

# MARYLAND

## LOBBYING DISCLOSURE

**These resources are current as of 8/15/16. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at [advocacy@afj.org](mailto:advocacy@afj.org).**

This guide summarizes key aspects of laws and regulations governing lobbying on the state level. It is not intended to provide legal advice or to serve as a substitute for legal advice.

In some jurisdictions, city, county, or special district regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

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## DEFINITIONS

### Lobbying:

- Maryland defines “lobbying” as performing any act that requires registration. MD. CODE ANN. GEN. PROVISIONS § 5-101(x). These acts are set out in the Registration section below.
- A “regulated lobbyist” means an entity that is required to register with the Ethics Commission. MD. CODE ANN. GEN. PROVISIONS § 5-101(hh).
- An “entity” means a person or a government or instrumentality of government. MD. CODE ANN. GEN. PROVISIONS § 5-101(i).
- A “*person*” is an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, corporation, partnership, business trust, statutory trust, limited liability company, firm, association or other nongovernmental entity. MD. CODE ANN. GEN. PROVISIONS 1-114.

### Types of Lobbyists:

- Maryland regulates three types of lobbyists:
  - Legislative Action Lobbyists
  - Executive Action Lobbyists
  - Grassroots Lobbyists
- Any entity can be regulated as one or more of these types of lobbyists. The registration requirements for each type of lobbyist are set out in the Registration section below.

## REGISTRATION

### Employer Registration:

- Registration requirements: An “employer” is any entity that compensates a regulated lobbyist, in either an employment or independent contractor relationship MD. CODE ANN. GEN. PROVISIONS § 5-101(h).
- If an employer spends at least \$2,500 to compensate one or more persons engaged in lobbying during a semi-annual reporting period, it is required to register as a lobbyist, unless it meets *both* of the registration and reporting exemption requirements listed below *and* claims this

exemption on a registration form submitted by the employer's registered lobbyist.

- The employer must not engage in acts—other than employing a lobbyist—that require registration. These requirements are set out in detail in the Lobbyist Registration and Grassroots Registration sections below.
- The employer's registered lobbyist must report all of the lobbying-related expenses of the employer on lobbying activity reports, including compensation, other expenditures made by the lobbyist and any other support expenses, compensation or other lobbying related expenditures made by the lobbyist's employer.

MD. CODE ANN. GEN. PROVISIONS §§ 5-702(a)(6), 5-702(c); [State Ethics Commission Manual](#) at 4.

- **Timing:** Registration is required within 5 days after first performing an act that requires registration. MD. CODE ANN. GEN. PROVISIONS § 5-704(d).
- **Fees:** \$100 per registration. MD. CODE ANN. GEN. PROVISIONS § 5-704(e).
- **Term:** Annual registration is required. [State Ethics Commission Manual](#) at 1.
  - The lobbying registration year extends from November 1 through October 31. MD. CODE ANN. GEN. PROVISIONS § 5-704.
  - A new registration is required on or before November 1 for each year in which a person engages in activities requiring registration. *Id.*; [State Ethics Commission Manual](#) at 1.

#### Lobbyist Registration:

- **Legislative Action Lobbying:** A person is required to register as a legislative action lobbyist if the person engages in any of the following acts:
  - The person communicates in the legislative branch official or employee for the purpose of influencing any legislative action during a lobbying reporting period and incurs expenses of at least \$500 for all such activities other than for personal travel or subsistence expenses; or
  - The person communicates in the presence of a legislative branch official or employee for the purpose of influencing any legislative action during a lobbying reporting period and earns at least \$2,500

as compensation, from all lobbying employers cumulatively, for all such communication and activities; or

- The person communicates in or outside of the presence of a legislative branch official or employee for the purpose of influencing legislative action and earns \$5,000 or more from all lobbying employers cumulatively as compensation for all such communication and activities relating to the communication during a reporting period. MD. CODE ANN. GEN. PROVISIONS § 5-702(a)(1); [State Ethics Commission Manual](#) at 2.

- Executive Action Lobbying: A person is required to register as an executive action lobbyist if the person engages in any of the following acts:
  - The person communicates with an executive branch official or employee for the purpose of influencing executive action during the reporting period and spends a cumulative amount of \$100 or more during the reporting period on one or more executive branch officials or employees for gifts, including meals, beverages and special events.
  - The person communicates in the presence of an executive branch official or employee and, exclusive of personal travel or subsistence expenses, incurs expenses of \$500 or more in a reporting period, for the purpose of influencing executive action relating to the development or adoption of regulations or the development or issuance of an executive order.
  - The person communicates in the presence of an executive branch official or employee and earns \$2,500 or more in a reporting period, from all lobbying employers cumulatively, for all such communication and activities relating to the communication, for the purpose of influencing executive action relating to the development or adoption of regulations or the development or issuance of an executive order.
  - The person communicates in our outside of the presence of an executive branch official or employee and earns \$5,000 or more as compensation for all such communication and activities during the reporting period from all lobbying employers cumulatively, for the purpose of influencing the development or adoption of regulations or the development or issuance of an executive order.
  - The person is compensated to influence executive action as to any procurement contract that exceeds \$100,000, unless the person or

entity is a bona fide salesperson or commercial selling agency employed or maintained by the employer.

- The person is compensated by a business entity to influence executive action to secure a business grant or loan with a value of more than \$100,000 from the State (see Qualified Exemptions discussed below). MD. CODE ANN. GEN. PROVISIONS § 5-702(a)(2)-(6); [State Ethics Commission Manual](#) at 2-3.

#### Activities That don't Trigger Lobbying Registration or Regulation:

- Appearances before officials of the legislative or executive branch as part of the *official duties* of a duly elected or appointed official or employee of the *State* or a *political subdivision* of the State, or of the *United States*, and not on behalf of any other entity. MD. CODE ANN. GEN. PROVISIONS § 5-702(b)(1)(i).
- Actions of a member of the *news media* to the extent the actions are in the ordinary course of gathering and disseminating news or making editorial comments to the general public. *Id.* § 5-702(b)(1)(ii).
- The representation of a *bona fide religious organization* solely for the purpose of protecting the right of its own members to practice the doctrine of the organization. *Id.* § 5-702(b)(1)(iii).
- Appearances as part of the *official duties* of an officer, director, member, or employee of an *association* engaged exclusively in lobbying for *counties and municipalities* and not on behalf of any other entity. *Id.* § 5-702(b)(1)(iv).
- Actions as part of the *official duties* of a trustee, administrator, or a faculty member of a *non-profit independent college or university* in the State provided the official duties of the individual do not consist primarily of attempting to influence legislative or executive action. *Id.* § 5-702(b)(1)(v).

#### Activities That Are Regulated Only if Person Engages in Regulated Lobbying Activities:

The following activities are exempt from regulation if the person engages in no other acts for an employer during the reporting period that require registration:

- Professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending legislation. MD. CODE ANN. GEN. PROVISIONS § 5-702(b)(2)(i).

- Appearances before the General Assembly or any committee or subcommittee at the specific request of the body involved. *Id.* § 5-702(b)(2)(ii).
  - Appearances before a legislative committee at the specific invitation or request of a regulated lobbyist provided the witness notifies the committee that the testimony is at the request of a regulated lobbyist. *Id.* § 5-702(b)(2)(iii).
  - Appearances before an executive unit at the specific request of the executive unit involved. *Id.* § 5-702(b)(2)(iv).
  - Appearances before an executive unit at the specific request of a regulated lobbyist if the witness notifies the executive unit that the testimony is at the request of the regulated lobbyist. *Id.* § 5-702(b)(2)(v).
  - An elementary, secondary, or postsecondary school student or student organization that communicates as part of a course or student activity is not subject to the registration requirements based solely on the \$500.00 expense threshold. *Id.* § 5-702(b)(3).
  - A bona fide salesperson or commercial selling agency employed or maintained by an employer for the purpose of soliciting or securing a procurement contract. *Id.* § 5-702(b)(4).
  - A bona fide full-time official or employee of a business entity seeking to secure a business grant or loan in order to locate, relocate or expand in Maryland. *Id.* § 5-702(b)(5)(i).
  - A person who seeks to secure a business grant or loan for the purpose of locating, relocating, or expanding a business in or into the State. *Id.* § 5-702(b)(5)(ii).
- Timing: Registration is required within 5 days after first performing an act that requires registration. MD. CODE ANN. GEN. PROVISIONS § 5-704(d).
  - Disclosure: A regulated lobbyist must provide at registration:
    - the regulated lobbyist's name and permanent address;
    - the name and permanent address of any other regulated lobbyist that will be lobbying on the regulated lobbyist's behalf;
    - the name, address, and nature of business of any entity that has engaged the regulated lobbyist for lobbying purposes, accompanied by a statement indicating whether, because of the filing and reporting of the regulated lobbyist, the compensating entity is exempt from registration; and
    - the identification, by formal designation if known, of the matters on which the regulated lobbyist expects to perform acts, or to engage another regulated lobbyist to perform acts, that require registration. MD. CODE ANN. GEN. PROVISIONS § 5-704(b).

- Employer Authorization:
  - A regulated lobbyist must certify under oath or affirmation that he or she is authorized to engage in lobbying for an employer. The certification requires:
    - the full legal name and business address of the entity;
    - the name, contact information, and official title of the representative of the entity who authorized the regulated lobbyist to engage in lobbying for the entity;
    - the full legal name and business address of the regulated lobbyist;
    - subject to subsequent modification, the period during which the regulated lobbyist is authorized to act; and the proposal or subject on which the regulated lobbyist represents the entity. MD. CODE ANN. GEN. PROVISIONS § 5-703.
  - The lobbyist registration form must also be signed by the lobbyist's employer. [State Ethics Commission Manual](#) at 4.
- Fees: \$100 per registration. MD. CODE ANN. GEN. PROVISIONS § 5-704(e).
- Term: Annual registration is required. [State Ethics Commission Manual](#) at 1.
  - The lobbying registration year extends from November 1 through October 31. MD. CODE ANN. GEN. PROVISIONS § 5-704.
  - A new registration is required on or before November 1 for each year in which a person engages in activities requiring registration. *Id.*; [State Ethics Commission Manual](#) at 1.

Grassroots Lobbying:

- Maryland specifically regulates grassroots lobbying. See MD. CODE ANN. GEN. PROVISIONS § 5-702(a)(5); [State Ethics Commission Manual](#) at 3.
- “Grassroots lobbying” means soliciting others to communicate with any official to influence any legislative or executive action. MD. CODE ANN. GEN. PROVISIONS § 5-702(a)(5);
- Registration requirements: Registration is required if an employer or its lobbyists spend \$2,000, including salaries, contractual employees, postage, telecommunication services, electronic services, advertising, printing and delivery services, in a reporting period for the express purpose of grassroots lobbying. MD. CODE ANN. GEN. PROVISIONS § 5-702(a)(5).

- Timing: Registration is required within 5 days after first performing an act that requires registration. MD. CODE ANN. GEN. PROVISIONS § 5-704(d).
- Fees: \$100 per registration. MD. CODE ANN. GEN. PROVISIONS § 5-704(e).
- Term: Annual registration is required. [State Ethics Commission Manual](#) at 1.
  - The lobbying registration year extends from November 1 through October 31. MD. CODE ANN. GEN. PROVISIONS § 5-704.
  - A new registration is required on or before November 1 for each year in which a person engages in activities requiring registration. *Id.*; [State Ethics Commission Manual](#) at 1.

Training:

- A regulated lobbyist must attend training either within six months of initially registering as a lobbyist or, if the initial registration is for less than six months, prior to any subsequent registration. The registrant must attend an additional training within two years of the previously-completed training. MD. CODE ANN. GEN. PROVISIONS § 5-704.1.

<b>REPORTING</b>
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- Registrants must file **semi-annual** lobbying reports with the State Ethics Commission.
  - There is no minimum reporting threshold.
    - If a person is registered as a lobbyist and has not participated in any lobbying activities during the lobbying reporting period, that person must still file a lobbying activity report and check “no activity” in the introductory paragraph of the form. [State Ethics Commission Manual](#) at 8.
  - Electronic registration is encouraged, but reports may be filed by mail or in person with the Ethics Commission.
- Timing: The reporting periods are:
  - November 1 through April 30 (report is due by May 31), and
  - May 1 through October 31 (report is due by November 30). MD. CODE ANN. GEN. PROVISIONS § 5-705(a); [State Ethics Commission Manual](#) at 8.



- Disclosures:
  - In addition to updating any information that has changed since the lobbyist registration form was filed, disclosure is required regarding lobbyist compensation (the prorated lobbying portion of total compensation), gifts, official expenses, professional and technical research assistance, publications that expressly encourage communication with one or more officials or employees, names of witnesses, witness fees, food, beverage, lodging, and entertainment costs, and all other costs related to lobbying. The description of the matter lobbied should include legislative bill numbers where possible. MD. CODE ANN. GEN. PROVISIONS §§ 5-701, 5-705(b); [State Ethics Commission Manual](#) at 8.
  
- Grassroots Contributors Report:
  - A regulated lobbyist, other than an individual, that is organized and operated for the primary purpose of attempting to influence legislative or executive action, must file a report identifying the name and permanent address of each entity that provided at least 5% of the regulated lobbyist's total receipts during the preceding 12 months. MD. CODE ANN. GEN. PROVISIONS § 5-705(d); [State Ethics Commission Manual](#) at 8.
  
- Special Reporting Requirements: Special, additional reports are required if a regulated lobbyist:
  - Gives or hosts a meal or reception for legislators. MD. CODE ANN. GEN. PROVISIONS §§ 5-706, 5-709; [State Ethics Commission Manual](#) at 9.10
  - Engages in a business transaction with a member of the General Assembly, Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, State Treasurer or Secretary of a principal State department. Covered transactions include in single transactions of at least \$1,000 or more or a series of transactions of at least \$5,000 or more. MD. CODE ANN. GEN. PROVISIONS § 5-707; [State Ethics Commission Manual](#) at 10-11.
  - Directly or indirectly makes a political contribution for the benefit of the Governor, Lieutenant Governor, Attorney General, Comptroller, or member of the General Assembly, or a candidate for election to any of those offices. MD. CODE ANN. GEN. PROVISIONS § 5-708.

<b>LOBBYING RESTRICTIONS</b>
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Campaign Contributions:

- An individual regulated lobbyist may not, for the benefit of the Governor, Lt. Governor, Attorney General, Comptroller or member of the General Assembly, or candidate for election to those offices, engage in:

- Soliciting or transmitting a political contribution from any other person, including a political committee;
- Serving on a fund-raising committee or a political committee;
- Acting as a treasurer for a candidate or official or as treasurer or chairman of a political committee;
- Organizing or establishing a political committee for the purpose of soliciting or transmitting contributions from any person; or
- Forwarding tickets for fund-raising activities or other solicitation for political contributions, to a potential contributor. MD. CODE ANN. GEN. PROVISIONS § 5-715.
- Note that these prohibitions do not apply to grassroots lobbyist registrants. *Id.* § 5-715(b); [State Ethics Commission Manual](#) at 13 footnote 4.
- Entities that both compensate lobbyists at least with \$500 during a reporting period and make certain political contributions of at least \$500 during the period must also provide special statements to the Commission regarding their activities, including political contributions made by or at the suggestion of their officers or board members. *Id.* § 5-716.

#### Contingent Fees:

- A regulated lobbyist may not be engaged for lobbying purposes for compensation that is dependent in any manner on the enactment or defeat of legislation, the outcome of executive action on a procurement contract, or any other contingency related to executive action or legislative action. MD. CODE ANN. GEN. PROVISIONS § 5-714(1).

#### Gifts:

- A regulated lobbyist may not:
  - Make a gift, directly or indirectly, to an official or employee if the regulated lobbyist knows or has reason to know the gift is in violation of the Ethics Law's conflict of interest provisions. MD. CODE ANN. GEN. PROVISIONS § 5-714(8).
  - Make a gift directly or indirectly as a result of a solicitation or facilitation by an official or employee which the regulated lobbyist knows or has reason to know is prohibited by the Ethics Law. *Id.* § 5-714(9).

#### Revolving Door:

- There are special prohibitions on former state officials, employees, and General Assembly members from lobbying. See MD. CODE ANN. GEN. PROVISIONS § 5-504(d); see also the Ethics Commission's [Summary of Post-Employment and Related Limitations](#).

#### Other Prohibitions:

- A regulated lobbyist may not:

- Initiate or encourage the introduction of legislation for the purpose of opposing the legislation. MD. CODE ANN. GEN. PROVISIONS § 5-714(2).
- Knowingly counsel any person to violate any provisions of the Ethics Law or any other State or Federal Law. *Id.* § 5-714(3).
- Engage in or counsel any person to engage in fraudulent conduct. *Id.* § 5-714(4).
- While engaging in lobbying activities, knowingly make to an official or employee a statement of material fact relating to lobbying activity that the regulated lobbyist knows to be false. *Id.* § 5-714(5).
- Engage in lobbying without being properly registered as a regulated lobbyist in accordance with the lobbying law. *Id.* § 5-714(6).
- Request an official or employee to recommend to a potential client the lobbying services of the regulated lobbyist or any other regulated lobbyist. *Id.* § 5-714(7).
- If the regulated lobbyist is an individual, engage in any charitable fund-raising activity at the request of an official or employee, including soliciting, transmitting the solicitation of, or transmitting a charitable contribution. *Id.* § 5-714(10).
- Unless in the ordinary course of the regular business of the regulated lobbyist, make or facilitate the making of any loan of money, goods, or services to an official or employee. *Id.* § 5-714(11).
- While engaging in lobbying activities on behalf of an entity, knowingly conceal from an official or employee, the identity of the entity. *Id.* § 5-714(12).
- If serving on a state or local central party committee, be an officer, fundraise for the party, or act in relation to filling a vacancy in public office. *Id.* § 5-714(14).

## PENALTIES

- Sworn complaints alleging violations of Maryland’s lobbying laws may be filed with the State Ethics Commission. MD. CODE REGS. § 19A.01.03.04.

### Criminal Penalties:

- Any lobbyist who knowingly and willfully violates the state lobbying laws may be found guilty of a misdemeanor and is subject to a fine not to exceed \$10,000 or imprisonment not to exceed one year, or both. MD. CODE ANN. GEN. PROVISIONS § 5-903; [State Ethics Commission Manual](#) at 15. If the lobbyist is not an individual, each officer or partner who knowingly authorizes or participates in a violation of the lobbying provisions of the Ethics Law may be guilty of a misdemeanor and be subject to these penalties. MD. CODE ANN. GEN. PROVISIONS § 5-903; [State Ethics Commission Manual](#) at 15.

### Civil Penalties:

- If the State Ethics Commission determines that an entity has violated state lobbying laws, it may require the entity to file additional reports or information, and it may impose a fine not to exceed \$5,000 for each violation. [State Ethics Commission Manual](#) at 16. The Commission may also suspend or revoke a lobbyist's registration. *Id.*

### Late Fees:

- For each registration, activity report or other required report that the Ethics Commission determines to be late, a regulated lobbyist may be required to pay a fee of \$10 for each late day, not to exceed a total of \$1,000. The Commission has adopted a zero tolerance policy with respect to late filed activity reports. [State Ethics Commission Manual](#) at 16.

## **CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES**

State Ethics Commission  
45 Calvert St., 3<sup>rd</sup> Floor  
Annapolis, MD, 21401  
(410) 260-7770

The State Ethics Commission administers Maryland's lobbyist registration, disclosure, and reporting program.

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## **FOR FURTHER ASSISTANCE**

**For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:**

Email: [Advocacy@afj.org](mailto:Advocacy@afj.org)  
Telephone: 1-866-NPLOBBY  
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