

940

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sens. RIVERA, KRUEGER -- read twice and ordered printed,  
and when printed to be committed to the Committee on Finance

AN ACT to amend the legislative law, in relation to prohibiting lobbyists who are convicted of or plead guilty to class D felonies or higher level crimes from acting as a lobbyist for a period of three years from the date of the conviction

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 1-o of the legislative law, as added by chapter 14  
2 of the laws of 2007, is amended to read as follows:  
3     S 1-o. Penalties. (a) ANY LOBBYIST CONVICTED OF OR PLEADING GUILTY TO  
4 A CLASS D FELONY OR HIGHER LEVEL CRIME SHALL BE BARRED FROM ACTING AS A  
5 LOBBYIST FOR A PERIOD OF THREE YEARS FROM THE DATE OF THE CONVICTION.  
6     (B) UPON COMPLETION THE COMMISSION SHALL RE-EVALUATE THE SUSPENSION  
7 AND DETERMINE WHETHER OR NOT SUCH SUSPENSION SHOULD BE EXTENDED FOR AN  
8 ADDITIONAL PERIOD OF TIME. IN NO EVENT SHALL SUCH EXTENSION BE FOR MORE  
9 THAN TWO MORE YEARS. ANY LOBBYIST WISHING TO RE-REGISTER WITH THE  
10 COMMISSION AND RE-COMMENCE HIS OR HER PRACTICE OF LOBBYING SHALL BE  
11 ENTITLED TO A HEARING UPON APPLICATION TO DETERMINE IF THE SUSPENSION  
12 SHOULD BE EXTENDED UNDER THIS SUBDIVISION.  
13     (C) (i) Any lobbyist, public corporation, or client who knowingly and  
14 wilfully fails to file timely a report or statement required by this  
15 section or knowingly and wilfully files false information or knowingly  
16 and wilfully violates section one-m of this article shall be guilty of a  
17 class A misdemeanor; and  
18     (ii) any lobbyist, public corporation, or client who knowingly and  
19 wilfully fails to file timely a report or statement required by this  
20 section or knowingly and wilfully files false information or knowingly  
21 and wilfully violates section one-m of this article, after having previ-  
22 ously been convicted in the preceding five years of the crime described

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 in paragraph (i) of this subdivision, shall be guilty of a class E felony. Any lobbyist convicted of or pleading guilty to a felony under the  
2 provisions of this [section] SUBDIVISION may be barred from acting as a  
3 lobbyist for a period of one year from the date of the conviction. For  
4 the purposes of this subdivision, the chief administrative officer of  
5 any organization required to file a statement or report shall be the  
6 person responsible for making and filing such statement or report unless  
7 some other person prior to the due date thereof has been duly designated  
8 to make and file such statement or report.

9 [(b)] (D) (i) A lobbyist, public corporation, or client who knowingly  
10 and wilfully fails to file a statement or report within the time  
11 required for the filing of such report or knowingly and wilfully  
12 violates section one-m of this article shall be subject to a civil  
13 penalty for each such failure or violation, in an amount not to exceed  
14 the greater of twenty-five thousand dollars or three times the amount  
15 the person failed to report properly or unlawfully contributed,  
16 expended, gave or received, to be assessed by the commission.

17 (ii) A lobbyist, public corporation, or client who knowingly and  
18 wilfully files a false statement or report shall be subject to a civil  
19 penalty, in an amount not to exceed the greater of fifty thousand  
20 dollars or five times the amount the person failed to report properly,  
21 to be assessed by the commission.

22 (iii)(A) A lobbyist or client who knowingly and wilfully violates the  
23 provisions of subdivision one of section one-n of this article shall be  
24 subject to a civil penalty not to exceed ten thousand dollars for an  
25 initial violation.

26 (B) If, after a lobbyist or client has been found to have violated  
27 subdivision one of section one-n of this article, a lobbyist or client  
28 knowingly and wilfully violates the provisions of subdivision one of  
29 section one-n of this article within four years of such finding, the  
30 lobbyist or client shall be subject to a civil penalty not to exceed  
31 twenty-five thousand dollars.

32 (iv) Any lobbyist or client that knowingly and wilfully fails to file  
33 a statement or report within the time required for the filing of such  
34 report, knowingly and wilfully files a false statement or report, or  
35 knowingly and wilfully violates section one-m of this article, after  
36 having been found by the commission to have knowing and wilfully committed  
37 such conduct or violation in the preceding five years, may be  
38 subject to a determination that the lobbyist or client is prohibited  
39 from engaging in lobbying activities, as that term is defined in paragraph  
40 (v) of subdivision (c) of section one-c of this article, for a  
41 period of one year.

42 (v) Any lobbyist or client that knowingly and wilfully engages in  
43 lobbying activities, as that term is defined in paragraph (v) of subdivision  
44 (c) of section one-c of this article, during the period in which  
45 they are prohibited from engaging in lobbying activities, as that term  
46 is defined in paragraph (v) of subdivision (c) of section one-c of this  
47 article pursuant to this subdivision, may be subject to a determination  
48 that the lobbyist or client is prohibited from engaging in lobbying  
49 activities, as that term is defined in paragraph (v) of subdivision (c)  
50 of section one-c of this article, for a period of up to four years, and  
51 shall be subject to a civil penalty not to exceed fifty thousand  
52 dollars, plus a civil penalty in an amount equal to five times the value  
53 of any gift, compensation or benefit received as a result of the  
54 violation.  
55

1 (vi) A lobbyist, public corporation, or client who knowingly and  
2 wilfully fails to retain their records pursuant to paragraph three of  
3 subdivision (c) of section one-e of this article, subparagraph (v) of  
4 paragraph five of subdivision (b) of section one-h of this article, or  
5 paragraph five of subdivision (b) of section one-j of this article shall  
6 be subject to a civil penalty in an amount of two thousand dollars per  
7 violation to be assessed by the commission.

8 ~~[(c)]~~ (E) (i) Any assessment or order to debar shall be determined  
9 only after a hearing at which the party shall be entitled to appear,  
10 present evidence and be heard. Any assessment or order to debar pursuant  
11 to this section may only be imposed after the commission sends by certi-  
12 fied and first-class mail written notice of intent to assess a penalty  
13 or order to debar and the basis for the penalty or order to debar. Any  
14 assessment may be recovered in an action brought by the attorney gener-  
15 al.

16 (ii) In assessing any fine or penalty pursuant to this section, the  
17 commission shall consider: (A) as a mitigating factor that the lobbyist,  
18 public corporation or client has not previously been required to regis-  
19 ter, and (B) as an aggravating factor that the lobbyist, public corpo-  
20 ration or client has had fines or penalties assessed against it in the  
21 past. The amount of compensation expended, incurred or received shall be  
22 a factor to consider in determining a proportionate penalty.

23 (iii) Any lobbyist, public corporation or client who receives a notice  
24 of intent to assess a penalty for knowingly and wilfully failing to file  
25 a report or statement pursuant to subdivision ~~[(b)]~~ (D) of this section  
26 and who has never previously received a notice of intent to assess a  
27 penalty for failing to file a report or statement required under this  
28 section shall be granted fifteen days within which to file the statement  
29 of registration or report without being subject to the fine or penalty  
30 set forth in subdivision ~~[(b)]~~ (D) of this section. Upon the failure of  
31 such lobbyist, public corporation or client to file within such fifteen  
32 day period, such lobbyist, public corporation or client shall be subject  
33 to a fine or penalty pursuant to subdivision ~~[(b)]~~ (D) of this section.

34 ~~[(d)]~~ (F) All moneys recovered by the attorney general or received by  
35 the commission from the assessment of civil penalties authorized by this  
36 section shall be deposited to the general fund.

37 S 2. This act shall take effect on the sixtieth day after it shall  
38 have become a law.