

By: Wilson

H.B. No. 3149

A BILL TO BE ENTITLED

AN ACT

relating to conflicts of interests of registrants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 305.028, Government Code, is amended to read as follows:

(a) In this subchapter:

(1) "Client" means a person or entity for which the registrant is registered or is required to be registered.

(2) "Person associated with the registrant" means a partner or other person professionally associated with the registrant through a common business entity, other than a client, that reimburses, retains or employs the registrant.

(b) [(a)] Except as permitted by Subsection (c), a registrant may not represent a client [opposing parties] in communicating directly with a member of the legislative or executive branch to influence the same legislative subject matter [legislation] or administrative action: [-

~~[(b) Except as permitted by Subsection (c), a registrant may not represent a person in communicating directly with a member of the legislative or executive branch to influence legislation or administrative action]~~ if the representation of that client:
~~[person:]~~

(1) involves a substantially related matter in which that client's ~~[person's]~~ interests are materially and directly

1 adverse to the interests of:

2 (A) another client of the registrant;

3 (B) an employer or concern employing the
4 registrant; or

5 (C) another client of a partner or other person
6 associated with the registrant; or

7 (2) reasonably appears to be ~~[or potentially be]~~
8 adversely limited by:

9 (A) the registrant's, the employer's or
10 concern's, or the partner's or other associated person's
11 responsibilities to another client ~~[or to a third person]~~; or

12 (B) the registrant's, employer's or concern's, or
13 partner's or other associated person's own interests.

14 (c) A registrant may represent a client in the circumstances
15 described in Subsection (b) ~~[(a) or (b)]~~ if:

16 (1) the registrant reasonably believes the
17 representation of each client will not be materially affected;

18 (2) not later than the second business day after the
19 date the registrant becomes aware of a ~~[an actual or potential]~~
20 conflict described by Subsection (b) ~~[(a) or (b)]~~, the registrant
21 provides written notice, in the manner required by the commission,
22 to each affected ~~[or potentially affected]~~ client; and

23 (3) not later than the 10th day after the date the
24 registrant becomes aware of a ~~[an actual or potential]~~ conflict
25 described by Subsection (b) ~~[(a) or (b)]~~, the registrant files with
26 the commission a statement indicating that (A) there is a ~~[an actual~~
27 ~~or potential]~~ conflict, (B) ~~[and]~~ that the registrant has notified

1 each affected [~~or potentially affected~~] client as required by
2 Subdivision (2), and (C) the name and address of the affected
3 client(s) in the statement.

4 (d) If a registrant has accepted representation in conflict
5 with the restrictions of this section, or if multiple
6 representation properly accepted becomes improper under this
7 section, the registrant shall promptly withdraw from one or more
8 representations to the extent necessary for any remaining
9 representation not to be in conflict with this section.

10 (e) If a registrant would be prohibited by this section from
11 engaging in particular conduct, an employer or concern employing
12 the registrant or a partner or other person associated with the
13 registrant may not engage in that conduct.

14 (f) In each report filed with the commission, a registrant
15 shall, under oath, affirm that the registrant has complied with
16 this section to the best of his her knowledge.

17 (g) The commission may receive complaints regarding a
18 violation of this section. If the commission determines a
19 violation of this section has occurred, the commission, after
20 notice and hearing:

21 (1) may impose any penalty that the commission may
22 impose under another state law; and

23 (2) may rescind the person's registration and may
24 prohibit the person from registering with the commission for a
25 period not to exceed two years from the date of the rescission of
26 the person's registration.

27 (h) A penalty under this section is in addition to any other

1 enforcement action that the commission or another person may take
2 under this chapter.

3 (i) A restriction on a registrant under this section is in
4 addition to any restrictions on the registrant's conduct under
5 Section 305.0011.

6 (j) A statement filed under Subsection (c) is not public
7 information.

8 SECTION 2. Section 305.031, Government Code, is amended to
9 read as follows:

10 (a) A person commits an offense if the person intentionally
11 or knowingly violates a provision of this chapter other than
12 Section 305.0011, 305.022, or 305.028. An offense under this
13 subsection is a Class A misdemeanor.

14 (b) A person commits an offense if the person intentionally
15 or knowingly violates Section 305.022. An offense under this
16 subsection is a felony of the third degree.

17 ~~[(c) A person commits an offense if the person knowingly~~
18 ~~violates Section 305.028. An offense under this subsection is a~~
19 ~~Class B misdemeanor.]~~

20 (c) ~~[(d)]~~ This chapter does not affect the criminal
21 responsibility of a person under the state laws relating to
22 perjury.

23 (d) ~~[(e)]~~ This section does not prohibit the commission
24 from imposing a civil penalty for a violation.

25 SECTION 3. This Act takes effect September 1, 2003.