



## WASHINGTON UPDATE

### THE NEW LOBBYING AND ETHICS LAW: NO LONGER BUSINESS AS USUAL

This past Friday, following an overwhelming vote in the United States Senate in early August, President George W. Bush signed into law “**The Honest Leadership and Open Government Act of 2007.**” For companies that employ in-house lobbyists or retain the services of outside lobbyists the new law will mean more legal risks, more paperwork burdens, and a transitional period fraught with uncertainty.

Any business that has a formal government relations operation or that interacts with federal government officials must be aware of the changes in the law related to lobbying. Companies that understand the nuances of the new rules will be in the best position to ensure that their legislative advocacy initiatives will move forward without skipping a beat.

#### Highlights of the New Ethics Law

The new legislation includes comprehensive restriction on the activities of lobbyists, legislators and former members of Congress, as well as updated rules on the reporting of these activities. Some of the requirements most likely to affect current practices include:

##### Changes to the Lobbying Disclosure Rules:

- Lobbying disclosure forms must be filed on a quarterly basis (as opposed to the previous semi-annual reporting requirement).
- Monetary thresholds that trigger reporting duties have been lowered, while information requirements for such reporting and disclosure have been expanded.
- New reports detailing political contributions and bundling by lobbyists are required.
- Lobbyists must now certify that they understand and comply with Congressional gift rules as a part of lobbying disclosure procedures.
- Potential civil penalties for violations of the lobbying disclosure laws are raised to \$200,000.
- Enforcement officials are called on to increase their enforcement activity and are required to submit regular reports to Congress on enforcement activities.

##### Gift Rules:

- All gifts (including meals) to Members of Congress ("Members") and their staff, from registered lobbyists and the private entities that employ them, are banned. (Current exceptions, however, are still in force.)
- Members are forbidden from attending events held in their honor at national conventions, unless the member is an actual or presumptive presidential nominee.

### **Travel Restrictions:**

- Privately sponsored travel for members and staff, paid for by a lobbyist or an organization that employs lobbyists or agents of a foreign principal, is prohibited in many cases and tightly restricted in most others.
- Private entities paying for a trip must certify that the travel was not planned, organized or financed by a lobbyist.
- Registered lobbyists are prevented from participating in privately sponsored congressional travel.
- Members also face restrictions on their use of private, corporate and chartered aircraft for travel, and their use of private funds to pay for such travel. Members are required to disclose detailed itineraries of trips.

### **Other Important Changes:**

- Members and staff are prohibited from threatening official retaliation against private firms that hire employees who do not share their political affiliation.
- The “cooling off” period between the time Members and their staffs leave the House or Senate and when they may begin lobbying other Members has been extended.
- Members seeking legislative earmarks must disclose, in writing, information that identifies the recipient of the earmark, the intended purpose of the earmark, and whether the Member has a financial interest in the earmark.

As with any change in laws and regulations, proper compliance can help companies avoid prosecution, penalties and reputational harm, while ensuring the smooth operation of Washington-based advocacy. Please contact us should you require a more detailed explanation or analysis of the new law.

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