

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
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January 19, 2006

Opinion No. 06-013

Application of Tenn. Code Ann. § 3-6-114 to Non-Registered Lobbyists

QUESTION

Whether the prohibition contained in Tenn. Code Ann. § 3-6-114 applies to non-registered lobbyists?

OPINION

Yes.

ANALYSIS

You have asked whether the prohibition contained in Tenn. Code Ann. § 3-6-114 applies to lobbyists that are paid, but not registered with the Tennessee Registry of Election Finance pursuant to Tenn. Code Ann. § 3-6-104. Tenn. Code Ann. § 3-6-114 provides in relevant part:

- (a)(1) No lobbyist or employer of a lobbyist may provide a gift, directly or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediate family of such candidate or official.
- (2) A candidate for public office, an official in the legislative branch, or an official in the executive branch, or immediate family of such candidate or official may not solicit or accept directly or indirectly a gift from a lobbyist or an employer of a lobbyist.

This Office has previously opined that a person who is a lobbyist within the meaning of the statute must comply with the gift ban outlined in Tenn. Code Ann. § 3-6-114(a), whether or not he or she is required to register as a lobbyist. *See* Op. Tenn. Att’y Gen. 95-108 (October 19, 1995) and 96-024 (February 22, 1996). Under the lobbying statutes, the term “lobbyist” is defined as “any person who engages in lobbying.” Tenn. Code Ann. § 3-6-102(14) (2003). To “lobby” means “to communicate, directly or indirectly, with any official in the legislative branch or executive branch, for pay or for any consideration, for the purpose of influencing any legislative action or administrative action.” Tenn. Code Ann. § 3-6-102(13) (2003).

It should be emphasized that whether any particular individual falls within the definition of the term “lobbyist” will depend on particular facts and circumstances. For example, whether an

individual is being paid for the lobbying activity may require an analysis of the duties of his or her job and whether such activity is a part of such duties. Under state law, the Registry of Election Finance is responsible for administering the state lobbying laws. Tenn. Code Ann. § 3-6-103. The statute gives these officials primary responsibility to apply the lobbying laws to specific facts and circumstances. As a result, questions requiring the application of the lobbying laws to specific facts and circumstances should be referred in the first instance to the Registry of Election Finance.

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