

SENATE BILL 927

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EMERGENCY BILL

0lr0989
CF HB 953

By: **Senators Pinsky, Ellis, Guzzone, Kelley, Smith, and Zucker**

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 – Issue Lobbying Communications – Lobbyist Registration and**
3 **Disclosure Requirements**

4 FOR the purpose of requiring a certain entity to register with the State Ethics Commission
5 as a regulated lobbyist if, during a certain reporting period, the entity spends a
6 certain amount for certain issue lobbying communications; requiring a certain
7 regulated lobbyist to report certain information to the Ethics Commission in addition
8 to certain other reports; requiring a certain regulated lobbyist to report certain
9 information to the Ethics Commission within a certain period of time on receipt of
10 an aggregate donation of a certain amount; providing that certain provisions of law
11 apply to certain regulated lobbyists; requiring a regulated lobbyist to file a certain
12 statement with the Ethics Commission on receipt of a solicited donation of a certain
13 amount; providing for the contents of a certain statement; providing that certain
14 solicited donations made by certain individuals are attributable to certain entities
15 under certain circumstances; providing for the administration of certain statements
16 by the Ethics Commission; requiring each issue lobbying communication to contain
17 a certain disclosure in a certain manner; prohibiting a certain person from making a
18 payment or claiming responsibility for an issue lobbying communication with the
19 intent to evade or aid in the evasion of certain provisions of law; defining certain
20 terms; making this Act an emergency measure; and generally relating to issue
21 lobbying and public ethics.

22 BY repealing and reenacting, with amendments,
23 Article – General Provisions
24 Section 5–701, 5–702(a), and 5–705(d)
25 Annotated Code of Maryland
26 (2019 Replacement Volume)

27 BY repealing and reenacting, without amendments,
28 Article – General Provisions
29 Section 5–705(a)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2019 Replacement Volume)

BY adding to

Article – General Provisions

Section 5–717 and 5–718

Annotated Code of Maryland
(2019 Replacement Volume)

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

Article – General Provisions

5–701.

(A) In this subtitle[, “compensation”,] THE FOLLOWING WORDS HAVE THE
MEANINGS INDICATED.

(B) “COMPENSATION”, as to a person whose lobbying is only a part of the
person’s employment, means a prorated amount based on the time the person devotes to
lobbying and the time the person devotes to other employment.

(C) (1) “ISSUE LOBBYING COMMUNICATION” MEANS ANY PUBLIC
COMMUNICATION THAT CLEARLY REFERS TO AND EXPRESSES A VIEW ON THE
SUBJECT MATTER, DESCRIPTION, OR NAME OF ONE OR MORE CLEARLY IDENTIFIED
PENDING STATE LEGISLATIVE OR EXECUTIVE ACTIONS.

(2) “ISSUE LOBBYING COMMUNICATION” INCLUDES:

(I) ANY SOLICITATION, PROPOSAL, OR APPEAL THAT MAY
REASONABLY BE INTERPRETED AS A REQUEST FOR ANY OF THE OFFICIALS LISTED
IN ITEM (II) OF THIS ITEM TO TAKE STATE LEGISLATIVE OR EXECUTIVE ACTION; OR

(II) A SOLICITATION OR ENCOURAGEMENT TO OTHER PERSONS
TO COMMUNICATE DIRECTLY WITH ANY OF THE FOLLOWING OFFICIALS FOR THE
PURPOSES OF ATTEMPTING TO INFLUENCE STATE LEGISLATIVE OR EXECUTIVE
ACTION:

1. THE GOVERNOR;

2. THE LIEUTENANT GOVERNOR;

3. THE ATTORNEY GENERAL;

1 4. THE COMPTROLLER; OR

2 5. MEMBERS OF THE GENERAL ASSEMBLY.

3 (3) “ISSUE LOBBYING COMMUNICATION” DOES NOT INCLUDE:

4 (I) AN ELECTIONEERING COMMUNICATION AS DEFINED IN §
5 13-307 OF THE ELECTION LAW ARTICLE;

6 (II) A COMMERCIAL ADVERTISEMENT;

7 (III) A COMMUNICATION MADE BY A CANDIDATE OR POLITICAL
8 COMMITTEE AS DEFINED IN § 1-101 OF THE ELECTION LAW ARTICLE;

9 (IV) AN INTERNAL COMMUNICATION:

10 1. BY A BUSINESS OR OTHER ENTITY TO ITS
11 STOCKHOLDERS OR MEMBERS, ITS EXECUTIVE, OR ADMINISTRATIVE PERSONNEL
12 AND THEIR IMMEDIATE FAMILIES; OR

13 2. BY A MEMBERSHIP ENTITY, AS DEFINED UNDER §
14 13-243 OF THE ELECTION LAW ARTICLE, TO ITS MEMBERS, ITS EXECUTIVE, OR
15 ADMINISTRATIVE PERSONNEL AND THEIR IMMEDIATE FAMILIES;

16 (V) A COMMUNICATION THAT IDENTIFIES A CANDIDATE FOR
17 ELECTIVE STATE OFFICE FOR PURPOSES OF FEATURING THE CANDIDATE’S
18 ENDORSEMENT, SUPPORT, OR OPPOSITION TO ANOTHER CANDIDATE OR BALLOT
19 MEASURE;

20 (VI) A COMMUNICATION DIRECTED TO VOTERS OR POTENTIAL
21 VOTERS AS PART OF VOTER REGISTRATION ACTIVITIES OR ACTIVITIES
22 ENCOURAGING OR ASSISTING PERSONS TO VOTE;

23 (VII) A NEWS STORY, COMMENTARY, OR AN EDITORIAL
24 COMMUNICATION THAT IS AN ACTION OF THE NEWS MEDIA, TO THE EXTENT THAT
25 THE ACTION IS IN THE ORDINARY COURSE OF GATHERING AND DISSEMINATING
26 NEWS OR MAKING EDITORIAL COMMENT TO THE GENERAL PUBLIC;

27 (VIII) A COMMUNICATION PAID FOR OR DISSEMINATED BY A
28 GOVERNMENT AGENCY; AND

29 (IX) ANY SIMILAR COMMUNICATION AS DETERMINED BY THE
30 ETHICS COMMISSION IN REGULATION.

5-702.

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

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

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

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

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

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

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

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

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

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

(6) SPENDS AT LEAST \$500 FOR ISSUE LOBBYING COMMUNICATIONS;

OR

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

1 5–705.

2 (a) (1) A regulated lobbyist shall file electronically with the Ethics
3 Commission, under oath and for each registration, a separate report concerning the
4 regulated lobbyist's lobbying activities:

5 (i) by May 31 of each year, to cover the period from November 1 of
6 the previous year through April 30 of the current year; and

7 (ii) by November 30 of each year, to cover the period from May 1
8 through October 31 of that year.

9 (2) If the regulated lobbyist is not an individual, an authorized officer or
10 agent of the regulated lobbyist shall sign the report.

11 (3) If a prorated amount is reported as compensation, it shall be labeled as
12 prorated.

13 (d) (1) This subsection applies only to a regulated lobbyist, other than an
14 individual, that is organized and operated for the primary purpose of attempting to
15 influence legislative action or executive action.

16 (2) (I) In addition to the other reports required under this section, a
17 regulated lobbyist shall report the name and permanent address of each entity that
18 provided at least 5% of the regulated lobbyist's total receipts during the preceding 12
19 months.

20 [(3)] (II) For the purpose of the reporting and registration requirements
21 of this subtitle, receipts of a regulated lobbyist include funds spent on the regulated
22 lobbyist's behalf, at its direction, or in its name.

23 (3) IN ADDITION TO THE OTHER REPORTS REQUIRED UNDER THIS
24 SECTION, A REGULATED LOBBYIST UNDER § 5–702(A)(6) OF THIS SUBTITLE SHALL:

25 (I) REPORT THE NAME AND PERMANENT ADDRESS OF EACH
26 ENTITY THAT:

27 1. PROVIDED AT LEAST 5% OF THE REGULATED
28 LOBBYIST'S TOTAL RECEIPTS DURING THE PRECEDING 12 MONTHS; OR

29 2. DONATED AT LEAST \$500 IN AGGREGATE TO THE
30 REGULATED LOBBYIST DURING THE PRECEDING 12 MONTHS; AND

31 (II) WITHIN 48 HOURS AFTER THE DATE AN ENTITY MAKES AN
32 AGGREGATE DONATION OF \$5,000 OR MORE TO THE REGULATED LOBBYIST DURING

THE 6-MONTH REPORTING PERIOD ENDING ON EITHER APRIL 30 OR OCTOBER 31,
FILE A STATEMENT WITH THE ETHICS COMMISSION THAT INCLUDES:

1. THE NAME AND PERMANENT ADDRESS OF THE ENTITY
AND ANY PERSON EXERCISING DIRECTION OR CONTROL OVER THE ACTIVITIES OF
THE ENTITY MAKING THE DONATION; AND

2. THE AMOUNT AND DATE OF EACH DONATION.

5-717.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(2) "APPLICABLE STATE OFFICIAL" MEANS A STATE OFFICIAL
HOLDING THE OFFICE OF:

(I) GOVERNOR;

(II) LIEUTENANT GOVERNOR;

(III) ATTORNEY GENERAL;

(IV) COMPTROLLER; OR

(V) MEMBER OF THE GENERAL ASSEMBLY.

(3) (I) "SOLICITED DONATION" MEANS A MONETARY OR IN-KIND
DONATION OR SERIES OF DONATIONS BY OR ATTRIBUTED TO A PERSON FOR A
PRINCIPALLY LEGISLATIVE OR GOVERNMENTAL PURPOSE:

1. AT THE REQUEST, SOLICITATION, OR SUGGESTION OF
AN APPLICABLE STATE OFFICIAL; OR

2. MADE IN COOPERATION, CONSULTATION, OR
COORDINATION WITH OR AT THE CONSENT OF AN APPLICABLE STATE OFFICIAL.

(II) "SOLICITED DONATION" INCLUDES DONATIONS SOLICITED
BY AN APPLICABLE STATE OFFICIAL'S AGENT OR EMPLOYEE ON THE APPLICABLE
STATE OFFICIAL'S BEHALF.

(III) "SOLICITED DONATION" DOES NOT INCLUDE A DONATION
MADE FOR A CHARITABLE PURPOSE OR CHARITABLE ORGANIZATION.

1 **(B) THIS SECTION APPLIES ONLY TO A REGULATED LOBBYIST, OTHER THAN**
2 **AN INDIVIDUAL, THAT IS ORGANIZED AND OPERATED FOR THE PRIMARY PURPOSE**
3 **OF ATTEMPTING TO INFLUENCE LEGISLATIVE ACTION OR EXECUTIVE ACTION.**

4 **(C) A REGULATED LOBBYIST SHALL FILE A STATEMENT IN ACCORDANCE**
5 **WITH THIS SECTION IF AT ANY TIME DURING THE REPORTING PERIOD THE**
6 **REGULATED LOBBYIST RECEIVED A SOLICITED DONATION IN THE AMOUNT OF \$500**
7 **OR MORE.**

8 **(D) A STATEMENT REQUIRED UNDER THIS SECTION SHALL BE FILED WITH**
9 **THE ETHICS COMMISSION.**

10 **(E) (1) THE REPORTING PERIOD IS THE 6-MONTH PERIOD ENDING ON**
11 **EITHER APRIL 30 OR OCTOBER 31.**

12 **(2) THE STATEMENT SHALL BE FILED WITHIN 30 DAYS AFTER THE**
13 **DATE ON WHICH THE SOLICITED DONATION WAS RECEIVED BY THE REGULATED**
14 **LOBBYIST.**

15 **(F) THE STATEMENT SHALL INCLUDE:**

16 **(1) THE NAME OF THE REGULATED LOBBYIST THAT RECEIVED A**
17 **SOLICITED DONATION DURING THE REPORTING PERIOD AND, IF NOT PREVIOUSLY**
18 **REPORTED, DURING THE PRECEDING REPORTING PERIOD;**

19 **(2) THE NAME AND OFFICE HELD BY EACH APPLICABLE STATE**
20 **OFFICIAL FOR WHOM THE SOLICITED DONATION WAS MADE IN ITEM (1) OF THIS**
21 **SUBSECTION;**

22 **(3) THE NAME OF THE PERSON WHO MADE THE SOLICITED DONATION**
23 **AND THE RELATIONSHIP OF THAT PERSON TO THE REGULATED LOBBYIST FILING**
24 **THE STATEMENT; AND**

25 **(4) (I) THE AGGREGATE SOLICITED DONATIONS MADE**
26 **ATTRIBUTABLE TO EACH APPLICABLE STATE OFFICIAL; AND**

27 **(II) A BRIEF DESCRIPTION OF THE GOODS OR SERVICES**
28 **PROVIDED OR PURCHASED, IF ANY.**

29 **(G) IF THE PERSON FILING THE STATEMENT IS A BUSINESS ENTITY:**

(1) (I) A SOLICITED DONATION MADE BY AN OFFICER, A DIRECTOR, OR A PARTNER OF THE BUSINESS ENTITY SHALL BE ATTRIBUTED TO THE BUSINESS ENTITY; AND

(II) A SOLICITED DONATION, REGARDLESS OF AMOUNT, IF MADE AT THE SUGGESTION OR DIRECTION OF THE BUSINESS ENTITY, BY AN OFFICER, A DIRECTOR, A PARTNER, AN EMPLOYEE, AN AGENT, OR ANY OTHER PERSON, SHALL BE ATTRIBUTED TO THE BUSINESS ENTITY;

(2) EACH OFFICER, DIRECTOR, OR PARTNER OF THE BUSINESS ENTITY WHO MAKES OR CAUSES TO BE MADE AN APPLICABLE CONTRIBUTION SHALL REPORT THE CONTRIBUTION TO THE CHIEF EXECUTIVE OFFICER OF THE BUSINESS ENTITY;

(3) EACH OFFICER, DIRECTOR, PARTNER, EMPLOYEE, AGENT, OR OTHER PERSON WHO MAKES OR CAUSES TO BE MADE A SOLICITED DONATION, REGARDLESS OF AMOUNT, AT THE SUGGESTION OR DIRECTION OF THE BUSINESS ENTITY SHALL REPORT THE SOLICITED DONATION TO THE CHIEF EXECUTIVE OFFICER OF THE BUSINESS ENTITY; AND

(4) APPLICABLE SOLICITED DONATIONS MADE BY, OR CAUSED TO BE MADE BY, A SUBSIDIARY, AT LEAST 30% OF THE EQUITY OF WHICH THE BUSINESS ENTITY OWNS OR CONTROLS, SHALL BE ATTRIBUTED TO THE BUSINESS ENTITY.

(H) (1) NOTWITHSTANDING SUBSECTION (G) OF THIS SECTION, A SOLICITED DONATION MADE BY AN INDIVIDUAL WHO SERVES AS A TRUSTEE OR MEMBER OF THE BOARD OF DIRECTORS OR AS AN OFFICER OF A NONPROFIT ORGANIZATION IS NOT ATTRIBUTABLE TO THE ORGANIZATION, AND THE INDIVIDUAL IS NOT REQUIRED TO REPORT THE SOLICITED DONATION TO THE CHIEF EXECUTIVE OFFICER OF THE ORGANIZATION, UNLESS:

(I) THE SOLICITED DONATION IS MADE ON THE RECOMMENDATION OF THE NONPROFIT ORGANIZATION; OR

(II) THE INDIVIDUAL WHO MADE THE SOLICITED DONATION IS PAID BY THE NONPROFIT ORGANIZATION.

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

5-718.

1 **(A) EACH ISSUE LOBBYING COMMUNICATION SHALL CONTAIN, SET APART**
2 **FROM ANY OTHER MESSAGE, A DISCLOSURE THAT STATES:**

3 **(1) “AD PAID FOR BY”; AND**

4 **(2) THE NAME AND ADDRESS OF THE ENTITY RESPONSIBLE FOR THE**
5 **ISSUE LOBBYING COMMUNICATION.**

6 **(B) A PERSON WHO IS NOT RESPONSIBLE FOR AN ISSUE LOBBYING**
7 **COMMUNICATION MAY NOT MAKE A PAYMENT OR CLAIM RESPONSIBILITY FOR AN**
8 **ISSUE LOBBYING COMMUNICATION WITH THE INTENT TO EVADE OR AID IN THE**
9 **EVASION OF THE MINIMUM SPENDING THRESHOLD TO REGISTER AS A LOBBYIST**
10 **UNDER § 5-702(A)(6) OF THIS SUBTITLE.**

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