

By: Harris

S.B. No. 1449

A BILL TO BE ENTITLED

AN ACT

1
2 relating to conflicts of interest involving lobbyists; providing a
3 criminal penalty.

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

5 SECTION 1. Section 305.028, Government Code, is amended by
6 adding a new Subsection (a), redesignating existing Subsection (a)
7 as Subsection (b), and amending the redesignated subsection and
8 Subsections (c) and (f) to read as follows:

9 (a) In this section:

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

12 (2) "Matter" means the matters for which the
13 registrant has been engaged to communicate with a member of the
14 legislative or executive branch by a client.

15 (3) "Person associated with the registrant" or "other
16 associated person" means a partner or other person professionally
17 associated with the registrant through a common business entity,
18 other than a client, that reimburses, retains, or employs the
19 registrant.

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

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

6 (1) involves a substantially related matter in which
7 that client's ~~[person's]~~ interests are materially and directly
8 adverse to the interests of:

9 (A) another client of the registrant;

10 (B) an employer or concern employing the
11 registrant; or

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

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

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

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

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

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

25 (2) not later than the second business day after the
26 date the registrant becomes aware of a ~~[an actual or potential]~~
27 conflict described by Subsection ~~[(a) or]~~ (b), the registrant

1 provides written notice, in the manner required by the commission,
2 to each affected [~~or potentially affected~~] client; and

3 (3) not later than the 10th day after the date the
4 registrant becomes aware of a [~~an actual or potential~~] conflict
5 described by Subsection [~~(a) or~~] (b), the registrant files with the
6 commission a statement indicating:

7 (A) that there is a [~~an actual or potential~~]
8 conflict; [~~and~~]

9 (B) that the registrant has notified each
10 affected [~~or potentially affected~~] client as required by
11 Subdivision (2); and

12 (C) the name and address of each affected client.

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

16 SECTION 2. Subsections (a), (c), (d), and (e), Section
17 305.031, Government Code, are amended to read as follows:

18 (a) A person commits an offense if the person intentionally
19 or knowingly violates a provision of this chapter other than
20 Section 305.0011 or [~~7~~] 305.022 [~~7 or 305.028~~]. An offense under
21 this subsection is a Class A misdemeanor.

22 (c) [~~A person commits an offense if the person knowingly~~
23 ~~violates Section 305.028. An offense under this subsection is a~~
24 ~~Class B misdemeanor.~~

25 [~~(d)~~] This chapter does not affect the criminal
26 responsibility of a person under the state laws relating to
27 perjury.

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

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

4 SECTION 4. The change in law made by this Act to Section
5 305.028, Government Code, applies to a conflict of interest that
6 arises on or after the effective date of this Act. A conflict of
7 interest that arises before the effective date of this Act is
8 covered by the law in effect when the conflict arose, and the former
9 law is continued in effect for that purpose.