
House Rule 171.9

Without a Lobbyist Badge, Discussion is Limited at the Capitol & CLOB

Rule 171.9 is *not* about crime and punishment for representatives or staff. It's about limiting the constitutional freedom of speech for representatives *and* visitors at the Capitol and Coverdell Legislative Office Building. Rule 171.9 is as follows:

Rule 171.9. "No member of the House shall knowingly meet at the state capitol or Coverdell Office Building with any person who is required by the law of this State to register as a lobbyist to discuss the promotion or opposition of the passage of any legislation by the General Assembly or any committee thereof or the override of a veto unless such person either is wearing his or her valid special registered lobbyist badge or is a resident of the House district which such member represents."

Although Rule 171.9 does *not* prohibit citizens from speaking with representatives, it *forbids* communication *FROM* representatives *TO* individuals who are not wearing a lobby badge ... unless the individual and the representative live in the same district. Until now, individuals and representatives could freely communicate with each other and discuss political issues, with or without a lobbyist badge, regardless of where the individuals and representatives live.

On January 14th the Georgia House of Representatives passed H.R. 9, adopting its 52-page *Rules, Ethics and Decorum for 2013*, with 13 changes from 2012. Five rules from 2012 were deleted; seven amended; and a new one implemented – Rule 171.9, that made lobbyist badges mandatory, caused backlash from non-professionals who try to influence issues at the Capitol.

Rule 171.9 is listed under responsibilities of the seven Republicans and four Democrats on the House Ethics Committee¹. Of those seven, four – the Majority Leader, the Minority Leader, the Majority Whip and the Minority Whip – comprise the preliminary inquiry subcommittee that first investigates reported ethical violations.

To expand an investigation, the subcommittee may retain paid or unpaid counsel and/or investigators, which the accused may do, likewise. In addition, the accused may cross examine accusers and obtain documents and materials offered in evidence. Representatives found guilty may be fined, censured or imprisoned or expelled. Expulsion requires a two-thirds House vote.

H.R. 9, implementing the new *Rules, Ethics and Decorum of the House of Representatives for 2013*, passed 118-57, revealing an almost total lock-step commitment to party. One Democrat and a lone Independent joined Republicans to pass it; two Democrats and a Republican failed to vote; and the two vacant seats in the House counted as failures to vote.

ACTION: To express your opinion about Rule 171.9 (a) call Speaker Ralston's office at 404 656-5020.

(b) Also, call Ethics Committee members: Representatives Joe Wilkinson, Ch., 404 463-8143; Abrams, 404 656-5058; Buckner, 404 656-0116; Floyd, 404 656-0314; Hugley, 404 656-5058; Jan Jones, 404 656-5072; Lindsey, 404 656-5024; O'Neal, 404 656-5052; Ramsey, 404 656-5146; Sheldon, 404 656-5025; Willard, 404 656-5125

¹ Ethics Committee Ch., Speaker Pro Tem, Majority Leader, Majority Whip, Majority Caucus Ch., Majority Caucus Vice Ch., Judiciary Committee Ch., Minority Leader, Minority Whip, Minority Caucus Ch., and Minority Caucus Sec.

Mutation: Ethics Reform Becomes Registration for Capitol/LOB Visitors

“I think we’re coming dangerously close to putting up barriers to prevent people from petitioning their government, which is kinda one of those biggies that we got when we started the country.”

– Patrick Millsaps, Chairman State Campaign Finance Commission, March 2011

A 1995 court ruled that Georgia’s registration fee for lobbyists violated free speech. In response to a challenge from the AFL-CIO, U.S. District Judge Marvin Shoob ruled in 1995 that the State Ethics Commission violated the free-speech and equal-protection clauses of the U. S. Constitution by requiring a \$200 registration fee from most lobbyists, but only \$20 for registering members of non-profit groups. Non-profits organized under 501(c)(3) and 501(c)(4) could register for \$20; but AFL-CIO, as a 501(c)(5) labor organization, had to pay \$200.

In 2011 the ethics issue was in the cross-hairs. The March 2011 quote above was after the State Campaign Finance Commission voted 4-1 to uphold Georgia’s lobbyist law and it was settled for a while. Anyone trying to influence legislation must pay \$300 to register as a lobbyist and file twice-monthly expense reports, even if none occurred. Result: professional lobbyists must register and pay the fee, but the situation for volunteers remained murky.

On February 7, 2013 House Speaker Ralston made the following statement about his bill:

“It was never my intent to make people pay a fee for coming down here to see their own¹ representative or own¹ senator or if they come on a limited basis.”

H.B. 142 is House Speaker Ralston’s bill, co-authored by Representatives O’Neal, Smyre, Jan Jones, Lindsey, and Richard Smith – three of whom are attorneys. If it passes, (a) individuals may discuss issues at the Capitol and CLOB with elected state and local officials they may vote for; but (b) to speak with officials they cannot vote for, they must pay \$320 to register and (c) get a lobbyist badge (d) to constantly wear at the Capitol and CLOB. H.B. 142 states:

“No person who is required by the law of this state to register as a lobbyist shall meet at the state capitol or Coverdell Legislative Office Building with any member of the General Assembly to discuss the promotion or opposition of the passage of any legislation by the General Assembly or any committee thereof or the override of a veto unless such person is wearing his or her valid official registered lobbyist badge or is a resident of the House or Senate district which such member represents.” (H.B. 142, pages 9-10, lines 310-325)

H.B. 142 is unconstitutional. In addition to the above requirement, (a) it restricts free speech for all elected officials in state and local governments, by prohibiting their discussion of issues with individuals that have no lobbyist badge. Likewise, it (b) restricts the freedom of speech of individuals who choose *not* to register and (c) puts a price tag on influencing government.

ACTION – Oppose. Call Rules Committee Representatives John Meadows, Ch., 404 656-5141; Golick, V-Ch., 656-5943; R. Smith, Sec., 656-6831; Benton, 656-0213; Channell, 656-5103; Cooper, 656-5069; Dempsey, 463-2248; Ehrhart, 463-2246; Hamilton, 656-5132; Parrish, 463-2246; Rice, 656-5912; J. Roberts, 656-7153; Setzler, 657-8443; B. Sims, 656-7857; Lynn Smith, 656-7149; R. Stephens, 656-5122; Weldon, 656-0213; Willard, 656-5125.

Georgia has No Protection against Unconstitutional Legislation

There is no process to assure voters (a) that legislators would *never* introduce bills that are unconstitutional; (b) that the State Attorney General would monitor and counsel legislators against unconstitutional legislation; and, at the very least, (c) the Office of Legislative Counsel would refuse to accept or write bills that violate the Constitutions of the U. S. and Georgia.

¹ H.B. 142 limits free speech. Persons may discuss issues with their elected officials, but with others on a limited basis only.

² On February 7, 2013, a subcommittee, reportedly, revised H.B. 142 to reduce the registration/badge fee to \$25. If accurate, that and other changes will be evident when the substitute bill emerges. Meanwhile, contact representatives listed under H.B. 142 ACTION.

Teach U.S. Constitution to Georgia Students

H.R. 218, by Representative Barbara Sims, implores educators to teach the U.S. Constitution to students and enhance the curriculum as a vital part of primary education throughout Georgia, especially, in Richmond and Columbia Counties.

ACTION – Support. Call House Education Committee Representatives Coleman, Ch., 404 656-9210; Casas, V-Ch., 656-0254; Benton, Sec., 656-2013; Carter, 656-6801; Chandler, 656-0254; Clark, 656-0202; Dickerson, 656-0314; Dickson, 463-2247; Dudgeon, 656-0298; England, 463-2245; Floyd, 656-0314; Glanton 656-0325; Howard, 656-6372; Jones, 656-5072; Kaiser, 656-0265; Lindsey, 656-5024; Maxwell, 656-5143; Mayo, 656-6372; Morgan, 656-0109; Nix, 656-5087; Setzler, 656-7857; Talton, 636-5105; Tanner, 656-0152; Teasley, 656-0177; and Thomas, 656-0220.

Illegal Aliens and the Law

S.B. 2, introduced by Senator John Albers January 17th, creates new law to deny employment benefits to aliens who were not lawfully admitted for permanent residence in the U.S. or were not lawfully covered for employment or were living in the U.S. illegally, at the time they were employed. In addition, it requires data or information required of any job applicant to be uniformly required of all who apply. Denial of benefits for alien status must be based on a preponderance of evidence.

ACTION: Support. Call Insurance & Labor Committee Senators Golden, Ch., 404 656-7580; Shafer, V-Ch., 656-0048; Judson Hill, Sec., 656-0150; Bethel, 656-6484; Harbison, 656-0074; B. Jones, 656-0082; McKoon, 463-3931; Ramsey, 463-2598; and Unterman, 463-1368.

Drivers: Hands-free Communication Only!

H.B. 31, introduced by Representative Rahn Mayo January 17th, prohibits hand-held telecommunication devices while driving in Georgia. However, hands-free wireless devices may be used when the motor vehicle is parked or to report a traffic accident, medical emergency, fire, serious road hazard, an immediate health or safety issue, or the perpetration or potential perpetration of a crime. Textinganddrivingsafety.com reports these statistics:

- (a) In 2011 at least 23% of auto collisions involved cell phones. That's 1.3 million crashes.
- (b) 82% of Americans age 16-17 own cell phones; 52% say they've talked on it while driving.
- (c) 34% say they have texted while driving.

ACTION – Support. Call House Motor Vehicles Committee Representatives Rice, Ch., 404 656-5912; Epps, V-Ch., 656-0298; Battles, Sec., 463-3793; Barr, 656-0325; Caldwell, 656-0325; Douglas, 656-7859; Dutton, 656-0188; Howard, 656-6372; Jordan, 656-0116; Powell, 463-3793; and Yates, 656-5126.

Georgia/Tennessee Water Dispute

H.R. 4 pre-filed December 13th, was officially introduced February 1st by Representative Geisinger. It proposes a settlement to the Georgia/ Tennessee boundary dispute caused by an 1818 erroneously placed marker of the 35th parallel, which was one mile south of the actual location of the 35th parallel of north latitude. If the marker had been placed correctly, the northern border of Georgia would have been on the northernmost bank of the Tennessee River at Nickajack. That error has been widely acknowledged, but not remedied.

H.R. 4 proposes that Georgia and Tennessee settle the dispute by agreeing to Georgia's right to the flow of the Tennessee River in its natural state, volume, growth and purity, except as affected by reasonable use of other proprietors. If legislatures in Georgia and Tennessee agree, part of Georgia's northern boundary would be redrawn, the proposal would be submitted to Congress and, ultimately, the governors of Tennessee and Georgia could negotiate settlement.

ACTION – Support. Call Rules Committee Representatives John Meadows, Ch., 404 656-5141; Golick, V-Ch., 656-5943; R. Smith, Sec., 656-6831; Benton, 656-0213; Channell, 656-5103; Cooper, 656-5069; Dempsey, 463-2248; Ehrhart, 463-2246; Hamilton, 656-5132; Parrish, 463-2246; Rice, 656-5912; J. Roberts, 656-7153; Setzler, 657-8443; B. Sims, 656-7857; Lynn Smith, 656-7149; R. Stephens, 656-5122; Weldon, 656-0213; Willard, 656-5125.

Georgia's Choices: (a) Bow to Obamacare or (b) Exercise State Sovereignty

The Patient Protection & Affordable Care Act, aka Obamacare, passed March 23, 2010.

On June 28, 2012, the U.S. Supreme Court voted 5-4 to uphold its constitutionality.

S.R. 889¹ of 2012 would have asserted Georgia's State sovereignty and constitutional power to reject federal encroachment into State affairs. Neglected after being assigned to the Senate Judiciary Committee, S.B. 889 whimpered and died. Had it passed, States' rights could have been invoked to prohibit the implementation of Obamacare's health exchanges in Georgia.

Obamacare in Georgia

1. Georgia is Entangled with Obamacare

In 2010 Georgia took a \$100 million grant for first requirements of Obamacare and committed to several early parts, including Women's Wellness and Preventive Care.

2. But, Governor Deal said Georgia will NOT pursue a state-based health exchange.

November 16, 2012, in his letter to HHS Secretary Sebelius, Governor Deal stated:

"The State of Georgia will NOT pursue a state-based exchange, will NOT operate its own reinsurance program, will maintain separate small group and individual insurance markets, will continue to define 'small group employer' as up to 50 employees for the purposes of the small group insurance market, and will continue to determine eligibility for ALL individuals seeking Medicaid in our state."

3. If H.B. 198 passes, Georgia would license Obamacare "Navigators."

H.B. 198 was introduced by Representative Richard Smith February 5th and passed the Insurance Committee two days later. From there, it went into the Rules Committee, then onto the House floor February 13th under the "modified-open" rule² where it passed 154-16.

H.B. 198 authorizes Insurance Commissioner Hudgens to license navigators to help enroll individuals and employers in health plans that qualify under Obamacare Exchanges. Two entities from a list³ in the Affordable Care Act must be among the navigators licensed.

4. Exchanges fund Navigators.

"Grants under this subsection shall be made from the operational funds of the Exchange and not Federal funds received by the State to establish the Exchange." ACA, PL 111-148 Section 1311

ACTION – (a) Ask the Governor's Chief of Staff Chris Riley, 404 656-1776, how H.B. 198 affects/relates/correlates to the governor's comment that "Georgia will NOT pursue a state health exchange." **Then, ask the same of (b) Insurance & Labor Senators Golden, Ch., 404 656-7580**; Shafer, V-Ch., 656-0048; Jud. Hill, Sec., 656-0150; Bethel, 656-6484; Harbison, 656-0074; B. Jones, 656-0082; McKoon, 463-3931; Ramsey, 463-2598; Unterman, 463-1368.

Lowering Mandatory Age to Start School

S.B. 57 introduced by Senator Donzella James January 15th lowers the mandatory age from six to five for mandatory school attendance in public, private or home school programs.

ACTION – Oppose. Call Education & Youth Committee Senators Tippins, Ch., 404 657-0406; Wilkinson, V-Ch., 463-5257; Sims, Sec., 463-5259; Fort, 656-5091; Hufstetler, 656-0034; James, 463-1379; Millar, a463-2260; Miller, 656-6578; Stone 463-1314; and Tate, 463-8053.

¹ Co-sponsored by Senators Albers, Loudermilk, Rogers, Williams and Gooch

² Modified-open rule allows amendment(s) that must be pre-printed and put on the desk an hour before debate begins.

³ From the following ACA list, Commissioner Hudgens must license at least two entities to serve as navigators: Trade, industry, and professional associations; commercial fishing industry organizations; ranching and farming organizations; community and consumer-focused nonprofit groups; chambers of commerce; unions; Small Business Administration resource partners, other licensed insurance agents and brokers; and other entities that meet Obamacare standards. "Other entities" mean both public and private entities, including Indian tribes, tribal organizations, urban Indian organizations, and state or local human services agency

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