

As Introduced

**126th General Assembly
Regular Session
2005-2006**

H. B. No. 60

**Representatives Driehaus, Hartnett, Carano, Miller, Allen, Williams, Healy,
Skindell, Barrett, D. Stewart, Strahorn, Beatty, Garrison, Otterman**

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A B I L L

To amend sections 3517.01, 3517.081, and 3517.992 and 1
to enact sections 3517.093 and 3517.094 of the 2
Revised Code to prohibit the Secretary of State 3
from serving on the campaign committee of a 4
candidate or a committee supporting or opposing a 5
ballot issue or question, and from soliciting 6
contributions, making contributions, and speaking 7
in support of or opposition to any candidate or 8
ballot issue or question. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3517.01, 3517.081, and 3517.992 be 10
amended and sections 3517.093 and 3517.094 of the Revised Code be 11
enacted to read as follows: 12

Sec. 3517.01. (A) A political party within the meaning of 13
Title XXXV of the Revised Code is any group of voters that, at the 14
most recent regular state election, polled for its candidate for 15
governor in the state or nominees for presidential electors at 16
least five per cent of the entire vote cast for that office or 17
that filed with the secretary of state, subsequent to any election 18
in which it received less than five per cent of that vote, a 19

petition signed by qualified electors equal in number to at least 20
one per cent of the total vote for governor or nominees for 21
presidential electors at the most recent election, declaring their 22
intention of organizing a political party, the name of which shall 23
be stated in the declaration, and of participating in the 24
succeeding primary election, held in even-numbered years, that 25
occurs more than one hundred twenty days after the date of filing. 26
No such group of electors shall assume a name or designation that 27
is similar, in the opinion of the secretary of state, to that of 28
an existing political party as to confuse or mislead the voters at 29
an election. If any political party fails to cast five per cent of 30
the total vote cast at an election for the office of governor or 31
president, it shall cease to be a political party. 32

(B) Notwithstanding the definitions found in section 3501.01 33
of the Revised Code, as used in this section, sections 3517.08 to 34
3517.14, and section 3517.99 of the Revised Code: 35

(1) "Campaign committee" means a candidate or a combination 36
of two or more persons authorized by a candidate under section 37
3517.081 of the Revised Code to receive contributions and make 38
expenditures. 39

(2) "Campaign treasurer" means an individual ~~appointed~~ 40
designated by a candidate under division (B) of section 3517.081 41
of the Revised Code. 42

(3) "Candidate" has the same meaning as in division (H) of 43
section 3501.01 of the Revised Code and also includes any person 44
who, at any time before or after an election, receives 45
contributions or makes expenditures or other use of contributions, 46
has given consent for another to receive contributions or make 47
expenditures or other use of contributions, or appoints a campaign 48
treasurer, for the purpose of bringing about the person's 49
nomination or election to public office. When two persons jointly 50
seek the offices of governor and lieutenant governor, "candidate" 51

means the pair of candidates jointly. "Candidate" does not include candidates for election to the offices of member of a county or state central committee, presidential elector, and delegate to a national convention or conference of a political party.

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(4) "Continuing association" means an association, other than a campaign committee, political party, legislative campaign fund, political contributing entity, or labor organization, that is intended to be a permanent organization that has a primary purpose other than supporting or opposing specific candidates, political parties, or ballot issues, and that functions on a regular basis throughout the year.

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(5) "Contribution" means a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, or transfer of funds or ~~transfer~~ of anything of value, including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom the services are rendered for the personal services of another person, which contribution is made, received, or used for the purpose of influencing the results of an election. "Contribution" does not include any of the following:

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(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person;

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(b) Ordinary home hospitality;

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(c) The personal expenses of a volunteer paid for by that volunteer campaign worker;

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(d) Any gift given to a state or county political party pursuant to section 3517.101 of the Revised Code. As used in division (B)(5)(d) of this section, "political party" means only a major political party.

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(6) "Expenditure" means the disbursement or use of a

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contribution for the purpose of influencing the results of an	82
election or of making a charitable donation under division (G) of	83
section 3517.08 of the Revised Code.	84
(7) "Personal expenses" includes, but is not limited to,	85
ordinary expenses for accommodations, clothing, food, personal	86
motor vehicle or airplane, and home telephone.	87
(8) "Political action committee" means a combination of two	88
or more persons, the primary or incidental purpose of which is to	89
support or oppose any candidate, political party, or issue, or to	90
influence the result of any election, and that is not a political	91
party, a campaign committee, a political contributing entity, or a	92
legislative campaign fund.	93
(9) "Public office" means any state, county, municipal,	94
township, and <u>or</u> district office, except an office of a political	95
party, that is filled by an election and the offices of United	96
States senator and congressman <u>representative</u> .	97
(10) "Anything of value" has the same meaning as in section	98
1.03 of the Revised Code.	99
(11) "Beneficiary of a campaign fund" means a candidate, a	100
public official or employee for whose benefit a campaign fund	101
exists, and any other person who has ever been a candidate or	102
public official or employee and for whose benefit a campaign fund	103
exists.	104
(12) "Campaign fund" means money or other property, including	105
contributions.	106
(13) "Public official or employee" has the same meaning as in	107
section 102.01 of the Revised Code.	108
(14) "Caucus" means all of the members of the house of	109
representatives or all of the members of the senate of the general	110
assembly who are members of the same political party.	111

(15) "Legislative campaign fund" means a fund that is 112
established as an auxiliary of a state political party and 113
associated with one of the houses of the general assembly. 114

(16) "In-kind contribution" means anything of value other 115
than money that is used to influence the results of an election or 116
is transferred to or used in support of or in opposition to a 117
candidate, campaign committee, legislative campaign fund, 118
political party, political action committee, or political 119
contributing entity and that is made with the consent of, in 120
coordination, cooperation, or consultation with, or at the request 121
or suggestion of the benefited candidate, committee, fund, party, 122
or entity. The financing of the dissemination, distribution, or 123
republication, in whole or part, of any broadcast or of any 124
written, graphic, or other form of campaign materials prepared by 125
the candidate, the candidate's campaign committee, or their 126
authorized agents is an in-kind contribution to the candidate and 127
an expenditure by the candidate. 128

(17) "Independent expenditure" means an expenditure by a 129
person advocating the election or defeat of an identified 130
candidate or candidates, that is not made with the consent of, in 131
coordination, cooperation, or consultation with, or at the request 132
or suggestion of any candidate or candidates or of the campaign 133
committee or agent of the candidate or candidates. As used in 134
division (B)(17) of this section: 135

(a) "Person" means an individual, partnership, unincorporated 136
business organization or association, political action committee, 137
political contributing entity, separate segregated fund, 138
association, or ~~any~~ other organization or group of persons, but 139
not a labor organization or a corporation unless the labor 140
organization or corporation is a political contributing entity. 141

(b) "Advocating" means any communication containing a message 142

advocating election or defeat.

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(c) "Identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

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(d) "Made in coordination, cooperation, or consultation with, or at the request or suggestion of, any candidate or the campaign committee or agent of the candidate" means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate's campaign committee, or the candidate's agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure is presumed to be so made when it is any of the following:

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(i) Based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's campaign committee or agent, with a view toward having an expenditure made;

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(ii) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of the candidate's campaign committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate's campaign committee or agent;

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(iii) Made by a political party in support of a candidate, unless the expenditure is made by a political party to conduct voter registration or voter education efforts.

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(e) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position with the candidate's campaign committee or organization such that it would reasonably appear that in the ordinary course of campaign-related activities

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the person may authorize expenditures. 174

(18) "Labor organization" means a labor union; an employee 175
organization; a federation of labor unions, groups, locals, or 176
other employee organizations; an auxiliary of a labor union, 177
employee organization, or federation of labor unions, groups, 178
locals, or other employee organizations; or any other bona fide 179
organization in which employees participate and that exists for 180
the purpose, in whole or in part, of dealing with employers 181
concerning grievances, labor disputes, wages, hours, and other 182
terms and conditions of employment. 183

(19) "Separate segregated fund" means a separate segregated 184
fund established pursuant to the Federal Election Campaign Act. 185

(20) "Federal Election Campaign Act" means the "Federal 186
Election Campaign Act of 1971," 86 Stat. 11, 2 U.S.C.A. 431, et 187
seq., as amended. 188

(21) "Political contributing entity" means any entity, 189
including a corporation or labor organization, that may lawfully 190
make contributions and expenditures and that is not an individual 191
or a political action committee, continuing association, campaign 192
committee, political party, legislative campaign fund, designated 193
state campaign committee, or state candidate fund. For purposes of 194
this division ~~(B)(21) of this section~~, "lawfully" means not 195
prohibited by any section of the Revised Code, or authorized by a 196
final judgment of a court of competent jurisdiction. 197

Sec. 3517.081. (A) Each candidate shall have no more than one 198
campaign committee for purposes of receiving contributions and 199
making expenditures. No campaign committee shall receive any 200
contribution or make any expenditure other than through the 201
campaign treasurer. The campaign treasurer shall file all 202
statements required of a candidate or campaign committee under 203

section 3517.10 of the Revised Code. 204

(B) The candidate shall designate ~~himself~~ self or a member of 205
~~his~~ the candidate's campaign committee as ~~his~~ the candidate's 206
campaign treasurer as required by division (D) of section 3517.10 207
of the Revised Code. The campaign treasurer may appoint deputy 208
campaign treasurers as required. Deputy campaign treasurers may 209
exercise any of the powers and duties of a campaign treasurer when 210
specifically authorized to do so by the campaign treasurer or the 211
candidate. 212

(C) Each candidate shall file a written statement, as 213
required by division (D) of section 3517.10 of the Revised Code, 214
setting forth the full name and address of the campaign treasurer 215
and also of each deputy campaign treasurer. Each candidate shall 216
file supplemental statements giving the full name and address of 217
each deputy campaign treasurer at the time of appointment. 218

(D) A candidate may remove the campaign treasurer or any 219
deputy campaign treasurer at any time. In the case of death, 220
resignation, or removal of the campaign treasurer or a deputy 221
campaign treasurer before compliance with all obligations of a 222
campaign treasurer, the candidate shall fill the vacancy thus 223
created in the same manner as provided in the case of an original 224
appointment. 225

(E) Except for the secretary of state's own campaign 226
committee, the secretary of state shall not be a member of or a 227
deputy campaign treasurer of a campaign committee. 228

Sec. 3517.093. (A) Except for the secretary of state's own 229
campaign, the secretary of state shall not do any of the 230
following: 231

(1) Solicit or accept a contribution in support of or 232
opposition to a candidate; 233

(2) Make a contribution or expenditure, including an independent expenditure, in support of or opposition to a candidate; 234
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(3) Make a speech at a political meeting in support of or opposition to a candidate or publicly endorse or oppose a candidate. 237
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(B) In conjunction with the secretary of state's own campaign, the secretary of state shall not appear in joint campaign advertisements or conduct joint fundraising activities with a candidate for another office. 240
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Sec. 3517.094. The secretary of state shall not do any of the following: 244
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(A) Be a member of or a treasurer or deputy treasurer of a committee supporting or opposing a ballot issue or question; 246
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(B) Solicit or accept a contribution in support of or opposition to a ballot issue or question; 248
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(C) Make a contribution or expenditure, including an independent expenditure, in support of or opposition to a ballot issue or question; 250
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(D) Make a speech at a political meeting in support of or opposition to a ballot issue or question or publicly endorse or oppose a ballot issue or question; 253
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(E) In conjunction with the secretary of state's own campaign, appear in joint campaign advertisements or conduct joint fundraising activities in support of or opposition to a ballot issue or question. 256
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Sec. 3517.992. This section establishes penalties only with respect to acts or failures to act that occur on and after August 24, 1995. 260
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(A)(1) A candidate whose campaign committee violates division 263
(A), (B), (C), (D), or (V) of section 3517.13 of the Revised Code, 264
or a treasurer of a campaign committee who violates any of those 265
divisions, shall be fined not more than one hundred dollars for 266
each day of violation. 267

(2) Whoever violates division (E) of section 3517.13 of the 268
Revised Code shall be fined not more than one hundred dollars for 269
each day of violation. 270

(B) A political party that violates division (F)(1) of 271
section 3517.101 of the Revised Code shall be fined not more than 272
one hundred dollars for each day of violation. 273

(C) Whoever violates division (F)(2) of section 3517.101 or 274
division (G) of section 3517.13 of the Revised Code shall be fined 275
not more than ten thousand dollars or, if the offender is a person 276
who was nominated or elected to public office, shall forfeit the 277
nomination or the office to which the offender was elected, or 278
both. 279

(D) Whoever violates division (F) of section 3517.13 of the 280
Revised Code shall be fined not more than three times the amount 281
contributed. 282

(E) Whoever violates division (H) of section 3517.13 of the 283
Revised Code shall be fined not more than one hundred dollars. 284

(F) Whoever violates division (E) of section 3517.081, 285
section 3517.093 or 3517.094, or division (O), (P), or (Q) of 286
section 3517.13 of the Revised Code is guilty of a misdemeanor of 287
the first degree. 288

(G) A state or county committee of a political party that 289
violates division (B)(1) of section 3517.18 of the Revised Code 290
shall be fined not more than twice the amount of the improper 291
expenditure. 292

(H) A state or county political party that violates division	293
(G) of section 3517.101 of the Revised Code shall be fined not	294
more than twice the amount of the improper expenditure or use.	295
(I)(1) Any individual who violates division (B)(1) of section	296
3517.102 of the Revised Code and knows that the contribution the	297
individual makes violates that division shall be fined an amount	298
equal to three times the amount contributed in excess of the	299
amount permitted by that division.	300
(2) Any political action committee that violates division	301
(B)(2) of section 3517.102 of the Revised Code shall be fined an	302
amount equal to three times the amount contributed in excess of	303
the amount permitted by that division.	304
(3) Any campaign committee that violates division (B)(3) or	305
(5) of section 3517.102 of the Revised Code shall be fined an	306
amount equal to three times the amount contributed in excess of	307
the amount permitted by that division.	308
(4)(a) Any legislative campaign fund that violates division	309
(B)(6) of section 3517.102 of the Revised Code shall be fined an	310
amount equal to three times the amount transferred or contributed	311
in excess of the amount permitted by that division, as applicable.	312
(b) Any state political party, county political party, or	313
state candidate fund of a state political party or county	314
political party that violates division (B)(6) of section 3517.102	315
of the Revised Code shall be fined an amount equal to three times	316
the amount transferred or contributed in excess of the amount	317
permitted by that division, as applicable.	318
(c) Any political contributing entity that violates division	319
(B)(7) of section 3517.102 of the Revised Code shall be fined an	320
amount equal to three times the amount contributed in excess of	321
the amount permitted by that division.	322

(5) Any political party that violates division (B)(4) of 323
section 3517.102 of the Revised Code shall be fined an amount 324
equal to three times the amount contributed in excess of the 325
amount permitted by that division. 326

(6) Notwithstanding divisions (I)(1), (2), (3), (4), and (5) 327
of this section, no violation of division (B) of section 3517.102 328
of the Revised Code occurs, and the secretary of state shall not 329
refer parties to the Ohio elections commission, if the amount 330
transferred or contributed in excess of the amount permitted by 331
that division meets either of the following conditions: 332

(a) It is completely refunded within five business days after 333
it is accepted. 334

(b) It is completely refunded on or before the tenth business 335
day after notification to the recipient of the excess transfer or 336
contribution by the board of elections or the secretary of state 337
that a transfer or contribution in excess of the permitted amount 338
has been received. 339

(J)(1) Any campaign committee that violates division (C)(1), 340
(2), (3), or (6) of section 3517.102 of the Revised Code shall be 341
fined an amount equal to three times the amount accepted in excess 342
of the amount permitted by that division. 343

(2) Any state or county political party that violates 344
division (C)(4) of section 3517.102 of the Revised Code shall be 345
fined an amount from its state candidate fund equal to three times 346
the amount accepted in excess of the amount permitted by that 347
division. 348

(3) Any legislative campaign fund that violates division 349
(C)(5) of section 3517.102 of the Revised Code shall be fined an 350
amount equal to three times the amount accepted in excess of the 351
amount permitted by that division. 352

(4) Any political action committee or political contributing
entity that violates division (C)(7) of section 3517.102 of the
Revised Code shall be fined an amount equal to three times the
amount accepted in excess of the amount permitted by that
division.

(5) Notwithstanding divisions (J)(1), (2), (3), and (4) of
this section, no violation of division (C) of section 3517.102 of
the Revised Code occurs, and the secretary of state shall not
refer parties to the Ohio elections commission, if the amount
transferred or contributed in excess of the amount permitted to be
accepted by that division meets either of the following
conditions:

(a) It is completely refunded within five business days after
its acceptance.

(b) It is completely refunded on or before the tenth business
day after notification to the recipient of the excess transfer or
contribution by the board of elections or the secretary of state
that a transfer or contribution in excess of the permitted amount
has been received.

(K)(1) Any legislative campaign fund that violates division
(F)(1) of section 3517.102 of the Revised Code shall be fined
twenty-five dollars for each day of violation.

(2) Any legislative campaign fund that violates division
(F)(2) of section 3517.102 of the Revised Code shall give to the
treasurer of state for deposit into the state treasury to the
credit of the Ohio elections commission fund all excess
contributions not disposed of as required by division (E) of
section 3517.102 of the Revised Code.

(L) Whoever violates section 3517.105 of the Revised Code
shall be fined one thousand dollars.

(M)(1) Whoever solicits a contribution in violation of 383
section 3517.092 or violates division (B) of section 3517.09 of 384
the Revised Code is guilty of a misdemeanor of the first degree. 385

(2) Whoever knowingly accepts a contribution in violation of 386
division (B) or (C) of section 3517.092 of the Revised Code shall 387
be fined an amount equal to three times the amount accepted in 388
violation of either of those divisions and shall return to the 389
contributor any amount so accepted. Whoever unknowingly accepts a 390
contribution in violation of division (B) or (C) of section 391
3517.092 of the Revised Code shall return to the contributor any 392
amount so accepted. 393

(N) Whoever violates division (S) of section 3517.13 of the 394
Revised Code shall be fined an amount equal to three times the 395
amount of funds transferred or three times the value of the assets 396
transferred in violation of that division. 397

(O) Any campaign committee that accepts a contribution or 398
contributions in violation of section 3517.108 of the Revised 399
Code, uses a contribution in violation of that section, or fails 400
to dispose of excess contributions in violation of that section 401
shall be fined an amount equal to three times the amount accepted, 402
used, or kept in violation of that section. 403

(P) Any political party, state candidate fund, legislative 404
candidate fund, or campaign committee that violates division (T) 405
of section 3517.13 of the Revised Code shall be fined an amount 406
equal to three times the amount contributed or accepted in 407
violation of that section. 408

(Q) A treasurer of a committee or another person who violates 409
division (U) of section 3517.13 of the Revised Code shall be fined 410
not more than two hundred fifty dollars. 411

(R) Whoever violates division (I) or (J) of section 3517.13 412
of the Revised Code shall be fined not more than one thousand 413

dollars. Whenever a person is found guilty of violating division 414
(I) or (J) of section 3517.13 of the Revised Code, the contract 415
awarded in violation of either of those divisions shall be 416
rescinded if its terms have not yet been performed. 417

(S) A candidate whose campaign committee violates or a 418
treasurer of a campaign committee who violates division (A), (B), 419
(C), or (D) of section 3517.081 of the Revised Code, and a 420
candidate whose campaign committee violates, ~~or~~ a treasurer of a 421
campaign committee who violates, or another person who violates~~7~~ 422
division (C) of section 3517.10 of the Revised Code, shall be 423
fined not more than five hundred dollars. 424

(T) A candidate whose campaign committee violates or a 425
treasurer of a committee who violates division (B), or a candidate 426
whose campaign committee violates, a treasurer of a committee, or 427
another person who violates division (C), of section 3517.09 of 428
the Revised Code shall be fined not more than one thousand 429
dollars. 430

(U) Whoever violates section 3517.20 of the Revised Code 431
shall be fined not more than five hundred dollars. 432

(V) Whoever violates section 3517.21 or 3517.22 of the 433
Revised Code shall be imprisoned for not more than six months or 434
fined not more than five thousand dollars, or both. 435

(W) A campaign committee that is required to file a 436
declaration of no limits under division (D)(2) of section 3517.103 437
of the Revised Code that, before filing that declaration, accepts 438
a contribution or contributions that exceed the limitations 439
prescribed in section 3517.102 of the Revised Code, shall return 440
that contribution or those contributions to the contributor. 441

(X) Any campaign committee that fails to file the declaration 442
of filing-day finances required by division (F) of section 443
3517.109 or the declaration of primary-day finances or declaration 444

of year-end finances required by division (E) of section 3517.1010 445
of the Revised Code shall be fined twenty-five dollars for each 446
day of violation. 447

(Y) Any campaign committee that fails to dispose of excess 448
funds or excess aggregate contributions under division (B) of 449
section 3517.109 of the Revised Code in the manner required by 450
division (C) of that section or under division (B) of section 451
3517.1010 of the Revised Code in the manner required by division 452
(C) of that section shall give to the treasurer of state for 453
deposit into the Ohio elections commission fund created under 454
division (E)(2)(b) of section 3517.102 of the Revised Code all 455
funds not disposed of pursuant to those divisions. 456

(Z) Any individual, campaign committee, political action 457
committee, political contributing entity, legislative campaign 458
fund, political party, or other entity that violates any provision 459
of sections 3517.09 to 3517.12 of the Revised Code for which no 460
penalty is provided for under any other division of this section 461
shall be fined not more than one thousand dollars. 462

(AA)(1) Whoever knowingly violates division (W)(1) of section 463
3517.13 of the Revised Code shall be fined an amount equal to 464
three times the amount contributed, expended, or promised in 465
violation of that division or ten thousand dollars, whichever 466
amount is greater. 467

(2) Whoever knowingly violates division (W)(2) of section 468
3517.13 of the Revised Code shall be fined an amount equal to 469
three times the amount solicited or accepted in violation of that 470
division or ten thousand dollars, whichever amount is greater. 471

Section 2. That existing sections 3517.01, 3517.081, and 472
3517.992 of the Revised Code are hereby repealed. 473