



# TENNESSEE

## LOBBYING DISCLOSURE

These resources are current as of 6/2017. 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).

### What's New in This Guide

The following changes/additions have been made since the previous version of this guide:

- This guide is the first iteration for Tennessee.

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

### What is direct lobbying? What activities are excluded?

Direct lobbying is communication with state government officials for the purpose of influencing action by the official. TCA § 3-6-301(16)(A).

### Excluded Activities

- Anything of Value
  - No employer, lobbyist or any person acting at the specific direction of an employer or lobbyist shall offer or attempt to offer anything of value to an official in the legislative or executive branch, or to the official's immediate family, based on any stated or tacit understanding that the official's vote, official action or judgment would be influenced thereby. (T.C.A § 3-6-304(a)).
- False Statements
  - No employer or lobbyist shall make false statement or misrepresentation of the facts concerning any matter for which the lobbyist is registered to lobby to any official in the legislative or executive branch. (T.C.A § 3-6-304(b)).
- Loans
  - No lobbyist shall make a loan to a candidate for public office, official in the legislative or executive branch, or to anyone on their behalf. (T.C.A § 3-6-304(d)).
- Payment for Services or Property
  - No employer, lobbyist or any person acting at the direction of an employer or lobbyist shall pay or agree to pay a candidate for public office or official in the legislative or executive branch compensation for property or services substantially in excess of that charged in the ordinary course of business. (T.C.A. § 3-6-304(f)).
- Credit Card
  - No employer, lobbyist or any person acting at the direction of an employer or lobbyist shall permit a candidate for public office, official in the legislative or executive branch or a staff member, or a member of the candidate or official's immediate family, to use the credit or credit card of the employer or lobbyist or any other credit card over which the employer or the lobbyist has control. (T.C.A. § 3-6-304(g)).
- Lodging Expenses
  - Except to the extent permissible under § 3-6-305, no employer, lobbyist or any person acting at the direction of an employer or lobbyist shall pay the lodging expenses of an official in the legislative or executive branch or immediate family of the official. (T.C.A § 3-6-304(h)).
- Campaign Contributions

- No employer or PAC controlled by an employer shall make any campaign contribution to a candidate for the office of governor or member of the general assembly during any regular annual session or any extraordinary session of the general assembly. (T.C.A § 3-6-304(i)).
- No lobbyist shall offer or make any campaign contribution, including any in-kind contribution, to or on behalf of the governor or any member of the general assembly or any candidate for the office of governor, state senator or state representative. (T.C.A § 3-6-304(j)).
- Contingent Fees
  - No employer shall offer or pay and no lobbyist shall solicit or accept any fee, compensation or bonus for lobbying wherein the amount of the fee, compensation or bonus is contingent upon achievement of an outcome deemed to be successful for the employer. (T.C.A § 3-6-304(k)).
- Lobbyist Serving in Certain Public Positions
  - No lobbyist shall serve as a member of any board, commission or governmental entity of state government having jurisdiction to regulate the business endeavors or professional activities of any employer of the lobbyist; nor shall any lobbyist serve as a member of the state election commission or any county election commission; provided, that this prohibition does not apply to a lobbyist serving on an election commission on February 15, 2006, as long as the lobbyist continuously serves as a member of that commission. (T.C.A. § 3-6-304(m))
- Gifts
  - The general rule is that gifts, direct or indirect, from Employers and Lobbyists to a candidate for public office, an official in the legislative or executive branch (including all employees of both), or the immediate family of the candidate or official are prohibited. In addition, these individuals cannot attempt to solicit, directly or indirectly, a gift from a Lobbyist or an Employer. (T.C.A. § 3-6-305).

## REGISTRATION

### **Must lobbyists register?**

- Yes. Lobbyists are required to register, each calendar year, not later than seven (7) days after becoming a lobbyist. A lobbyist must register for each employer that hires him or her. Each lobbyist is required to pay a \$150 registration fee for each registration within 30 days after registration. In addition, each lobbyist must pay an annual training fee of \$40 along with his or her first registration. (T.C.A. § 3-6-302).
- Lobbyists who have a continuing contract with employers of lobbyists are required to register by January 8 of each year.

- The registration process for lobbyists is completed on-line. The Commission maintains a website at <https://apps.tn.gov/ilobby/> where lobbyists must complete the registration process. The information listed below is required at the time of registration.
- Lobbyist registration information includes:
  - His or her full contact information. The lobbyist must also report whether he or she has an immediate family member who is a legislative or executive branch official and whether he or she has any business arrangements with such officials.
  - A current photographic portrait, which must be submitted to the Commission within thirty (30) calendar days after registration. This portrait should be submitted in jpeg or gif format, be smaller than 5 megabytes in size, and for best appearance, be 180 by 255 pixels. Portraits should be e-mailed to the Commission at [ethics.pics@tn.gov](mailto:ethics.pics@tn.gov).
  - Identifying information concerning the lobbyist's employers.
- The \$150 registration fee, required for each registration, may be paid on-line at the time of registration by credit card, or it may be submitted within 30 days by check or money order. In addition, the annual lobbyist training fee of \$40 must be paid at the time of the first registration.

**What types of activities trigger registration?**

Receiving payment for lobbying.

**Does grassroots lobbying count toward the threshold for registration?**

- Most likely no.
  - A volunteer lobbyist is a person who does not receive any compensation for his or her services other than reimbursement of actual out-of-pocket expenses and the reimbursement does not exceed ten (10) days of expenses. A volunteer lobbyist is not required to register as a lobbyist. (T.C.A. § 3-6-307(a)).
  - A person who does not receive any compensation for services other than reimbursement of actual out-of-pocket expenses and the reimbursement exceeds ten (10) days of expenses is required to register, but is not required to pay the registration fee. (T.C.A. § 3-6-307(b)). The employer of such lobbyist must also register. (T.C.A. § 3-6-307(c)).

**What advisory opinions or guidance shed light on this issue?**

- Tennessee Attorney General Opinion 16-41 (Issued December 6, 2016). The Opinion deals with lobbying activities under the Tennessee Charitable Solicitations Act (TCA § 48-101-501).

**Is there a threshold amount beyond which lobbyist must register?**

- No, receipt of any salary or fee triggers registration.

**Who must register?**

Lobbyists, employer of lobbyists, and certain volunteer lobbyists (see above).

- Lobbyist
  - A lobbyist is a person who communicates, directly or indirectly, with state government officials for the purpose of influencing action by the official for compensation. (T.C.A. § 3-6-301(16) and (18)).
  - The term lobbyist does not include an employee of a governmental entity. However, a third party contracted to lobby for governmental entity is included in the definition of lobbyist. (T.C.A. § 3-6-301(16))
- Employer of a Lobbyist
  - Employer of a lobbyist or employer is any person or entity that employs, retains, or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation. T.C.A. § 3-6-301(8).
  - Entities not included in the definition of “employer” for registration purposes include:
    - Governmental entities. (T.C.A. §3-6-301(16)).
    - A person or entity that utilizes the services of a volunteer lobbyist whose reimbursement for out-of-pocket expenditures does not exceed ten (10) days.

**What does registration entail?**

See above under “Must lobbyists register.”

**Must lobbyists wear a distinctive badge?**

No.

**Are organizations that conduct grassroots lobbying required to register?**

See above under “Does grassroots lobbying count toward the threshold for registration?”

## **Is there a time period when lobbying (direct or grassroots) activity is restricted?**

Yes:

- Lobbyist blackout during extraordinary legislative session:
  - An employer of a lobbyist or a PAC controlled by an employer of a lobbyist is prohibited from making a campaign contribution to a gubernatorial or legislative candidate during regular or extraordinary legislative session. TCA § 3-6-304.

## **REPORTING**

### **Must lobbyists report?**

Yes.

### **What is the schedule?**

Each Employer, pursuant to T.C.A. § 3-6-303, must file a “Semi-Annual Lobbying Expenditure Report for Employers of Lobbyists” for the preceding six-month period.

### **What information must be reported?**

- Total Aggregate Lobbyist Compensation: This category has monetary ranges from less than \$10,000 to \$400,000. If over \$400,000 the amount to the nearest \$50,000 must be reported. Note that the amounts to be reported are for compensation actually paid during the reporting period. The amount reported should include any taxable fringe benefits paid to the lobbyist(s). In addition, the amount reported should include any reimbursement of expenses paid to the lobbyist(s) by the employer. If only a portion of a lobbyist’s time is attributable to lobbying than the total compensation for that lobbyist should be multiplied by the percentage of time spent lobbying.
- Lobbying Related Expenses: This category has monetary ranges from less than \$10,000 to \$400,000. If over \$400,000 the amount to the nearest \$50,000 must be reported. The total amount of employer expenditures incurred for the purpose of influencing legislative or administrative action through public opinion or grassroots action, excluding lobbyist compensation, must be reported.
- Aggregate Total of All In-State Events: The aggregate total amount of expenditures for events sponsored in whole or in part by the employer to which the entire membership of the Tennessee General Assembly has

been invited under T.C.A. § 3-6-305(b)(8). If the entire membership was not invited, then the expenditures for the event would be included in “Lobbying Related Expenses.”

**Are grassroots lobbying activities reportable?**

Yes if the grassroots lobbying involves a paid lobbyist.

**Are communications to members exempted?**

See “What Information must be reported?” above.

**Are contributors disclosed?**

See “Lobbying Restrictions” below.

**LOBBYING RESTRICTIONS**

Under Tennessee’s Charitable Solicitations Act (TCA 48-101-513)(a), a charitable organization that is required to register under the Act may solicit funds from the public only for “charitable purposes” and may not spend funds solicited from the public for “noncharitable purposes.” See, T.C.A. § 48-101-513(a). A charitable organization may only expend solicited funds on lobbying activities that are for “charitable purposes.”

“Charitable organization” means a group which is or holds itself out to be a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary organization, or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety, or any person who solicits or obtains contributions solicited from the public for charitable purposes. A chapter, branch, area, office or similar affiliate or any person soliciting contributions within the state for a charitable organization which has its principal place of business outside the state shall be a charitable organization for the purposes of this part. “Charitable organization” does not include any authorized individual who solicits, by authority of the organization, solely on behalf of a registered or exempt organization, or on behalf of an organization excluded from the definition of charitable organization.

**PENALTIES**

The Commission may assess a civil penalty against an Employer or a Lobbyist for failure to timely register or to timely pay a registration fee. The Commission may additionally assess a civil penalty against an Employer for failure to timely

file an expenditure report. The penalty for a violation of these requirements is no more than \$25 per day up to a maximum of \$750.

The Commission may assess a civil penalty of up to \$10,000 against a Lobbyist or an Employer who knowingly files inaccurate or incomplete statements or reports; an Employer who utilizes the services of a Lobbyist who is not registered; a Lobbyist who lobbies without registering; or either an Employer or a Lobbyist who commits a prohibited act, including campaign contribution restrictions, or violates the gift prohibition.

Additionally, an intentional violation is a criminal offense and may be prosecuted by the appropriate District Attorney General. The first offense is punishable as a class C misdemeanor, and a violator may face up to 30 days imprisonment and a fine of up to \$50, or both. A second violation is a class B misdemeanor, and a violator may face not more than six months imprisonment and a fine of up to \$500, or both. A third violation is a class A misdemeanor and a violator may face up to eleven months and twenty-nine days imprisonment and a fine of up to \$2,500, or both. (T.C.A. §3-6-306)

### **Administrative Actions**

The Commission may also administratively place on probation status, suspend, reject, or revoke the registration of any lobbyist who knowingly and persistently (e.g., more than 3 times in a two year period) violates the provisions of T.C.A. §3-6-301 through 308.

T.C.A. §67-4-1704 requires suspension or revocation of a lobbyist registration for two or more nonpayments of the professional privilege tax to the Department of Revenue.

Effective January 1, 2013, the Commission shall suspend, deny or revoke the registration of any lobbyist who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965, a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program. (See T.C.A. §3-6-309)

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

### **Tennessee Ethics Commission**

*404 James Robertson Parkway, Ste. 104  
Nashville, TN 37243  
615-741-7959  
[ethics.counsel@tn.gov](mailto:ethics.counsel@tn.gov)*

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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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