

ADVISORY OPINION 98-28

June 25, 1998

RE: Definition of "tangible" gift.

The Commission upon its own initiative issues this opinion. This matter was reviewed at the June 25, 1998 meeting of the Commission.

House Bill No. 275, enacted by the 1998 General Assembly, amends KRS 11A.045 to read, in part, as follows:

(1) No public servant, his spouse, or dependent child knowingly shall accept tangible gifts or gratuities with a value greater than twenty-five dollars (\$25) in a single calendar year, or travel expenses, meals, alcoholic beverages, lodging or honoraria of any value, from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. The following items are exempt...

Numerous employees have raised questions concerning what is considered a "tangible" gift or gratuity. This opinion attempts to clarify the definition of tangible gifts as it relates to KRS 11A.045.

Webster's II New Riverside University Dictionary defines the adjective "tangible" as:

1. a. Discernible by the touch or capable of being touched.
- ...
3. Capable of being valued monetarily, as land or securities

The Commission believes that tangible gifts include those items that generally can be touched. Examples include: flowers, box of candy, country ham. Although a meal or alcoholic beverage may be considered a tangible gift, the statute specifically states that meals and alcoholic beverages, of any value, may not be accepted.

Items the Commission believes that are not tangible gifts, and thus may not be accepted regardless of the value, include monetary gifts, agreements to pay, forgiveness of debt, reimbursement for expenses, lodging, honoraria, and tickets to events. Although tickets to events themselves may be tangible, the gift is not the ticket itself, but the attendance at the event for which the ticket was received, which is not tangible.

Additionally, although KRS 11A.045 does allow for the acceptance of certain

gifts with a value of less than \$25, no gifts of any value should be solicited by employees from persons or businesses doing business with or regulated by the state agency for which the employee works.