

Senator Don L. Ipson proposes the following substitute bill:

LOBBYIST LICENSING MODIFICATIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

House Sponsor: Mike Schultz

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ clarifies provisions relating to financial reports;
- ▶ requires the lieutenant governor to provide, and a lobbyist to take, an annual training course relating to harassment;
- ▶ amends existing rulemaking authority within the Office of the Lieutenant Governor;
- ▶ amends lobbyist licensing provisions;
- ▶ prohibits a lobbyist from:
 - engaging in harassment;
 - retaliating against an individual for filing a harassment complaint or another complaint described in this bill;
 - retaliating against a person for cooperating in an investigation described in this bill; or
 - otherwise interfering with an investigation described in this bill;
- ▶ requires a lobbyist to cooperate with an investigation described in this bill;
- ▶ provides penalties for a lobbyist who violates the provisions of this bill;



26 ▶ permits a lobbyist to file a complaint of harassment against an executive worker or a
27 legislative worker; and

28 ▶ makes technical and conforming amendments.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **36-11-103**, as last amended by Laws of Utah 2015, Chapter 188

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

37 **36-11-307**, as enacted by Laws of Utah 2011, Chapter 389

38 **36-11-401**, as last amended by Laws of Utah 2015, Chapter 258

39 **36-11-404**, as last amended by Laws of Utah 2008, Chapter 382

40 ENACTS:

41 **36-11-501**, Utah Code Annotated 1953



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

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

45 **36-11-103. Licensing requirements.**

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

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

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

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

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

54 (A) the principal's name;

55 (B) the principal's business address;

56 (C) the name of each public official that the principal employs and the nature of the

57 employment with the public official; and

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

59 (iii) a place for the name and address of the person who paid or will pay the lobbyist's
60 registration fee, if the fee is not paid by the lobbyist;

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

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

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

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

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

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

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

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

77 (ii) pays a [~~\$110~~] \$60 filing fee.

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

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

81 (i) if the applicant has been convicted of violating Section [76-8-103](#), [76-8-107](#),
82 [76-8-108](#), or [76-8-303](#) within five years before the date of the lobbying license application;

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

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

86 if the applicant has not complied with Subsection [36-11-307\(6\)](#);

87 during the term of a suspension imposed under Subsection [36-11-501\(6\)](#);

88 (vi) if the lobbyist fails to pay a fine imposed under Subsection 36-11-501(6);
89 ~~[(iv)]~~ (vii) if, within one year before the date of the lobbying license application, the
90 applicant has been found to have willingly and knowingly:

91 (A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303,
92 36-11-304, 36-11-305, or 36-11-403; or

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

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

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

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

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

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

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

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

112 **36-11-106. Financial reports are public documents.**

113 (1) Any person may:

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

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

117 (2) The lieutenant governor shall make financial reports filed in accordance with this
118 chapter available for viewing on the Internet at the lieutenant governor's website within seven

119 calendar days after the day on which the report is received by the lieutenant governor.

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

121 **36-11-307. Ethics and unlawful harassment training course for lobbyists --**
122 **Internet availability -- Content -- Participation tracking -- Penalty.**

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

125 ~~[(1)]~~ (b) The lieutenant governor shall develop and maintain [an ethics training course]
126 online training courses for lobbyists on ethics and harassment.

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

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

132 (4) The lieutenant governor:

133 (a) shall design the harassment training course to assist lobbyists in understanding and
134 complying with state and federal legal requirements relating to unlawful harassment; and

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

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

140 ~~[(5) A lobbyist shall successfully complete the key training exercises of the ethics~~
141 ~~training course once each 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 (6) A lobbyist shall, within 30 days before the day on which the lobbyist applies for a
145 lobbying license or a lobbying license renewal:

146 (a) successfully complete the training courses described in this section; and

147 (b) provide to the lieutenant governor a document, signed by the lobbyist, indicating
148 that the lobbyist has read, understands, and will comply with Subsections 36-11-501 (2) and
149 (3), the Legislature's harassment policy, and the state executive branch's harassment policies.

150 (7) A signature described in Subsection (6)(b) may be an electronic signature.

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

152 **36-11-401. Penalties.**

153 (1) Any person who intentionally violates Section [36-11-103](#), [36-11-201](#), [36-11-301](#),
154 [36-11-302](#), [36-11-303](#), [36-11-304](#), [36-11-305](#), or [36-11-403](#), is subject to the following
155 penalties:

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

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

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

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

161 (2) Any person who intentionally fails to file a financial report required by this chapter,
162 omits material information from a license application form or financial report, or files false
163 information on a license application form or financial report, is subject to the following
164 penalties:

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

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

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

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

174 (b) When a lobbyist is convicted of violating Section [76-8-104](#) or [76-8-304](#), the
175 lieutenant governor shall suspend a lobbyist's license for up to one year from the date of
176 conviction.

177 (5) (a) Any person who intentionally violates Section [36-11-301](#), [36-11-302](#), or
178 [36-11-303](#) is guilty of a class B misdemeanor.

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

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

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

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

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

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

191 ~~[(7)]~~ (6) Nothing in this chapter creates a third-party cause of action or appeal rights.

192 Section 5. Section 36-11-404 is amended to read:

193 **36-11-404. Lieutenant governor's procedures.**

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

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

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

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

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

205 **Part 5. Unlawful Harassment**

206 **36-11-501. Unlawful harassment -- Investigation -- Penalties.**

207 (1) As used in this section:

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

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

211 (A) based on race, color, religion, sex, sexual orientation, gender identity, national

212 origin, age, disability, citizenship status, or genetic information; and
213 (B) intimidating, hostile, offensive, or otherwise unlawful.
214 (ii) "Harassment" based on sex includes sexual harassment and harassment based on
215 gender or pregnancy.
216 (c) "Legislative worker" means a member, employee, or volunteer of the Legislature.
217 (d) "Sexual harassment" includes:
218 (i) unwelcome sexual advances;
219 (ii) unwelcome requests for sexual favors; or
220 (iii) other unwelcome verbal or physical conduct of a sexual nature.
221 (2) A lobbyist may not:
222 (a) engage in harassment;
223 (b) retaliate against an individual for filing a complaint alleging a violation of this
224 section;
225 (c) retaliate against a complainant, witness, or other person for:
226 (i) conducting or cooperating with an investigation of an alleged violation of this
227 section; or
228 (ii) taking action to remediate harassment; or
229 (d) otherwise interfere with an investigation of an alleged violation of this section.
230 (3) A lobbyist shall fully cooperate with an investigation of an alleged violation of this
231 section conducted by:
232 (a) the lieutenant governor, the Legislature, or the executive branch; or
233 (b) a designee of the lieutenant governor, the Legislature, or the executive branch.
234 (4) (a) If a lobbyist violates Subsection (2) and the alleged victim is a legislative
235 worker:
236 (i) any legislative worker may file a complaint with the compliance officer designated
237 in the Legislature's harassment policy; and
238 (ii) the Legislature or the Legislature's designee may, if warranted, conduct an
239 investigation and take action to remediate any violation.
240 (b) If a lobbyist violates Subsection (2) and the alleged victim is an executive worker:
241 (i) any executive worker may file a complaint with an individual designated in the state
242 executive branch's applicable harassment policy; and

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

245 (5) (a) The lieutenant governor may take an action described in Subsection (6) against
246 a lobbyist if the lieutenant governor finds, after giving the lobbyist notice and an opportunity to
247 be heard, that the lobbyist:

248 (i) engaged in a serious violation, or multiple violations, of this section, the
249 Legislature's harassment policy, or a state executive branch's harassment policy;

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

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

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

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

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

256 (b) The lieutenant governor shall post on the lieutenant governor's website a copy of
257 the Legislature's harassment policy and the executive branch's harassment policies.

258 (6) If the lieutenant governor makes a finding described in Subsection (5)(a), the
259 lieutenant governor may, taking into account the seriousness of the violation or the seriousness
260 or frequency of multiple violations, do either or both of the following:

261 (a) impose an administrative fine against the lobbyist, not to exceed \$2,000; or

262 (b) suspend the lobbyist's license for a period of up to five years.

263 (7) A record that relates to an investigation under this section is a protected record, to
264 the extent permitted by Title 63G, Chapter 2, Government Records Access and Management
265 Act.

266 (8) (a) A lobbyist who is a victim of harassment by an executive worker may file a
267 complaint under the state executive branch's applicable harassment policy.

268 (b) A lobbyist who is a victim of harassment by a legislative worker may file a
269 complaint under the Legislature's harassment policy.