

HOUSE BILL 344

G1

2lr0436

By: **Delegate Palakovich Carr**

Introduced and read first time: January 19, 2022

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Campaign Finance – Contributions**
3 **(Prohibiting Pay to Play Act of 2022)**

4 FOR the purpose of prohibiting regulated lobbyists from making contributions from
5 personal funds to certain candidates and the candidates from accepting contributions
6 from personal funds from regulated lobbyists during a certain period and under
7 certain circumstances; prohibiting certain business entities and officers of the
8 business entities from making contributions to certain candidates and the
9 candidates from accepting contributions from the business entities or officers of the
10 business entities; and generally relating to contributions to candidates.

11 BY repealing and reenacting, without amendments,
12 Article – General Provisions
13 Section 1–114, 5–101(a), (i), and (hh), and 5–702(a)
14 Annotated Code of Maryland
15 (2019 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Election Law
18 Section 1–101(a), (h), (l), and (o) and 14–101(a), (c), and (k)
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Election Law
23 Section 13–231
24 Annotated Code of Maryland
25 (2017 Replacement Volume and 2021 Supplement)

26 BY adding to
27 Article – Election Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 13–238 and 13–238.1
Annotated Code of Maryland
(2017 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – General Provisions

1–114.

“Person” includes an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, corporation, partnership, business trust, statutory trust, limited liability company, firm, association, or other nongovernmental entity.

5–101.

(a) In this title the following words have the meanings indicated unless:

(1) the context clearly requires a different meaning; or

(2) a different definition is adopted for a particular provision.

(i) “Entity” means:

(1) a person; or

(2) a government or instrumentality of government.

(hh) “Regulated lobbyist” means an entity that is required to register with the Ethics Commission under § 5–702(a) of this title.

5–702.

(a) Unless exempted under subsection (b) of this section, an entity shall register with the Ethics Commission as provided in this subtitle and shall be a regulated lobbyist for the purposes of this title if, during a reporting period, the entity:

(1) for the purpose of influencing any legislative action or any executive action relating to the development or adoption of regulations or the development or issuance of an executive order:

(i) 1. communicates with an official or employee of the Legislative Branch or Executive Branch in the presence of that official or employee; and

2. except for the personal travel or subsistence expenses of the entity or a representative of the entity, incurs expenses of at least \$500 or earns at least

\$2,500 as compensation for all such communication and activities relating to the communication during the reporting period; or

(ii) 1. communicates with an official or employee of the Legislative Branch or Executive Branch; and

2. earns at least \$5,000 as compensation for all such communication and activities relating to the communication during the reporting period;

(2) in connection with or for the purpose of influencing any executive action, spends a cumulative value of at least \$100 for gifts, including meals, beverages, and special events, to one or more officials or employees of the Executive Branch;

(3) subject to subsection (b)(4) of this section, is compensated to influence executive action on a procurement contract that exceeds \$100,000;

(4) subject to subsection (b)(5) of this section, is compensated by a business entity to influence executive action to secure from the State a business grant or loan with a value of more than \$100,000 for the business entity;

(5) spends at least \$2,000, including expenditures for salaries, contractual employees, postage, telecommunications services, electronic services, advertising, printing, and delivery services, for the express purpose of soliciting others to communicate with an official to influence legislative action or executive action; or

(6) spends at least \$2,500 to provide compensation to one or more entities required to register under this subsection.

Article – Election Law

1–101.

(a) In this article the following words have the meanings indicated unless a different meaning is clearly intended from the context.

(h) “Campaign finance entity” means a political committee established under Title 13 of this article.

(l) (1) “Candidate” means an individual who files a certificate of candidacy for a public or party office.

(2) “Candidate” includes:

(i) an incumbent judge of the Court of Appeals or Court of Special Appeals at an election for continuance in office; and

(ii) an individual, prior to that individual filing a certificate of candidacy, if a campaign finance entity has been established on behalf of that individual.

(o) (1) “Contribution” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity to promote or assist in the promotion of the success or defeat of a candidate, political party, question, or prospective question.

(2) “Contribution” includes:

(i) proceeds from the sale of tickets to a campaign fund-raising event; and

(ii) a coordinated expenditure as defined in § 13–249 of this article.

(3) “Contribution” does not include the costs associated with the establishment, administration, or solicitation of voluntary contributions to a political action committee established by a corporation, limited liability company, general partnership, limited partnership, membership organization, trade association, cooperative, or corporation without capital stock as long as the political action committee only solicits contributions from employees of the organization that established the political action committee, or members of the organization that established the political action committee, and the employees or members are participating in a payroll deduction program established by the employer of the employee or member.

13–231.

(a) (1) Contributions or loans to a campaign finance entity of a candidate from the personal funds of the candidate or the candidate’s spouse are not subject to the contribution limits **AND PROHIBITIONS** under [§ 13–226] **§§ 13–226 AND 13–238** of this subtitle.

(2) Expenditures from personal funds by the candidate or the candidate’s spouse for personal expenses of the candidate for filing fees, telecommunication services, travel, and food are not contributions.

(b) A contribution or loan to a campaign finance entity of a candidate by the candidate or the candidate’s spouse shall pass through the hands of the treasurer of the entity and be reported in accordance with Subtitle 3 of this title.

13–238.

(A) IN THIS SECTION, “REGULATED LOBBYIST” HAS THE MEANING STATED IN § 5–101 OF THE GENERAL PROVISIONS ARTICLE.

1 **(B) THIS SECTION APPLIES TO INDIVIDUALS THAT ARE CANDIDATES FOR**
2 **THE FOLLOWING ELECTIVE OFFICES:**

3 **(1) THE GOVERNOR;**

4 **(2) THE LIEUTENANT GOVERNOR;**

5 **(3) THE ATTORNEY GENERAL;**

6 **(4) THE COMPTROLLER; AND**

7 **(5) A MEMBER OF THE GENERAL ASSEMBLY.**

8 **(C) (1) THE PROHIBITIONS IN THIS SECTION APPLY FROM THE STARTING**
9 **DATE OF THE REGULATED LOBBYIST'S REGISTRATION TO THE END OF THE**
10 **CALENDAR YEAR IN WHICH THE REGISTRATION PERIOD ENDS.**

11 **(2) THE PROHIBITIONS IN THIS SECTION DO NOT APPLY TO**
12 **CONTRIBUTIONS FROM THE PERSONAL FUNDS OF A REGULATED LOBBYIST TO A**
13 **CANDIDATE FOR ELECTION AS A MEMBER OF THE GENERAL ASSEMBLY IF THE**
14 **REGULATED LOBBYIST RESIDES IN THE DISTRICT THAT THE CANDIDATE**
15 **REPRESENTS OR SEEKS TO REPRESENT.**

16 **(D) A REGULATED LOBBYIST, OR A PERSON ACTING ON BEHALF OF A**
17 **REGULATED LOBBYIST, MAY NOT MAKE A CONTRIBUTION FROM PERSONAL FUNDS**
18 **TO A CANDIDATE FOR AN ELECTIVE OFFICE SPECIFIED IN SUBSECTION (B) OF THIS**
19 **SECTION IF THE REGULATED LOBBYIST IS REGISTERED TO LOBBY AND INFLUENCE**
20 **ACTION IN THE SAME BRANCH OF GOVERNMENT TO WHICH THE CANDIDATE SEEKS**
21 **ELECTION.**

22 **(E) A CANDIDATE FOR AN ELECTIVE OFFICE SPECIFIED IN SUBSECTION (B)**
23 **OF THIS SECTION MAY NOT ACCEPT CONTRIBUTIONS FROM PERSONAL FUNDS FROM**
24 **A REGULATED LOBBYIST, OR A PERSON ACTING ON BEHALF OF A REGULATED**
25 **LOBBYIST, IF THE REGULATED LOBBYIST IS REGISTERED TO LOBBY AND INFLUENCE**
26 **ACTION IN THE SAME BRANCH OF GOVERNMENT TO WHICH THE CANDIDATE SEEKS**
27 **ELECTION.**

28 **(F) A CONTRIBUTION TO A CAMPAIGN FINANCE ENTITY OF A CANDIDATE**
29 **FOR AN ELECTIVE OFFICE SPECIFIED IN SUBSECTION (B) OF THIS SECTION SHALL**
30 **BE DEEMED TO BE A CONTRIBUTION TO THE CANDIDATE FOR THE PURPOSES OF**
31 **THIS SECTION.**

32 **13-238.1.**

1 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) “BUSINESS ENTITY” HAS THE MEANING STATED IN § 14–101 OF
4 THIS ARTICLE.

5 (3) (I) “DOING STATE BUSINESS” MEANS MAKING OR HAVING A
6 SINGLE CONTRACT WITH THE STATE INVOLVING CUMULATIVE CONSIDERATION OF
7 AT LEAST \$200,000.

8 (II) “DOING STATE BUSINESS” DOES NOT INCLUDE:

9 1. RECEIVING A SALARY FROM A GOVERNMENTAL
10 ENTITY; OR

11 2. MAKING OR HAVING A CONTRACT WITH A COUNTY, A
12 MUNICIPAL CORPORATION, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE.

13 (4) “OFFICER” HAS THE MEANING STATED IN § 14–101 OF THIS
14 ARTICLE.

15 (B) THIS SECTION APPLIES TO CANDIDATES FOR THE FOLLOWING ELECTIVE
16 OFFICES:

17 (1) THE GOVERNOR;

18 (2) THE LIEUTENANT GOVERNOR;

19 (3) THE ATTORNEY GENERAL; AND

20 (4) THE COMPTROLLER.

21 (C) A BUSINESS ENTITY OR AN OFFICER OF A BUSINESS ENTITY THAT IS
22 DOING STATE BUSINESS MAY NOT MAKE A CONTRIBUTION TO A CANDIDATE FOR AN
23 ELECTIVE OFFICE SPECIFIED IN SUBSECTION (B) OF THIS SECTION.

24 (D) A CANDIDATE FOR AN ELECTIVE OFFICE SPECIFIED IN SUBSECTION (B)
25 OF THIS SECTION MAY NOT ACCEPT CONTRIBUTIONS FROM A BUSINESS ENTITY OR
26 AN OFFICER OF A BUSINESS ENTITY THAT IS DOING STATE BUSINESS.

27 (E) A CONTRIBUTION TO A CAMPAIGN FINANCE ENTITY OF A CANDIDATE
28 FOR AN ELECTIVE OFFICE SPECIFIED IN SUBSECTION (B) OF THIS SECTION SHALL

1 BE DEEMED TO BE A CONTRIBUTION TO THE CANDIDATE FOR THE PURPOSES OF
2 THIS SECTION.

3 14–101.

4 (a) In this title the following words have the meanings indicated.

5 (c) “Business entity” includes a firm, corporation, trust, unincorporated
6 association, or other organization, whether or not conducted for profit.

7 (k) “Officer” means an individual who serves as a business entity’s chief executive
8 officer, president, vice president, secretary, treasurer, chief financial officer, managing
9 partner, managing member, or principal, or in any other formal or informal role in which
10 the individual exercises substantial independent responsibility for managing the affairs of
11 a business entity.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 January 1, 2023.