

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 401 Session of 2021

INTRODUCED BY BAKER, K. WARD, PHILLIPS-HILL, SANTARSIERO, AUMENT AND SCHWANK, MARCH 10, 2021

REFERRED TO STATE GOVERNMENT, MARCH 10, 2021

AN ACT

1 Amending Titles 65 (Public Officers) and 74 (Transportation) of  
2 the Pennsylvania Consolidated Statutes, in ethics standards  
3 and financial disclosure, further providing for definitions,  
4 for restricted activities, for statement of financial  
5 interests and for penalties; in lobbying disclosure, further  
6 providing for definitions, for reporting and for penalties;  
7 and, in Turnpike Commission standards of conduct, further  
8 providing for code of conduct.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. The definitions of "aggregate" and "gift" in  
12 section 1102 of Title 65 of the Pennsylvania Consolidated  
13 Statutes are amended and the section is amended by adding  
14 definitions to read:

15 § 1102. Definitions.

16 The following words and phrases when used in this chapter  
17 shall have, unless the context clearly indicates otherwise, the  
18 meanings given to them in this section:

19 \* \* \*

20 ["Aggregate." The total of all gifts received from a single  
21 source as provided in section 1105(b)(6) (relating to statement

1 of financial interests).]

2 \* \* \*

3 "Commercial loan made in the ordinary course of business." A  
4 loan from a bank or other financial institution on terms  
5 generally available to the public.

6 \* \* \*

7 "Gift." [As defined in section 13A03 (relating to  
8 definitions).] Money, virtual currency or a thing of value  
9 received, other than income, for which a consideration of equal  
10 or greater value is not received. The term shall not include the  
11 following:

12 (1) A gift from a person other than a principal or  
13 lobbyist that is valued at \$50 or less. Gifts under this  
14 paragraph shall be limited to \$250 annually.

15 (2) A political contribution reported in accordance with  
16 law.

17 (3) A gift from a parent, sibling, spouse, child,  
18 stepchild, stepparent, stepsibling, grandparent, grandchild,  
19 parent-in-law, sibling-in-law or other close relative when  
20 the circumstances make it clear that the motivation for the  
21 action was a personal or family relationship, including an  
22 invitation to attend a personal or family social event.

23 (4) A devise, bequest, intestate estate distribution or  
24 principal distribution of a trust.

25 (5) A gift available to the public or offered to members  
26 of a group or class in which membership is not related to  
27 being a public official or public employee.

28 (6) An award or prize given to competitors in any  
29 contest or event open to the public, including a random  
30 drawing.

1           (7) An award, plaque and other ceremonial item valued at  
2 \$100 or less that is publicly presented or intended to be  
3 publicly presented in recognition of public service of the  
4 type customarily bestowed at similar ceremonies or that are  
5 otherwise reasonable.

6           (8) An honorary degree bestowed by a public or private  
7 college or university.

8           (9) A gift of nominal value, including, but not limited  
9 to, a greeting card, pen, cap or t-shirt.

10           (10) Informational material.

11           (11) An item paid for by Federal, State or local  
12 government.

13           (12) Complimentary attendance or food and beverage at a  
14 bona fide charitable or political event.

15           (13) Food and beverage for consumption at any of the  
16 following:

17               (i) A public event, including a public meeting.

18               (ii) An event directly related to the official or  
19 employee's duties or responsibilities.

20               (iii) An event where the official or employee is a  
21 speaker or a member of a panel.

22               (iv) A regularly scheduled event sponsored by a  
23 constituent, Statewide organization or nonprofit  
24 organization.

25           (14) Gifts exchanged between public officials and their  
26 staffs on a voluntary basis.

27           (15) Gifts given on the basis of legitimate personal  
28 friendship.

29           (16) Entertainment provided as part of an event at a  
30 private residence for a nonofficial purpose.

1 \* \* \*

2 "Lobbyist." Any individual, association, corporation,  
3 partnership, business trust or other entity that is registered  
4 as a lobbyist under Chapter 13A (relating to lobbying  
5 disclosure).

6 \* \* \*

7 "Official action." An administrative action or legislative  
8 action, as those terms are defined in section 13A03 (relating to  
9 definitions), or an equivalent action taken by a political  
10 subdivision.

11 \* \* \*

12 "Principal." Any individual, association, corporation,  
13 partnership, business trust or other entity that is registered  
14 as a principal under Chapter 13A.

15 \* \* \*

16 "Virtual currency." A digital representation of value that:  
17 (1) is used as a medium of exchange, unit of account or  
18 store of value; and  
19 (2) is not legal tender, whether or not denominated in  
20 legal tender.

21 Section 2. Section 1103 of Title 65 is amended by adding a  
22 subsection to read:

23 § 1103. Restricted activities.

24 \* \* \*

25 (k) Gifts.--No public official or public employee shall  
26 accept or solicit a gift from any of the following:

27 (1) A lobbyist or principal.

28 (2) A person that is seeking official action from the  
29 public official or public employee.

30 Section 3. Section 1105(b) (5), (6) and (7) of Title 65 are

1 amended to read:

2 § 1105. Statement of financial interests.

3 \* \* \*

4 (b) Required information.--The statement shall include the  
5 following information for the prior calendar year with regard to  
6 the person required to file the statement:

7 \* \* \*

8 [(5) The name and address of any direct or indirect  
9 source of income totaling in the aggregate \$1,300 or more.  
10 However, this provision shall not be construed to require the  
11 divulgence of confidential information protected by statute  
12 or existing professional codes of ethics or common law  
13 privileges.]

14 [(6) The name and address of the source and the amount of  
15 any gift or gifts valued in the aggregate at \$250 or more and  
16 the circumstances of each gift. This paragraph shall not  
17 apply to a gift or gifts received from a spouse, parent,  
18 parent by marriage, sibling, child, grandchild, other family  
19 member or friend when the circumstances make it clear that  
20 the motivation for the action was a personal or family  
21 relationship. However, for the purposes of this paragraph,  
22 the term "friend" shall not include a registered lobbyist or  
23 an employee of a registered lobbyist.]

24 [(7) The name and address of the source and the amount of  
25 any payment for or reimbursement of actual expenses for  
26 transportation and lodging or hospitality received in  
27 connection with public office or employment where such actual  
28 expenses for transportation and lodging or hospitality exceed  
29 \$650 in an aggregate amount per year. This paragraph shall  
30 not apply to expenses reimbursed by a governmental body or to

1 expenses reimbursed by an organization or association of  
2 public officials or employees of political subdivisions which  
3 the public official or employee serves in an official  
4 capacity.]

5 \* \* \*

6 Section 4. Section 1109 of Title 65 is amended by adding a  
7 subsection to read:

8 § 1109. Penalties.

9 \* \* \*

10 (a.1) Gifts.--The following shall apply:

11 (1) Any person who intentionally violates the provisions  
12 of section 1103(k) involving an amount of \$250 or more  
13 commits a felony and shall, upon conviction, be sentenced to  
14 pay a fine of not more than \$10,000 plus costs or  
15 imprisonment for not more than five years, or both.

16 (2) A fine and penalty imposed under this section shall  
17 be paid into the General Fund.

18 \* \* \*

19 Section 5. The definitions of "gift," "hospitality" and  
20 "lobbying" in section 13A03 of Title 65 are amended to read:

21 § 13A03. Definitions.

22 The following words and phrases when used in this chapter  
23 shall have the meanings given to them in this section unless the  
24 context clearly indicates otherwise:

25 \* \* \*

26 ["Gift." Anything which is received without consideration of  
27 equal or greater value. The term shall not include a political  
28 contribution otherwise reportable as required by law or a  
29 commercially reasonable loan made in the ordinary course of  
30 business. The term shall not include hospitality, transportation

1 or lodging.

2 "Hospitality." Includes all of the following:

3 (1) Meals.

4 (2) Beverages.

5 (3) Recreation and entertainment.

6 The term shall not include gifts, transportation or lodging.]

7 \* \* \*

8 "Lobbying." An effort to influence legislative action or  
9 administrative action in this Commonwealth. The term includes:

10 (1) [direct] Direct or indirect communication[;].

11 (2) [office] Office expenses[; and].

12 [(3) providing any gift, hospitality, transportation or  
13 lodging to a State official or employee for the purpose of  
14 advancing the interest of the lobbyist or principal.]

15 \* \* \*

16 Section 6. Sections 13A05(b)(2) and (3) and 13A09(g) of  
17 Title 65 are amended to read:

18 § 13A05. Reporting.

19 \* \* \*

20 (b) Content.--

21 \* \* \*

22 (2) Each expense report shall include the total costs of  
23 all lobbying for the period. The total shall include all  
24 office expenses, personnel expenses[, expenditures related to  
25 gifts, hospitality, transportation and lodging to State  
26 officials or employees,] and any other lobbying costs. The  
27 total amount reported under this paragraph shall be allocated  
28 in its entirety among the following categories:

29 [(i) The costs for gifts, hospitality,

30 transportation and lodging given to or provided to State

1 officials or employees or their immediate families.]

2 (ii) The costs for direct communication.

3 (iii) The costs for indirect communication.

4 (iv) Expenses required to be reported under this  
5 subsection shall be allocated to one of the three  
6 categories listed under this section and shall not be  
7 included in more than one category.

8 \* \* \*

9 [(3) The following apply:

10 (i) In addition to reporting the totals required  
11 under this subsection, the expense report must identify,  
12 by name, position and each occurrence, a State official  
13 or employee who receives from a principal or lobbyist  
14 anything of value which must be included in the statement  
15 under section 1105(b) (6) or (7) (relating to statement of  
16 financial interests) as implemented by section 1105(d).

17 (ii) For purposes of this chapter, the amount  
18 referred to in section 1105(b) (7) shall be considered an  
19 aggregate amount per year.

20 (iii) For purposes of this chapter, the amount  
21 referred to in section 1105(b) (7) shall not include the  
22 cost of a reception which the State official or employee  
23 attends in connection with public office or employment.

24 (iv) Written notice must be given to each State  
25 official or employee who is listed in an expense report  
26 under this paragraph at least seven days prior to the  
27 report's submission to the department. Notice under this  
28 subparagraph shall include the information which will  
29 enable the State official or employee to comply with  
30 section 1105(b) (6) and (7). For purposes of this chapter



1 and Chapter 11 (relating to ethics standards and  
2 financial disclosure), section 1105(b)(6) and (7) shall  
3 constitute mutually exclusive categories. For each  
4 category enumerated in paragraph (2)(i), each notice  
5 shall include both the amount incurred during the quarter  
6 and the cumulative amount incurred from January 1 through  
7 the end of the applicable quarter.

8 (v) This paragraph shall not apply to anything of  
9 value received from immediate family when the  
10 circumstances make it clear that motivation for the  
11 action was the personal or family relationship.]

12 \* \* \*

13 § 13A09. Penalties.

14 \* \* \*

15 (g) Affirmative defense.--[Any of the following is an  
16 affirmative defense to an action brought under Chapter 11  
17 (relating to ethics standards and financial disclosure) or this  
18 chapter:

19 (1) The respondent or defendant relied on advice and  
20 opinions of the commission.

21 (2) The respondent or defendant relied on notice under  
22 section 13A05(b)(3)(iv) (relating to reporting).

23 (3) The respondent or defendant did not receive notice  
24 under section 13A05(b)(3)(iv).] The respondent or defendant  
25 relying on advice and opinions of the commission is an  
26 affirmative defense to an action brought under Chapter 11  
27 (relating to ethics standards and financial disclosure) or  
28 this chapter.

29 \* \* \*

30 Section 7. Section 8204(a)(1) of Title 74 is amended to

1 read:

2 § 8204. Code of conduct.

3 (a) Contents.--The commission shall adopt a comprehensive  
4 code of conduct within 90 days of the effective date of this  
5 section. The code of conduct shall supplement all other  
6 requirements under this chapter and shall provide guidelines  
7 applicable to members and executive-level employees and the  
8 immediate families of the members and executive-level employees  
9 to enable them to avoid any perceived or actual conflict of  
10 interest and to promote public confidence in the integrity and  
11 impartiality of the commission. At a minimum, the code of  
12 conduct adopted under this section shall provide that:

13 [(1) No member or executive-level employee may accept  
14 any discount, gift, gratuity, compensation, travel, lodging  
15 or other thing of value, in excess of the limits under 65  
16 Pa.C.S. § 1105(b)(6) and (7) (relating to statement of  
17 financial interests) directly or indirectly, from any  
18 facility or business with which the commission has a  
19 contractual relationship.]

20 \* \* \*

21 Section 8. This act shall take effect in 60 days.