

# New Lobbying and Gift Laws Signed Into Law

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September 2007

With President Bush's signature, the Honest Leadership and Open Government Act of 2007 (formerly S. 1) was enacted on September 14, 2007. Many provisions in this new law affect lobbyists, corporations, trade associations, and other organizations that employ lobbyists, and affect lobbying firms through changes in federal gift laws, lobbyist reporting requirements, and post-employment cooling-off periods, among other things. Several of the changes are effective immediately, although others don't kick in until later in 2008. The first Lobbying Disclosure Act (LDA) report under the new regime is not due until April 21, 2008, although a report under the old rules is still due on February 14, 2008. Below we highlight some of the provisions included in the new law.

## Enforcement

- The new law increases civil penalties for violations of the LDA to \$200,000 and adds criminal penalties.
- Under the new law, the Comptroller General is instructed to conduct random audits of LDA registrations and reports.

## Gifts

- The new law directly prohibits the giving of a gift by a lobbyist or lobbyist employer that is not permissible under the applicable Congressional gift rules.
- Changes to the Senate gift rules ban gifts to Senators and Senate staff from lobbyists and entities that employ or retain lobbyists except as provided for in specific exceptions, including a new exception for constituent events.
- The new law requires a lobbyist employer and its lobbyists to certify they have not provided any travel or gift to

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Congressional Members or staff that violates the applicable Congressional gift rules.

- Changes to relevant gift rules ban Members of Congress from attending convention events in their honor if paid for by lobbyists or entities that employ or retain lobbyists.

### Lobbyist Reporting

- The new law requires **quarterly** LDA filings, beginning with the first quarter of 2008.
- Changes to the LDA require an analysis of whether in-house employees qualify as lobbyists (*i.e.*, the 20% lobbying activities threshold) over a three-month period instead of a six-month period.
- The LDA now requires lobbyist employers to list all of the past covered executive and legislative branch positions held by their listed lobbyists in the past 20 years. Currently, only the positions held in the past two years are required to be listed.
- The new law requires lobbyist employers and lobbyists to certify that they have read and are familiar with the gift and travel rules of the Senate and the House.
- One provision in the new law changes the statutory language that pertains to affiliated entities, coalitions and associations, thereby determining what entities must be disclosed on LDA registrations and reports. The former statutory language required coalitions to disclose persons who contributed over \$10,000 in a semiannual period to the coalition's lobbying activities and "in whole or in major part plan [ned], supervise[d], or control[led] such lobbying activities." The new law requires disclosure of any person who contributes more than \$5,000 in a calendar quarter to the lobbying activities of a coalition and "actively participates in the planning, supervision or control of such lobbying activities."

Congress added additional **semiannual** reporting of lobbyist employer and lobbyist activity (including a corporation's PAC) with respect to the following:

- Contributions to federal candidates or officeholders, leadership PACs, and political party committees;
- Events to honor covered officials;
- Payments to an entity named for a covered legislative branch official;
- Payments to an entity established, financed, maintained, or controlled by a covered official;
- Certain meetings, retreat, conferences, and other events for covered officials; and
- Donations to Presidential libraries and inaugural committees.

### Restrictions on Lobbying

- Rule changes prohibit "lobbying contacts" by a Senator's spouse or immediate family member with the personal, committee, or leadership staff of that Senator if the spouse or immediate family member is a registered lobbyist or retained or employed by an entity that employs or retains lobbyists.
- House rule changes prohibit "lobbying contacts" by the spouse of a Member of the House with the personal, committee, or leadership staff of that Member if the spouse is a registered lobbyist or employed or retained by a lobbyist for the purpose of influencing legislation.

- Statutory and rule changes increase to two years the post-employment cooling-off period for very senior executive branch personnel and Senators.
- Statutory and rule changes also expand the post-employment cooling-off period for Senate officers and highly paid Senate staff to encompass contacts with the entire Senate.
- The House prohibits an entity whose employee or member is a party to a consultant contract with the House of Representatives from lobbying the contracting committee or Members or staff of the contracting committee on any topic during the term of the contract.

### **Political Activities**

- Changes to the Federal Election Campaign Act (FECA) prohibit House candidates and the leadership PACs of House candidates from using private aircraft for campaign travel, with an exception for aircraft owned or leased by a candidate or his or her immediate family.
- Other changes to the FECA require Presidential and Senate candidates to pay the pro rata share of the normal charter or rental charge for the use of a private aircraft.

### **Travel**

- Changes to the Senate's gift rules limit travel for Senators and Senate staff that is paid for by a lobbyist client. Trips sponsored by 501(c)(3) organizations would not be limited to one day. (Note that the House adopted a similar travel rule in January.)
- Changes to the Senate rules ban the acceptance of free travel on private aircraft for officially connected travel.