

5160

2015-2016 Regular Sessions

I N A S S E M B L Y

February 12, 2015

Introduced by M. of A. LAVINE -- read once and referred to the Committee
on Codes

AN ACT to amend the penal law, in relation to undisclosed self-dealing

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

1 Section 1. The penal law is amended by adding two new sections 195.30
2 and 195.35 to read as follows:
3 S 195.30 UNDISCLOSED SELF-DEALING IN THE SECOND DEGREE.
4 A PERSON IS GUILTY OF UNDISCLOSED SELF-DEALING IN THE SECOND DEGREE
5 WHEN, BEING A PUBLIC SERVANT, HE OR SHE INTENTIONALLY ENGAGES IN CONDUCT
6 OR A COURSE OF CONDUCT IN HIS OR HER OFFICIAL CAPACITY IN CONNECTION
7 WITH THE AWARD OF A PUBLIC CONTRACT OR PUBLIC GRANT OR OTHER EFFORT TO
8 OBTAIN OR RETAIN PUBLIC BUSINESS OR PUBLIC FUNDS THAT IS INTENDED TO
9 CONFER AN UNDISCLOSED BENEFIT ON HIMSELF, HERSELF, A SPOUSE, DOMESTIC
10 PARTNER, CHILD, PARENT, OR SIBLING OF THE PUBLIC SERVANT, A PERSON WITH
11 WHOM A PUBLIC SERVANT HAS A BUSINESS OR OTHER FINANCIAL RELATIONSHIP, OR
12 A FIRM IN WHICH THE PUBLIC SERVANT HAS A PRESENT OR POTENTIAL INTEREST
13 AND THEREBY OBTAINS OR ATTEMPTS TO OBTAIN A BENEFIT FOR HIMSELF,
14 HERSELF, A SPOUSE, DOMESTIC PARTNER, CHILD, PARENT, OR SIBLING OF THE
15 PUBLIC SERVANT, A PERSON WITH WHOM A PUBLIC SERVANT HAS A BUSINESS OR
16 OTHER FINANCIAL RELATIONSHIP, OR A FIRM IN WHICH THE PUBLIC SERVANT HAS
17 A PRESENT OR POTENTIAL INTEREST WITH A VALUE IN EXCESS OF THREE THOUSAND
18 DOLLARS. A BENEFIT IS DISCLOSED IF ITS EXISTENCE IS MADE KNOWN PRIOR TO
19 THE ALLEGED WRONGFUL CONDUCT TO EITHER (I) THE RELEVANT STATE OR LOCAL
20 ETHICS COMMISSION OR (II) THE OFFICIAL RESPONSIBLE FOR THE PUBLIC SERV-
21 ANT'S APPOINTMENT TO HIS OR HER POSITION, PROVIDED THAT PERSON IS NOT A
22 PARTICIPANT IN THE ALLEGED WRONGFUL CONDUCT.
23 UNDISCLOSED SELF-DEALING IN THE SECOND DEGREE IS A CLASS D FELONY.
24 S 195.35 UNDISCLOSED SELF-DEALING IN THE FIRST DEGREE.
25 A PERSON IS GUILTY OF UNDISCLOSED SELF-DEALING IN THE FIRST DEGREE
26 WHEN, BEING A PUBLIC SERVANT, HE OR SHE INTENTIONALLY ENGAGES IN CONDUCT

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

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1 OR A COURSE OF CONDUCT IN HIS OR HER OFFICIAL CAPACITY IN CONNECTION
2 WITH THE AWARD OF A PUBLIC CONTRACT OR PUBLIC GRANT OR OTHER EFFORT TO
3 OBTAIN OR RETAIN PUBLIC BUSINESS OR PUBLIC FUNDS THAT IS INTENDED TO
4 CONFER AN UNDISCLOSED BENEFIT ON HIMSELF, HERSELF, A SPOUSE, DOMESTIC
5 PARTNER, CHILD, PARENT, OR SIBLING OF THE PUBLIC SERVANT, A PERSON WITH
6 WHOM A PUBLIC SERVANT HAS A BUSINESS OR OTHER FINANCIAL RELATIONSHIP, OR
7 A FIRM IN WHICH THE PUBLIC SERVANT HAS A PRESENT OR POTENTIAL INTEREST
8 AND THEREBY OBTAINS OR ATTEMPTS TO OBTAIN A BENEFIT FOR HIMSELF,
9 HERSELF, A SPOUSE, DOMESTIC PARTNER, CHILD, PARENT, OR SIBLING OF THE
10 PUBLIC SERVANT, A PERSON WITH WHOM A PUBLIC SERVANT HAS A BUSINESS OR
11 OTHER FINANCIAL RELATIONSHIP, OR A FIRM IN WHICH THE PUBLIC SERVANT HAS
12 A PRESENT OR POTENTIAL INTEREST WITH A VALUE IN EXCESS OF TEN THOUSAND
13 DOLLARS. A BENEFIT IS DISCLOSED IF ITS EXISTENCE IS MADE KNOWN PRIOR TO
14 THE ALLEGED WRONGFUL CONDUCT TO EITHER (I) THE RELEVANT STATE OR LOCAL
15 ETHICS COMMISSION OR (II) THE OFFICIAL RESPONSIBLE FOR THE PUBLIC SERV-
16 ANT'S APPOINTMENT TO HIS OR HER POSITION, PROVIDED THAT PERSON IS NOT A
17 PARTICIPANT IN THE ALLEGED WRONGFUL CONDUCT.

18 UNDISCLOSED SELF-DEALING IN THE FIRST DEGREE IS A CLASS C FELONY.

19 S 2. This act shall take effect immediately.