

Challenging the Constitutionality of Alabama's Lobbyist Training Requirement

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A Washington, D.C.-based lawyer and her nonprofit employer have filed a federal lawsuit to enjoin an Alabama law that requires her to attend an in-person lobbyist training in Alabama as a condition of communicating with Alabama lawmakers about state legislation.

Maggie Ellinger-Locke is a legislative counsel at the Marijuana Policy Project (MPP), a 501(c)(4) nonprofit corporation based in Washington, D.C. As part of her work at MPP, Ellinger-Locke monitors state legislative developments on the regulation of marijuana and contacts elected state officials to discuss proposed or pending legislation. One of the states she monitors is Alabama, where the state legislature in recent years has enacted several measures related to marijuana regulation.

As alleged in her complaint, Ellinger-Locke wanted to discuss this legislation with Alabama state officials, but a regulatory hurdle stood in her way: If she contacted Alabama officials to discuss the legislation, she would be required to register as a state lobbyist and then, within 90 days, travel 800 miles from her home in Arlington, VA, to Montgomery, AL, to attend a one-hour lobbyist training. Alabama is one of several "zero threshold" states for lobbying activity—meaning the state has no "de minimis" exception for a person who makes only minimal communications with officials. An individual who is compensated to make even a single lobbying communication in Alabama triggers registration and reporting obligations, as well as the in-person training requirement.

Making the burden of attending lobbyist training even more onerous, Alabama only offers training sessions four times per year. At this time, there is only one remaining training session scheduled for 2016, to be

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held on September 28.

Considering the significant travel expenses and cost of time associated with attending the mandatory training, Ellinger-Locke and MPP decided it was cost prohibitive for her to communicate with the Alabama officials. Their subsequent lawsuit asserts that Alabama's requirements have chilled Ellinger-Locke's speech in violation of her First Amendment rights and infringed on her right to petition the government. The suit was filed August 31 in the Middle District of Alabama, and our team will be monitoring its progress.

While many states require ethics training for lobbyists, nearly all offer an online option for completing the training. California remains the other significant holdout from an online option, requiring lobbyists to attend an in-person ethics course in Sacramento, CA, within 12 months of first registering as a lobbyist. Our team regularly counsels clients on compliance with state lobbying laws and can offer guidance as you navigate activity in the states.