

SENATE BILL 974

G2
HB 617/19 – ENT

0lr0400
CF 0lr1391

By: **Senator Washington**

Introduced and read first time: February 3, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Public Ethics – Lobbyists – Gift Exception and Regulated Activities Exemption**

3 FOR the purpose of specifying an exception to the definition of the term “entity” to include
4 a governmental unit that employs an individual regulated lobbyist for the purposes
5 of allowing certain officials and employees to accept certain gifts under certain
6 circumstances; repealing a provision of law that exempts from regulation of lobbying
7 activities an appearance of a certain employee of an association engaged only in
8 representing counties or municipal corporations under certain circumstances; and
9 generally relating to public ethics.

10 BY repealing and reenacting, with amendments,

11 Article – General Provisions
12 Section 5–505(b) and 5–702(b)(1)
13 Annotated Code of Maryland
14 (2019 Replacement Volume)

15 BY repealing and reenacting, without amendments,

16 Article – General Provisions
17 Section 5–505(c) and 5–702(a)
18 Annotated Code of Maryland
19 (2019 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

22 **Article – General Provisions**

23 5–505.

24 (b) (1) **(I)** [In] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **PARAGRAPH, IN** this subsection, “entity” does not include a governmental unit.

2 **(II) IN THIS SUBSECTION, “ENTITY” INCLUDES A**
3 **GOVERNMENTAL UNIT THAT EMPLOYS AN INDIVIDUAL REGULATED LOBBYIST.**

4 (2) Except as provided in subsection (c) of this section, an official or
5 employee may not knowingly accept a gift, directly or indirectly, from an entity that the
6 official or employee knows or has reason to know:

7 (i) does or seeks to do any business of any kind, regardless of
8 amount, with the official’s or employee’s governmental unit;

9 (ii) engages in an activity that is regulated or controlled by the
10 official’s or employee’s governmental unit;

11 (iii) has a financial interest that may be affected substantially and
12 materially, in a manner distinguishable from the public generally, by the performance or
13 nonperformance of the official’s or employee’s official duties; or

14 (iv) is a regulated lobbyist with respect to matters within the
15 jurisdiction of the official or employee.

16 (c) (1) Notwithstanding subsection (b) of this section, an official or employee
17 may accept a gift listed in paragraph (2) of this subsection unless:

18 (i) the gift would tend to impair the impartiality and independent
19 judgment of the official or employee; or

20 (ii) as to a gift of significant value:

21 1. the gift would give the appearance of impairing the
22 impartiality and independent judgment of the official or employee; or

23 2. the official or employee believes or has reason to believe
24 that the gift is designed to impair the impartiality and independent judgment of the official
25 or employee.

26 (2) Subject to paragraph (1) of this subsection, subsection (b) of this section
27 does not apply to:

28 (i) 1. except for officials of the Legislative Branch, meals or
29 beverages received and consumed by the official or employee in the presence of the donor
30 or sponsoring entity;

31 2. for officials of the Legislative Branch, food or beverages
32 received and consumed by the official in the presence of the donor or sponsoring entity as
33 part of a meal or reception to which all members of a legislative unit were invited;

1 3. for a member of the General Assembly, food or beverages
2 received from a donor or sponsoring entity, other than an individual regulated lobbyist
3 described in § 5-701(a)(1) of this title, during a period when the General Assembly is not
4 in session, at a location that is within a county that contains the member's district, provided
5 that the donor or sponsoring entity is located within a county that contains the member's
6 district; or

7 4. for a member of the General Assembly, food or beverages
8 received at the time and geographic location of a meeting of a legislative organization for
9 which the member's presiding officer has approved the member's attendance at State
10 expense;

11 (ii) ceremonial gifts or awards of insignificant monetary value;

12 (iii) except for a State official of the Executive Branch or Legislative
13 Branch, unsolicited gifts of nominal value;

14 (iv) for a State official of the Executive Branch or Legislative Branch,
15 unsolicited gifts from a regulated lobbyist that are not meals or alcoholic beverages and
16 that do not exceed \$20 in cost;

17 (v) trivial gifts of informational value;

18 (vi) in return for participation on a panel or a speaking engagement
19 at a meeting, reasonable expenses for food, travel, lodging, or scheduled entertainment of
20 the official or employee if the expenses are associated with the meeting, except that, if such
21 expenses for a State official of the Legislative Branch or Executive Branch are to be paid
22 by a regulated lobbyist and are anticipated to exceed \$500, the official shall notify the
23 appropriate advisory body before attending the meeting;

24 (vii) for a member of the General Assembly, reasonable expenses for
25 food, travel, lodging, or scheduled entertainment to attend a legislative conference that has
26 been approved by the member's presiding officer;

27 (viii) tickets or free admission extended to an elected constitutional
28 officer from the person sponsoring or conducting the event, as a courtesy or ceremony to
29 the office, to attend a charitable, cultural, or political event;

30 (ix) a specific gift or class of gifts exempted from subsection (b) of this
31 section by the Ethics Commission on a written finding that:

32 1. acceptance of the gift or class of gifts would not be
33 detrimental to the impartial conduct of government; and

34 2. the gift is purely personal and private in nature;

1 (x) a gift from:

2 1. an individual related to the official or employee by blood
3 or marriage; or

4 2. any other individual who is a member of the household of
5 the official or employee; or

6 (xi) to the extent provided in subsection (d) of this section, honoraria.

7 5–702.

8 (a) Unless exempted under subsection (b) of this section, an entity shall register
9 with the Ethics Commission as provided in this subtitle and shall be a regulated lobbyist
10 for the purposes of this title if, during a reporting period, the entity:

11 (1) for the purpose of influencing any legislative action or any executive
12 action relating to the development or adoption of regulations or the development or
13 issuance of an executive order:

14 (i) 1. communicates with an official or employee of the
15 Legislative Branch or Executive Branch in the presence of that official or employee; and

16 2. except for the personal travel or subsistence expenses of
17 the entity or a representative of the entity, incurs expenses of at least \$500 or earns at least
18 \$2,500 as compensation for all such communication and activities relating to the
19 communication during the reporting period; or

20 (ii) 1. communicates with an official or employee of the
21 Legislative Branch or Executive Branch; and

22 2. earns at least \$5,000 as compensation for all such
23 communication and activities relating to the communication during the reporting period;

24 (2) in connection with or for the purpose of influencing any executive
25 action, spends a cumulative value of at least \$100 for gifts, including meals, beverages, and
26 special events, to one or more officials or employees of the Executive Branch;

27 (3) subject to subsection (b)(4) of this section, is compensated to influence
28 executive action on a procurement contract that exceeds \$100,000;

29 (4) subject to subsection (b)(5) of this section, is compensated by a business
30 entity to influence executive action to secure from the State a business grant or loan with
31 a value of more than \$100,000 for the business entity;

32 (5) spends at least \$2,000, including expenditures for salaries, contractual
33 employees, postage, telecommunications services, electronic services, advertising, printing,

1 and delivery services, for the express purpose of soliciting others to communicate with an
2 official to influence legislative action or executive action; or

3 (6) spends at least \$2,500 to provide compensation to one or more entities
4 required to register under this subsection.

5 (b) (1) The following activities are exempt from regulation under this subtitle:

6 (i) an appearance as part of the official duties of an elected or
7 appointed official or employee of the State, a political subdivision of the State, or the United
8 States, to the extent that the appearance is not on behalf of any other entity;

9 (ii) an action of a member of the news media, to the extent that the
10 action is in the ordinary course of gathering and disseminating news or making editorial
11 comment to the general public;

12 (iii) representation of a bona fide religious organization, to the extent
13 that the representation is for the purpose of protecting the right of its members to practice
14 the doctrine of the organization;

15 (iv) an appearance as part of the official duties of an officer, a
16 director, **OR** a member[, or an employee] of an association engaged only in representing
17 counties or municipal corporations, to the extent that the appearance is not on behalf of
18 any other entity; or

19 (v) an action as part of the official duties of a trustee, an
20 administrator, or a faculty member of a nonprofit independent college or university in the
21 State, provided the official duties of the individual do not consist primarily of attempting
22 to influence legislative action or executive action.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2020.