

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 325

Short Title: Lobbying Regulation.

(Public)

Sponsors: Representatives Jones; Bowman and Privette.

Referred to: Judiciary III.

March 25, 1991

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE LOBBYISTS AND THEIR EMPLOYERS OR RETAINERS
2 TO KEEP EXPENSE RECORDS FOR THREE YEARS AFTER SUBMITTING
3 EACH LOBBYING EXPENSE REPORT, TO INCREASE THE PUNISHMENT
4 FOR MAKING FALSE AND MISLEADING STATEMENTS ON LOBBYISTS'
5 EXPENSE REPORTS TO A CLASS I FELONY, TO PERMIT THE SECRETARY
6 OF STATE TO INVESTIGATE AND REFER EVIDENCE OF VIOLATIONS OF
7 ARTICLE 9A OF CHAPTER 120 OF THE GENERAL STATUTES DIRECTLY
8 TO THE APPROPRIATE DISTRICT ATTORNEY, AND TO GRANT THE
9 SECRETARY OF STATE THE AUTHORITY TO MAKE, AMEND, AND
10 RESCIND RULES, FORMS, ORDERS, AND DEFINITIONS IN CONNECTION
11 WITH THE REGULATION OF LOBBYISTS.
12

13 The General Assembly of North Carolina enacts:

14 Section 1. G.S. 120-47.6 reads as rewritten:

15 **"§ 120-47.6. Statements of legislative agent's lobbying expenses required.**

16 Each legislative agent shall file annually, within 30 days after the final adjournment
17 of the regular session of the General Assembly held in a calendar year, a report with
18 respect to each person represented setting forth the date, to whom paid, and amount of
19 each expenditure made during the previous year in connection with promoting or
20 opposing any legislation in any manner covered by this Article, in each of the following
21 categories: (1) transportation, (2) lodging, (3) entertainment, (4) food, (5) any item
22 having a cash equivalent value of more than twenty-five dollars (\$25.00) and (6)
23 contributions made, paid, incurred or promised, directly or indirectly. It shall not be
24 necessary to report expenditures in a particular category if the total amount expended in

1 the particular category on behalf of a person represented is twenty-five dollars (\$25.00)
2 or less. A report shall be filed annually whether or not contributions or expenditures are
3 made. All reports shall be in such form as shall be prescribed by the Secretary of State
4 and shall be open to public inspection. A legislative agent shall preserve for a period of
5 three years from the date of the filing of each lobbying expense report all accounts,
6 bills, books, papers, receipts, and other documents and records necessary to substantiate
7 the expense report that was submitted. When a legislative agent fails to file a lobbying
8 expense report as required herein, the Secretary of State shall send a certified or
9 registered letter advising the agent of his delinquency and the penalties provided by law.
10 Within 20 days of the receipt of such letter, the agent shall deliver or post by United
11 States mail to the Secretary of State the required report and an additional late filing fee
12 of ten dollars (\$10.00). Filing of the required report and payment of the additional fee
13 within the time extended shall constitute compliance with this section. Failure to file an
14 expense report in one of the manners prescribed herein shall result in revocation of any
15 and all registrations of a legislative agent under this Article. No legislative agent may
16 register or reregister under this Article until he has fully complied with this section."

17 Sec. 2. G.S. 120-47.7 reads as rewritten:

18 **"§ 120-47.7. Statements of employer lobbying expenses required.**

19 Each person who employs or retains a legislative agent shall file annually, within 30
20 days after the final adjournment of the regular session of the General Assembly held in
21 a calendar year, a report with respect to each agent employed or retained setting forth
22 the date, to whom paid, and amount of each expenditure made during the previous year
23 in connection with promoting or opposing any legislation in any manner covered by this
24 Article, in each of the following categories: (1) transportation, (2) lodging, (3)
25 entertainment, (4) food, (5) any item having a cash equivalent value of more than
26 twenty-five dollars (\$25.00), (6) contributions made, paid, incurred or promised,
27 directly or indirectly, and (7) compensation to legislative agents. It shall not be
28 necessary to report expenditures in any particular category if the total amount expended
29 in the particular category on behalf of a person represented is twenty-five dollars
30 (\$25.00) or less. In the category of compensation to legislative agents it shall not be
31 necessary to report the full salary, or any portion thereof, of a legislative agent who is a
32 full-time employee of or is annually retained by the reporting employer. A report shall
33 be filed annually whether or not payments are made. All reports shall be in the form
34 prescribed by the Secretary of State and open to public inspection. An employer or
35 retainer of a legislative agent shall preserve for a period of three years from the date of
36 the filing of each lobbying expense report all accounts, bills, books, papers, receipts,
37 and other documents and records necessary to substantiate the expense report that was
38 submitted. When an employer or retainer of a legislative agent fails to file a lobbying
39 expense report as required herein, the Secretary of State shall send a certified or
40 registered letter advising the employer or retainer of his delinquency and the penalties
41 provided by law. Within 20 days of the receipt of such letter, the employer or retainer
42 shall deliver or post by United States mail to the Secretary of State the required report
43 and a late filing fee of ten dollars (\$10.00). Filing of the required report and payment of
44 the late fee within the time extended shall constitute compliance with this section."

1 Sec. 3. G.S. 120-47.9 reads as rewritten:

2 "**§ 120-47.9. Punishment for violation.**

3 (a) ~~Whoever~~ Any person who willfully violates any provision of this Article shall
4 be guilty of a misdemeanor and upon conviction or plea of guilty shall be fined not less
5 than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000), or imprisoned not
6 exceeding two years, fined, or imprisoned, or both.

7 (b) Any person who willfully and knowingly and with intent to deceive makes a
8 false statement or representation or who fails to disclose a material fact on any expense
9 report as required by G.S. 120-47.6 or G.S. 120-47.7 shall be guilty of a Class I felony.

10 (c) ~~In addition, no legislative agent~~ No person who is convicted of a violation of the
11 provisions of this Article shall in any way act as a legislative agent for a period of two
12 years following his conviction."

13 Sec. 4. G.S. 120-47.10 reads as rewritten:

14 "**§ 120-47.10. Enforcement of Article by ~~Attorney General~~ Secretary of State.**

15 ~~The Secretary of State shall report apparent violations of this Article to the Attorney~~
16 ~~General. The Attorney General shall, upon complaint made to him of violations of this~~
17 ~~Article, make an appropriate investigation thereof, and he shall forward a copy of the~~
18 ~~investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-~~
19 ~~60 of which Wake County is a part, who shall prosecute any person who violates any~~
20 ~~provisions of this Article.~~

21 (a) The Secretary of State in his discretion:

22 (1) May make such public or private investigations within or outside of
23 this State as he deems necessary to determine whether any person has
24 violated or is about to violate any provision of this Article or any rule
25 or order hereunder, or to aid in the enforcement of this Article or in the
26 prescribing of rules and forms hereunder;

27 (2) May require or permit any person to file a statement in writing, under
28 oath or otherwise as the Secretary of State determines, as to all the
29 facts and circumstances concerning the matter to be investigated;

30 (3) May publish information concerning any violation of this Article or
31 any rule or order hereunder; and

32 (4) May designate employees of the Office of Secretary of State as
33 investigators to implement the provisions of this Article. Investigators
34 may serve and execute notices, orders, or demands issued by the
35 Secretary of State for the surrender of registrations or relating to any
36 administrative proceeding.

37 (b) For the purpose of any investigation or proceeding under this Article, the
38 Secretary of State or any employee designated by him may administer oaths and
39 affirmations, subpoena witnesses, compel their attendance, take evidence and require
40 the production of any books, papers, correspondence, memoranda, agreements, or other
41 documents or records which the Secretary of State deems relevant or material to the
42 inquiry.

43 (c) In case of contumacy by, or refusal to obey a subpoena issued to any person,
44 any court of competent jurisdiction, upon application by the Secretary of State, may

1 issue to the person an order requiring him to appear before the Secretary of State, or the
2 employee designated by him, and to produce documentary evidence if so ordered or to
3 give evidence touching the matter under investigation or in question. Failure to obey
4 the order of the court may be punished by the court as a contempt of court.

5 (d) The Secretary of State may refer evidence as is available concerning
6 violations of this Article or of any rule or order hereunder to the district attorney of the
7 prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who
8 may, with or without a reference, institute the appropriate criminal proceedings under
9 this Article. Upon receipt of the reference, the district attorney may request that a duly
10 employed attorney of the Secretary of State assist in the prosecution of the violation or
11 violations on behalf of the State.

12 (e) Nothing in this Article limits the power of the State to punish any person for
13 any conduct which constitutes a crime by statute or at common law."

14 Sec. 5. Article 9A of Chapter 120 of the General Statutes is amended by
15 adding a new section to read:

16 "**§ 120-47.11. Rules and forms.**

17 The Secretary of State may make, amend, and rescind any rules, orders, forms, and
18 definitions as are necessary to carry out the provisions of this Article."

19 Sec. 6. This act becomes effective January 1, 1993.