

Lobbyist Registration & Reporting Obligations

Massachusetts Lobbying Law



What this seminar covers:

- **General Overview of Secretary's Role**
- **Overview of Lobbying Requirements**
- **Registration**
- **Disclosure Reporting**



General Overview

- The Lobbyist Division, within the Office of the Secretary of the Commonwealth, is responsible for the administration of M.G. L. c 3 sections 39-50, hereinafter referred to as the “Lobbying Law”.
- This seminar is not meant to serve as an advisory opinion or a substitute for an official edition of the M.G.L. or the advice of counsel.

General Overview

- The Lobbying Law was first enacted by c.981 of the Acts of 1973 for the purpose of preserving and maintaining the integrity of the legislative process by requiring the disclosure of the identity, expenditures and activity of lobbyists.
- The most recent amendments to the Lobbying Law resulted from recommendations proposed by the Governor's Task Force on Public Integrity. The amendments, effective January 1, 2010, were intended to provide greater transparency and accountability with regard to lobbying activities.
- Lobbyists are required to participate in the educational seminar each year prior to registration.

General Overview

- The Lobbying Law requires that lobbyist, lobbyist entities and all persons or organizations that employ lobbyists and lobbyist entities register with the Lobbyist Division annually and file disclosure reports semiannually.

Lobbyist Registration Requirements

- A lobbyist or lobbyist entity is required to register with the Division if he or she meets two criteria:
- (a) he or she meets the definition of an executive agent or legislative agent; and
- (b) engages in activities that fall within the definition of either executive lobbying or legislative lobbying.
- Both are defined in M.G.L. c. 3, § 39.

Lobbyist Registration Requirements (cont.)

- **Executive Agent:** a person who for compensation or reward engages in executive lobbying, which includes at least 1 lobbying communication with a government employee made by said person. The term "executive agent" shall include a person who, as part of his regular and usual business or professional activities and not simply incidental thereto, engages in executive lobbying, whether or not any compensation in addition to the salary for such activities is received for such services.

Lobbyist Registration Requirements (cont.)

- **Legislative Agent:** a person who for compensation or reward engages in legislative lobbying, which includes at least 1 lobbying communication with a government employee made by said person. The term "legislative agent" shall include a person who, as part of his regular and usual business or professional activities and not simply incidental thereto, engages in legislative lobbying, whether or not any compensation in addition to the salary for such activities is received for such services.

Lobbyist Registration Requirements (cont.)

- Two types of lobbying defined – Executive Lobbying and Legislative Lobbying
- **Executive Lobbying:** any act to promote, oppose, influence, or attempt to influence the decision of any officer or employee of the executive branch or an authority, including but not limited to, statewide constitutional officers and employees thereof, where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation ...or any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement.

Lobbyist Registration Requirements (cont.)

- **Legislative Lobbying:** any act to promote, oppose, influence or attempt to influence legislation, or to promote, oppose or influence the governor's approval or veto thereof including, without limitation, any action to influence the introduction, sponsorship, consideration, action or non-action with respect to any legislation
- Both Lobbying Definitions also include the following language: lobbying shall include strategizing, planning and research if performed in connection with or for use in an actual communication with a government employee
- This type of activity is often called “Back Room Lobbying”
– This is an important element to the definitions of Lobbying.

Lobbyist Registration Requirements (cont.)

- **Municipal Lobbying**—lobbying (both executive and legislative) also includes activities conducted at municipal level when intended to carry out a common purpose with lobbying at state level – Examples: casino legislation, education legislation.
- Activity is important to track in the event that Registration with Secretary's Office is triggered.

Lobbyist Registration Requirements (cont.)

Incidental Lobbying

- Executive Agent and Legislative Agent definitions include language exempting individuals from the definition who are engaged in lobbying that is only **incidental** to their regular and usual business or professional activities.
- If person engages in lobbying for not more than 25 hours during reporting period, **AND** receives less than \$2,500 during period.

Lobbyist Registration Requirements (cont.)

Incidental Lobbying

- Must meet both the hourly requirement and the monetary requirement. If one exceeds the incidental limit, registration is mandatory.
- If these two conditions are satisfied – then incidental lobbying exception applies.

Lobbyist Registration Requirements (cont.)

- A person who qualifies for the incidental exemption must decide whether to register. The decision to register is solely within their discretion.

Considerations:

- (a) registration automatically triggers the requirement to file disclosure reports for **BOTH** reporting periods. If you qualify for the exception at the end of the reporting period, you may claim the incidental exception and avoid reporting the required information;

Lobbyist Registration Requirements (cont.)

- (b) alternatively, if the person determines not to register, and exceeds either threshold, registration is required. Registration will not have been timely, and late fees will be assessed.

Client Registration

- A client is the individual or organization that retains the services of a legislative agent, executive agent or lobbyist entity.
- Clients include trade groups, unions, non-profit organizations that employ in-house or outside lobbyists. Clients may employ one or multiple lobbyists.
- A client must register annually pursuant to M.G.L. c 3 section 41.

Annual Registration Period

- Lobbyists, lobbyist entities, and clients must register with the Division on or before December 15th of the year preceding the registration year. Lobbyist and Lobbyist Entities must register first. Clients then register and establish the lobbying relationship.
- Registration opens December 1st.

Annual Registration Period (cont.)

- A client or lobbyist entity employing a lobbyist after January 1st of the registration year must register within 10 days of **employing** or **agreeing** to employ the lobbyist entity.
- All lobbyist and sub-agents are required to complete an educational seminar each year prior to the registration period.

Registration

Registration Filing Fees -

Lobbyist \$100

Entity \$1,000 plus \$100 for each sub-agent

Client \$100 for each lobbyist relationship

- The Secretary will assess late fees for late registration filings.

Registration (cont.)

- Primary communication from the Secretary's Office is by email.
- Questions regarding Lobbying may be submitted to the Division by email at lob@sec.state.ma.us

Registration of Organizations

Organizations: M.G.L. c. 3, § 44

- Organizations who expend over \$250.00 and do not employ an executive or legislative agent are required to register with the Division.
- Certain organizations that engage in lobbying activity and meet all the following criteria are exempt:
 - (a) Does not employ an executive or legislative agent;
 - (b) Does not realize a profit;

Registration of Organizations (cont.)

Entity Exemption: M.G.L. c. 3, § 44

(c) Does not make a contribution (as defined by G.L. c. 55, § 1) a political candidate or committee;

(d) Does not pay a salary or fee to any member for any activity performed for the benefit of the group or organization; **and**

(e) expends \$2000.00 or less during any **calendar year** on lobbying.

- ALL the above must be met for the exemption. If one of the above statements cannot be made, then the entity is required to register with the Division.

Registration of Organizations (cont.)

- Registration of Organizations is bi-annual and available only in paper form:
 - **On or before July 15th for the period
January 1st - June 30th**
 - **On or before January 15th for the period
July 1st – December 31st**

Registration of Organizations (cont.)

- Register by rendering a statement under oath which contains information similar to that filed in a lobbyist disclosure report.
- The Secretary will assess late fees for late filings.

Disclosure Reporting



Disclosure Reporting

Two Disclosure Reports are due each year:

First Report Period

Jan 1 – Jun 30

Second Report Period

Jul 1 – Dec 31

Submit Jul 1 – 15

Submit Jan 1 – 15

The Secretary will assess late fees for late disclosure filings.

Disclosure Reporting

REPORTING REQUIREMENTS

Operating Expenses

- Entities and Lobbyists – report all expenditures incurred or paid during the reporting period in connection with lobbying – includes salary paid to sub-agents.
- Clients – report all expenditures incurred or paid during the reporting period in connection with lobbying including amounts paid to lobbyist.

Disclosure Reporting

Additional Expenses

Requirement applies to: lobbyists, lobbyist entities, and clients

- Itemize other expenses such as tickets, lodging, donations to a charity or gifts.
- Identify the name and amount paid to each payee, the date and purpose of the payment.

Disclosure Reporting

Activities, Bill Titles and Numbers

- The reporting requirement as to Bill Titles and Numbers and Activities applies only to lobbyists (including sub-agents).
- Entities report activity for each sub-agent or lobbyist, describe activity, legislation, or bill title and number.
- Identify the client, and the position taken.
- Disclose compensation received from clients for activities of lobbyist or sub-agent.

Disclosure Reporting

Meals, Travel, Entertainment Expenses

Requirement applies to: lobbyists, entities, and clients

- Must identify by date, place, amount and payee
- List the name and address all persons in group participating in this event
- Entities report expense by sub-agent

Disclosure Reporting

Campaign Contributions

Requirement applies to: lobbyists and entities

- Lobbyist Entities report only by **sub-agent**
- Each lobbyist must report a campaign contribution to any candidate, party, PAC, campaign or individual as required by M.G.L. c. 55 section 7A(b).

End

**Please sign and print a copy of this document
for your records.**

**If you have any questions, please email them to
lob@sec.state.ma.us**