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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 4016**

(By Delegates Amores, Faircloth, Caputo and Smirl)



Passed March 8, 2002

In Effect July 1, 2002

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## H. B. 4016

(BY DELEGATES AMORES, FAIRCLOTH, CAPUTO AND SMIRL)

[Passed March 8, 2002; in effect July 1, 2002.]

AN ACT to amend and reenact sections two, three, four and nine, article three, chapter six-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend said article by adding thereto a new section, designated section three-a, all relating to the regulation of lobbyist activities; increasing the registration fee for lobbyists; eliminating the requirement that lobbyists file duplicate copies of the lobbyist's registration statement; eliminating the requirement that lobbyist registration statements and reports be signed under oath or affirmation; removing the references to false swearing and the associated criminal penalties; making the filing of a false or fraudulent application, statement or report by a lobbyist a misdemeanor; and providing penalties therefor.

*Be it enacted by the Legislature of West Virginia:*

That sections two, three, four and nine, article three, chapter six-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section three-a, all to read as follows:

**ARTICLE 3. LOBBYISTS.**

**§6B-3-2. Registration of lobbyists.**

1 (a) Before engaging in any lobbying activity, or within  
2 thirty days after being employed as a lobbyist, whichever  
3 occurs first, a lobbyist shall register with the ethics commission  
4 by filing a lobbyist registration statement. The registration  
5 statement shall contain information and be in a form prescribed  
6 by the ethics commission by legislative rule, including, but not  
7 limited to, the following information:

8 (1) The registrant's name, business address, telephone  
9 numbers and any temporary residential and business addresses  
10 and telephone numbers used or to be used by the registrant  
11 while lobbying during a legislative session;

12 (2) The name, address and occupation or business of the  
13 registrant's employer;

14 (3) A statement as to whether the registrant is employed or  
15 retained by his or her employer solely as a lobbyist or is a  
16 regular employee performing services for the employer which  
17 include, but are not limited to, lobbying;

18 (4) A statement as to whether the registrant is employed or  
19 retained by his or her employer under any agreement, arrange-  
20 ment or understanding according to which the registrant's  
21 compensation, or any portion of the registrant's compensation,  
22 is or will be contingent upon the success of his or her lobbying  
23 activity;

24 (5) The general subject or subjects, if known, on which the  
25 registrant will lobby or employ some other person to lobby in  
26 a manner which requires registration under this article; and

27 (6) An appended written authorization from each of the  
28 lobbyist's employers confirming the lobbyist's employment and  
29 the subjects on which the employer is to be represented.

30 (b) Any lobbyist who receives or is to receive compensation  
31 from more than one person for services as a lobbyist shall file  
32 a separate notice of representation with respect to each person  
33 compensating him or her for services performed as a lobbyist.  
34 When a lobbyist whose fee for lobbying with respect to the  
35 same subject is to be paid or contributed by more than one  
36 person, then the lobbyist may file a single statement, in which  
37 he or she shall detail the name, business address and occupation  
38 of each person paying or contributing to the fee.

39 (c) Whenever a change, modification or termination of the  
40 lobbyist's employment occurs, the lobbyist shall, within one  
41 week of the change, modification or termination, furnish full  
42 information regarding the change, modification or termination  
43 by filing with the commission an amended registration state-  
44 ment.

45 (d) Each lobbyist who has registered shall file a new  
46 registration statement, revised as appropriate, on the Monday  
47 preceding the second Wednesday in January of each  
48 odd-numbered year, and failure to do so terminates his or her  
49 registration. Until the registration is renewed, the person may  
50 not engage in lobbying activities unless he or she is otherwise  
51 exempt under paragraph (B), subdivision (7), section one of this  
52 article.

**§6B-3-3. Photograph and information-booklet-publication.**

1 Each lobbyist shall, at the time he or she registers, submit  
2 to the commission a recent photograph of the lobbyist of a size  
3 and format as determined by rule of the commission, together  
4 with the name of the lobbyist's employer, a brief biographical  
5 description, and any other information the lobbyist may wish to  
6 submit, not to exceed fifty words in length. The photograph and  
7 information shall be published at least annually in a booklet  
8 form by the commission for distribution to government officers  
9 or employees, lobbyists, and to the public. The method of  
10 distribution is in the discretion of the commission, which is not  
11 required to compile and maintain a distribution list of all  
12 persons who may be entitled to receive the booklet.

**§6B-3-3a. Registration fees.**

1 (a) Each lobbyist shall, at the time he or she registers, pay  
2 the commission a registration fee of sixty dollars to be filed  
3 with the initial registration statement and with each new  
4 registration statement filed by the lobbyist in subsequent odd  
5 numbered years: *Provided*, That if a lobbyist files his or her  
6 initial registration after the first day of January during an even-  
7 numbered year, he or she shall only be required to pay a  
8 reduced registration fee of thirty dollars for the balance of that  
9 year.

10 (b) The commission shall collect the registration fees  
11 authorized by this section and pay them into the state treasury  
12 to the credit of the state general fund.

**§6B-3-4. Reporting by lobbyists.**

1 (a) A lobbyist shall file with the commission reports of his  
2 or her lobbying activities, signed by the lobbyist. The reports  
3 shall be filed as follows:

4 (1) On or before the Monday preceding the second Wednes-  
5 day in January of each year, a lobbyist shall file an annual

6 report of all lobbying activities which he or she engaged in  
7 during the preceding calendar year; and

8 (2) If a lobbyist engages in lobbying with respect to  
9 legislation, then:

10 (A) Between the fortieth and forty-fifth days of any regular  
11 session of the Legislature in which any lobbying occurred, the  
12 lobbyist shall file a report describing all of his or her lobbying  
13 activities which occurred since the beginning of the calendar  
14 year; and

15 (B) Within twenty-one days after the adjournment *sine die*  
16 of any regular or extraordinary session of the Legislature in  
17 which any lobbying occurred, the lobbyist shall file a report  
18 describing all of his or her lobbying activities which occurred  
19 since the beginning of the calendar year or since the filing of  
20 the last report required by this section, whichever is later.

21 (b) (1) Except as otherwise provided in this section, each  
22 report filed by a lobbyist shall show the total amount of all  
23 expenditures for lobbying made or incurred by the lobbyist, or  
24 on behalf of the lobbyist by the lobbyist's employer, during the  
25 period covered by the report. The report shall also show  
26 subtotals segregated according to financial category, including  
27 meals and beverages; living accommodations; advertising;  
28 travel; contributions; gifts to public officials or employees or to  
29 members of the immediate family of a public official or  
30 employee; and other expenses or services.

31 (2) Lobbyists are not required to report the following:

32 (A) Unreimbursed personal living and travel expenses not  
33 incurred directly for lobbying;

34 (B) Any expenses incurred for his or her own living  
35 accommodations;

36 (C) Any expenses incurred for his or her own travel to and  
37 from public meetings or hearings of the legislative and execu-  
38 tive branches;

39 (D) Any expenses incurred for telephone, and any office  
40 expenses, including rent and salaries and wages paid for staff  
41 and secretarial assistance; and

42 (E) Separate expenditures to or on behalf of a public  
43 official or employee in an amount of less than five dollars.

44 (c) If a lobbyist is employed by more than one employer,  
45 the report shall show the proportionate amount of the expendi-  
46 tures in each category incurred on behalf of each of his or her  
47 employers.

48 (d) The report shall describe the subject matter of the  
49 lobbying activities in which the lobbyist has been engaged  
50 during the reporting period.

51 (e) If, during the period covered by the report, the lobbyist  
52 made expenditures in the reporting categories of meals and  
53 beverages, living accommodations, travel, gifts or other  
54 expenditures, other than for those expenditures governed by  
55 subsection (f) of this section, which expenditures in any  
56 reporting category total more than twenty-five dollars to or on  
57 behalf of any particular public official or employee, the lobbyist  
58 shall report the name of the public official or employee to  
59 whom or on whose behalf the expenditures were made, the total  
60 amount of the expenditures, and the subject matter of the  
61 lobbying activity, if any. Under this subsection, no portion of  
62 the amount of an expenditure for a dinner, party or other  
63 function sponsored by a lobbyist or a lobbyist's employer need  
64 be attributed to or counted toward the reporting amount of  
65 twenty-five dollars for a particular public official or employee  
66 who attends the function if the sponsor has invited to the

67 function all the members of: (1) The Legislature; (2) either  
68 house of the Legislature; (3) a standing or select committee of  
69 either house; or (4) a joint committee of the two houses of the  
70 Legislature. However, the amount spent for the function shall  
71 be added to other expenditures for the purpose of determining  
72 the total amount of expenditures reported under subsection (b)  
73 of this section.

74 (f) If, during the period covered by the report, the lobbyist  
75 made expenditures in the reporting categories of meals and  
76 beverages, lodging, travel, gifts and scheduled entertainment,  
77 which reporting expenditures in any reporting category total  
78 more than twenty-five dollars for or on behalf of a particular  
79 public official or public employee in return for the participation  
80 of the public official or employee in a panel or speaking  
81 engagement at the meeting, the lobbyist shall report the name  
82 of the public official or employee to whom or on whose behalf  
83 the expenditures were made and the total amount of the  
84 expenditures.

**§6B-3-9. Penalties.**

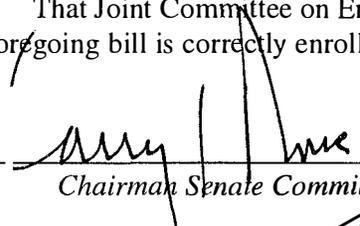
1 (a) Any person who is required under the provisions of this  
2 article to file an application, statement or report and who  
3 willfully and knowingly makes a false statement, conceals a  
4 material fact or otherwise commits a fraud in the application,  
5 statement or report is guilty of a misdemeanor, and upon  
6 conviction thereof shall be fined not more than one thousand  
7 dollars, or confined in a county or regional jail not more than  
8 one year, or both.

9 (b) A person who is subject to the registration and reporting  
10 requirements of this article and who fails or refuses to register  
11 or who fails or refuses to file a required statement or report or  
12 who otherwise violates the provisions of this article may be the  
13 subject of a complaint filed with the ethics commission and

14 may be proceeded against in the same manner and to the same  
15 ends as a public officer or public employee under the provisions  
16 of this chapter.

17 (c) A person who willfully and knowingly files a false  
18 report under the provisions of this article is liable in a civil  
19 action to any government officer or employee who sustains  
20 damage as a result of the filing or publication of the report.

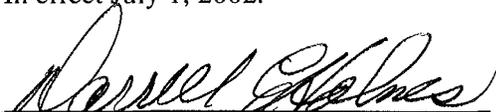
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

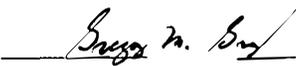
  
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Chairman Senate Committee

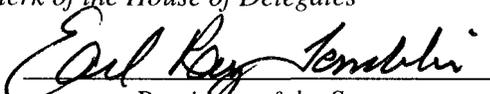
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect July 1, 2002.

  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 18<sup>th</sup>  
day of March, 2002.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/12/02

Time 3:30 pm