



ADMINISTRATIVE RULES OF MONTANA



44.12.102 LOBBYING--DEFINITIONS AND SCOPE--REPORTABLE ACTIVITIES

For purposes of Title 5, chapter 7, MCA, and this chapter:

- (1) "Compensation" includes:
 - (a) all direct or indirect payments of salaries, fees, wages, and benefits by a principal to a lobbyist or an individual engaged in lobbying activities to lobby or to support or assist a lobbying activity. The term includes, but is not limited to, all payments made to a lobbyist or an individual engaged in lobbying activities to lobby or to support or assist a lobbying activity for overtime, compensatory time, retirement, health insurance, membership fees for social, civic and professional organizations, life insurance, professional liability insurance, unemployment, worker's compensation, personal use of a vehicle, rental car payments, disability insurance, and other benefits; and
 - (b) the term "compensation" does not include personal living expenses of a lobbyist or an individual engaged in lobbying activities that are reimbursed by a principal.
- (2) "Direct communication" includes face-to-face meetings, telephone conversations, and written or electronic correspondence or communication with a public official.
- (3) "Lobbying" shall have the definition set forth in 5-7-102 (11) (a) , MCA. Unless otherwise exempted from the definition of "lobbying" by Title 5, chapter 7, MCA, or this chapter, lobbying shall include:
 - (a) any direct communication by a lobbyist or an individual engaged in lobbying activities with a public official to promote or oppose official action;
 - (b) all time spent by a lobbyist or an individual engaged in lobbying activities to present oral or written testimony to one or more public officials promoting or opposing official action by any public official or group of public officials, including the legislature or a committee of the legislature; or
 - (c) signing a sign-in sheet as an opponent or proponent of official action at a legislative hearing.
- (4) "Lobbying activity" or "lobbying activities" mean actions or efforts by a lobbyist or an individual to lobby or to support or assist lobbying, including preparation and planning activities after a decision has been made to support or oppose official action, and research and other background work that is intended, at the time it is performed, for use in lobbying or to support or assist lobbying activities. The terms "lobbying activity" or "lobbying activities" do not include:
 - (a) information or testimony submitted to the legislature or a legislative committee in response to a subpoena issued under 5-5-101 through 5-5-105 , MCA;

- (b) actions of public officials in performing judicial, quasi-judicial, or ministerial acts; or the actions of any person to influence the actions of public officials in performing judicial, quasi-judicial, or ministerial acts (5-7-102 (16) , MCA) ;
 - (c) activities of an employee or representative of a radio, newspaper, magazine, television, cable television, or other medium of mass communication in gathering and disseminating news and information to the general public;
 - (d) activities involving a bona fide news story, commentary, or editorial distributed through the facilities of any radio, television, broadcasting station, newspaper, magazine; or other periodical publication of general circulation;
 - (e) activities involving communications by a membership organization or corporation to its members, shareholders, or employees;
 - (f) information or testimony compelled by statute, rule, executive order, or other action of the legislature, the governor, or a state agency, including information or testimony compelled by a state contract, grant, loan, permit, or license; or
 - (g) information or testimony provided in response to an oral or written request from a legislative committee, the legislature, or a public official made during a public hearing or other public proceeding if the information or testimony solicited during the public hearing or public proceeding does not support or oppose the official action under consideration.
- (5) "Lobbyist" shall have the definition set forth in 5-7-102 (12) , MCA. The term "lobbyist" does not include:
- (a) an individual lobbying or acting on his/her own behalf (5-7-102 (12) (b) (i) , MCA) ;
 - (b) a public official (including a legislator) , an elected local official, an elected federal official, or an elected tribal official who promotes or opposes the introduction or enactment of legislation before the legislature or the members of the legislature (5-7-102 (11) (b) , MCA) ;
 - (c) an individual working for the same principal as a licensed lobbyist if the individual does not have direct communication with a public official to support or oppose official action on behalf of the principal (5-7-102 (12) (b) (ii) , MCA) ; or
 - (d) an individual who receives payments from one or more persons that total less than the amount specified in 5-7-112 , MCA, in a calendar year (5-7-102 (12) (b) (iii) , MCA) .
- (6) "Major effort to support, oppose, or modify official action" in 5-7-208 (5) (d) , MCA, means any official action on which a principal's lobbyist, employee, officer, agent, attorney, or representative engages in direct communication with any public official on two or more occasions to support, oppose, or modify the official action.
- (7) "Official action" means a vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority by the legislature or a member of the legislature concerning the introduction or enactment of legislation.
- (8) "Payment" shall have the definitions set forth in 5-7-102 (13) , MCA. The term includes salary, fees, compensation, or anything of value to be paid to a lobbyist or an individual engaged in lobbying activities, pursuant to a contract, including payments to be made in the future, after services are rendered by the lobbyist or the individual engaged in lobbying activities. The term does not include payments or reimbursements for personal and necessary living expenses, but includes travel expenses if a principal is required to report payments pursuant to 5-7-208 , MCA.

- (9) "Personal and necessary living expenses" means payments or reimbursement by a principal to a lobbyist or an individual engaged in lobbying activities for meals, food, lodging, or residential utilities.
- (10) "Principal" shall have the definition set forth in 5-7-102 (15) , MCA.
- (11) "Public official" shall have the definition set forth in 5-7-102 (16) , MCA, and as specifically designated in ARM 44.12.106 and 44.12.106A.
- (12) "Travel expenses" means payments or reimbursement for transportation costs, including rental car payments.

Authorizing statute(s): Sec. 5-7-111, MCA

Implementing statute(s): Sec. 5-7-102, MCA

History: NEW, 1997 MAR p. 1994, Eff. 11/4/97; AMD, 2002 MAR p. 2458, Eff. 9/13/02; AMD, 2004 MAR p. 1979, Eff. 8/20/04.