproductions of the individual's
 340 signature will be accepted.
- 341 (2) An individual MAY NOT sign the disclosure statement as lobbyist and
 342 principal officer.

STATEMENT OF LOBBYIST

344 I, the undersigned registered lobbyist, do state that the information
 345 furnished on this disclosure statement and on all accompanying attachments
 346 required to be made thereto is, to the best of my knowledge and belief,
 347 complete and accurate.

.....

Signature of lobbyist

.....

Date

STATEMENT OF PRINCIPAL

I, the undersigned principal (or an authorized official thereof), do state that the information furnished on this disclosure statement and on all accompanying attachments required to be made thereto is, to the best of my knowledge and belief, complete and accurate.

.....

Signature of principal

.....

Date

D. A person who signs the disclosure statement knowing it to contain a material misstatement of fact shall be guilty of a Class 5 felony.

E. Each lobbyist shall send to each legislative and executive official who is required to be identified by name on Schedule A or B of the Lobbyist's Disclosure Form a copy of Schedule A or B or a summary of the information pertaining to that official. Copies or summaries shall be provided to the official by December 15 for the preceding 12-month period complete through November 30.