



MEC
OPINION NO.

1997.07.112

STATE OF MISSOURI
MISSOURI ETHICS COMMISSION
P. O. BOX 1254
JEFFERSON CITY, MISSOURI 65102

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July 30, 1997

COPY

On July 15, 1997, the Missouri Ethics Commission discussed your request for an opinion regarding certain provisions of S.B. 16 which was passed during the 1997 legislative session and recently signed by Governor Carnahan. The Commission's responses to your questions are as follows:

1. What shall be considered a duty in the elected official's capacity so that admission or participation in an activity is not reportable by a lobbyist?

Your question asks for guidance about section 105.470(2)(f), which is new in S.B. 16. That subsection provides:

"(2) . . . except that the term 'expenditure' shall not include the following:

(f) The transfer of any item, provision of any service or granting of any opportunity with a reasonably discernible cost or fair market value when such item, service or opportunity is necessary for a public official or employee to perform his or her duty in his or her official capacity, including but not limited to entrance fees to any sporting event, museum, or other venue when the official or employee is participating in a ceremony, public presentation or official meeting therein;"

The Commission continues to be guided by its long-held belief that the reporting provisions of Chapters 105 and 130 were enacted because the public has the right to know who is spending money on public officials and employees attempting to influence their decisions. As such, when in doubt, it is better to err on the side of reporting.

The Commission is not able to opine in advance on the myriad of scenarios that will face public officials in the performance of their official duties. Instead, the Commission must examine the specific facts associated with events as they arise.

2. *Under what circumstances could admission to a sporting event not be considered an expenditure, and consequently, not reportable by a lobbyist?*

This question is answered by the response to question number one.

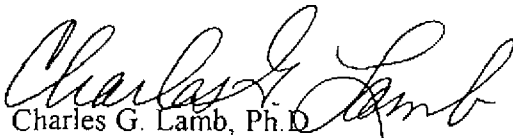
3. *What would the penalty be for a lobbyist to misrepresent a transfer of any item, service or granting of opportunity as a duty of the public official and then fail to report the expenditure?*

Section 105.478 states that any person who knowingly violates any of the provisions of sections 105.450 to 105.498 shall be punished as follows: For the first offense, the person is guilty of a Class B misdemeanor and for the second and subsequent offenses, the person is guilty of a Class D felony.

4. *May either a legislator or a lobbyist request of the Missouri Ethics Commission a decision as to whether a specific event is associated with the duty in the elected official's capacity?*

Section 105.955.16 allows the Missouri Ethics Commission to answer questions concerning reporting requirements. The Commission will attempt to answer all requests made and will, to the best of their ability, determine whether a specific event is associated with the duties of the elected official's office.

Sincerely,


Charles G. Lamb, Ph.D.
Administrative Secretary

MCR:bd

NOTICE

Anyone examining this advisory opinion should be careful to note that an opinion of the Missouri Ethics Commission deals only with the specific request to which the opinion responded and only as to the law as it existed at the date of the response and cannot be relied upon for any other purpose or in any other manner.