

1359

2015-2016 Regular Sessions

I N S E N A T E

January 12, 2015

Introduced by Sens. RIVERA, SERRANO -- read twice and ordered printed,
and when printed to be committed to the Committee on Investigations
and Government Operations

AN ACT to amend the legislative law, in relation to prohibiting lobby-
ists who are convicted of or plead guilty to class D felonies or high-
er 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 ASSEM-
BLY, 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 felo-
2 ny. Any lobbyist convicted of or pleading guilty to a felony under the
3 provisions of this [section] SUBDIVISION may be barred from acting as a
4 lobbyist for a period of one year from the date of the conviction. For
5 the purposes of this subdivision, the chief administrative officer of
6 any organization required to file a statement or report shall be the
7 person responsible for making and filing such statement or report unless
8 some other person prior to the due date thereof has been duly designated
9 to make and file such statement or report.

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

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

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

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

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

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

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.