

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1595

Short Title: Lobbyist Gifts Restricted.

(Public)

Sponsors: Senator Lee.

Referred to: Rules and Operations of the Senate.

June 1, 1998

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS FOR THE STUDY OF GIFTS BY LOBBYISTS
TO LEGISLATORS AND TO RESTRICT GIFTS BY LOBBYISTS TO MEMBERS
OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated to the Legislative Research Commission the sum of twenty-five thousand dollars (\$25,000) for the 1998-99 fiscal year for a study on the laws governing gifts to legislators and the effects of this act on the relationship between legislators and lobbyists, and the public's access to members of the General Assembly. The Legislative Research Commission may report the findings of this study to the 1999 General Assembly, at either its 1999 Session or its 2000 Session.

Section 2. Part 1 of Article 14 of Chapter 120 of the General Statutes is amended by adding new sections to read:

"§ 120-87.2. Gifts.

(a) A legislator shall not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the legislator, a member of the legislator's immediate household, or a business with which the legislator or a member of the legislator's immediate household is associated.

1 (b) No legislator subject to this Chapter may knowingly accept any gift as set forth
2 in Article 9A of this Chapter, directly or indirectly, from a lobbyist as defined in G.S.
3 120-47.1.

4 (c) This section shall not apply to any of the following gifts:

- 5 (1) Political contributions properly received and reported as required under
6 Article 22A of Chapter 163 of the General Statutes.
- 7 (2) Gifts from relatives by blood or marriage, or a member of the same
8 household.
- 9 (3) Honoraria or other compensation subject to G.S. 120-87.3.
- 10 (4) Printed informational or promotional material, not to exceed ten dollars
11 (\$10.00) in monetary value.
- 12 (5) Items of nominal value, not to exceed ten dollars (\$10.00), containing or
13 displaying promotional material.
- 14 (6) A personalized plaque or trophy with a value that does not exceed one
15 hundred fifty dollars (\$150.00).
- 16 (7) Educational material of a nominal value directly related to the
17 legislator's official duties.
- 18 (8) An honorary degree bestowed upon a legislator from a public or private
19 university or college.
- 20 (9) Promotional or marketing items offered to the general public or State
21 employees on the same terms and conditions without regard to status as
22 a legislator.

23 **"§ 120-87.3. Honoraria and other compensation.**

24 A legislator shall not accept an honorarium or other compensation from a source other
25 than the State for conducting or participating in any activity where:

- 26 (1) The State reimburses the legislator for travel, subsistence, and
27 registration expenses;
- 28 (2) The activity would be considered official duty or would bear a
29 reasonably close relationship to the legislator's official duties.

30 An outside source may reimburse the State for actual expenses incurred by a legislator in
31 conducting an activity within the duties of the legislator; or may pay a fee to the State, in
32 lieu of an honorarium, for the services of the legislator."

33 Section 3. G.S. 120-47.1 reads as rewritten:

34 **"§ 120-47.1. Definitions.**

35 (a) For the purposes of this Article, the following terms shall have the meanings
36 ascribed to them in this section unless the context clearly indicates a different meaning:

- 37 (1) The terms 'contribution,' 'compensation' and 'expenditure' mean any
38 advance, conveyance, deposit, payment, gift, retainer, fee, salary,
39 honorarium, reimbursement, loan, pledge or anything of value and any
40 contract, agreement, promise or other obligation whether or not legally
41 enforceable, but those terms do not include prizes, awards, or
42 compensation not exceeding one hundred dollars (\$100.00) in a
43 calendar year.

1 (1a) The term 'gift' means any thing of value received for which less than the
2 fair market consideration was given in exchange.

3 (2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.

4 (4) The term 'legislative action' means the preparation, research, drafting,
5 introduction, consideration, modification, amendment, approval,
6 passage, enactment, tabling, postponement, defeat, or rejection of a bill,
7 resolution, amendment, motion, report, nomination, appointment, or
8 other matter by the legislature or by a member or employee of the
9 legislature acting or purporting to act in an official capacity.

10 (5) The term 'lobbying' means:

11 a. Influencing or attempting to influence legislative action through
12 direct oral or written communication with a member of the
13 General Assembly; or

14 b. Solicitation of others by lobbyists to influence legislative action.

15 (6) The term 'lobbyist' means an individual who:

16 a. Is employed and receives compensation, or who contracts for
17 economic consideration, for the purpose of lobbying; or

18 b. Represents another person and receives compensation for the
19 purpose of lobbying.

20 The term 'lobbyist' shall not include those individuals who are
21 specifically exempted from this Article by G.S. 120-47.8. For the
22 purpose of determining whether an individual is a lobbyist under this
23 subdivision, reimbursement of actual travel and subsistence expenses
24 shall not be considered compensation; provided, however, that
25 reimbursement in the ordinary course of business of these expenses
26 shall be considered compensation if a significant part of the individual's
27 duties involve lobbying before the General Assembly.

28 (7) The terms 'lobbyist's principal' and 'principal' mean the entity in whose
29 behalf the lobbyist influences or attempts to influence legislative action.

30 (8) The term 'person' means any individual, firm, partnership, committee,
31 association, corporation, or any other organization or group of persons.

32 (9) The General Assembly is in 'regular session' from the date set by law or
33 resolution that the General Assembly convenes until the General
34 Assembly either:

35 a. Adjourns sine die; or

36 b. Recesses or adjourns for more than 10 days.

37 (10) The term 'thing of value' means any property, tangible or intangible,
38 worth more than ten dollars (\$10.00).

39 (b) The definitions of terms set forth in G.S. 120-85 apply when those terms are
40 used in this Article, unless the context clearly requires otherwise."

41 Section 4. Article 9A of Chapter 120 of the General Statutes is amended by
42 adding a section to read:

43 "**§ 120-47.5A. Acts prohibited of lobbyists and legislators; exceptions.**"

1 (a) A lobbyist or a person acting on behalf of a lobbyist shall not offer, solicit,
2 facilitate, or provide to or on behalf of any legislator, a member of the legislator's
3 immediate household, or a business with which the legislator or a member of the
4 legislator's immediate household is associated any of the following:

5 (1) Lodging;

6 (2) Transportation;

7 (3) Entertainment; or

8 (4) Food, meals, beverages, money, or any other thing of value, except as
9 permitted under G.S. 120-87.2.

10 (b) A legislator shall not solicit or receive from a lobbyist or a person acting on
11 behalf of a lobbyist any of the following:

12 (1) Lodging;

13 (2) Transportation;

14 (3) Entertainment; or

15 (4) Food, meals, beverages, money, or any other thing of value, except as
16 permitted under G.S. 120-87.2.

17 (c) Subdivisions (1) through (4) of subsection (a) of this section and subdivisions
18 (1) through (4) of subsection (b) of this section do not apply to the furnishing of lodging,
19 transportation, entertainment, food, meals, beverages, or any other thing of value which
20 also is furnished on the same terms or at the same expense to a member of the general
21 public or a State employee without regard to status as a legislator.

22 (d) Subdivisions (1), (2), and (4) of subsection (a) of this section and subdivisions
23 (1), (2), and (4) of subsection (b) of this section do not apply to the rendering of
24 emergency assistance given gratuitously and in good faith by a lobbyist, a lobbyist's
25 principal, or any person acting on behalf of a lobbyist or a lobbyist's principal to any
26 legislator.

27 (e) Subsections (a) and (b) of this section do not apply to any thing of value given
28 to a relative by blood or marriage, or a member of the same household, for love and
29 affection."

30 Section 5. Article 9A of Chapter 120 of the General Statutes is amended by
31 adding a section to read:

32 **"§ 120-47.5B. Acts prohibited of lobbyists' principals and legislators; exceptions.**

33 (a) Except as otherwise provided under G.S. 120-47.5C, no lobbyist's principal
34 may offer, solicit, facilitate, or provide to a legislator, a member of the legislator's
35 immediate household, or a business with which associated, and no legislator may accept
36 lodging, transportation, entertainment, food, meals, beverages, or an invitation to a
37 function paid for by a lobbyist's principal.

38 (b) A lobbyist's principal extending an invitation under subsection (a) of this
39 section must report all expenses as required by G.S. 120-47.7.

40 (c) The provisions of this section do not apply to a legislator who pays for the
41 legislator's lodging, transportation, entertainment, meals, food, or beverages at a function
42 to which the legislator has been invited by a lobbyist's principal or to a legislator who

1 pays the face value of a ticket to attend a ticketed event sponsored by a lobbyist's
2 principal when the ticketed event is open to the general public.

3 (d) Notwithstanding any other provision of this section, a legislator may accept
4 lodging, transportation, entertainment, meals, food, beverages, or an invitation to a
5 function paid for by a lobbyist's principal if it is provided to the legislator solely on the
6 basis that the spouse of the legislator is an official or employee of the providing lobbyist's
7 principal, and the spouse's receipt of the lodging, transportation, entertainment, meals,
8 food, beverages, or invitation is purely incidental to the spouse's office or employment
9 with the lobbyist's principal, and the legislator is receiving it only as the spouse of an
10 official or employee of the providing lobbyist's principal."

11 Section 6. Article 9A of Chapter 120 is amended by adding a new section to
12 read:

13 **"§ 120-47.5C. Legislators not to receive compensation for speaking before**
14 **audiences; exception and rules for payment of expenses.**

15 A legislator may not receive any thing of value from a lobbyist's principal for
16 speaking before a public or private group. A legislator is not prohibited by this section
17 from accepting a meal provided in conjunction with a speaking engagement or receipt of
18 an award given to the legislator, where all participants are entitled to the same meal, and
19 the meal is incidental to the speaking engagement, and the engagement is in conjunction
20 with an official function sponsored by the principal to which the general membership of
21 the principal is invited. Notwithstanding G.S. 120-47.5B, a legislator may receive
22 payment or reimbursement for actual expenses incurred for a speaking engagement. The
23 expenses must be reasonable and must be incurred in a reasonable time and manner in
24 which to accomplish the purpose of the engagement. The payment or reimbursement
25 must be disclosed by the lobbyist's principal as required by G.S. 120-47.7."

26 Section 7. Article 9A of Chapter 120 is amended by adding a new section to
27 read:

28 **"§ 120-47.5D. Additional acts prohibited by lobbyists and lobbyists' principals.**

29 (a) A lobbyist may not serve as a treasurer for a candidate, as defined in G.S. 163-
30 278.6.

31 (b) A lobbyist, a lobbyist's principal, or a person acting on behalf of a lobbyist or a
32 lobbyist's principal may not employ on retainer a legislator, a member of the legislator's
33 immediate household, or a business with which associated. A retainer, for purposes of
34 this section, is a payment for availability to perform services rather than for actual
35 services rendered.

36 (c) A lobbyist, a lobbyist's principal, or a person acting on behalf of a lobbyist or a
37 lobbyist's principal shall not pay an honorarium to a legislator. This subsection does not
38 prohibit the reimbursement of or expenditure for actual expenses by a lobbyist's principal
39 as allowed in G.S. 120-47.5C.

40 (d) A lobbyist, or a person acting on behalf of a lobbyist, may not offer, facilitate,
41 or provide a loan to or on behalf of a legislator or a member of the legislator's immediate
42 household. A lobbyist's principal, or a person acting on behalf of a lobbyist's principal,
43 may not offer, facilitate, or provide a loan to or on behalf of a legislator or a member of

1 the legislator's immediate household unless the lobbyist's principal is a financial
2 institution authorized to transact business in the State, makes the loan in the ordinary
3 course of business, and makes the loan on the same terms and conditions as would be
4 applied to a similarly qualified borrower."

5 Section 8. Section 1 of this act becomes effective July 1, 1998. The remainder
6 of this act is effective when it becomes law and expires January 1, 2001.