



# LAWS OF ALASKA

1976

Source

FCCS SCS CSHB 522

Chapter No.

167

## AN ACT

Relating to the Alaska Public Offices Commission; and providing for an effective date.

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. AS 24.45.010 - 24.45.150 are repealed.

\* Sec. 2. AS 24.45 is amended by adding new sections to read:

#### CHAPTER 45. REGULATION OF LOBBYING.

##### ARTICLE 1. LEGISLATIVE DECLARATION OF PURPOSE.

Sec. 24.45.011. PURPOSE. The legislature finds and declares that the operation of responsible representative democracy requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual members of the legislature, to its committees, and to officials of the executive branch, their opinions on pending legislation or administrative actions; and that the people are entitled to know the identity, income, expenditures and activities of those persons who pay, are paid or reimbursed for expenses, or who make expenditures or other payments in an effort to influence legislative or administrative action.

##### ARTICLE 2. ADMINISTRATION.

Sec. 24.45.021. ADMINISTRATION. (a) This chapter shall be administered by the Alaska Public Offices Commission created under AS 15.13.020(a).

(b) The commission shall promulgate regulations under the Administrative Procedure Act (AS 44.62) to implement the

provisions of this chapter.

Sec. 24.45.031. POWERS AND DUTIES. (a) In addition to its other duties under this chapter, the commission shall

(1) prescribe the forms for registration, reports, statements, notices and other documents required by this chapter;

(2) prepare and publish instructions setting out the methods of accounting, bookkeeping and preservation of records required to facilitate compliance with and enforcement of this chapter and explaining the duties of persons subject to the provisions of this chapter; the instructions shall be updated periodically;

(3) provide assistance to persons in complying with the provisions of this chapter;

(4) prepare and publish an annual report of its activities, findings and recommendations under this chapter, which shall be made available to the governor, legislature and to the public by February 1 of each calendar year;

(5) report suspected violations of this chapter to the attorney general.

(b) The commission may

(1) hold hearings and conduct investigations into compliance with the provisions of this chapter;

(2) in conjunction with (1) of this subsection, issue subpoenas, compel the attendance and testimony of witnesses, administer oaths and affirmations, and require the production of books, papers, records, documents or other items material to the commission's duties or powers under this chapter;

(3) prepare, publish, and make available to the public, periodic, but at least quarterly and annually, summaries of the statements and reports received; these summaries shall list separately individual lobbyists and employers of lobbyists.

### ARTICLE 3. DISCLOSURE: REGISTRATION AND REPORTS.

Sec. 24.45.041. REGISTRATION. (a) Before engaging in lobbying, a lobbyist shall file a registration statement on a form prescribed by the commission.

(b) The registration form prescribed by the commission shall include

(1) the lobbyist's full name and complete permanent residence and business address and telephone number, as well as any temporary residential and business address and telephone number in the state capital during a legislative session;

(2) the full name and complete address of each person by whom the lobbyist is retained or employed;

(3) whether the person from whom the lobbyist receives compensation employs him solely as a lobbyist or whether he is a regular employee performing other services for his employer which include but are not limited to the influencing of legislative or administrative action;

(4) the nature or form of the lobbyist's compensation for engaging in lobbying, including salary, fees or reimbursement for expenses received in consideration for, or directly in support of or in connection with, the influencing of legislative or administrative action;

(5) a general description of the subjects or matters on which the registrant expects to lobby or to engage in the influencing of legislative or administrative action;

(6) the full name and complete address of the person, if other than the registrant, who has custody of the accounts, books, papers, bills, receipts and other documents required to be maintained under this chapter.

(c) At the option of the registrant, the registration form may be accompanied by four two and one-half inch by two and one-half inch black and white photographs of the lobbyist. The photographs may not be more than five years old. These photographs shall be included in the directory published under (e) of this section.

(d) If a change occurs in any of the information contained in a registration statement filed under (a) of this section, or in any accompanying document, an appropriate amendment shall be filed with the commission within 10 days after the change.

(e) Within 45 days after the convening of each regular session of the legislature, the commission shall publish a directory of registered lobbyists, containing the information prescribed in (b) of this section for each lobbyist and the photograph, if any, furnished by a lobbyist under (c) of this section. From time to time thereafter the commission shall publish those supplements to the directory that in the commission's judgment may be necessary. The directory shall be made available to public officials and to the public at the following locations: a public place adjacent to the legislative chambers in the state capitol building, the office of the lieutenant governor, the legislative reference library of the Legislative Affairs Agency and the commission's central office.

(f) Each lobbyist shall renew his registration annually by filing a new registration statement together with a new authorization to act as a lobbyist before engaging in lobbying. The lobbyist also shall file any reports or statements he has failed to file for a previous reporting period. The commission may not renew lobbying credentials until this provision is complied with.

Sec. 24.45.051. REPORTS. Each lobbyist registered under sec. 41 of this chapter shall file with the commission a report concerning his activities during each reporting period prescribed in sec. 81 of this chapter, so long as the

lobbyist continues to engage in lobbying activities. The report shall be made on a form prescribed by the commission and filed in accordance with secs. 71 and 81 of this chapter. The report also shall include any changes in the information required to be supplied under sec. 41(b) of this chapter and the following information for the reporting period, as applicable:

(1) the source of income, as defined in AS 39.50.-200(8) and the monetary value of all payments, including but not limited to salary, fees, and reimbursement of expenses, received in consideration for or directly or indirectly in support of or in connection with influencing legislative or administrative action, and the full name and complete address of each person from whom amounts or things of value have been received and the total monetary value received from each person;

(2) the aggregate amount of disbursements or expenditures made or incurred during the period in support of or in connection with influencing legislative or administrative action by the lobbyist, or on behalf of the lobbyist by his employer in the following categories:

- (A) food and beverages;
- (B) living accommodations;
- (C) travel;

(3) the date and nature of any gift exceeding \$100 in value made to a public official and the full name and official position of that person;

(4) the name and official position of each public official, and the name of each member of the immediate family of any of these officials, with whom the lobbyist has engaged in an exchange of money, goods, services or anything of more than \$100 in value and the nature and date of each of these exchanges and the monetary values exchanged;

(5) the name and address of any business entity in which the lobbyist knows or has reason to know that a public official is a proprietor, partner, director, officer or manager, or has a controlling interest, with whom the lobbyist has engaged in an exchange of money, goods, services, or anything of value and the nature and date of each exchange and the monetary value exchanged if the total value of these exchanges is \$100 or more in a calendar year; and

(6) a notice of termination if the lobbyist has ceased the lobbying activity which required his registration under this chapter and if this report constitutes the final report of his activities.

Sec. 24.45.061. REPORTS BY EMPLOYERS OF LOBBYISTS.

(a) Within 15 days after employing, retaining or contracting for the employment or retention of a lobbyist, the person who employs, retains or who contracts for the services of a lobbyist shall file a statement with the commission authorizing or verifying that employment, retention or contract for lobbying services.

(b) A person who employs, retains or who contracts for the services of one or more lobbyists, whether independently or jointly with other persons, and who directly or indirectly makes payments to influence legislative or administrative action shall file a quarterly report containing

(1) the full name, complete business address and telephone number of the person making the report;

(2) information sufficient to identify the nature and interests of the person making the report;

(3) the total amount of payments made to influence legislative or administrative action during the period, and the name and address of each person to whom these payments have been made during the period by the maker of the report, together with the date and amount;

(4) the date and nature of any gift exceeding \$100 in value made to any public official and the full name and official position of the recipient of each gift;

(5) a general description of the legislative or administrative action which the person making the report has attempted to influence;

(6) the name of each lobbyist employed or retained by the person making the report, together with the total amount paid to each lobbyist and the portion of that amount, if any, which was paid for specific purposes, including salary, fees, and reimbursement for expenses; and

(7) a notice of termination if the person filing a report has ceased employing or retaining a lobbyist registered under this chapter and if this report constitutes the final report of the lobbyist's activities on behalf of the maker of the report.

Sec. 24.45.071. CERTIFICATION OF REPORTS. Every statement or report required to be filed under this chapter shall identify the full name of the person preparing it, his complete address and telephone number, and shall be certified as complete and correct, both by the person preparing it and by the person on whose behalf it is filed.

Sec. 24.45.081. REPORTING PERIODS. Reports required under this chapter shall be filed during the calendar month following each calendar month during any part of which the legislature was in session and during the month following each calendar quarter when the legislature was not in session. However, if a lobbyist registered under this chapter has declared that he seeks only to influence administrative action and not legislative action he need only file a report required under this chapter for each calendar quarter. The period covered shall be the calendar month or the calendar quarter, as applicable, and shall in any event cover the period from the date of the last report filed under this chapter to the date of the end of the calendar month or quarter, as applicable, for which the report is being filed. The period covered shall not include any months covered in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated

both for the period covered by the statement and for the entire calendar year to date.

Sec. 24.45.091. PUBLICATION OF REPORTS. Copies of the statements and reports filed under this chapter shall be made available to the public at the commission's central office, the office of the lieutenant governor, the legislative reference library of the Legislative Affairs Agency, and at the commission's district offices prescribed in AS 15.13.020(j) as soon as practicable after each reporting period.

Sec. 24.45.101. PUBLIC RECORDS. Statements and reports filed under this chapter are public records and shall be available for public inspection and copying during normal business hours at the expense of the person requesting copies; however, the charge for copying may not exceed actual cost to the commission.

Sec. 24.45.111. PRESERVATION OF RECORDS. (a) A person required to register or report as a lobbyist shall preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the reports required to be made and filed under this chapter for a period of at least one year from the date of the filing of the report containing these items. These accounts, bills, receipts, books, papers and other documents shall be made available for inspection by the commission, or members of its staff, at any time. If a lobbyist is required under the terms of his employment contract to turn any records over to his employer, responsibility for the preservation of these records under this section rests with the employer.

(b) The commission shall preserve the statements and reports required to be filed under this chapter for a period of six years from the date of filing. If the commission's central office is not in the state capital, copies of all statements and reports filed under this chapter shall be maintained in an office established by the commission in the state capital or in the office of the lieutenant governor.

#### ARTICLE 4. ENFORCEMENT.

Sec. 24.45.121. PROHIBITIONS. (a) No lobbyist may

(1) engage in any activity as a lobbyist before registering under sec. 41 of this chapter;

(2) do anything with the intent of placing a public official under personal obligation to him or to his employer;

(3) intentionally deceive or attempt to deceive any public official with regard to any material fact pertinent to pending or proposed legislative or administrative action;

(4) cause or influence the introduction of a legislative measure for the purpose of thereafter being employed to secure its defeat;

(5) cause a communication to be sent to a public

official in the name of any fictitious person or in the name of any real person, except with the consent of that person;

(6) accept or agree to accept any payment in any way contingent upon the defeat, enactment or outcome of any proposed legislative or administrative action.

(b) No person may employ for pay or any consideration, or pay or agree to pay consideration to, a person to lobby who is not registered under sec. 41 of this chapter unless that person registers and that person does in fact so register before engaging in lobbying.

Sec. 24.45.131. EXAMINATION OF STATEMENTS, REPORTS.

(a) The commission or its staff shall examine each statement or report filed under this chapter within 10 days after the date it is filed. A person required to file a statement or report under this chapter shall be notified immediately if

(1) it appears that the person has failed to file a statement or report as required by law or that the statement or report filed does not conform to the requirements of this chapter; or

(2) a written complaint is filed with the commission by any qualified voter alleging that a statement or report filed with the commission does not conform to the requirements of this chapter, or to the truth, or that a person subject to the provisions of this chapter has failed to file a statement or report in the manner prescribed by this chapter.

(b) The commission shall conduct an investigation, and may thereafter conduct a hearing, into an allegation under (a)(2) of this section.

(c) The commission shall report any suspected violations of this chapter to the attorney general, to a district attorney in the judicial district where the alleged violation occurred, or to a grand jury.

Sec. 24.45.141. CIVIL PENALTY: LATE REGISTRATION, FILING OF REQUIRED STATEMENTS OR REPORTS. A person who fails to register or to file a properly completed and certified report or statement, as applicable, within the time required by this chapter is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in sec. 151 of this chapter does not excuse the lobbyist or employer of a lobbyist from filing statements or reports required by this chapter.

Sec. 24.45.151. CRIMINAL PENALTIES. (a) An individual who knowingly violates any provisions of this chapter, whether acting for himself, on behalf of an employer or in concert with other persons, is, upon conviction, punishable by a fine of not more than \$1,000, or by imprisonment for

not more than one year, or by both.

(b) An individual who knowingly causes, participates in, aids, abets, ratifies or confirms any violation of a provision of this chapter is, upon conviction, punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both.

(c) A person, other than an individual, who knowingly violates any provision of this chapter, whether acting for himself, on behalf of an employer or in concert with other persons, or who knowingly causes, participates in, aids, abets, ratifies or confirms any violation of a provision of this chapter is, upon conviction, punishable by a fine of not more than \$10,000 for each offense.

(d) A person who knowingly makes a false or misleading report or statement required under this chapter is, upon conviction, punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both.

#### ARTICLE 5. GENERAL PROVISIONS.

Sec. 24.45.161. EXEMPTIONS. (a) This chapter does not apply to

(1) an individual

(A) who lobbies without payment of compensation or other consideration and makes no disbursement or expenditure for or on behalf of a public official to influence legislative or administrative action other than to pay his reasonable personal travel and living expenses; and

(B) who limits his lobbying activities to appearances before public sessions of the legislature, or its committees or subcommittees, or to public hearings or other public proceedings of state agencies;

(2) an elected or appointed state or municipal public officer or an employee of the state or a municipality acting in his official capacity or within the scope of his employment;

(3) any newspaper or other periodical of general circulation, book publisher, radio or television station (including an individual who owns, publishes or is employed by that newspaper or periodical, radio or television station) which publishes news items, editorials or other comments, or paid advertisements, which directly or indirectly urge legislative or administrative action if the newspaper, periodical, book publisher, radio or television station or individual engages in no further or other activities in connection with urging or advocating legislative or administrative action other than to appear before public sessions of the legislature, or its committees or subcommittees, or public hearings or other public proceedings of state agencies;

(4) a person who appears before the legislature or either house, or standing, special or interim committee,

in response to an invitation issued under (c) of this section.

(b) Nothing in this chapter may be construed as prohibiting or affecting the rendering of professional services in drafting legislative measures or in advising clients and in rendering opinions as to the construction or effect of proposed or pending legislative or administrative action when these professional services are not otherwise connected with influencing or attempting to influence legislative or administrative action. Nor does anything in this chapter prevent members of the legislature from discussing with constituents the advisability of passing legislation then pending before, or proposed to be presented to, the legislature.

(c) Either house of the legislature by resolution, or both houses of the legislature by concurrent resolution, may invite a person to appear to speak before the legislature or either house with reference to any pending matter. A standing, special or interim committee of either house of the legislature may, upon the concurrence of a majority of its members, extend an invitation to any person to appear before the committee to give information in regard to, or explain, any matter pending before the committee.

(d) An individual exempt from this chapter under (a)(1) of this section may, at his option, register and report under this chapter.

Sec. 24.45.171. DEFINITIONS. In this chapter

(1) "administrative action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by any state agency of any rule, regulation, order, decision, determination, or any other quasi-legislative or quasi-judicial action or proceeding whether or not governed by the Administrative Procedure Act (AS 44.62);

(2) "agency" means a state department, division, commission, board, office, bureau, institution, corporation, authority, organization, committee, council or board in the executive branch, or independent of the executive branch, of state government;

(3) "gift"

(A) means any payment to the extent that consideration of equal or greater value is not received;

(B) includes but is not limited to:

(i) a loan, loan guarantee, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment except when full and adequate consideration is received;

(ii) the purchase of tickets for travel or for entertainment events; and

(iii) the granting of discounts or rebates for goods or services not extended to the public generally;

(C) does not include:

(i) informational or promotional materials, including but not limited to books, reports, pamphlets, calendars or periodicals; however, payments for travel or reimbursement for expenses may not be considered "informational material";

(ii) food and beverages consumed in places of public accommodation;

(4) "immediate family" means the spouse and dependent children of an individual;

(5) "individual" means a natural person;

(6) "influencing legislative or administrative action" means promoting, advocating, supporting, modifying, opposing or delaying or seeking to do the same with respect to any legislative or administrative action by means including but not limited to the provision or use of information, statistics, studies, analyses in written or oral form or format;

(7) "legislative action" means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, defeat or rejection of any bill, resolution, amendment, motion, report, nomination, appointment or other matter by the legislature, or by a standing, interim or special committee of the legislature, or by a member or employee of the legislature acting in his official capacity; it includes, but is not limited to, the action of the governor in approving or vetoing a bill or the action of the legislature in considering, overriding or sustaining that veto and the action of the legislature in considering, confirming or rejecting an executive appointment of the governor;

(8) "lobbyist" means

(A) a person who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through his agents with any public official for the purpose of influencing legislative or administrative action if a substantial or regular portion of the activities for which he receives consideration is for the purpose of influencing legislative or administrative action; or

(B) a person who represents himself as engaging in the influencing of legislative or administrative action as a business, occupation or profession;

(9) "payment" means the disbursement, distribution, transfer, loan, advance, deposit, gift or other rendering or tendering of money, property, goods or services or

anything else of value;

(10) "payment to influence legislative or administrative action" means any of the following:

(A) a direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(B) a payment in support of or assistance to a lobbyist or his activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(C) a payment which directly benefits a public official or a member of the immediate family of that official;

(D) a payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with a public official;

(E) a payment for or in connection with soliciting or urging other persons to enter into direct communication with a public official;

(F) a payment or reimbursement for expenses in the categories set out in sec. 51(2) of this chapter;

(11) "person", in addition to the terms set out in AS 01.10.060(7), includes a labor union; and

(12) "public official" or "public office" means a public official or public office as defined in AS 39.50.-200(1); however, it does not include a judicial officer or an elected or appointed municipal officer.

Sec. 24.45.181. SHORT TITLE. This chapter may be cited as the Regulation of Lobbying Act.

\* Sec. 3. AS 15.13.030(8) is amended to read:

(8) examine, investigate and compare all reports, statements and actions required by this chapter, AS 24.45 and AS 39.50 and to report to the attorney general the names of all persons or groups which the commission has substantial reason to believe have violated this chapter, AS 24.45 or AS 39.50;

\* Sec. 4. AS 15.13.030(1) is amended to read:

(1) develop and provide all forms for the reports and statements required to be made under this chapter, AS 24.45 and AS 39.50;

\* Sec. 5. AS 15.13.030(10) is amended to read:

(10) adopt regulations necessary to implement and clarify the provisions of AS 24.45, AS 39.50 and this chapter, subject to the provisions of the Administrative Procedure Act (AS 44.62).

\* Sec. 6. AS 15.13 is amended by adding a new section to read:

Sec. 15.13.125. CIVIL PENALTY: LATE FILING OF REQUIRED REPORTS. A person who fails to file a properly completed and certified report within the time required by sec. 110(a)(1), (3), (4) or 110(d) of this chapter is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by sec. 110(a)(2) or 110(b) of this chapter is subject to a civil penalty of not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in sec. 120 of this chapter does not excuse that person from filing reports required by this chapter.

\* Sec. 7. AS 39.50.050 is amended by adding a new subsection to read:

(d) To facilitate the filing of reports under AS 24.25 (Regulation of Lobbying) and the information required to be provided under AS 24.45.051(4) and (5), the commission shall publish copies of the reports required under this chapter not later than the convening of each regular session of the legislature. Copies of this publication shall be provided on request; however, the commission may make a charge for the publication which may not exceed the actual cost of printing, postage and handling.

\* Sec. 8. AS 39.50 is amended by adding a new section to read:

Sec. 39.50.135. CIVIL PENALTY: LATE FILING OF REQUIRED REPORTS. A person who fails to file a properly completed and certified report within the time required by this chapter is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as the commission determines subject to appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in secs. 60 - 130 of this chapter does not excuse that person from filing reports required by this chapter.

\* Sec. 9. Records, papers, documents or other materials relating to the administration of AS 24.45 before July 1, 1976 shall be transferred from the Department of Administration to the Alaska Public Offices Commission on July 1, 1976.

\* Sec. 10. Sections 6 and 8 of this Act take effect immediately in accordance with AS 01.10.070(c). Sections 1 - 5, 7 and

9 of this Act take effect July 1, 1976. However, the initial reports required under AS 24.45.051 - 24.45.061 are due for the reporting period beginning January 1, 1977, and shall be filed not later than February 28, 1977.

Approved by governor: June 15, 1976

Actual effective date: Secs. 6 and 8: June 16, 1976;

Secs. 1-5, 7 and 9: July 1, 1976