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By: **Delegates Wood, Arnick, Taylor, and McIntosh**

Introduced and read first time: February 8, 2002

Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Lobbyist Ethics - Registration and Reporting Requirements**

3 FOR the purpose of exempting certain communications on behalf of a professional or  
4 trade association by a member of the association from the criteria that require  
5 registration as a regulated lobbyist; exempting certain communications by  
6 students from the criteria that require registration; exempting certain  
7 communications in the capacity as an officer, director, or employee of certain  
8 entities from the criteria that require registration; increasing the threshold  
9 amount of certain expenses above which an entity that makes certain  
10 communications must register as a regulated lobbyist; clarifying a provision  
11 that sets a threshold amount of compensation above which an entity that makes  
12 certain communications must register as a regulated lobbyist; exempting from  
13 certain lobbyist registration requirements a person who seeks to secure a  
14 business grant or loan for the purpose of locating, relocating, or expanding a  
15 business in or into the State; requiring the State Ethics Commission to adopt  
16 certain regulations authorizing a regulated lobbyist to serve on a State board or  
17 commission under certain circumstances; altering the standard for a certain  
18 prohibited act of a regulated lobbyist; clarifying the threshold amount over  
19 which certain campaign contributions made by certain fiduciaries or  
20 subsidiaries of certain entities must be reported; clarifying the threshold  
21 amount over which a campaign contribution made by certain fiduciaries of  
22 certain entities at the suggestion or direction of the entity must be reported;  
23 requiring the State Ethics Commission to adopt certain regulations to clarify  
24 campaign contribution reporting requirements for an officer of a nonprofit  
25 entity; making this Act an emergency measure; and generally relating to  
26 lobbyist ethics and disclosure of campaign contributions.

27 BY repealing and reenacting, without amendments,  
28 Article 33 - Election Code  
29 Section 14-102(b)  
30 Annotated Code of Maryland  
31 (1997 Replacement Volume and 2001 Supplement)

32 BY repealing and reenacting, with amendments,  
33 Article 33 - Election Code

1 Section 14-103(b) and (c)  
2 Annotated Code of Maryland  
3 (1997 Replacement Volume and 2001 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article - State Government  
6 Section 15-701, 15-703(f), 15-713, and 15-715  
7 Annotated Code of Maryland  
8 (1999 Replacement Volume and 2001 Supplement)

9 BY repealing and reenacting, without amendments,  
10 Article - State Government  
11 Section 15-703(a)  
12 Annotated Code of Maryland  
13 (1999 Replacement Volume and 2001 Supplement)

14 Preamble

15 WHEREAS, To promote and retain confidence and trust in government, the  
16 General Assembly has adopted an extensive system of ethics laws to govern the  
17 activities of those individuals who are paid to attempt to influence the work of the  
18 Legislative Branch and Executive Branch; and

19 WHEREAS, It is of paramount importance that members of the general public  
20 who are not paid lobbyists continue to participate in the legislative process without  
21 administrative impediments; and

22 WHEREAS, Although the current law governing lobbyist registration and  
23 reporting provides substantial and appropriate ethical requirements for paid  
24 lobbyists, some provisions of those laws have been misconstrued to apply to members  
25 of the general public and individuals who represent their own interests without the  
26 services of a paid lobbyist; and

27 WHEREAS, Because of the vital importance of citizen participation in the  
28 development of public policy in a democratic society, it is necessary to clarify that the  
29 State's extensive registration and disclosure laws for paid lobbyists do not apply to  
30 private citizens representing their own interest; now, therefore,

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

33 **Article 33 - Election Code**

34 14-102.

35 (b) Every person who has done business with the State, a county, municipal  
36 corporation, or other political subdivision of the State during a reporting period

1 specified under subsection (a) of this section shall file the statement required by this  
2 title if during the reporting period he made or caused to be made a contribution to a  
3 candidate for an elective office of the State or for an elective office of a county or  
4 municipal corporation of the State in any primary or general election.

5 14-103.

6 (b) Each employee, agent, or other person who makes or causes to be made a  
7 [contribution] GIFT, DONATION, OR PAYMENT OF MONEY, REGARDLESS OF AMOUNT,  
8 at the suggestion or direction of a business entity shall report the [contribution]  
9 GIFT, DONATION, OR PAYMENT OF MONEY to the chief executive officer of the  
10 business entity so that it may be included in the statement filed by the business  
11 entity.

12 (c) For the purposes of this title, and except as provided in subsection (e) of  
13 this section, a [contribution] GIFT, DONATION, OR PAYMENT OF MONEY,  
14 REGARDLESS OF AMOUNT, made by an officer, director, or partner of a business entity,  
15 and a [contribution] GIFT, DONATION, OR PAYMENT OF MONEY, REGARDLESS OF  
16 AMOUNT, made by an employee, agent, or other person at the suggestion or direction  
17 of a business entity, shall be attributed to the business entity and shall be included in  
18 the statement filed by the business entity as though made directly by it.

19

### Article - State Government

20 15-701.

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

25 (1) for the purpose of influencing any legislative action or, as to the  
26 development or adoption of regulations or the development or issuance of an executive  
27 order, executive action:

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

31 2. exclusive of the personal travel or subsistence expenses of  
32 the entity or a representative of the entity, incurs expenses of at least [\$100] \$500 or  
33 earns at least \$500 as compensation FOR SUCH COMMUNICATION; or

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

36 2. earns at least \$5,000 as compensation FOR SUCH  
37 COMMUNICATION;

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

5 (3) subject to subsection [(b)(3)] (B)(5) of this section, is compensated to  
6 influence executive action on a procurement contract that exceeds \$100,000;

7 (4) subject to subsection [(b)(4)] (B)(6) of this section, is compensated by  
8 a business entity to influence executive action to secure from the State a business  
9 grant or loan with a value of more than \$100,000 for the business entity;

10 (5) spends at least \$2,000, including expenditures for salaries,  
11 contractual employees, postage, telecommunications services, electronic services,  
12 advertising, printing, and delivery services for the express purpose of soliciting others  
13 to communicate with an official to influence legislative action or executive action; or

14 (6) spends at least \$500 to provide compensation to one or more entities  
15 required to register under this subsection.

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

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

21 (ii) actions of a member of the news media, to the extent the actions  
22 are in the ordinary course of gathering and disseminating news or making editorial  
23 comment to the general public;

24 (iii) representation of a bona fide religious organization to the  
25 extent the representation is for the purpose of protecting the right of its members to  
26 practice the doctrine of the organization;

27 (iv) appearances as part of the official duties of an officer, director,  
28 member, or employee of an association engaged exclusively in representing counties  
29 or municipal corporations, to the extent that the appearance is not on behalf of any  
30 other entity; or

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

35 (2) The following activities are exempt from regulation under this  
36 subtitle if the individual engages in no other acts during the reporting period that  
37 require registration:

1 (i) professional services in drafting bills or in advising clients on  
2 the construction or effect of proposed or pending legislation;

3 (ii) appearances before the entire General Assembly, or any  
4 committee or subcommittee of the General Assembly, at the specific request of the  
5 body involved;

6 (iii) appearances before a legislative committee at the specific  
7 request of a regulated lobbyist, if the witness notifies the committee that the witness  
8 is testifying at the request of the regulated lobbyist;

9 (iv) appearances before an executive unit at the specific request of  
10 the executive unit involved; [or]

11 (v) appearances before an executive unit at the specific request of a  
12 regulated lobbyist, if the witness notifies the executive unit that the witness is  
13 testifying at the request of the regulated lobbyist; OR

14 (VI) WITH RESPECT TO THE COMPENSATION THRESHOLDS  
15 SPECIFIED IN SUBSECTION (A)(1) OF THIS SECTION, COMMUNICATION ON BEHALF OF  
16 A PROFESSIONAL ASSOCIATION OR A TRADE ASSOCIATION BY A MEMBER OF THE  
17 ASSOCIATION, UNLESS COMMUNICATION TO INFLUENCE LEGISLATIVE ACTION OR  
18 EXECUTIVE ACTION IS A DISTINCT AND CONSISTENT ELEMENT OF THE MEMBER'S  
19 SCOPE OF EMPLOYMENT.

20 (3) AN ELEMENTARY, SECONDARY, OR POSTSECONDARY SCHOOL  
21 STUDENT OR STUDENT ORGANIZATION THAT COMMUNICATES AS PART OF A COURSE  
22 OR STUDENT ACTIVITY IS NOT SUBJECT TO THE REGISTRATION REQUIREMENTS  
23 BASED ON THE EXPENSE THRESHOLD UNDER SUBSECTION (A)(1)(I) OF THIS SECTION.

24 (4) AN INDIVIDUAL IS NOT SUBJECT TO THE REGISTRATION  
25 REQUIREMENTS OF THIS SECTION BASED ON THE COMPENSATION THRESHOLDS  
26 SPECIFIED UNDER SUBSECTION (A)(1) OF THIS SECTION IF THE INDIVIDUAL'S  
27 COMMUNICATION TO INFLUENCE LEGISLATIVE ACTION OR EXECUTIVE ACTION:

28 (I) IS IN THE INDIVIDUAL'S CAPACITY AS AN OFFICER, DIRECTOR,  
29 OR EMPLOYEE OF THE ENTITY PAYING THE COMPENSATION; AND

30 (II) IS NOT A DISTINCT AND CONSISTENT ELEMENT OF THE SCOPE  
31 OF THE INDIVIDUAL'S DUTIES AS AN OFFICER, DIRECTOR, OR EMPLOYEE OF THE  
32 ENTITY.

33 (5) Subsection (a)(3) of this section does not apply to a bona fide  
34 salesperson or commercial selling agency employed or maintained by an employer for  
35 the purpose of soliciting or securing a procurement contract unless the person  
36 engages in acts during the reporting period that require registration under subsection  
37 (a)(1) or (2) of this section.

1            [(4)]    (6)    [Subsection] IF THE PERSON ENGAGES IN NO OTHER ACTS  
2 DURING THE REPORTING PERIOD THAT REQUIRE REGISTRATION, SUBSECTION (a)(4)  
3 of this section does not apply to:

4                    (I)        a bona fide full-time official or employee of a business entity  
5 seeking to secure a business grant or loan; OR

6                    (II)        A PERSON WHO SEEKS TO SECURE A BUSINESS GRANT OR LOAN  
7 FOR THE PURPOSE OF LOCATING, RELOCATING, OR EXPANDING A BUSINESS IN OR  
8 INTO THE STATE.

9        (c)        (1)        Except for providing the authorization required by § 15-702 of this  
10 subtitle and the report required by § 15-704(d) of this subtitle, an entity that  
11 compensates one or more regulated lobbyists, and that reasonably believes that all  
12 expenditures requiring registration will be reported by the regulated lobbyist or  
13 lobbyists, is exempt from the registration and reporting requirements of this subtitle  
14 if the entity engages in no other act that requires registration.

15            (2)        If a regulated lobbyist compensated by an entity that is exempt under  
16 paragraph (1) of this subsection fails to report the information required by this  
17 subtitle, the entity immediately shall become subject to the registration and reporting  
18 requirements of this subtitle.

19 15-703.

20        (a)        (1)        At the times specified in subsection (d) of this section, each regulated  
21 lobbyist shall register with the Ethics Commission on a form provided by the Ethics  
22 Commission.

23            (2)        A regulated lobbyist shall register separately for each entity that has  
24 engaged the regulated lobbyist for lobbying purposes.

25        (f)        (1)        Except as provided in paragraph (2) of this subsection, each  
26 registration shall terminate on the earlier of:

27                    (i)        the October 31 following the filing of the registration; or

28                    (ii)        an earlier termination date specified in an authorization filed  
29 with respect to that registration under § 15-702 of this subtitle.

30            (2)        A regulated lobbyist may terminate the registration before the date  
31 specified in paragraph (1) of this subsection by:

32                    (i)        ceasing all activity that requires registration; and

33                    (ii)        after ceasing activity in accordance with item (i) of this  
34 paragraph:

35                                    1.        filing a notice of termination with the Ethics Commission;

36 and



- 1           (4)     engage in or counsel any person to engage in fraudulent conduct;
- 2           (5)     while engaging in lobbying activities, knowingly make to an official  
3 or employee a statement of material fact relating to lobbying activity that the  
4 regulated lobbyist knows to be false;
- 5           (6)     engage in lobbying without being properly registered as a regulated  
6 lobbyist in accordance with § 15-701 of this subtitle;
- 7           (7)     request an official or employee to recommend to a potential client the  
8 lobbying services of the regulated lobbyist or any other regulated lobbyist;
- 9           (8)     make a gift, directly or indirectly, to an official or employee if the  
10 regulated lobbyist knows or has reason to know the gift is in violation of Subtitle 5 of  
11 this title;
- 12          (9)     make a gift directly or indirectly as a result of a solicitation or  
13 facilitation, which the regulated lobbyist knows or has reason to know is prohibited  
14 under § 15-505(a)(2) of this title;
- 15          (10)    if the regulated lobbyist is an individual, engage in any charitable  
16 fund-raising activity at the request of an official or employee, including soliciting,  
17 transmitting the solicitation of, or transmitting a charitable contribution;
- 18          (11)    unless in the ordinary course of business of the regulated lobbyist,  
19 make or facilitate the making of any loan of money, goods, or services to an official or  
20 employee;
- 21          (12)    while engaging in lobbying activities on behalf of an entity, knowingly  
22 conceal from an official or employee, the identity of the entity;
- 23          (13)    commit a criminal offense arising from lobbying activity; or
- 24          (14)    if serving on the State or a local central committee of a political party,  
25 participate:
- 26               (i)     as an officer of the central committee;
- 27               (ii)    in fund-raising activity on behalf of the political party; or
- 28               (iii)   in actions relating to filling a vacancy in a public office.

29 15-715.

30   (a)   (1)    In this section the following words have the meanings indicated.

31           (2)    "Applicable contribution" means a contribution or series of  
32 contributions made to or for the benefit of an applicable recipient in a cumulative  
33 amount of more than \$500. A contribution made to a political committee for an  
34 applicable recipient is deemed a contribution to the applicable recipient.



- 1           (3)     "Applicable recipient" means a candidate for, or an official holding,  
2 any of the following offices:
- 3           (i)     Governor;
- 4           (ii)    Lieutenant Governor;
- 5           (iii)   Attorney General;
- 6           (iv)    Comptroller; or
- 7           (v)     member of the General Assembly.
- 8     (b)     Subject to subsection (h) of this section, a person shall file a statement in  
9 accordance with this section if at any time during the reporting period the person:
- 10          (1)     spent at least \$500 to provide compensation to one or more regulated  
11 lobbyists; and
- 12          (2)     made or caused to be made an applicable contribution.
- 13     (c)     A statement required by this section shall be filed with the State Board of  
14 Elections.
- 15     (d)     (1)     The reporting period is the 6-month period ending on either January  
16 31 or July 31.
- 17          (2)     The statement shall be filed within 5 days after the end of the  
18 reporting period.
- 19     (e)     The statement required by this section shall be made under oath and shall  
20 contain:
- 21          (1)     the name of each applicable recipient to whom an applicable  
22 contribution was made or caused to be made during the reporting period and, if not  
23 previously reported, during the preceding reporting period;
- 24          (2)     the office held or sought by each applicable recipient named in item  
25 (1) of this paragraph;
- 26          (3)     the aggregate contributions made to each applicable recipient;
- 27          (4)     the name of each regulated lobbyist employed or retained by the  
28 person filing the statement; and
- 29          (5)     if a contribution was made by another person but is attributed to the  
30 person filing the statement, the name of the person who made the contribution and  
31 the relationship of that person to the person filing the statement.
- 32     (f)     If the person filing the statement is a business entity:

1 (1) (I) [a] AN APPLICABLE contribution[, regardless of amount,]  
2 made by an officer, director, or partner of the business entity [or, if made at the  
3 suggestion or direction of the business entity, by an employee, agent, or other person,]  
4 shall be attributed to the business entity; OR

5 (II) A CONTRIBUTION, REGARDLESS OF AMOUNT, IF MADE AT THE  
6 SUGGESTION OR DIRECTION OF THE BUSINESS ENTITY, BY AN EMPLOYEE, AGENT, OR  
7 OTHER PERSON, SHALL BE ATTRIBUTED TO THE BUSINESS ENTITY.

8 (2) each officer, director, or partner of the business entity who makes or  
9 causes to be made [a] AN APPLICABLE contribution[, regardless of amount,] shall  
10 report the contribution to the chief executive officer of the business entity;

11 (3) each OFFICER, DIRECTOR, PARTNER, employee, agent, or other person  
12 who makes or causes to be made a contribution, regardless of amount, at the  
13 suggestion or direction of the business entity shall report the contribution to the chief  
14 executive officer of the business entity;

15 (4) APPLICABLE contributions made by, or caused to be made by, a  
16 subsidiary, 30% or more of the equity of which the business entity owns or controls,  
17 shall be attributed to the business entity; and

18 (5) if a subsidiary described in item (4) of this subsection made an  
19 expenditure to provide compensation to one or more regulated lobbyists, the  
20 expenditure shall be attributed to the business entity.

21 (g) (1) Notwithstanding the requirements of subsection (f) of this section, a  
22 contribution made by an individual who serves as a trustee or member of the board of  
23 directors or as an officer of a not for profit organization is not attributable to the  
24 organization and the individual is not required to report the contribution to the chief  
25 executive officer of the organization, unless:

26 [(1)] (I) the contribution is made on the recommendation of the not for  
27 profit organization; or

28 [(2)] (II) the individual who made the contribution is paid by the not for  
29 profit organization.

30 (2) THE ETHICS COMMISSION SHALL ADOPT REGULATIONS THAT  
31 DEFINE "OFFICER" FOR THE PURPOSES OF THIS SUBSECTION.

32 (h) A person who files, under the provisions of Article 33, Title 14 of the Code,  
33 all information required by this section may satisfy the requirements of this section  
34 by submitting a notice to that effect on the appropriate prescribed form.

35 (i) The State Board of Elections shall:

36 (1) prescribe and make available forms for the statement and notice  
37 required by this section;

1           (2)       retain each statement filed under this section in the same manner,  
2 and subject to the same standards of public access, as a statement filed under the  
3 provisions of Article 33, Title 14 of the Code; and

4           (3)       report any violation of this section to the Ethics Commission.

5       (j)       The statement required under this section shall be filed in the manner  
6 prescribed for statements filed under Article 33, Title 14 of the Code.

7       (k)       (1)       A person who knowingly and willfully fails to comply with the  
8 requirements of this section is guilty of a misdemeanor and on conviction is subject to  
9 a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

10           (2)       If a person in violation of this section is a business entity, each officer  
11 and partner of a business entity who knowingly authorized or participated in the  
12 violation of this section is guilty of a misdemeanor and on conviction is subject to a  
13 fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

14       SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
15 measure, is necessary for the immediate preservation of the public health or safety,  
16 has been passed by a ye and nay vote supported by three-fifths of all the members  
17 elected to each of the two Houses of the General Assembly, and shall take effect from  
18 the date it is enacted.