

CHAPTER 32

AN ACT concerning penalties for violating campaign contribution and expenditure limit and reporting requirements and remuneration restrictions, and amending P.L.1973, c.83 and P.L.1993, c.65.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 22 of P.L.1973, c.83 (C.19:44A-22) is amended to read as follows:

C.19:44A-22 Violations; civil penalties; forfeiture.

22. a . (1) Except as provided in subsection e. or f., any person, including any candidate, treasurer, candidate committee or joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, charged with the responsibility under the terms of this act for the preparation, certification, filing or retention of any reports, records, notices or other documents, who fails, neglects or omits to prepare, certify, file or retain any such report, record, notice or document at the time or during the time period, as the case may be, and in the manner prescribed by law, or who omits or incorrectly states or certifies any of the information required by law to be included in such report, record, notice or document, any person who proposes to undertake or undertakes a public solicitation, testimonial affair or other activity relating to contributions or expenditures in any way regulated by the provisions of this act who fails to comply with those regulatory provisions, and any other person who in any way violates any of the provisions of this act shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$6,000 for the first offense and not more than \$12,000 for the second and each subsequent offense.

(2) No person shall willfully and intentionally agree with another person to make a contribution to a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee with the intent, or upon the condition, understanding or belief, that the recipient candidate or committee shall make or have made a contribution to another such candidate or committee, but this paragraph shall not be construed to prohibit a county or municipal committee of a political party from making a contribution or contributions to any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee. A finding of a violation of this paragraph shall be made only upon clear and convincing evidence. A person who violates the provisions of this paragraph shall be liable to a penalty equal to four times the amount of the contribution which that person agreed to make to the recipient candidate or committee.

b. Upon receiving evidence of any violation of this section, the Election Law Enforcement Commission shall have power to hold, or to cause to be held under the provisions of subsection d. of this section, hearings upon such violation and, upon finding any person to have committed such a violation, to assess such penalty, within the limits prescribed in subsection a. of this section, as it deems proper under the circumstances, which penalty shall be paid forthwith into the State Treasury for the general purposes of the State.

c. In assessing any penalty under this section, the Election Law Enforcement Commission may provide for the remission of all or any part of such penalty conditioned upon the prompt correction of any failure, neglect, error or omission constituting the violation for which said penalty was assessed.

d. The commission may designate a hearing officer to hear complaints of violations of this act. Such hearing officer shall take testimony, compile a record and make factual findings, and shall submit the same to the commission, which shall have power to assess penalties within the limits and under the conditions prescribed in subsections b. and c. of this section. The commission shall review the record and findings of the hearing officer, but it may also seek such additional testimony as it deems necessary. The commission's determination shall be by majority vote of the entire authorized membership thereof.

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e. Any person who willfully and intentionally makes or accepts any contribution in violation of section 4 of P.L.1974, c.26 (C.19:44A-29) or section 18, 19 or 20 of P.L.1993, c.65 (C.19:44A-11.3, C.19:44A-11.4 or C.19:44A-11.5), shall be liable to a penalty of:

(1) Not more than \$10,000 if the cumulative total amount of those contributions is less than or equal to \$5,000.00;

(2) Not more than \$150,000 if the cumulative total amount of those contributions was more than \$5,000.00 but less than \$75,000; and

(3) Not more than \$200,000 if the cumulative total amount of those contributions is equal to or more than \$75,000.00.

f. In addition to any penalty imposed pursuant to subsection e. of this section, a person holding any elective public office shall forfeit that public office if the Election Law Enforcement Commission determines that the cumulative total amount of the illegal contributions was more than \$50,000.00 and that the violation had a significant impact on the outcome of the election.

g. Any penalty prescribed in this section shall be enforced in a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

2. Section 15 of P.L.1993, c.65 (C.19:44A-20.1) is amended to read as follows:

C.19:44A-20.1 Corporation, labor organization contributions through employees, prohibited; penalties; fourth degree crime.

15. a. No corporation or labor organization of any kind shall provide to any of its officers, directors, attorneys, agents or other employees any additional increment of salary, bonus or monetary remuneration of any kind which, in whole or in part, is intended by that corporation or labor organization to be used for the express purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to any candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee.

Any corporation or labor organization of any kind found to be in violation of this subsection shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$6,000 for the first offense and not more than \$12,000 for the second and each subsequent offense. Any officer, director, attorney, agent or other employee of a corporation or labor organization that provides to another employee of that corporation or labor organization any additional increment of salary, bonus or monetary remuneration of any kind for the purpose described in this subsection is guilty of a crime of the fourth degree.

b. No officer, director, attorney, agent or other employee of a corporation or labor organization of any kind shall use any part of any additional increment of salary, bonus or monetary remuneration of any kind which, in whole or in part, is intended by that corporation or labor organization to be used for the express and intentional purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to a candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee by a corporation or labor organization of any kind, for the purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to a candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee.

Any officer, director, attorney, agent or other employee of a corporation or labor organization of any kind found to be in violation of this subsection of this section is guilty of a crime of the fourth degree.

3. This act shall take effect on January 1 next following enactment.

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Approved June 16, 2004.