

1 **LOBBYIST LICENSING MODIFICATIONS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Don L. Ipson**

5 House Sponsor: Mike Schultz

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Lobbyist Disclosure and Regulation Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ clarifies provisions relating to financial reports;
- 13 ▶ requires the lieutenant governor to provide, and a lobbyist to take, an annual
- 14 training course relating to harassment;
- 15 ▶ amends existing rulemaking authority within the Office of the Lieutenant Governor;
- 16 ▶ prohibits a lobbyist from:
- 17 • engaging in harassment;
- 18 • retaliating against an individual for filing a harassment complaint or another
- 19 complaint described in this bill;
- 20 • retaliating against a person for cooperating in an investigation described in this
- 21 bill; or
- 22 • otherwise interfering with an investigation described in this bill;
- 23 ▶ requires a lobbyist to cooperate with an investigation described in this bill;
- 24 ▶ provides penalties for a lobbyist who violates the provisions of this bill;
- 25 ▶ permits a lobbyist to file a complaint of harassment against an executive worker or a
- 26 legislative worker; and
- 27 ▶ makes technical and conforming amendments.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **36-11-103**, as last amended by Laws of Utah 2015, Chapter 188

35 **36-11-106**, as last amended by Laws of Utah 2002, Chapter 317

36 **36-11-307**, as enacted by Laws of Utah 2011, Chapter 389

37 **36-11-401**, as last amended by Laws of Utah 2015, Chapter 258

38 **36-11-404**, as last amended by Laws of Utah 2008, Chapter 382

39 ENACTS:

40 **36-11-501**, Utah Code Annotated 1953



42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **36-11-103** is amended to read:

44 **36-11-103. Licensing requirements.**

45 (1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the
46 lieutenant governor by completing the form required by this section.

47 (b) The lieutenant governor shall issue licenses to qualified lobbyists.

48 (c) The lieutenant governor shall prepare a Lobbyist License Application Form that
49 includes:

50 (i) a place for the lobbyist's name and business address;

51 (ii) a place for the following information for each principal for whom the lobbyist
52 works or is hired as an independent contractor:

53 (A) the principal's name;

54 (B) the principal's business address;

55 (C) the name of each public official that the principal employs and the nature of the
56 employment with the public official; and

57 (D) the general purposes, interests, and nature of the principal;

58 (iii) a place for the name and address of the person who paid or will pay the lobbyist's

59 registration fee, if the fee is not paid by the lobbyist;

60 (iv) a place for the lobbyist to disclose:

61 (A) any elected or appointed position that the lobbyist holds in state or local
62 government, if any; and

63 (B) the name of each public official that the lobbyist employs and the nature of the
64 employment with the public official, if any;

65 (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist
66 will be reimbursed; and

67 (vi) a certification to be signed by the lobbyist that certifies that the information
68 provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and
69 belief.

70 (2) Each lobbyist who obtains a license under this section shall update the licensure
71 information when the lobbyist accepts employment for lobbying by a new client.

72 (3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a
73 lobbying license to an applicant who:

74 (i) files an application with the lieutenant governor that contains the information
75 required by this section; and

76 (ii) pays a \$110 filing fee.

77 (b) A license entitles a person to serve as a lobbyist on behalf of one or more principals
78 and expires on December 31 of each even-numbered year.

79 (4) (a) The lieutenant governor may disapprove an application for a lobbying license:

80 (i) if the applicant has been convicted of violating Section [76-8-103](#), [76-8-107](#),
81 [76-8-108](#), or [76-8-303](#) within five years before the date of the lobbying license application;

82 (ii) if the applicant has been convicted of violating Section [76-8-104](#) or [76-8-304](#)
83 within one year before the date of the lobbying license application;

84 (iii) ~~for~~ during the term of any suspension imposed under Section [36-11-401](#);

85 (iv) during the term of a suspension or revocation imposed under Subsection
86 [36-11-307\(7\)](#);

87 ~~(iv)~~ (v) if, within one year before the date of the lobbying license application, the
88 applicant has been found to have willingly and knowingly:

89 (A) violated this section or Section [36-11-201](#), [36-11-301](#), [36-11-302](#), [36-11-303](#),

90 36-11-304, 36-11-305, or 36-11-403; or

91 (B) filed a document required by this chapter that the lobbyist knew contained
92 materially false information or omitted material information; or

93 [~~(v)~~] (vi) if the applicant is prohibited from becoming a lobbyist under Title 67,
94 Chapter 24, Lobbying Restrictions Act.

95 (b) An applicant may appeal the disapproval in accordance with the procedures
96 established by the lieutenant governor under this chapter and Title 63G, Chapter 4,
97 Administrative Procedures Act.

98 (5) The lieutenant governor shall deposit each license fee into the General Fund as a
99 dedicated credit to be used by the lieutenant governor to pay the cost of administering the
100 license program described in this section.

101 (6) A principal need not obtain a license under this section, but if the principal makes
102 expenditures to benefit a public official without using a lobbyist as an agent to confer those
103 benefits, the principal shall disclose those expenditures as required by Section 36-11-201.

104 (7) Government officers need not obtain a license under this section, but shall disclose
105 any expenditures made to benefit public officials as required by Section 36-11-201.

106 (8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the
107 lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the
108 reports by Section 36-11-201.

109 Section 2. Section 36-11-106 is amended to read:

110 **36-11-106. Financial reports are public documents.**

111 (1) Any person may:

112 (a) without charge, inspect a license application or financial report filed with the
113 lieutenant governor in accordance with this chapter; and

114 (b) make a copy of a financial report after paying for the actual costs of the copy.

115 (2) The lieutenant governor shall make financial reports filed in accordance with this
116 chapter available for viewing on the Internet at the lieutenant governor's website within seven
117 calendar days after the day on which the report is received by the lieutenant governor.

118 Section 3. Section 36-11-307 is amended to read:

119 **36-11-307. Ethics and unlawful harassment training course for lobbyists --**
120 **Internet availability -- Content -- Participation tracking -- Penalty.**

121 (1) (a) As used in this section, "harassment" means the same as that term is defined in
122 Subsection 36-11-501(1)(b).

123 ~~[(+)]~~ (b) The lieutenant governor shall develop and maintain [an ethics training course]
124 training courses for lobbyists on ethics and harassment.

125 ~~(2) [The ethics]~~ A training course described in Subsection (1) shall include training
126 materials and exercises that are available on the Internet to lobbyists and to the public.

127 (3) The lieutenant governor shall design the ethics training course [shall be designed]
128 to assist lobbyists in understanding and complying with current ethical and campaign finance
129 requirements under state law, legislative rules, and federal law.

130 (4) The lieutenant governor:

131 (a) shall design the harassment training course to assist lobbyists in understanding and
132 complying with state and federal legal requirements, legislative rules, and administrative rules
133 relating to unlawful harassment; and

134 (b) may enter into an agreement with the Department of Human Resource Management
135 to assist the lieutenant governor in providing the harassment training described in this section.

136 ~~[(4)]~~ (5) [The ethics] A training course described in this section shall include
137 provisions for verifying when a lobbyist has successfully completed [key training exercises] the
138 training.

139 ~~[(5)]~~ (6) A lobbyist shall successfully complete the [key training exercises of the ethics
140 training course] training courses described in this section once each one-year period that begins
141 on January 16 and ends on January 15 of the following year.

142 ~~[(6) A lobbyist who does not complete the training required by this section is subject to~~
143 ~~a penalty as provided in Section 36-11-401.]~~

144 (7) (a) If a lobbyist fails to complete the training described in this section within the
145 time period described in Subsection (6), the lieutenant governor shall immediately suspend the
146 lobbyist's lobbying license.

147 (b) The lieutenant governor shall lift a suspension described in Subsection (7)(a) if:

148 (i) the lobbyist completes the training described in this section;

149 (ii) the lobbyist pays a \$1,000 fine; and

150 (iii) the lobbyist's license is not otherwise suspended or revoked.

151 (c) If a lobbyist completes the training described in this section after the annual

152 deadline, the completion:

153 (i) satisfies the training requirement for the previous one-year period; and

154 (ii) does not satisfy the training requirement for the current one-year period.

155 (d) The lieutenant governor shall revoke the lobbying license of a lobbyist who does

156 not comply with Subsections (7)(b)(i) and (ii) within 180 days after the day on which the

157 lobbyist's license is suspended under Subsection (7)(a).

158 (e) A lobbyist whose license is revoked under Subsection (7)(d) may not obtain a new

159 lobbying license unless the lobbyist:

160 (i) applies for, and qualifies to receive, a new lobbying license;

161 (ii) completes the training described in this section; and

162 (iii) pays a \$2,000 fine.

163 (f) The lieutenant governor shall, within one business day after the day on which the

164 lieutenant governor takes action described in this Subsection (7), provide written notice of the

165 action to the secretary of the Senate and the clerk of the House of Representatives.

166 Section 4. Section **36-11-401** is amended to read:

167 **36-11-401. Penalties.**

168 (1) Any person who intentionally violates Section [36-11-103](#), [36-11-201](#), [36-11-301](#),

169 [36-11-302](#), [36-11-303](#), [36-11-304](#), [36-11-305](#), or [36-11-403](#), is subject to the following

170 penalties:

171 (a) an administrative penalty of up to \$1,000 for each violation; and

172 (b) for each subsequent violation of that same section within 24 months, either:

173 (i) an administrative penalty of up to \$5,000; or

174 (ii) suspension of the violator's lobbying license for up to one year, if the person is a

175 lobbyist.

176 (2) Any person who intentionally fails to file a financial report required by this chapter,

177 omits material information from a license application form or financial report, or files false

178 information on a license application form or financial report, is subject to the following

179 penalties:

180 (a) an administrative penalty of up to \$1,000 for each violation; or

181 (b) suspension of the violator's lobbying license for up to one year, if the person is a

182 lobbyist.

183 (3) Any person who intentionally fails to file a financial report required by this chapter
184 on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1)
185 or (2), pay a penalty of up to \$50 per day for each day that the report is late.

186 (4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108,
187 or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years
188 from the date of the conviction.

189 (b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the
190 lieutenant governor shall suspend a lobbyist's license for up to one year from the date of
191 conviction.

192 (5) (a) Any person who intentionally violates Section 36-11-301, 36-11-302, or
193 36-11-303 is guilty of a class B misdemeanor.

194 (b) The lieutenant governor shall suspend the lobbyist license of any person convicted
195 under any of these sections for up to one year.

196 (c) The suspension shall be in addition to any administrative penalties imposed by the
197 lieutenant governor under this section.

198 (d) Any person with evidence of a possible violation of this chapter may submit that
199 evidence to the lieutenant governor for investigation and resolution.

200 [~~(6) A lobbyist who does not complete the training required by Section 36-11-307 is~~
201 ~~subject to the following penalties:]~~

202 [~~(a) an administrative penalty of up to \$1,000 for each failure to complete the training~~
203 ~~required by Section 36-11-307; and]~~

204 [~~(b) for two or more failures to complete the training required by Section 36-11-307~~
205 ~~within 24 months, suspension of the lobbyist's lobbying license.]~~

206 [~~(7)~~] (6) Nothing in this chapter creates a third-party cause of action or appeal rights.
207 Section 5. Section 36-11-404 is amended to read:

208 **36-11-404. Lieutenant governor's procedures.**

209 (1) [~~The lieutenant governor~~] Except as otherwise provided under Section 36-11-501,
210 the director of elections within the Office of the Lieutenant Governor shall make rules that
211 provide:

212 (a) for the appointment of an administrative law judge to adjudicate alleged violations
213 of this [~~section~~] chapter and to impose penalties under this [~~section~~] chapter;

214 (b) procedures for license applications, disapprovals, suspensions, revocations, and
215 reinstatements that comply with the procedures and requirements of Title 63G, Chapter 4,
216 Administrative Procedures Act.

217 (2) The lieutenant governor shall develop forms needed for the registration and
218 disclosure provisions ~~[of]~~ described in this chapter.

219 Section 6. Section **36-11-501** is enacted to read:

220 **Part 5. Unlawful Harassment**

221 **36-11-501. Unlawful harassment -- Investigation -- Penalties.**

222 (1) As used in this section:

223 (a) "Executive worker" means an elected or appointed officer, employee, or volunteer
224 of the state executive branch.

225 (b) (i) "Harassment" means unwelcome conduct that is:

226 (A) based on race, color, religion, sex, sexual orientation, gender identity, national
227 origin, age, disability, citizenship status, or genetic information; and

228 (B) intimidating, hostile, offensive, or otherwise unlawful.

229 (ii) "Harassment" based on sex includes sexual harassment and harassment based on
230 gender or pregnancy.

231 (c) "Legislative worker" means a member, employee, or volunteer of the Legislature.

232 (d) "Sexual harassment" includes:

233 (i) unwelcome sexual advances;

234 (ii) unwelcome requests for sexual favors; or

235 (iii) other unwelcome verbal or physical conduct of a sexual nature.

236 (2) A lobbyist may not:

237 (a) engage in harassment;

238 (b) retaliate against an individual for filing a complaint alleging a violation of this
239 section;

240 (c) retaliate against a complainant, witness, or other person for:

241 (i) conducting or cooperating with an investigation of an alleged violation of this
242 section; or

243 (ii) taking action to remediate harassment; or

244 (d) otherwise interfere with an investigation of an alleged violation of this section.

245 (3) A lobbyist shall fully cooperate with an investigation of an alleged violation of this
246 section conducted by:

247 (a) the lieutenant governor, the Legislature, or the executive branch; or

248 (b) a designee of the lieutenant governor, the Legislature, or the executive branch.

249 (4) (a) If a lobbyist violates Subsection (2) and the alleged victim is a legislative
250 worker:

251 (i) any legislative worker may file a complaint with the compliance officer designated
252 in the Legislature's harassment policy; and

253 (ii) the Legislature or the Legislature's designee may, if warranted, conduct an
254 investigation and take action to remediate any violation.

255 (b) If a lobbyist violates Subsection (2) and the alleged victim is an executive worker:

256 (i) any executive worker may file a complaint with an individual designated in the state
257 executive branch's applicable harassment policy; and

258 (ii) the executive branch or the executive branch's designee may, if warranted, conduct
259 an investigation and take action to remediate any violation.

260 (5) (a) The speaker of the House of Representatives, the president of the Senate, or the
261 legislative general counsel may recommend that the lieutenant governor take action under
262 Subsection (6) if a lobbyist:

263 (i) is found to have engaged in a serious violation, or multiple violations, of the
264 Legislature's harassment policy;

265 (ii) retaliates against a complainant, a witness, or another person for:

266 (A) filing a complaint alleging a violation of this section;

267 (B) conducting or cooperating with an investigation; or

268 (C) taking action to remediate unlawful harassment; or

269 (iii) interferes with, or fails to fully cooperate with, an investigation of an alleged
270 violation of this section.

271 (b) The governor, state auditor, state treasurer, attorney general, or an executive
272 director may recommend that the lieutenant governor take action under Subsection (6) if a
273 lobbyist:

274 (i) is found to have engaged in a serious violation, or multiple violations, of a state
275 executive branch harassment policy;

276 (ii) retaliates against a complainant, a witness, or another person for:
277 (A) filing a complaint alleging a violation of this section;
278 (B) conducting or cooperating with an investigation; or
279 (C) taking action to remediate unlawful harassment; or
280 (iii) interferes with, or fails to fully cooperate with, an investigation of an alleged
281 violation of this section.
282 (6) If the lieutenant governor receives a recommendation under Subsection (5), the
283 lieutenant governor may, after ensuring that the lobbyist has notice and an opportunity to be
284 heard and taking into account the seriousness of the violation and the number of violations, do
285 either or both of the following:
286 (a) impose an administrative fine against the lobbyist, not to exceed \$2,000; or
287 (b) suspend the lobbyist's license for a period of up to five years.
288 (7) (a) A lobbyist who is a victim of harassment by an executive worker may file a
289 complaint under the state executive branch's applicable harassment policy.
290 (b) A lobbyist who is a victim of harassment by a legislative worker may file a
291 complaint under the Legislature's harassment policy.