

Lobbyist Registration & Reporting Obligations

Massachusetts Lobbying Law

Reviewed November 2020



What This Seminar Covers:

- **General Overview of the Secretary's Role**
- **Overview of the 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 as 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 for lobbying activities.
- Lobbyists are required to participate in the educational seminar each year prior to registration.

General Overview

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

Registration Requirements

- A lobbyist or lobbyist entity is required to register with the Lobbyist Division if he or she meets two criteria:
- (a) 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.

Registration Requirements

- **Executive Agent:** a person who for compensation or reward engages in executive lobbying, which includes at least one lobbying communication with a government employee made by said person.
- The term "executive agent" shall include a person who, as part of his or her 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.

Registration Requirements

- **Legislative Agent:** a person who for compensation or reward engages in legislative lobbying, which includes at least one lobbying communication with a government employee made by said person.
- The term "legislative agent" shall include a person who, as part of his or her 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.

Registration Requirements

Two types of lobbying are 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.

Registration Requirements

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 is often called “Back Room Lobbying” – an important element to the definition of Lobbying.

Registration Requirements

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.

Registration Requirements

Incidental Lobbying Exemption

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.

- Incidental applies to an individual who engages in lobbying for not more than 25 hours during a reporting period, **and** receives less than \$2,500 during that same period.

Registration Requirements

Incidental Lobbying Exemption

To be exempt, the individual 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 the incidental lobbying exception applies.

Registration Requirements

Incidental Lobbying Exemption

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 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; or

Registration Requirements

Incidental Lobbying Exemption

- (b) alternatively, if the person determines not to register, and exceeds either threshold, then 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.
- The definition of a client extends to include trade groups, unions, and 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

Lobbyists, lobbyist entities, and clients must register with the Lobbyist Division on or before December 15 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 1.

Annual Registration

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

Registration Filing Fees

Lobbyist	\$100
Entity	\$1,000
Client	\$100 for each lobbyist relationship

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

Registration Notification

Primary communication from the Secretary's Office is by email.

- Questions regarding lobbying may be submitted to the Lobbyist 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 Lobbyist Division.

Certain organizations that engage in lobbying activity and meet all the following criteria are exempt:

- (a) Do not employ an executive or legislative agent;
- (b) Do not realize a profit;

Registration of Organizations

Entity Exemption: M.G.L. c. 3, § 44

- (c) Do not make a contribution (as defined by G.L. c. 55, § 1) a political candidate or committee;
- (d) Do not pay a salary or fee to any member for any activity performed for the benefit of the group or organization; **and**
- (e) expend \$2,000 or less on lobbying during any **calendar year**.

All the above (a through e) must be met for the exemption. If one of the above statements cannot be made, then the entity is required to register.

Registration of Organizations

Registration of organizations is bi-annual and available only in paper form:

**>> On or before July 15 for the period
January 1 through June 30**

**>> On or before January 15 for the period
July 1 through December 31**

Registration of Organizations

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

Submit Jul 1 – 15

Second Report Period

Jul 1 – Dec 31

Submit Jan 1 – 15

The Secretary will assess late fees for late disclosure filings.

Disclosure Reporting

Report Operating Expenses

This requirement applies to lobbyists, lobbyist entities, and clients

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

Disclosure Reporting

Report Additional Expenses

This 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

Report Activities, Legislation, Bill Titles + Numbers

- This requirement applies only to lobbyists
- Entities report activity for each lobbyist, describe activity, legislation, or bill title + number
- Identify the client, and the position taken
- Disclose compensation received from clients for all activities of lobbyists.

Disclosure Reporting

Report Meals, Travel, Entertainment Expenses

This requirement applies to lobbyists, entities, and clients

- Must be identified by date, place, amount, and payee
- List the name and address all persons in the group participating in this event
- Entities report expense by lobbyist

Disclosure Reporting

Report Campaign Contributions

This requirement applies to lobbyists and entities

- Lobbyist Entities report only by **lobbyist**
- An agent can't give more than \$200 to any one candidate, party, PAC, campaign, or individual. M.G.L. c. 55, § 7A(b).
- An agent can't give more than \$12,500 a year. M.G.L. c. 55, § 7A(a)(5).

Conclusion

**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**