

CHAPTER 407

GOVERNMENT - STATE

SENATE BILL 10-087

BY SENATOR(S) Steadman, Bacon, Boyd, Hodge, Carroll M.;
also REPRESENTATIVE(S) Liston, Apuan, Priola, Schafer S.

AN ACT

**CONCERNING THE AUTHORITY OF THE SECRETARY OF STATE IN CONNECTION WITH THE
REGULATION OF LOBBYISTS, AND MAKING AN APPROPRIATION THEREFOR.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-6-301 (1.9) (a) (I), (1.9) (a) (III), (1.9) (a) (IV), (1.9) (a) (VIII), (1.9) (b) (II), and (3.5) (b) (I), Colorado Revised Statutes, are amended, and the said 24-6-301 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-6-301. Definitions - legislative declaration. As used in this part 3, unless the context otherwise requires:

(1.9) (a) "Disclosure statement" means a written statement that contains:

(I) The name and address of each person who has made a contribution totaling one hundred dollars or more to or for the disclosing person for lobbying during the ~~calendar~~ FISCAL year, together with the amount thereof;

(III) The total sum of all contributions made to or for the disclosing person for lobbying since the last disclosure statement and during the ~~calendar~~ FISCAL year;

(IV) The name of any covered official to or for whom expenditures of fifty dollars or more have been made by or on behalf of the disclosing person for gift or entertainment purposes in connection with lobbying or for whom an expenditure was made by or on behalf of the disclosing person for a gift of a meal at a fund-raising event of a political party described in section 1-45-105.5 (1) (c) (IV), C.R.S., during either the first six months or the second six months of a ~~calendar~~ FISCAL year and the amount, date, and principal purpose of the gift or entertainment,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

if the covered official or a member of his or her family actually received such gift or entertainment, but expenditures of one dollar or less shall be reported under subparagraph (V) of this paragraph (a). All amounts spent by a professional lobbyist on a covered official for which the lobbyist is reimbursed, or the source of which is a contribution, shall be deemed to be for gift or entertainment purposes.

(VIII) The total sum of all expenditures made by or on behalf of the disclosing person in connection with lobbying since the last disclosure statement and during the ~~calendar~~ FISCAL year;

(b) The secretary of state shall prescribe a form for disclosure statements, which shall contain:

(II) A statement, which the disclosing person may adopt, if true, that no unreported contributions for lobbying are receivable and that no unreported expenditures for lobbying will be made during the remainder of the ~~calendar~~ FISCAL year;

(2.3) "FISCAL YEAR" MEANS THE PERIOD COMMENCING JULY 1 OF A CALENDAR YEAR AND CONCLUDING JUNE 30 OF THE FOLLOWING CALENDAR YEAR.

(3.5) (b) Subject to the exclusions and provisions of this paragraph (b), for the purpose of determining when contributions and expenditures become reportable in disclosure statements, "lobbying" includes activities undertaken by the person engaging in lobbying and persons acting at his request to prepare for lobbying which in fact ultimately occurs, provided:

(I) No such reports shall be required for activities occurring prior to the preceding ~~calendar~~ FISCAL year;

(3.7) "LOBBYIST" MEANS EITHER A PROFESSIONAL OR A VOLUNTEER LOBBYIST.

SECTION 2. 24-6-302 (2), (2.5), (3), (4), and (5), the introductory portions to 24-6-302 (6) (a) and (6) (b), and 24-6-302 (6) (b) (II) and (7), Colorado Revised Statutes, are amended to read:

24-6-302. Disclosure statements - required. (2) Any person who makes expenditures for gifts or entertainment purposes for the benefit of covered officials in the aggregate amount of two hundred dollars in a ~~calendar~~ FISCAL year shall file disclosure statements with the secretary of state in accordance with this section. Such disclosure statements shall not include actual and reasonable expenses incurred for personal needs, such as meals, travel, lodging, and parking.

(2.5) (a) A ~~registered~~ professional lobbyist and any firm organized for professional lobbying purposes that employs such lobbyist shall file disclosure statements in accordance with this section. Such a disclosure statement, in lieu of the contributions described in section 24-6-301 (1.9) (a) (I), (1.9) (a) (II), and (1.9) (a) (III), shall contain the gross income for lobbying since the prior month's disclosure statement and the name and address of any person from whom gross income for lobbying is received totaling one hundred dollars or more.

(b) No disclosure statement shall be required of a person who is described in a disclosure statement of a ~~registered~~ professional lobbyist pursuant to paragraph (a) of this subsection (2.5).

(c) Nothing in this subsection (2.5) shall be construed to require a professional lobbyist or a firm organized for professional lobbying purposes that is engaged in lobbying for a trade association, public interest group, or governmental organization to include in the disclosure statement of such lobbyist or firm any dues, assessments, or fees collected by such association, group, or organization for lobbying purposes.

(3) (a) ~~Disclosure statements~~ A DISCLOSURE STATEMENT shall be filed within fifteen days after the end of the first calendar month in which any contribution or gross income for lobbying is received or any expenditure is made or incurred for lobbying and shall be filed within fifteen days after the end of each subsequent month during the ~~calendar~~ FISCAL year.

(b) A cumulative disclosure statement for the entire ~~state~~ fiscal year shall be filed BY A PROFESSIONAL LOBBYIST OR A FIRM ORGANIZED FOR PROFESSIONAL LOBBYING PURPOSES on or before July 15 covering the ~~period from the previous July 1 through the subsequent June 30~~ FISCAL YEAR immediately preceding the date on which the cumulative disclosure statement is due. Such disclosure statement shall contain the name of and total gross income for lobbying received from each person for the previous ~~state~~ fiscal year. If a firm organized for professional lobbying purposes subcontracts lobbying business to another such firm or PROFESSIONAL lobbyist, or if a ~~registered~~ professional lobbyist subcontracts lobbying business to another such firm or lobbyist, only the firm or PROFESSIONAL lobbyist that receives the business on a subcontract shall report the information required to be disclosed pursuant to this subsection (3). The firm or PROFESSIONAL lobbyist that subcontracted the business to another firm or PROFESSIONAL lobbyist shall describe in an addendum or supplement to the report required to be filed pursuant to the provisions of this subsection (3) the total gross income received from lobbying that is being contemporaneously reported by another firm or PROFESSIONAL lobbyist.

(4) If a person adopts the statement set out in section 24-6-301 (1.9) (b) (II), he OR SHE shall at the same time file a cumulative disclosure statement for the ~~calendar~~ FISCAL year to date and thereafter shall not have to file monthly disclosure statements unless he OR SHE subsequently becomes required to do so by virtue of subsection (3) of this section.

(5) This section shall not apply to any political committee, volunteer lobbyist, citizen who lobbies on his OR HER own behalf, state official or employee acting in his OR HER official capacity, except as provided in section 24-6-303.5, or elected public official acting in his OR HER official capacity.

(6) (a) During the period that the general assembly is not in session, a ~~registered~~ professional lobbyist shall notify the secretary of state in writing within five working days after an oral or written agreement to engage in lobbying for any person not disclosed in the registration statement filed pursuant to section 24-6-303 (1). During the period that the general assembly is in session, a ~~registered~~ professional lobbyist shall notify the secretary of state after an agreement to engage in lobbying for any person not disclosed in the registration statement filed pursuant

to section 24-6-303 (1), either by means of the electronic filing system created in section 24-6-303 (6.3) or by facsimile transmission in accordance with the following:

(b) A ~~registered~~ professional lobbyist who provides the notification under paragraph (a) of this subsection (6) shall file, concurrently with the next disclosure statement due after such notification, a signed written statement that contains:

(II) A summary of the terms related to lobbying under the agreement between such person and the ~~registered~~ professional lobbyist.

(7) In addition to the criminal penalty provided for in section 24-6-309 (1), the secretary of state, after proper notification by certified mail, shall impose an additional penalty of ~~ten~~ TWENTY dollars per day for each BUSINESS day that a disclosure statement required to be filed by this section is not filed by the close of the business day on the day due ~~except that~~ UP TO AND INCLUDING THE FIRST TEN BUSINESS DAYS ON WHICH THE DISCLOSURE STATEMENT HAS NOT BEEN FILED AFTER THE DAY DUE. FOR FAILURE TO FILE A DISCLOSURE STATEMENT REQUIRED TO BE FILED BY THIS SECTION BY THE CLOSE OF THE ELEVENTH BUSINESS DAY ON WHICH THE DISCLOSURE STATEMENT HAS NOT BEEN FILED AFTER THE DAY DUE, IN ADDITION TO THE CRIMINAL PENALTY PROVIDED FOR IN SECTION 24-6-309 (1), THE SECRETARY OF STATE SHALL IMPOSE AN ADDITIONAL PENALTY OF FIFTY DOLLARS FOR EACH DAY THEREAFTER THAT A DISCLOSURE STATEMENT REQUIRED TO BE FILED BY THIS SECTION IS NOT FILED BY THE CLOSE OF THE BUSINESS DAY. The secretary of state may excuse ~~such~~ THE PAYMENT OF ANY penalty IMPOSED BY THIS SUBSECTION (7), OR REDUCE THE AMOUNT OF ANY PENALTY IMPOSED, for bona fide personal emergencies. Revenues collected from penalties assessed by the secretary of state shall be deposited in the department of state cash fund created in section 24-21-104 (3).

SECTION 3. 24-6-303 (1), (1.3) (a), (2), (3), (5), and (6), Colorado Revised Statutes, are amended to read:

24-6-303. Registration as professional lobbyist - filing of disclosure statements - certificate of registration - legislative declaration. (1) Any professional lobbyist, before engaging in lobbying, shall register with the secretary of state ~~pay a fee in accordance with the requirements of subsection (1.3) of this section~~ and file a written or electronic registration statement that shall contain:

- (a) His OR HER full legal name, business address, and business telephone number;
- (b) The name, address, and telephone number of any person by whom he OR SHE is employed;
- (c) The name, address, and telephone number of any person for whom he OR SHE will be lobbying; and
- (d) The name, address, and telephone number of any person by whom the professional lobbyist or firm organized for professional lobbying is paid or is to be paid for such lobbying.

(1.3) (a) At the time a professional lobbyist files a registration statement in accordance with subsection (1) of this section prior to engaging in lobbying, and each time such lobbyist files an updated registration statement in accordance with subsection (1.5) of this section, such individual shall pay a registration fee ~~not to exceed fifty dollars. The actual fee to be charged~~ IN AN AMOUNT THAT shall be set by the secretary of state by rule promulgated in accordance with article 4 of this title and shall be set at a level that offsets the costs to the secretary of state of providing electronic access to information pursuant to section 24-6-304 (2), and in processing and maintaining the disclosure information required by this part 3. The secretary of state shall charge a reduced fee to a professional lobbyist that files his or her registration statement pursuant to paragraph (b) of subsection (6.3) of this section. The secretary of state may waive the fee of a ~~registered~~ professional lobbyist for a not-for-profit organization who derives his or her compensation solely from the organization. A volunteer lobbyist ~~as defined in section 24-6-301 (7)~~ shall be exempt from the requirement to pay the registration fee mandated by this paragraph (a).

(2) A ~~registered~~ professional lobbyist shall file disclosure statements as required by section 24-6-302.

(3) Consistent with the requirements of subsection (6.3) of this section, a hard copy of all registration statements and disclosure statements of professional lobbyists AND FIRMS ORGANIZED FOR LOBBYING PURPOSES shall be compiled by the secretary of state within thirty days after the end of the calendar month for which such information is filed and shall be organized alphabetically according to the names of the ~~professional~~ lobbyists AND FIRMS.

(5) An individual shall not be considered a ~~professional~~ lobbyist solely because of his OR HER appearance as a witness in rule, standard, or rate-making proceedings.

(6) This section shall not apply to any political committee, volunteer lobbyist, citizen who lobbies on his OR HER own behalf, state official or employee acting in his OR HER official capacity, except as provided in section 24-6-303.5, or elected public official acting in his OR HER official capacity.

SECTION 4. The introductory portion to 24-6-303.5 (1) (a) and 24-6-303.5 (2) (b), Colorado Revised Statutes, are amended to read:

24-6-303.5. Lobbying by state officials and employees. (1) (a) Each principal department of state government, as defined in section 24-1-110, shall designate one person who shall be responsible for any lobbying of the type defined in section 24-6-301 (3.5) (a) (I) or (3.5) (a) (III) by a state official or employee on behalf of said principal department. All designated persons from the principal departments, as well as any person lobbying, as defined in section 24-6-301 (3.5) (a) (I) or (3.5) (a) (III), on behalf of an institution or governing board of higher education, shall register with the secretary of state by filing a written statement on or before January 15 of each ~~calendar~~ year. Such registration statement shall be on a form prescribed by the secretary of state and shall include the following:

(2) (b) Disclosure statements shall be filed within fifteen days after the end of the first calendar month and shall be filed within fifteen days after the end of each

subsequent month during the ~~calendar~~ FISCAL year.

SECTION 5. 24-6-304 (2) (a) and (2) (b) (II), Colorado Revised Statutes, are amended to read:

24-6-304. Records - preservation - public inspection - electronic access.

(2) (a) Any statement required by this part 3 to be filed with the secretary of state shall be preserved by the secretary of state for a period of five years after the date of filing, shall constitute part of the public records of that office, and shall be open and readily accessible for public inspection. The secretary of state shall implement a computer information system that will allow computer users to cross-reference and review, using the name of a ~~registered~~ professional lobbyist or any other person, any disclosure statement or other written statement filed pursuant to section 24-6-302 and registration statement filed pursuant to section 24-6-303 on which the name of such lobbyist or other person appears.

(b) No later than January 1, 2002, the secretary of state shall establish, operate, and maintain a web site on the internet, or modify an existing site, that will allow computer users electronic read-only access to the information required to be filed by this part 3 free of charge. All information required to be filed by this part 3 that is filed electronically shall be made available:

(II) In a form that allows a computer user to cross-reference and review, using the name of a ~~registered~~ professional lobbyist or any other person, any disclosure statement or other written statement filed pursuant to section 24-6-302 and registration statement filed pursuant to section 24-6-303 on which the name of such lobbyist or other person appears.

SECTION 6. 24-6-305 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-6-305. Powers of the secretary of state - granting and revoking of certificates - barring from registration - imposition of fine - notification of substantial violation. (1) It is the duty and responsibility of the secretary of state:

(e) TO REVOKE THE CERTIFICATE OF REGISTRATION OF ANY INDIVIDUAL WHOSE LOBBYING PRIVILEGES BEFORE THE GENERAL ASSEMBLY HAVE BEEN SUSPENDED FOLLOWING ACTION ON A WRITTEN COMPLAINT AGAINST THE PERSON IN ACCORDANCE WITH THE RULES ON LOBBYING PRACTICES PROMULGATED BY THE GENERAL ASSEMBLY.

SECTION 7. 24-6-305 (2), Colorado Revised Statutes, is amended, and the said 24-6-305 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-6-305. Powers of the secretary of state - granting and revoking of certificates - barring from registration - imposition of fine - notification of substantial violation. (1.5) (a) IN THE CASE OF MISCONDUCT BY AN INDIVIDUAL CULMINATING IN THE REVOCATION OF A CERTIFICATE OF REGISTRATION IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (b) OR (e) OF SUBSECTION (1) OF THIS SECTION, THE SECRETARY OF STATE SHALL ADDITIONALLY INDICATE THE

REVOCAION OF THE INDIVIDUAL'S CERTIFICATE OF REGISTRATION ON THE WEB SITE MAINTAINED BY THE SECRETARY AND SHALL SEND WRITTEN NOTICE OF THE REVOCATION BY UNITED STATES MAIL TO EACH PRINCIPAL FOR WHOM THE INDIVIDUAL LOBBIES AS SHOWN ON THE INDIVIDUAL'S REGISTRATION STATEMENT FILED PURSUANT TO SECTION 24-6-303 (1).

(b) IN THE CASE OF MISCONDUCT BY AN INDIVIDUAL CULMINATING IN A RESOLUTION OF CENSURE THAT HAS BEEN ADOPTED BY THE GENERAL ASSEMBLY IN ACCORDANCE WITH ITS RULES ON LOBBYING PRACTICES, THE SECRETARY OF STATE SHALL SEND A COPY OF THE RESOLUTION BY UNITED STATES MAIL TO EACH PRINCIPAL FOR WHOM THE INDIVIDUAL LOBBIES AS SHOWN ON THE INDIVIDUAL'S REGISTRATION STATEMENT FILED PURSUANT TO SECTION 24-6-303 (1).

(2) In addition to any other powers conferred by this section, the secretary of state may:

(a) Revoke, or suspend for a maximum period of one year, or bar from registration for a maximum period of one year or the remainder of the legislative biennium, whichever is longer, the certificate of registration required by section 24-6-303 for failure to file the reports required by section 24-6-303, ~~or to~~ provide the information required by section 24-6-304.5, OR PAY FULLY ANY PENALTY IMPOSED PURSUANT TO SECTION 24-6-302 (7); but no certificate may be revoked or suspended within thirty days after the failure to file such a report if, prior to the last day for filing such reports, the secretary of state has been informed in writing of extenuating circumstances justifying such failure. Any revocation or suspension of a certificate of registration or bar from registration shall be in accordance with the provisions of article 4 of this title.

(b) Adopt rules and regulations in accordance with the provisions of article 4 of this title to define, interpret, implement, and enforce the provisions of this part 3 and to prevent the evasion of the requirements of this part 3;

(c) On his OR HER own motion or on the verified complaint of any person, investigate the activities of any person who is or who has allegedly been engaged in lobbying and who may be in violation of the requirements of this part 3;

(d) Apply to the district court of the city and county of Denver for the issuance of an order requiring any individual who is believed by the secretary of state to be engaging in lobbying as a professional lobbyist as defined in section 24-6-301 without having received a certificate of registration as required by the provisions of section 24-6-303 to produce documentary evidence which is relevant or material or to give testimony which is relevant or material to the matter in question.

SECTION 8. 24-6-308, Colorado Revised Statutes, is amended to read:

24-6-308. Prohibited practices. (1) No person ~~may~~ ENGAGED IN LOBBYING SHALL:

(a) Make any agreement under which any consideration is to be given, transferred, or paid to any person contingent upon the passage or defeat of any legislation; the making or defeat of any rule, standard, or rate by any state agency;

or the approval or veto of any legislation by the governor of this state;

(b) KNOWINGLY ATTEMPT TO DECEIVE, OR MAKE A FALSE STATEMENT TO, A COVERED OFFICIAL REGARDING ANY MATERIAL FACT RELATING TO A MATTER THAT IS WITHIN THE SCOPE OF DUTIES OF THE COVERED OFFICIAL;

(c) CONCEAL FROM A COVERED OFFICIAL THE IDENTITY OF THE PERSON OR ENTITY FOR WHOM THE LOBBYIST IS LOBBYING;

(d) KNOWINGLY USE A FICTITIOUS NAME, OR A REAL NAME WITHOUT THE CONSENT OF THE PERSON WHOSE NAME IS USED, TO COMMUNICATE WITH A COVERED OFFICIAL;

(e) KNOWINGLY REPRESENT AN INTEREST ADVERSE TO THE LOBBYIST'S PRINCIPAL WITHOUT FIRST OBTAINING THE CONSENT OF THE PRINCIPAL AFTER FULL DISCLOSURE BY THE LOBBYIST OF THE ADVERSE INTEREST;

(f) MAKE ANY FORM OF PAYMENT TO A COVERED OFFICIAL AS COMPENSATION FOR ANY INTEREST IN REAL OR PERSONAL PROPERTY OR THE PROVISION OF SERVICES IN EXCESS OF THE AMOUNT OF COMPENSATION THAT WOULD BE PAID BY A PERSON WHO IS NOT A LOBBYIST FOR SUCH INTEREST OR SERVICES IN THE ORDINARY COURSE OF BUSINESS;

(g) MAKE A LOAN TO A COVERED OFFICIAL OR ENGAGE IN ANY OTHER TRANSACTION WITH A COVERED OFFICIAL WITH THE INTENTION OF MAKING THE COVERED OFFICIAL PERSONALLY OBLIGATED TO THE LOBBYIST;

(h) ATTEMPT TO INFLUENCE THE VOTE OF A COVERED OFFICIAL IN CONNECTION WITH ANY PENDING MATTER BY THREAT OF A POLITICAL REPRISAL, INCLUDING WITHOUT LIMITATION THE PROMISE OF FINANCIAL SUPPORT OF, OR OPPOSITION TO, THE COVERED OFFICIAL'S CANDIDACY AT ANY FUTURE ELECTION;

(i) SEEK TO INFLUENCE A COVERED OFFICIAL BY COMMUNICATING WITH THE COVERED OFFICIAL'S EMPLOYER;

(j) CAUSE TO BE INTRODUCED, OR INFLUENCE THE INTRODUCTION OF, ANY BILL, RESOLUTION, AMENDMENT, STANDARD, RULE, OR RATE FOR THE PURPOSE OF AFTERWARDS BEING EMPLOYED TO SECURE ITS PASSAGE OR DEFEAT;

(k) RECEIVE COMPENSATION FOR LOBBYING WHILE SERVING AS A STATE OFFICER OR EMPLOYEE OF THE STATE CENTRAL COMMITTEE OF A POLITICAL PARTY;

(l) MAKE A CAMPAIGN CONTRIBUTION IN EXCESS OF THE APPLICABLE LIMITATIONS ESTABLISHED BY LAW OR RULE OR MAKE, SOLICIT, OR PROMISE TO SOLICIT A CAMPAIGN CONTRIBUTION DURING THE PERIOD WHEN LOBBYISTS ARE PROHIBITED FROM MAKING SUCH CONTRIBUTIONS UNDER SECTION 1-45-105.5, C.R.S.;

(m) EMPLOY, SUBCONTRACT, OR PAY COMPENSATION TO A PERSON FOR LOBBYING WHO HAS NOT REGISTERED AS A LOBBYIST; OR

(n) ENGAGE IN ANY OTHER PRACTICE THAT DISCREDITS THE PRACTICE OF

LOBBYING OR THE GENERAL ASSEMBLY.

(2) ANY PERSON WHO BELIEVES THAT A LOBBYIST HAS COMMITTED ANY ACT OR OMISSION IN VIOLATION OF THIS SECTION MAY FILE A COMPLAINT WITH THE SECRETARY OF STATE OR ANY MEMBER OF THE EXECUTIVE COMMITTEE OF THE GENERAL ASSEMBLY IN ACCORDANCE WITH THE PROCEDURES FOR FILING A COMPLAINT AGAINST A LOBBYIST UNDER THE JOINT RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES. UPON RECEIPT OF A COMPLAINT, THE SECRETARY OF STATE MAY ACT UPON ALLEGED VIOLATIONS OF THIS SECTION TO ENFORCE GOVERNING LAWS OR RULES OR MAY REFER THE MATTER TO THE EXECUTIVE COMMITTEE OF THE GENERAL ASSEMBLY.

SECTION 9. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund created in section 24-21-104 (3) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2010, the sum of thirty-two thousand five hundred sixty dollars (\$32,560) cash funds, or so much thereof as may be necessary, for the implementation of this act.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 10, 2010