

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING



2-89-LI

LANSING

MICHIGAN 48918

June 29, 1989

Honorable Philip E. Hoffman
State Representative
State Capitol
Lansing, Michigan 48913

Dear Representative Hoffman:

This is in response to your inquiry regarding the applicability of the Lobby act (the Act), 1978 PA 472, as amended, to an item you received from the Pheasant Forever organization of Jackson County. Specifically, you indicate the organization gave you a mounted 3/4 Sichuan-Ringneck pheasant which you believe has a monetary value in excess of \$50.00. You ask whether it is necessary to make a declaration of this gift.

Pursuant to section 11(2) of the Act (MCL 4.411), a lobbyist or lobbyist agent or anyone acting on behalf of a lobbyist or lobbyist agent is prohibited from giving a gift to a public official. For the year 1989, "gift" is defined as anything of value which exceeds \$33.00 in a one month period. In an interpretive statement issued to James S. Mickelson on January 31, 1984, the Department concluded that this section did not apply to a symbolic citation or award unless its intrinsic or actual value exceeds the dollar limitation of section 4(1) of the Act (MCL 4.404). (In 1984, the limit was \$25.00.) A copy of the Mickelson letter is attached for your convenience.

However, the Department's records indicate that the Pheasant Forever organization is not registered as a lobbyist or lobbyist agent. Therefore, the organization was not prohibited from giving the mounted pheasant to you regardless of its actual value. On the other hand, if the pheasant was given to you for the purpose of lobbying, the value of this item must be considered to determine whether Pheasant Forever is now subject to the Act's registration requirements.

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"Lobbying" is defined in section 5(2) of the Act (MCL 4.415) as follows:

"Sec. 5. (2) 'Lobbying' means communicating directly with an official in the executive branch of state government or an official in the legislative branch of state government for the purpose of influencing legislative or administrative action. Lobbying does not include the providing of technical information by a person other than a person as defined in subsection (5) or an employee of a person as defined in subsection (5) when appearing before an officially convened legislative committee or executive department hearing panel. As used in this subsection, 'technical information' means empirically verifiable data provided by a person recognized as an expert in the subject area to which the information provided is related."

Pursuant to section 5(4), a person whose expenditures for lobbying are more than \$1,300 in any 12 month period, or more than \$375 if the amount is expended on a single public official, is required to register as a lobbyist under the Act.

The Act's reporting requirements are set out in section 8 (MCL 4.418). This section requires a lobbyist or lobbyist agent to file an annual report disclosing his or her expenditures for food and beverage, advertising and mass mailing expenses directly related to lobbying, and "all other expenditures for lobbying". An item given to a public official for the purpose of lobbying which is not a prohibited gift would be reported in the latter category by the lobbyist or lobbyist agent. However, the Act does not require the public official who received the item to file any report or declaration.

This response is informational only and does not constitute a declaratory ruling.

Very truly yours,



Phillip T. Frangos, Director
Office of Hearings and Legislation

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attachment