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## Chap. 79

travelers or members of the general public who are not attending an activity then being conducted in the civic arena or civic stadium.

(b) Notwithstanding any general or special law or ordinance to the contrary, said licensing commissioners are authorized to issue to the university or to any other persons operating the multipurpose civic arena or civic stadium under a contract pursuant to paragraph (a) of section eight or who has been granted a concession by the commission for the sale of food or beverages pursuant to paragraph (b) of section seven a common victualler's license for the premises of the civic arena or civic stadium or any part thereof pursuant to section two of chapter one hundred and forty of the General Laws and the provisions of section five of said chapter one hundred and forty shall not apply to the license so issued.

**SECTION 14.** This act shall take effect upon its passage.

Approved July 24, 1995.

## Chapter 80. AN ACT FURTHER AMENDING THE LOBBYING LAWS.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately amend and clarify the lobbying laws of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 3 of the General Laws is hereby amended by striking out sections 39 to 44, inclusive, and inserting in place thereof the following six sections:-

Section 39. As used in sections thirty-nine to fifty, inclusive, the following words shall, unless the context clearly indicates otherwise, have the following meanings:-

"Act to communicate directly with a covered executive official to influence a decision concerning policy or procurement", shall include any direct communication by a person to such official by telephone, mail, commercial messenger, facsimile transmission, electronic mail, other direct means or in person, but shall not be deemed to include the following activities:

(a) a request for a meeting, a request for the status of an action or any similar administrative request, if the request does not include an attempt to influence a covered executive official;

(b) an act made in the course of participation in an advisory committee or task force;

(c) providing information in writing in response to a written request for specific information by an officer or employee of the executive branch or an authority, including, but not limited to, statewide constitutional officers and employees thereof;

(d) an act required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation or other action of the executive branch or an authority, including, but

not limited to, statewide constitutional offices;

(e) a communication made to an officer or employee of the executive branch or an authority, including, but not limited to, statewide constitutional officers and employees thereof, with regard to: (1) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation or proceeding; or (2) a filing or proceeding that the executive branch or an authority, including, but not limited to, statewide constitutional offices, is specifically required by statute or regulation to maintain or conduct on a confidential basis; if such executive branch or authority, including, but not limited to, statewide constitutional offices, is charged with responsibility for such proceeding, inquiry, investigation or filing;

(f) an act made in compliance with written agency procedures regarding an adjudicatory proceeding, as defined in section one of chapter thirty A, conducted by the agency, or similar adjudicatory or evidentiary proceedings conducted by any department, board, commission or official not governed by chapter thirty A;

(g) a petition for action by the executive branch or an authority, including, but not limited to, statewide constitutional offices made in writing and required to be a matter of public record pursuant to established procedures of such executive branch or authority, including, but not limited to, statewide constitutional offices;

(h) an act made on behalf of an individual with regard to that individual's benefits, employment or other personal matters;

(i) a response to a request for proposals or similar invitation by an officer or employee of the executive branch or an authority, including, but not limited to, statewide constitutional officers and employees thereof, for information relevant to a contract;

(j) participation in a bid conference;

(k) an appeal or request for review of a procurement decision.

"Authority", any public instrumentality of the commonwealth which is not subject to the supervision and control of either the legislative, executive or judicial departments of state government, or of any city, town, or county within the commonwealth, and which does not receive state appropriations either for operations or the payment of debt obligations. Notwithstanding the foregoing provisions, the following entities shall be considered to be authorities: Bay State Skills Corporation, Boston Metropolitan District, centers of excellence, Community Economic Development Assistance Corporation, Community Development Finance Corporation, Government Land Bank, Massachusetts Bay Transportation Authority, Massachusetts Convention Center Authority, Massachusetts Corporations for Educational Telecommunications, Massachusetts Educational Loan Authority, Massachusetts Health and Educational Facilities Authority, Massachusetts Housing Finance Agency, Massachusetts Industrial Finance Agency, Massachusetts Industrial Service Program, Massachusetts Legal Assistance Corporation, Massachusetts Municipal Wholesale Electric Company, Massachusetts Port Authority, Massachusetts Product Development Corporation, Massachusetts Technology Development Corporation, Massachusetts Technology Park Corporation, Massachusetts Turnpike Authority, Massachusetts Water Resources Authority, Nantucket land bank, Pension Reserves Investment Management Board, State College Building Authority, Southeastern Massachusetts

University Building Authority, Thrift Institutions Fund for Economic Development, University of Lowell Building Authority, University of Massachusetts Building Authority, Victim and Witness Board, Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority, Worcester Business Development Corporation, the several regional transit authorities, the several regional school districts, the several solid waste districts, the several water, sewer, and fire districts, the several local housing authorities, the several local redevelopment authorities, and the several home care corporations.

"Covered executive official", the governor, lieutenant governor, state secretary, attorney general, state treasurer, state auditor, any person who holds a major policy making position, as defined in section one of chapter two hundred and sixty-eight B, and as designated by the governor, lieutenant governor, state secretary, attorney general, state treasurer or state auditor in accordance with the provisions of said chapter two hundred and sixty-eight B, the secretary or deputy or assistant secretary of any executive office, or the executive or administrative head or deputy or assistant head of any authority, any department, board, commission, or division of the state government or subdivision of any of the foregoing, but not including the legislative and judicial departments.

"Executive agent", a person who for compensation or reward does any act to influence the decision of any officer or employee of the executive branch or an authority, including but not limited to statewide constitutional officers and employees thereof, where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation pursuant thereto, or any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement. The term "executive agent" shall include a person who, as part of his regular and usual business or professional activities and not simply incidental thereto, attempts to influence any such decision, whether or not any compensation in addition to the salary for such activities is received for such services; provided, however, that for the purposes of this definition a person shall be presumed to engage in activity covered by this definition in a manner that is simply incidental to his regular and usual business or professional activities if he engages in any activity or activities covered by this definition for not more than fifty hours during any reporting period or receives less than five thousand dollars during any reporting period for any activity or activities covered by this definition.

"Legislation", bills, resolutions and proposals of every kind, character or description considered by the general court or any committee thereof, or the governor.

"Legislative agent", a person who for compensation or reward does any act to promote, oppose or influence legislation, or to promote, oppose or influence the governor's approval or veto thereof. The term "legislative agent" shall include a person who, as part of his regular and usual business or professional activities and not simply incidental thereto, attempts to promote, oppose or influence legislation, or the governor's approval or veto thereof, whether or not any compensation in addition to the salary for such activities is received for such services; provided, however, that for purposes of this definition a person shall be presumed to engage in activity covered by this definition in a manner that is simply incidental to his regular and usual business or professional activities if he engages in any ac-

tivity or activities covered by this definition for not more than fifty hours during any reporting period or receives less than five thousand dollars during any reporting period for any activity or activities covered by this definition.

"Policy", a plan or course of action which is applicable to a class of persons, proceedings or other matters and which is designed to influence or determine the subsequent decisions and actions of any covered executive official, including, but not limited to, a plan or course of action which would constitute a "regulation", as defined in chapter thirty A. The term shall not include the adjudication or determination of any rights, duties, or obligations of a person made on a case by case basis, including but not limited to the issuance or denial of a license, permit, or certification or a disciplinary action or investigation involving a person.

"Procurement", the buying, purchasing, renting, leasing or otherwise acquiring or disposing, by contract or otherwise, of supplies, services or construction or the acquisition or disposition of real property or any interest therein, including, but not limited to, the purchase, lease or rental of any such real property or the granting of easements or rights of way therein; but not including any item of expenditure the value of which is twenty-five thousand dollars or less.

Section 40. A person employing or agreeing to employ an executive or legislative agent shall, within one week after such employment or agreement, cause the name of such agent to be entered in the docket as provided in section forty-one. The agent shall, within ten days, also enter his name upon such docket.

The termination of such employment shall be entered opposite the name of such agent either by such agent or by such employer.

Section 41. The state secretary shall keep a docket in which shall be entered the names of all persons who are employed as executive or legislative agents. Such entries shall include the name, business address and the employer's business interests which may be affected by a decision as described in the definition of "executive agent" or legislation; the name, business address and business interests which may be affected by such a decision as described in the definition of "executive agent" or legislation in whose behalf the executive or legislative agent is retained or employed if said person is not the direct employer, the name and residence of the executive or legislative agent, the date of the employment or agreement therefor and the duration of the employment status, if ascertainable.

The state secretary shall assess each executive and legislative agent a reasonable filing fee upon entering said agent's name upon the docket. Said fee shall be determined by the costs of maintaining said docket. The state secretary shall apply said fee to the costs of maintaining said docket.

Every executive and legislative agent shall, within ten days after entering his name upon the docket, file with the state secretary a written authorization to act as such agent, signed by the employer on whose behalf the executive or legislative agent assumes to act and shall provide three photographs of said agent to the state secretary.

Upon receipt of said notification required in section forty from the employer of an executive or legislative agent, the state secretary shall issue to each executive and legislative

agent a nontransferable identification card which shall include, but not be limited to, a photograph and the address and name of the employer or employers of said executive or legislative agent.

All information required to be filed under the provisions of this section shall be compiled by the state secretary and shall be organized alphabetically according to the name of the person whose name is entered upon the docket and such files shall be open and accessible for public inspection during normal business hours.

Section 42. No person shall make any agreement whereby any compensation or thing of value is to be paid to any person contingent upon a decision as described in the definition of "executive agent", or the passage or defeat of any legislation or the approval or veto of any legislation by the governor. No person shall agree to undertake to influence such a decision, or to communicate to influence such a decision or to promote, oppose or influence legislation or to communicate with members of the legislature, or to advocate approval or veto by the governor for consideration to be paid upon the contingency of the outcome of such a decision or that any legislation is passed or defeated.

Nothing in this section shall be construed to prohibit any salesperson engaging in legitimate state business on behalf of a company from receiving compensation or a commission as part of a bona fide contractual arrangement with that company.

Section 43. On or before the fifteenth day of July, complete from January first through June thirtieth; and the fifteenth day of January, complete from July first to December thirty-first of the preceding year, every executive and legislative agent appearing on the docket shall render to the state secretary an itemized statement, under oath, listing all campaign contributions as defined in section one of chapter fifty-five; all expenditures, and the total amount thereof, incurred, contributed or paid during the reporting period in the course of his employment as an executive or legislative agent and all expenditures made for or on behalf of statewide constitutional officers, officers and employees of such offices, members of the general court, officers and employees of the general court, officers and employees of the executive branch and officers and employees of an authority, incurred or paid during the reporting period, except that the executive or legislative agent shall not be required to report such expenditures not in the course of his employment made for or on behalf of the immediate family of such executive or legislative agent or a relative within the third degree of consanguinity of the executive or legislative agent or of his spouse or the spouse of any such relative; and except that in the case of all expenditures the executive or legislative agent shall not be required to itemize the expenditures of any one day in which the amount incurred or paid did not total thirty-five dollars or more. Such itemized accounting shall include, but not be limited to, specific expenditures for meals, gifts, transportation, entertainment, advertising, public relations, printing, mailing and telephone; and shall also include the names of the payees and the amount paid to each payee and shall further include the names of the candidate or political committee to whom or to which the contribution was made, and the amount and date of each contribution.

When such expenditure is for meals, entertainment or transportation, said expenditure shall be identified by date, place, amount, and the names of all persons in the group partak-

ing in or of such meal, entertainment or transportation. No expenditure shall be split or divided for the purpose of evading any provision of this section. The state secretary shall, within thirty days of receipt of such accounting, notify persons whose names appear therein as having received campaign contributions, meals, transportation or entertainment, as to the nature of the contribution or expenditure claimed, the date and amount of the contribution or expenditure, and the person or persons who reported the contribution or expenditure.

Every executive and legislative agent shall include in the statement required by this section a list of all bill numbers of legislation the executive or legislative agent acted to promote, oppose or influence during the reporting period in the course of his employment. The disclosure shall only be required if the executive or legislative agent specifically referenced the bill number while acting to promote, oppose or influence legislation.

The state secretary shall assess a penalty for any statement which is filed by an executive or legislative agent later than the prescribed date; or, if such statement has been filed by mailing, where the postmark on such mailing is later than the prescribed date. Said penalty shall be in the amount of two hundred and fifty dollars when such statement has been filed ten days late or less, and in the amount of five hundred dollars when such statement is more than ten days late; provided, however, that the state secretary may waive said penalty for good cause. A waiver for good cause shall not be granted for statements filed more than sixty days late by executive or legislative agents, or groups and organizations employing executive or legislative agents, which have never filed or have never been required to file such statements. In all other instances no waiver for good cause shall be granted when a statement has been filed more than thirty days late.

The state secretary shall prescribe and make available the appropriate statement forms which shall be open and accessible for public inspection during normal working hours.

Notwithstanding the provisions of any general or special law to the contrary, no executive or legislative agent shall knowingly offer or knowingly give to any public official or public employee, as defined in section one of chapter two hundred and sixty-eight B, or to a member of such person's immediate family any gift, as defined in said section one of said chapter two hundred and sixty-eight B, of any kind or nature, nor knowingly pay for any meal, beverage, or other item to be consumed by such public official or employee, whether or not such gift or meal, beverage or other item to be consumed is offered, given or paid for in the course of such agent's business or in connection with a personal or social event; provided, however, that an executive or legislative agent shall not be prohibited from offering or giving to a public official or public employee who is a member of his immediate family or a relative within the third degree of consanguinity or of such agent's spouse or the spouse of any such relative any such gift or meal, beverage or other item to be consumed.

Section 44. On or before the fifteenth day of July, complete from January first through June thirtieth; and the fifteenth day of January, complete from July first to December thirty-first of the preceding year, any group or organization, however constituted, not employing an executive or legislative agent which as part of an organized effort, expends in excess of two hundred and fifty dollars during any calendar year to promote, oppose, or influence legislation, or the governor's veto or approval thereof, or to influence the decision

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## Chap. 80

of any officer or employee of the executive branch or an authority, including, but not limited to, statewide constitutional officers and employees thereof, where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation pursuant thereto, or to do any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement shall register with the state secretary by rendering a statement, under oath, containing the names and addresses of the principals of such group or organization, the purposes of the organization, such aforesaid decisions of such employees of the executive branch or an authority or legislation which affects those purposes, the total amount of expenditures, incurred or paid during the reporting period in furtherance of the foregoing objectives and an itemized statement containing all expenditures made for or on behalf of statewide constitutional officers, officers and employees of such offices, members of the general court, officers and employees of the general court, officers and employees of the executive branch and officers and employees of an authority. Such itemized accounting shall include, but shall not be limited to, specific expenditures for meals, transportation, entertainment, advertising, public relations, printing, mailing and telephone and the names of the payees and the amount paid to each payee. Where such expenditure is for meals, entertainment or transportation, said expenditure shall be identified by date, place, amount, and the names of all persons in the group partaking in, or of, such meal, entertainment or transportation. The itemized accounting shall also include a list of all campaign contributions, as defined in section one of chapter fifty-five, made by the group to a political candidate or committee, the name of each candidate or committee, the amount contributed and the date of the contribution. The statement of the group or organization shall also include a listing of the names and addresses of every person, group or organization from whom fifteen dollars or more was contributed during the year for the objectives hereinabove stated. No expenditure or contribution shall be split or divided for the purpose of evading any provision of this section. The state secretary shall prescribe and make available the appropriate statement forms which after being completed and filed with the secretary shall be organized alphabetically according to the name of the group and such files shall be open and accessible for public inspection during normal business hours.

The state secretary shall assess a penalty for any statement which is filed by such a group or organization later than the prescribed date, or, if such statement has been filed by mailing, where the postmark on such mailing is later than the prescribed date. Said penalty shall be in the amount of one hundred dollars when such statement has been filed ten days late or less, and in the amount of two hundred and fifty dollars when such statement is more than ten days late; provided, however, that the state secretary may waive said penalty for good cause. A waiver for good cause shall not be granted for statements filed more than sixty days late by executive or legislative agents, or groups and organizations employing executive or legislative agents, which have never filed or have never been required to file such statements. In all other instances no waiver for good cause shall be granted when a statement has been filed more than thirty days late.

This section shall not apply to any group or organization that (i) does not employ an

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**Chap. 30**

executive or legislative agent; (ii) does not realize a profit; (iii) does not make a contribution, as defined in section one of chapter fifty-five, to a political candidate or committee; (iv) does not pay a salary or fee to any member for any activities performed for the benefit of the group or organization; and (v) expends two thousand dollars or less during any calendar year to promote, oppose, or influence legislation, or the governor's veto or approval thereof, or to influence the decision of any officer or employee of the executive branch or an authority, including, but not limited to, statewide constitutional officers and employees thereof, where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation pursuant thereto, or to do any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement.

**SECTION 2.** Said chapter 3 is hereby further amended by striking out section 47, as amended by section 5 of chapter 43 of the acts of 1994, and inserting in place thereof the following section:-

Section 47. On or before the fifteenth day of July, complete from January first through June thirtieth; and the fifteenth day of January, complete from July first to December thirty-first of the preceding year, every employer of an executive or legislative agent whose name appears upon the docket shall render to the state secretary a complete and detailed itemized statement, under oath, listing all expenditures incurred or paid separately by such employer during the reporting period in connection with promoting, opposing or influencing legislation, or the governor's approval or veto thereof, or influencing the decision of any officer or employee of the executive branch or an authority, including, but not limited to, statewide constitutional officers and employees thereof, where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation pursuant thereto, or doing any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement and all expenditures for or on behalf of the statewide constitutional officers, officers and employees of such offices, members of the general court, officers and employees of the general court, officers and employees of the executive branch and officers and employees of an authority, and the total amount thereof incurred or paid separately by such employer during the reporting period; and except that in the case of all expenditures the employer shall not be required to itemize the expenditures of any one day in which the amount incurred or paid did not total thirty-five dollars or more. Such itemized accounting shall include, but shall not be limited to, specific expenditures for meals, gifts, transportation, entertainment, advertising, public relations, printing, mailing, and telephone; and the names of the payees and the amount paid to each payee. Where such expenditure is for meals, entertainment or transportation, said expenditure shall be identified by the date, place, amount, and names of all persons in the group partaking in, or of, such meal, entertainment, or transportation. When such compensation is included as part of a regular salary or retainer, the statement shall specify the amount of the agent's salary or retainer allocable to his legislative duties. If no such apportionment is possible, the statement shall indicate such impossibility and disclose the full salary or retainer. No expenditure shall be split or divided for the purpose of evading any provision of this section.

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## Chap. 80

The state secretary shall assess a penalty for any statement which is filed by such an employer later than the prescribed date; or, if such statement has been filed by mailing, where the postmark on such mailing is later than the prescribed date. Said penalty shall be in the amount of two hundred and fifty dollars when such statement has been filed ten days late or less, and in the amount of five hundred dollars when such statement is more than ten days late; provided, however that the state secretary may waive said penalty for good cause. A waiver for good cause shall not be granted for statements filed more than sixty days late by executive or legislative agents, or groups and organizations employing executive or legislative agents, which have never filed or have never been required to file such statements. In all other instances no waiver for good cause shall be granted when a statement has been filed more than thirty days late.

The state secretary shall prescribe and make available the appropriate statement forms which after being completed and filed with the secretary shall be organized alphabetically, according to the name of the employer and such files shall be open and accessible for public inspection during normal business hours.

**SECTION 3.** Section two of chapter two hundred and ninety-two of the acts of nineteen hundred and ninety-four is hereby repealed.

**SECTION 4.** This act shall take effect as of August first, nineteen hundred and ninety-five.

Approved July 26, 1995.

## Chapter 81. AN ACT RELATIVE TO THE EQUITABLE TAXATION OF FINANCIAL INSTITUTIONS.

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 63 of the General Laws is hereby amended by striking out sections 1 and 2, as appearing in the 1994 Official Edition, and inserting in place thereof the following three sections:-

Section 1. When used in sections one to two A, inclusive, and section thirty-eight B, the following words shall, unless the context otherwise requires, have the following meaning:

"Billing address", the location indicated in the books and records of the taxpayer on the first day of the taxable year, or on such later date in the taxable year when the customer relationship began, as the address where any notice, statement or bill relating to a customer's account is mailed.

"Borrower or credit card holder located in this commonwealth", (a) a borrower, other than a credit card holder, that is engaged in a trade or business which maintains its commercial domicile in this commonwealth; or (b) a borrower that is not engaged in a trade or business or a credit card holder whose billing address is in this commonwealth.

"Commercial domicile", (a) the headquarters of the trade or business, that is, the