THE SEMISOVEREIGN LOBBYISTS: GROUP DENSITY AND LOBBYING REGULATIONS IN THE AMERICAN STATES, 1990 – 2012

by

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(Under the Direction of James E. Monogan, III)

ABSTRACT

There is currently little evidence that total registrations of interest groups are correlated with broader statutory definitions of lobbyists or additional regulations of those registered. Theoretical explanations claim that slight variations in definitions cannot be expected to capture additional, latent groups and that regulations are poorly enforced. As states have enacted various definitions of lobbying activities and additional regulations on those registered, I focus on estimating the effects of such laws on registrations. I examine changes in registrations and lobbying laws over two decades with temporal measures of group density, statutory definitions, and lobbying regulations. Findings suggest that broader statutory definitions of lobbying and prohibited activities increase political transparency by encouraging additional groups to register. These findings call for a reconsideration of the effects of regulations on lobbyists and their clients.

INDEX WORDS: Lobbying, Interest groups, Regulations, State politics, Public choice, Deliberative democracy, Representation, Legislatures

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DEDICATION

This thesis is dedicated to my parents, academic mentors, and personal friends.

Thank you.

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

CHAPTER 1

INTRODUCTION

Throughout the 1990s and 2000s, American state legislatures adopted a range of new laws that restricted interactions between lobbyists and lawmakers. These laws were enacted partly in response to scandals and a general declining trust in government (Goodman, Holp, and Ludwig 1996; Ensign 1997). With legislative scandals in Kentucky, South Carolina, Arizona, California, New York, and Ohio, reform measures were increasingly considered a means of making politicians more accountable (Thomas and Hrebenar 1991b, 1996; Goodman, Holp, and Ludwig 1996; Gray and Lowery 1998; Ensign 1997; Rosenson 2003). By 2007, the Center for Public Integrity had rated 47 states as having lobbying regulations stricter than those of the federal government (Thomas, Hrebenar, and Nownes 2008).

Individual states have adopted a variety of different measures regulating the influence of interest groups. States define *lobbying* differently and require different groups of individuals to register as *lobbyists*. States differ in the activities they permit registered lobbyists to engage in and in the details they require of disclosure reports. Moreover, states vary in the lengths of time former lawmakers are required to wait before engaging in lobbying. Lobbyist employers are also labeled differently across states, typically as entities, principals, or agents. The relatively quick adoption of stringent regulations in scandal-scarred states like Arizona and South Carolina, coupled with stable regulations in most other states, provides a natural experiment that offers insight into the effects of such regulations on interest representation.

How do dynamic regulations on organized interests affect the decisions of groups to register to lobby? Which regulations have the most potential to influence registrations? Using a measure of regulations that is replicable across time and states, I examine how registrations have fluctuated in response to changing regulations over two decades. Broader statutory definitions of lobbyists, prohibited lobbying activities, and more frequent and detailed reporting requirements are shown to be correlated with increased group density. Such findings suggest that prior attempts at empirically verifying theories of group density may have been misspecified to the extent that such models did not consider the effects of various lobbying regulations.

Any analysis of registrations and interest populations must examine both the scope of statutory definitions of *lobbyist* and *lobbying*, and the effects of separate regulations affecting those groups. Examining how totals of registered groups respond to new regulations addresses conflicting theoretical expectations of the roles of lobbying regulations in democratic regimes. Whereas Brinig, Holcombe, and Schwartzstein (1993) write that such regulations serve as barriers to lobbying that adversely affect some interests more than others, Lowery and Gray (1997) have questioned the enforcement of such regulations. Examining changes in total registrations provides insight into the impact of non-economic variables (e.g. regulations) on interest group density and diversity (Lowery and Gray 1994).

The findings of this paper suggest that lobbyists and their clients are affected by regulations on the influence production process.[1] I explain why such laws can be expected to affect registration

[1] Lowery and Gray (2004) have delineated several competing theories of interest representation by their different approaches to the four steps of the influence production process. The process involves the initial formation and mobilization of interest groups, how the groups then compete or cooperate, how they then attempt to influence policy, and finally whether policy outcomes reflect the desires of those groups. The authors identified three approaches that distinguish interest scholarship: pluralist, economic, and neopluralist perspectives.

rosters and examine the adaptation of the interest community to statutory definitions of lobbying, prohibited activities, and reporting requirements in the American states over two decades. First, I introduce a framework for the study of interest populations in the states. Second, I present reasons for why states regulate lobbying activities. I then review existing literature on the effects of such regulations on interest populations. Fourth, I present my theory of how regulations can affect lobbying. This is followed by the introduction of measures of lobbying definitions, prohibited activities, and reporting requirements. I present my findings, and then conclude with a comment on directions in future research.

CHAPTER 2

BACKGROUND ON POPULATIONS OF ORGANIZED INTERESTS

Over the past forty years, organized interests have proliferated in the American states (Hunter, Wilson, and Brunk 1991; Mooney 2007). This increase is partly a consequence of federal policy devolution to state governments (Thomas and Hrebenar 1991, 1999). Recent trends have led to what some scholars have called the "nationalization of state lobbying" (Nownes and Newmark 2013). There exists a growing body of academic literature on organized interests in the American states.

There are at least three types of groups currently active at the state level: traditional membership groups consisting mostly of individuals with shared interests, organizational associations that represent multiple businesses or trade unions in alliance, and institutional interests that consist of various private and public entities (Thomas, Hrebenar, and Nownes 2008; Nownes and Newmark 2013). Of the three, institutional interests are the most numerous and likely always have been (Gray and Lowery 2001). By the early 2000s, organized business interests, school teachers' unions, and social service groups were either continually or intermittently active in over 45 states (Thomas, Hrebenar, and Nownes 2008).

In a series of publications, Lowery and Gray (1993; 1994; 1996; 1997; 2001) developed a theory of the density and diversity of groups that combined elements of existing individual- and system-level accounts of group formation (i.e. Morehouse 1981 and Olson 1982, respectively). Density refers to the number of interest groups currently operating within a geographic area when compared to economic development, or gross state product. Lowery and Gray (1993) established that American states with the smallest economies contained a “natural” threshold of interest groups and states with the largest economies tended to house more groups, but at a declining, quadratic fit.

For studies in interest populations, Gray and Lowery (e.g. 1996, 7–9) did not count totals of lobbyists or Political Action Committees (PACs) as neither were shown to correlate well with totals of groups seeking to influence legislation. Employing the totals of individual lobbyists as a variable confounded the “organizational representation with the intensity of organizational effort” because many registered clients hire multiple lobbyists (Gray and Lowery 1996, 255). A leading cause for the lack of comparison among state totals of PACs is variation in state registration requirements (Lowery and Brasher 2004, 74). Comparisons of group populations across states and time, however, are said not to be plagued by varying requirements (Lowery and Gray 1997; Gray and Lowery 1994; 1996, 255–58; 1998). Such comparisons have assumed similar registration laws in each state (Lowery and Brasher 2004, 74–75).

Individual states provide different political environments in which groups operate. Gray and Lowery (1996, 16) recognized the influence of various environmental constraints on mobilization and group mortality. Constraints on group incomes or operating costs are likely to affect some groups more than others (Hansen 1985). I test whether regulations of lobbyists and their clients serve as environmental constraints on political mobilization.

CHAPTER 3

THE PURPOSES OF STATE LOBBY REGULATIONS

Concerns over democratic representation, transparency, and accountability have given rise to laws that regulate the political mobilization of professional lobbyists and their employers. American state governments were among the earliest democratic regimes in the world to regulate such interests (Thomas 1998). In 1890, Massachusetts became the first state to establish a register of lobbyists (Opheim 1991). Arkansas was the last state to require registration of lobbyists, in 1988 (Thomas and Hrebenar 1996, 10). The different experiences of state governments in regulating lobbying activities offer insight into the effects of such regulations on democratic representation and accountability.

The perception that private interests are capable of subverting the public good and adversely affecting democratic representation has partly encouraged the regulation of lobbying activities. Lowery and Gray (2004) identified three approaches that distinguish interest scholarship: pluralist, economic, and neopluralist perspectives. Each of these approaches offers a different normative view of the role of interests in society. For Truman (1951), the organization of plural interests was a natural occurrence that reflected the economic and social disturbances of society. As economic specialization displaced some and benefited others, interest representation would follow (1951, 53). In contrast to Bernstein (1955) and similar to the writings of James Madison, Truman expected such groups to enhance democratic representation.

Truman’s pluralism was later eclipsed by “two competing models” (Lowery, Gray, and Monogan 2008, 1160). The first was an economic model established by Olson’s (1965) *Logic of*

Collective Action. Olson argued that organized interests do not reflect all aspects of society but that small groups with private stakes in policy mobilize more effectively. The organization around shared economic interests and the subsequent pursuit of selective benefits resulted in the failure of groups with dispersed interests to mobilize as effectively. The collective action problem that Olson (1965) proposed that confronted citizens interests reflected Schattschneider's (1960) concerns and foreshadowed other arguments of interest bias.

The second model to challenge Truman's pluralism was the neopluralist perspective. Whereas previous scholars had neglected the environments in which interests mobilize, Gray and Lowery (1996) established that interest populations have their own dynamic properties worthy of consideration. According to their energy-stability-area (ESA) model, the number of groups within a state is a function of the government's policy involvement, the level of electoral competition and prospects for policy change, and the nature of economic diversification within states. For-profit interests, however, were still expected to outnumber citizens' interests, particularly as state economies became larger (Lowery, Gray, and Fellowes 2005; Godwin, Ainsworth, and Godwin 2012). Gray and Lowery's focus on the environmental constraints of groups has inspired greater interest in state-level lobbying.

A theoretical justification for lobbying regulations can be found in the writings of deliberative democrats (Chari, Hogan, and Murphy 2010, 5-7). Deliberative theorists often advocate that leaders should be held accountable by the public and that the details of and reasons for policy decisions should be made publicly available (Gutmann and Thompson 2004, 135). Representative assemblies often serve as deliberative assemblies but deliberations may be influenced by imbalanced lobbying. While lobbyists provide information to lawmakers, such data may be biased and therefore harmful to public deliberation. Rawls (1997) distinguished between public and private reason, and established that public reason was appropriate for policy choices in deliberative assemblies. Of interest to deliberative democrats, lobbyists may be capable of disguising private benefits as public benefits, thereby confounding Rawls's dichotomy.

Accountability and transparency undergird deliberative democratic institutions. State attempts at regulating lobbying activities via registers are, more fundamentally, attempts at protecting public reason and trust in political institutions. They serve to make the public aware of the interests supporting proposals and place policymaking under greater scrutiny (Thomas and Hrebenar 1991a; Gray and Lowery 1998; Ozymy 2012). Such regulations, however, may serve the purpose of further limiting deliberation or representation in assemblies.

With persistent distrust of both "lobbyists" and "special interests" among members of the general public and occasional political scandals and litigation, the effectiveness of interest regulations and ethics laws is a salient issue (Duquette 2002; Rosenthal 1993; 2000). To date, Ozymy (2012) has conducted the most thorough analysis of the motives for states to register and regulate lobbyists. Examining changes in regulations between 1990 and 1995, Ozymy found that interest group influence and the occurrence of initiatives were both negatively correlated with the enactment of additional regulations. Ozymy's findings also suggested that political scandals, moralistic cultures, and legislative professionalism and term limits were all associated with greater propensities to enact additional regulations.

States have adopted various regulations that target specific lobbying activities. Such activities include both direct and indirect lobbying techniques as well as electoral and direct-democracy techniques. Direct techniques include personal meetings or testifying before committees. Indirect techniques involve generating citizen input or outcry to spur political change. Two techniques commonly found in states are electoral and direct-democracy efforts, which seek to change the outcomes of elections or influence state initiatives and referenda, respectively. Similar to federal lobbying, direct techniques are the most widely-used lobbying mechanisms in state governments (Baumgartner et al. 2009; Nownes and Newmark 2013).

Among the most frequent forms of regulation in the states are registration and reporting requirements (Lowery and Brasher 2004, 265). By 1988, every state maintained a registry of lobbyists or principals. Across the states, different groups of individuals and their employers have been required to register at different times. Definitions of lobbying activities that trigger subsequent registration vary across states and time as well. Once lobbying agents are registered, state governments require the periodic filing of reports that disclose varying degrees of information. Whereas some states require monthly filings of itemized expenses and other data, some states mandate either less frequent or no reporting. In most states, lobbyist rosters and reports are maintained by the Secretaries of State, various ethics and accountability commissions, or directly by staff of the legislatures.

In most states, official registration triggers prohibitions against specific activities involving lobbyists or their clients. Lobbyists are often personally prohibited from giving campaign donations to elected officials during legislative sessions or at any time. Most states have adopted limits on the amounts of money lobbyists or their clients can spend on gifts or related expenses. Some states have adopted strict “no cup of coffee” rules that prohibit lobbyists from personally expending any amounts of money on state officials. In these cases, officials are also banned from soliciting gifts. In states with monetary caps, however, solicitation of gifts valued beneath the legal threshold is typically permitted. States have also adopted a variety of penalties for violating such rules, from small fines to prison sentences (Newmark 2005).

Lobbying regulations are broadly intended to prevent forms of corruption and ensure public accountability among elected officials (Rosenthal 2000). They serve the purpose of providing information to the general public regarding the legislative process and reinforcing confidence in democratic institutions (Ozymy 2010). Occasional ethics scandals involving bribery or vote-buying, along with subsequent media coverage, highlight the importance of lobbying, campaign finance, and ethics regulations (Goodman 1996). Federal scandals have also served as an impetus for state-level reforms (Ensign 1997). In the American states, lobbying regulations have fluctuated in response to such scandals, thereby allowing for a natural experiment on the effects of such laws (Ensign 1997; Gray and Lowery 1999; Rosenson 2005).

The enforcement of existing regulations prior to 1990 remains dubious (Hamm et al. 1994; Huckshorn 1985; Gray and Lowery 1999; Ozymy 2010; 2012), but states enacted a variety of new restrictions throughout the 1990s and 2000s. Between 1990 and 1995, a number of states dramatically increased regulations as a consequence of publicly salient federal corruption probes (Gray and Lowery 1998; Newmark 2005; Ozymy 2010; 2012). Both Operation BOPTROT in Kentucky and Operation Lost Trust in South Carolina caught numerous lawmakers in the acts of extortion and accepting bribes. A similar probe, Operation Tennessee Waltz, resulted in the arrests of multiple lawmakers in 2006. In the years following the arrests, these states, along with Arkansas, Arizona, Georgia, Louisiana, South Dakota, Utah, and Vermont, increased their combined lobbying regulations by over 300 percent (Ozymy 2010; 2012).

Due to political scandals, at least three state legislatures were called into special sessions and passed new ethics laws: South Carolina's in September 1991, Arizona's in November 1991, and Kentucky's in February 1993 (Bullock 1994). The new reform measures enacted in the three states are reflected in Newmark's (2005) measure. One of the most dramatic fluctuations occurred in South Carolina where the measure of laws regulating the behavior of lobbyists and their employers increased from two to twelve, as a consequence of the Ethics, Government Accountability, and Campaign Reform Act of 1991. Evidence suggests that the reform measures successfully affected the conduct of registered lobbyists (Fields and Davis 1993) and were replicated in other states (Bullock 1994; Ozymy 2010).

CHAPTER 4

PRIOR WORK ON THE IMPACT OF REGULATIONS ON LOBBYING

Despite claims that states have maintained “a fairly uniform set of lobby registration requirements for several decades” (Lowery and Brasher 2004, 74), Newmark (2005) and Ozymy (2010; 2012) have shown that such requirements remained neither uniform nor stable over the past twenty-five years. As with comparisons of state totals of PACs, meaningful relationships between lobbying regulations and registration rates (i.e. populations) jeopardize the credibility of prior studies of group populations (Thomas and Hrebenar 1996; Hamm et al. 1994). While such a finding does not implicate theoretical accounts of interest formation and energy, it suggests that “models of interest community density and diversity” are “seriously misspecified” (Gray and Lowery 1998, 79).

While a number of articles have explored the relationship between group registrations and regulation stringency, these offer mixed conclusions at best. All examine single-year cross sections of groups and regulations. Hunter, Wilson, and Brunk (1991, 494) were the first to test whether stringent (more all-encompassing) lobbying regulations affect registrations. They regressed the total numbers of registered lobbyists per state on binary measures of standard definitions of “lobbyist,” but failed to find discernible results. Based on these findings, Lowery and Gray (1993, 193; 1994, 372; 1997; forthcoming) claimed that lobbying regulations have little or no impact on interest populations other than in the case of Florida, potentially.

Hamm et al. (1994) wrote in response to Lowery and Gray’s (1993) contention that registration laws have little impact on net registrations. When controlling for state population, the authors found a positive and discernible relationship between totals of interest groups registered during the 1975 legislative session and a scale of the broadness of statutory definitions of lobbyist and lobbying activities. States with broader sets of definitions were shown to have higher numbers of registered groups, thereby indicating that lobbying regulations may simply stimulate registrations of latent groups. Hamm et al. (1994, 380) then mentioned that group population figures may be unreliable in some states due to poor enforcement. One such example is Arkansas, where no estimates of group totals were available prior to 1988 due to the state not requiring lobbyists or their employers to register.

Other than the effects of statutory definitions of lobbyists, employers, and lobbying activities, separate regulations may present some barriers to lobbying. Brinig, Holcombe, and Schwartzstein (1993, 377) utilized an "economic model" to portray lobbying regulations as instruments designed to benefit incumbent lawmakers and constrain lobbying activities. Using a measure of regulations and violation penalties, and examining the ratios of bills introduced to bills passed, the authors reported evidence that increased regulations generate rents for incumbent lawmakers. They presumed that the introduction of bills is a costless endeavor that is unchanged by regulations but that the subsequent advocacy for such bills by lobbyists becomes more costly with increased regulations. Such added costs force groups to be more selective over which laws they support, thereby providing information to lawmakers and benefiting groups that are better financed.

In response to Brinig, Holcombe, and Schwartzstein (1993), Lowery and Gray (1997) argued that politicians are rarely concerned with whether lobbyists abide by statutory regulations. To them, lawmakers are more concerned with both campaign donations and the influence of groups within their constituencies. The authors demonstrated that contrary to the theory of Brining, Holcombe, and Schwartzstein (1993), increased regulations were not correlated with lower numbers of registered groups. In addition, Brasher, Lowery, and Gray (1999) claimed to find no impact of changing lobbying definitions on the totals of registered lobbyists or clients in Florida and Minnesota, for selected years.

The direction of any expected effect of lobbying definitions and related regulations on group registrations remains unclear. While it is possible that broader definitions increase the number of groups registered, regulations such as reporting requirements and prohibited activities may also present barriers that adversely impact some groups. It is also possible that these effects cancel each other out so that net regulations have little impact on total groups registered (Gray and Lowery 1996, 256). When controlling for gross state product and excluding registrations in Florida (due to a temporarily salient political issue that made that state an outlier), Gray and Lowery (1996) regressed total numbers of registered interest groups in 1990 on Opheim's (1991) and Brinig, Holcombe, and Schwartzstein's (1993) indices of regulation. Gray and Lowery (1996, 257) suggested that the lack of discernible effects may have been due either to interest groups themselves advocating on behalf of specific regulations or lawmakers enacting such regulations as mere symbolic acts. They asserted that interest populations remained reliable measures of group activity.

None of these prior studies examined how total registrations fluctuate in response to changes in definitions, prohibited activities, and reporting requirements. They employ as independent variables either aggregate measures of regulations (e.g. Opheim 1991, Newmark 2005) or indices of statutory definitions. I conduct a more thorough examination that considers the independent effects of definitions, prohibitions, and reporting stringency over two decades. It is shown that different types of regulations have countervailing effects on net registrations.

CHAPTER 5

THEORY

Lobbying regulations are expected to function as environmental constraints on group activities in the American states. They are expected to affect the costs of doing business for groups by subjecting groups to increased registration and reporting hurdles. It is expected that additional complexity or regulations compel groups to engage in cost-benefit considerations whenever choosing whether to register, thereby leading some groups to conclude that lobbying is not worthwhile (and thereby choose not to register). Such considerations coincide with rational-choice interpretations of regulations as barriers to entry (Brinig, Holcombe, and Schwartzstein 1993; Ainsworth 1993). If we consider the effects of different types of regulations, however, we may find mixed effects. Broader definitions of lobbyists, principals, and lobbying activities are expected to compel greater numbers of latent groups to register to lobby. Both prohibitions that restrict the political mobilization of registered groups and reporting requirements that pose the greatest operating costs to groups are expected to affect group density negatively.

Interest groups that seek to lobby legislators are faced with yearly decisions to register. The choice to register can best be interpreted as a prospective judgment: groups are aware of the benefits of lobbying and of the subsequent costs of being registered beforehand. If the costs of registration and reporting are too burdensome to a group, that group may choose not to register and thereby lobby in an unofficial capacity. Since a number of states have adopted statutory thresholds for lobbying that trigger required registration (such as time or compensation standards), the consequences of choosing not to register likely impedes the mobilization efforts of some groups in those states. Variations in regulations across states provide for unique lobbying environments in which groups are faced with different sets of lobbying benefits and registration costs.

I expect statutory definitions of lobbyists and lobbying activities, lists of banned activities, and reporting stringency each to affect a group's decision to register differently. Statutory lobbying definitions frequently serve the purpose of determining which lobbyists or groups are required to register and thereby adhere to additional laws. Broader definitions can be expected to correspond with additional registrations by capturing additional groups. The more statutory definitions that a state adopts, the less discretion individual lobbyists and groups have in choosing whether to register. Groups have maximum discretion over their own registration calculi in states that do not specify which activities require registration.

The prohibition of specific activities involving lobbyists enhances democratic representation by insulating elected officials from the influence of wealthy interests. While such prohibitions can be expected to limit the influence of some interests, they may discourage at least some groups from registering in the absence of broad statutory definitions. This is due to some groups strategically choosing not to register and become subject to prohibitions. Some latent lobbyists or groups may elect, for example, to preserve their ability to donate regularly to campaigns. Since the purpose of bans on gifts, contributions, and activities, however, is to enhance political representation, prohibitions can also be expected to coincide with broader statutory definitions intended to capture additional groups and make them subject to regulations (thereby improving both political transparency and representation).

Reporting requirements are expected to exert the greatest influence on the costs of doing business for groups. Groups are required to report individual lobbying efforts on a monthly basis in some states but may elect to file less-detailed yearly reports in others. Stringent requirements can be expected to discourage groups from registering to lobby because of the costs of both maintaining records and having their activities be subject to public scrutiny. The costs of record keeping and filing may adversely affect the functioning of citizens' interests more than for-profit interests and some interests may seek to protect the secrecy of their operating expenses or lobbying efforts. As in the case of prohibitions involving lobbyists, however, greater reporting stringency may also be found in states that have sought to insure greater political representation by registering lobbyists and banning certain activities.

CHAPTER 6

DATA AND MEASUREMENT

I develop an empirical model predicting how increased lobbying regulations in state capitols impact group registrations based on selected years from two decades. States adopted a variety of regulations throughout the 1990s and 2000s, providing ample variance both within and across states for panel analysis. Yearly totals of group registrations within states serve as the response variable in this study. Groups are typically labeled as entities, principals, or agents and must adapt to different registration requirements across states.[2]

As illustrated in the box-and-whisker plot in Figure 1, registration totals varied by state throughout the 1990s and 2000s. The highest total ever counted was over 5,000 groups registered in Florida at the end of 2011. The lowest count was in Wyoming, where 72 groups were registered at the end of 1999. States with the largest populations and economies contained the most interest groups. Overall, the totals of registered groups tended to increase steadily on average. When adjusting for real gross state product, group density in most states appears to have been stable throughout my panel.[3]

[2] Summary statistics and details regarding the sources of my data can be found in the appendix.
[3] Figure 6, included in the appendix, illustrates fluctuations in group density throughout my panel.

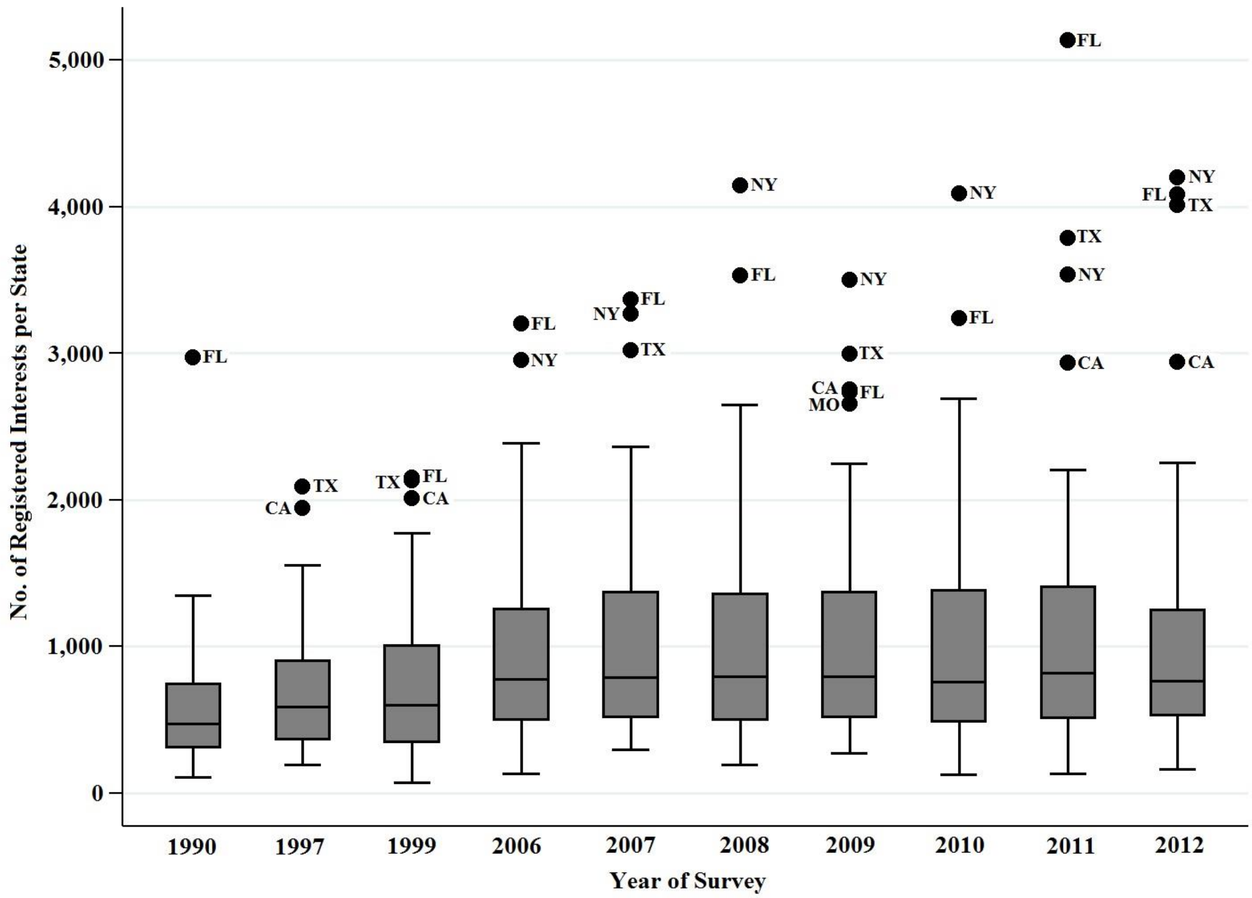

Figure 1. Registered Interest Groups in the American States, 1990 – 2012

Explanatory Variables

To gain a sense of how lobby regulations have influenced group populations, I must employ a consistent measure of regulations over time. Of all existing comparisons of regulations across states, Newmark's (2005) is the only one that is replicable across time. His measure differs from earlier rankings of lobbying regulations (e.g. Allen and Clark 1981; Opheim 1991) by assigning values to states based only on the presence of individual laws. This study utilizes individual components of the index as explanatory variables.

The variables of most interest in this study are restrictions that lobbyists and their principals are required to adhere to in order to lobby state officials. Table 1 lists the eighteen laws included in Newmark's index broken down by three categories: lobbying definitions, prohibited activities, and reporting requirements. The index is based "on factors that influence the relationship between lobbyists and legislators" (Newmark 2005, 183). Statutory definitions affect which lobbyists and groups must register to lobby. Prohibited activities involve specific interactions between lobbyists, their clients, and state officials that are banned or at least partly restricted. Reporting requirements address how much detail lobbyists or their clients must disclose about lobbying activities. The imposition of any of the requirements listed in Table 1 is coded as 1. Newmark's index therefore has a possible range of zero to eighteen across all states.

The first component of the index is statutory definitions of lobbyists and lobbying activities. The scale, measured from zero to seven, captures the broadness of definitions. States assigned higher scores on this measure are casting wider nets that likely capture (or apply to) additional groups. By 2004, all states had adopted a statutory definition of lobbying behavior. Definitions in some states, however, do not presently include further specifications that apply to compensation, expenses, or other resources exhausted. Higher values are therefore assigned to states that not only defined the act of lobbying but also included additional registration requirements, or wider nets.

The second and third components of Newmark's (2005) measure of lobbying regulations include scales of prohibited activities and reporting stringency, respectively. Prohibitions were measured from zero to four with higher values indicating the presence of a greater variety of prohibited activities involving lobbyists and their employers. Reporting stringency was captured by a measure between zero and seven that indicated the frequency and details of periodic disclosure reports. Each of the three measures, then, is a count of the number of regulations present in the respective category. All components in Newmark's measure are listed in Table 1 broken down by the three subindices I use.

Table 1. Index of Lobbying Regulations

Definitions of lobbyists and principals include:
1. Those seeking to lobby the legislature
2. Those seeking to lobby administrative agencies
3. Elected officials acting as lobbyists
4. Public employees acting as lobbyists
5. Compensation standards
6. Expenditure standards
7. Time standards
Prohibited activities involving lobbyists and principals include:
1. Making campaign contributions at any time
2. Making campaign contributions during legislative sessions
3. Making expenditures in excess of a certain dollar amount per official per year
4. Solicitation by officials or employees for contributions or gifts
Registration and reporting requirements for lobbyists and principals include:
1. Semi-annual or more frequent reporting for lobbyists or their employers
2. Legislation or administrative action seeking to influence
3. Expenditures benefiting public officials or employees
4. Compensation received broken down by employer(s) or employee(s)
5. Total compensation received
6. Categories of expenditures made
7. Total expenditures made

Source: Newmark (2005)

Figure 2 presents a box-and-whisker plot of regulations measured over time with outliers labeled by state. The figure illustrates the gradual increase in regulations that occurred across the United States throughout the 1990s and the stabilization of such measures in the mid-2000s. Measures for years 1988 to 2004 were gathered directly from various editions of the Council on Governmental Ethics Laws' *Campaign Finance, Ethics and Lobby Blue Book* and the Council of State Government's *Book of the States*. Measures for after 2004 were calculated using annual editions of the *Lobbying, PACs, and Campaign Finance 50 State Handbook* compiled by the State Capital Law Firm Group. The only states that enacted comprehensive lobbying reforms in more recent years are New Hampshire in 2006 and Louisiana in 2008.

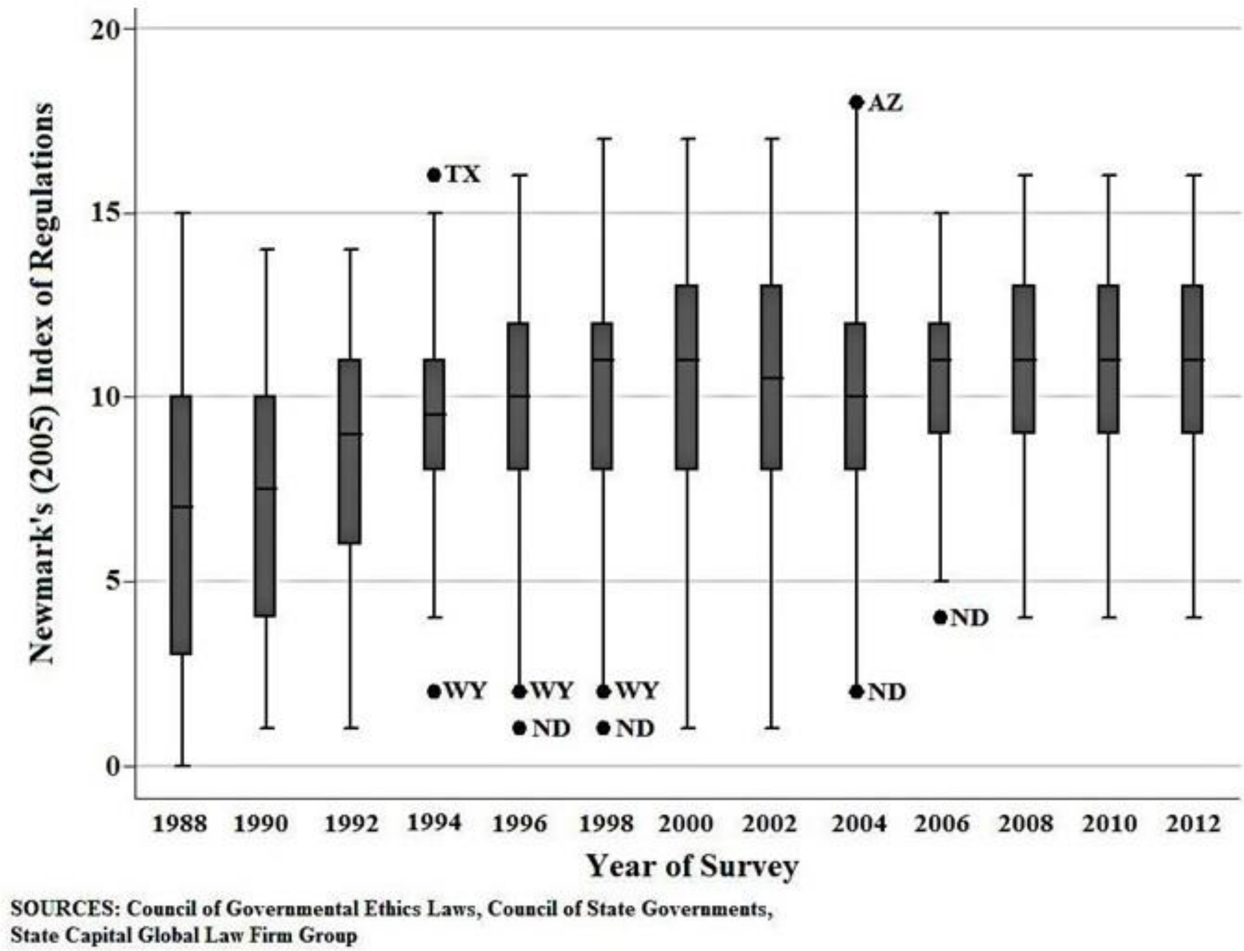

Figure 2. Lobbying Regulations in the American States, 1988 – 2012

As described in my theory, I expect that different components of the index likely have different effects on interest populations. The index consists of the total lobbying definitions (scored zero to seven), prohibited activities (scored zero to four), and reporting requirements (scored zero to seven) in each state. Since I expect broader definitions to impact numbers of registered groups positively, and prohibitions and reporting stringency to deter at least some groups from registering, I employ the three components of Newmark's index as individual variables.

As the literature indicates, interest populations tend to be greatest in states with larger economies. Economic activity is said to be the "fundamental basis of organization" (Schattschneider 1960; Schlozman 1984, 1011–15) and has been shown to be the chief determinant of registration totals in states (Gray and Lowery 1996, 85–93). In numerous studies of interest populations, Gray and Lowery (1993; 1994; 1996; 1997; 1998) have controlled for the size of a state's economy, or the gross market value of all goods and services produced within a state in a given period. Therefore, I control for real gross state product in chained 2005 dollars.

Despite evidence suggesting that political competition and initiatives may stimulate group density in some years (Lowery and Gray 1995; Gray and Lowery 1996; Boehmke 2005, 51–70), more recent analyses suggest that such a conclusion may be overstated or not pertain to all types of groups. Early tests by Lowery and Gray (1995; 1998) returned mixed results regarding the effects of partisan competition on group density. While such results may have been due to inadequacies with the Ranney index, a new measure failed to reveal discernible effects of competition on density (Gray et al. forthcoming). Moreover, the numbers of bills introduced and passed were weakly correlated with density. Legislative professionalism, which may have some effect on group exits (Berkman 2001), is omitted due to a limited number of degrees of freedom.

CHAPTER 7

METHODOLOGY AND RESULTS

In modeling the total number of lobby employer registrations, I treat this outcome as a count variable (Boehmke 2005). I estimate negative binominal regression models to account for overdispersion (Long 1997; King 1988). I fit this model in both a restricted sample that covers all states in ten years (500 observations) and in my entire sample of all data available for all years (612 observations). In each of these cases, model-conditional variances exceeded model-conditional means, indicating overdispersion. Each of these models includes random effects by state to account for intraclass correlation.

A cursory glance at the distribution of registration counts over lobbying definitions reveals a quadratic relationship, or lesser counts in states with either sparse or very extensive definitions of lobbying activities.[4] Definitions are entered into my models in polynomial form. As in Gray et al. (forthcoming) and other studies, gross state product is also entered into my models in a polynomial form.

To control for the effects of registrations in Florida, which have been shown to be potential outliers (Gray and Lowery 1996; Brasher, Lowery, and Gray 1999), I include a dummy indicator for that state.[5] Measures for gross state product are divided by billions of dollars. The first model includes only years for which all 50 states are observed. The second model is estimated using data

[4] A scatter plot of total registrations and the definitions component of Newmark's index is included in the appendix.
[5] Not including the Florida indicator as a covariate did not affect the directionality or statistical significance of any of my variables.

from all available counts for all states and years, including panel waves for which many states' responses were unobserved.

Table 2. Registered Interests per State, 1990 – 2012 (Negative Binominal Regression)

	Complete Waves			All Observed		
Explanatory Variable	Coef.	Std. Error	p-value	Coef.	Std. Error	p-value
Real gross state product	2.7187	0.2297	0.000	2.8196	0.2090	0.000
Real gross state product ^{2}	– 0.8176	0.1075	0.000	– 0.8656	0.0900	0.000
Definitions	0.1811	0.0521	0.001	0.1629	0.0434	0.000
Definitions ^{2}	– 0.0223	0.0067	0.001	– 0.0219	0.0056	0.000
Prohibitions	0.1293	0.0159	0.000	0.1300	0.0130	0.000
Reporting stringency	0.0154	0.0132	0.244	0.0055	0.0115	0.632
Florida	0.7690	0.1722	0.000	0.7593	0.1627	0.000
Constant	1.7321	0.1177	0.000	1.8427	0.0998	0.000
ln (α)	2.2675	0.2131		2.3044	0.2086	
ln (β)	6.0224	0.2320		6.0318	0.2237	
Log likelihood	– 3393.6887			– 4118.4351		
AIC	6805.3774			8254.8702		
Observations	500			612		
Prob > χ^2	0.0000			0.0000		

Note: p-values are for two-tailed hypothesis tests. Real GSP is reported in billions of U.S. dollars. Random effects are assumed to have a beta distribution with shape parameters α and β.

The models presented in Table 2 reveal results that are consistent with several hypothesized effects. As expected, real gross state product is strongly correlated with registration totals but with declining marginal increases. A similar trend is found for statutory definitions of lobbyists and lobbying activities. Registrations tend to increase on average as states adopt additional definitions, but even more complicated (all-encompassing) definitions are associated with decreases in registration rates. Neither prohibitions nor reporting stringency are shown to exert hypothesized negative effects on group density although the influence of reporting requirements was not statistically discernible from zero at the 0.1 level.

Figure 3 illustrates the relationship between the size of a state's economy and the number of interest groups registered to lobby in that state. The horizontal axis measures the size of a state's economy in millions of real U.S. dollars while the vertical axis measures the predicted number of groups registered to lobby within that state, while holding statutory definitions, prohibitions, and reporting stringency at their mean levels. The figure reveals the curvilinear nature of group registrations and provides support for Lowery and Gray's (1993) contention that registrations reach a natural limit in states with large economies. It also reveals that states with small economies contained a bottom limit on numbers of registered interests.

Figure 4 illustrates the relationship between the number of statutory lobbying definitions a state adopts and the number of interests registered in that state when holding all other variables at their medians. The horizontal axis measures Newmark's (2005) range of lobbying definitions while the vertical axis measures the predicted number of groups registered to lobby. The figure provides evidence that as statutory definitions in a state become more complex, group registrations begin to decline. Both Figure 3 and Figure 4 make use of the results fitted over the complete wave data. While the negative binominal regression models in Table 2 included beta-distributed random effects, the figures both assume that the random effect is held at zero for simplicity. Hence, the reported predicted counts are lower than the average counts observed in the data.

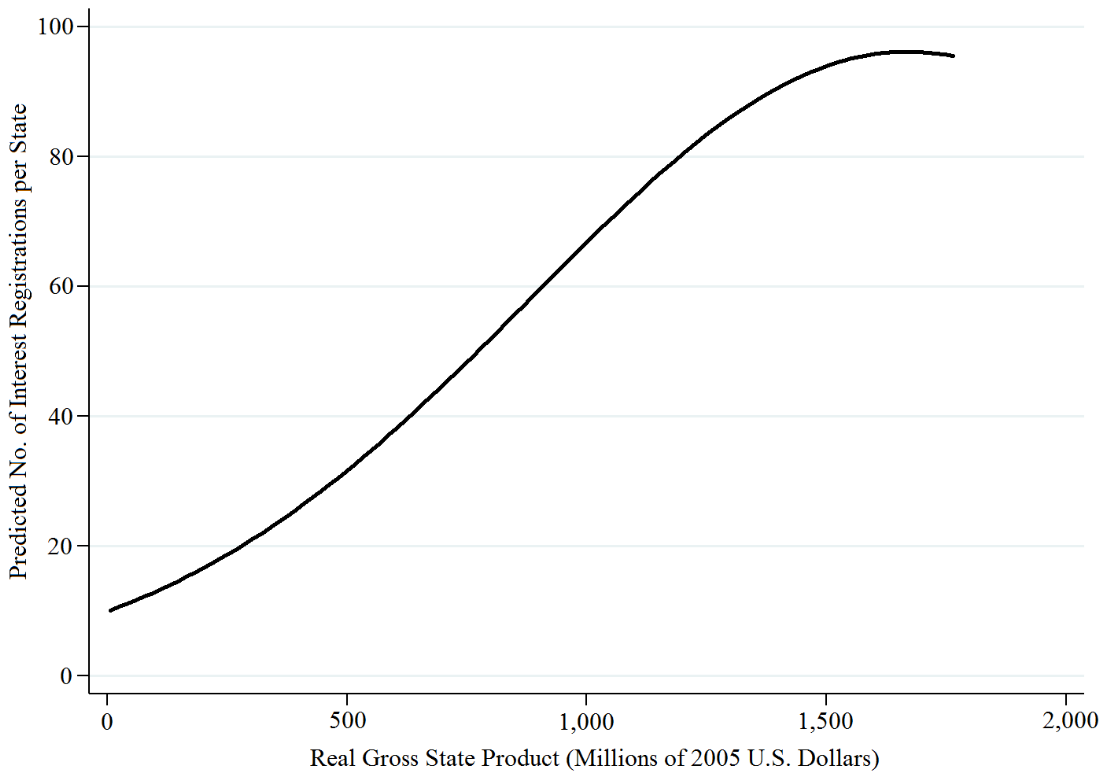

Figure 3. Sizes of State Economies and Predicted Totals of Registered Interests

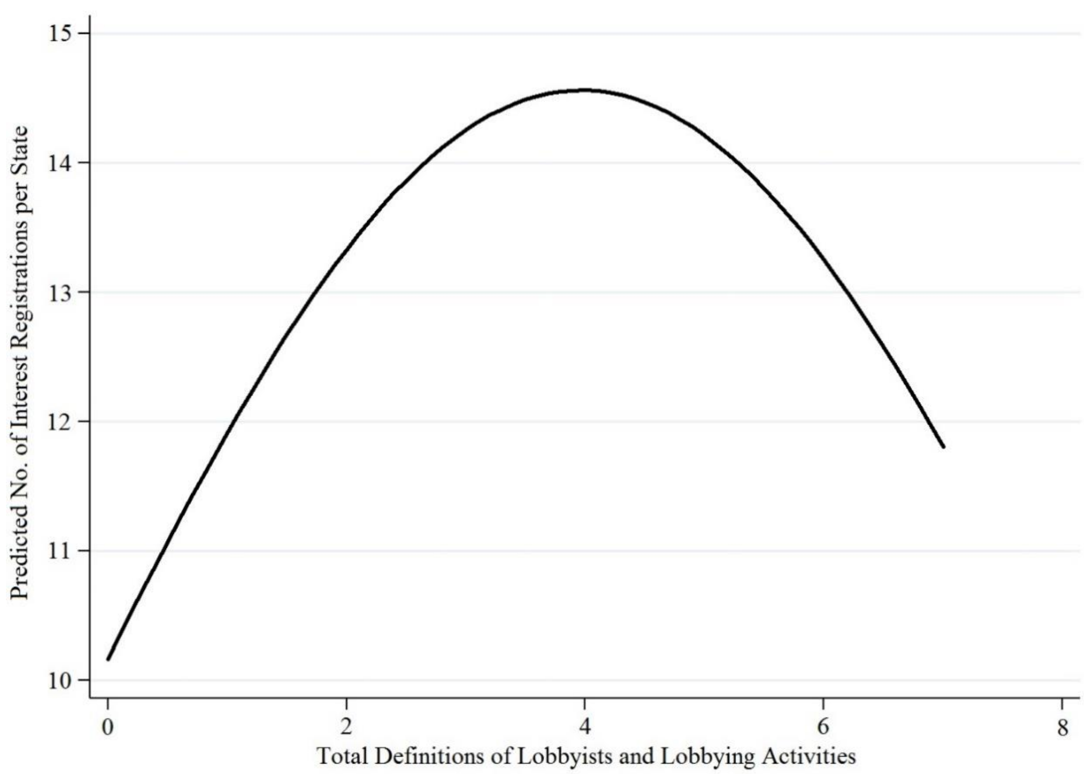

Figure 4. Statutory Lobbying Definitions and Predicted Totals of Registered Interests

CHAPTER 8

CONCLUSION

Discernible effects of statutory definitions and other regulations on interest group registrations calls into question attempts at modeling group density. My findings indicate that both definitions and prohibitions are correlated with greater density but that reporting requirements have a non-discernible effect. Contrary to prior literature, this indicates at least that definitions and regulations are enforced and affect the mobilization efforts of individual lobbyists and their clients. These findings suggest that lobbying regulations lead to greater political transparency and should be incorporated into models of interest density.

My hypothesis that broader statutory definitions of lobbyists and lobbying activities capture additional groups is supported. Additional groups tend to register on average in states with more specific laws delineating who must register to lobby. This may indicate both that such definitions provide meaningful differences among groups and that in the absence of such definitions, groups are responsible for determining whether they must or even want to register. My hypotheses regarding the effects of prohibitions and reporting stringency on group registrations are not confirmed. In fact, stricter prohibitions are shown to correlate with *additional* registrations. There are at least two plausible explanations for these trends. The first is that stricter prohibitions may be associated with more onerous penalties for violations. Groups may prospectively choose to register to avoid such penalties and perceptions of impropriety. Violations of ethics laws and other democratic measures may be a hindrance to membership efforts for some groups. With regards to reporting stringency, the costs of maintaining records and having lobbying efforts be subject to public scrutiny may not be a heavy enough burden to discourage groups from registering to lobby.

This paper sought to resolve a disagreement between two theoretical and empirical accounts of lobbying regulations. Whereas Brinig, Holcombe, and Schwartzstein (1993, 377) employed an "economic model" to view lobbying regulations as instruments designed to benefit incumbent lawmakers and widen representational disparities, Lowery and Gray (1997) argued that politicians are rarely concerned with whether lobbyists abide by registration laws and questioned the enforcement of such laws. My findings indicate that the transparency efforts of state governments are enforced but do not adversely impact the mobilization of groups or the representative process. Lobbyists and their clients can best be considered semisovereign agents who must respond to environmental constraints on interest populations.

APPENDIX: NOTES ON DATA

Sources and Coding of Regulations

For many years, the Council on Governmental Ethics Laws published biennial *Blue Books* of campaign finance, ethics, and lobbying laws in the American states. Beginning in the 1970s, the Council's data on lobbying regulations were condensed under three sub-headings found in the Council of State Governments' annual *Book of the States*: definitions of lobbyists, prohibited activities involving lobbyists, and registration and reporting requirements. With the 1990 edition, binary indicators were used to mark the presence of individual regulations by state. These indicators formed the basis of a temporally replicable index of lobbying regulations formulated by Newmark (2005), and were published until the 2005 edition.

Measures of lobbying definitions, prohibitions, and reports for years 1988 to 2004 were gathered directly from various editions of the Council on Governmental Ethics Laws' *Campaign Finance, Ethics and Lobby Blue Book* and the Council of State Government's *Book of the States*. For measures of lobbying definitions, prohibitions, and reports after 2004, I used annual editions of the *Lobbying, PACs, and Campaign Finance 50 State Handbook* compiled by the State Capital Law Firm Group. Individual chapters of the *Handbooks* include details on lobbying registration requirements, prohibited activities, and disclosure requirements for each of the fifty states. This data was coded to replicate Newmark's (2005) index of regulations.

According to data in the annual *Handbooks*, every state had enacted some form of a statutory definition of legislative lobbying for each year since 2004. Definitions of legislative lobbying were coded as present if states defined lobbying as any attempt to influence the introduction, enactment, or defeat of any legislation in any legislative body or assembly. Definitions of administrative lobbying were slightly less ubiquitous but frequent. Such definitions were coded as present if the state had adopted statutory definitions of lobbying at the agency, regulatory body, or executive levels. These definitions included attempts to influence the enactment, promulgation, modification, or deletion of regulations or laws.

In most states, elected officials or public employees were barred from registering to lobby or representing a principal. A few states, however, were coded as allowing such individuals to register only if statutory definitions explicitly recognized such registration. In most of these states, elected officials and public employees were exempt from registration fees.

States frequently defined various standards of lobbying conduct that triggered required registration. The most common defined behavior was the act of receiving compensation in exchange for lobbying services. This requirement was coded as “1” if an individual was required to register after receiving any amount of money for services. “Citizen” lobbyists who were permitted to receive expense reimbursements but not compensation were not included in this measure unless they engaged in one of the other activities that required registration. Expenditure standards were coded as present if lobbyists were required to register after spending any amount of money on lobbying activities. The least frequently defined behaviors pertained to time usage, which were coded as present if lobbyists were required to register after dedicating any amount of time to lobbying or if individuals for whom lobbying constituted a “regular” or “usual” part of employment were explicitly required to register.

Prohibited activities involving lobbyists or their principals were coded as present if such individuals or their principals were the exclusive subjects of prohibitions. General restrictions on campaign donations or other activities were not included in my coding unless the bans pertained specifically to individuals registered to lobby or their clients. Limits on expenditures or gifts were coded as present if lobbyists or their principals could not exceed any statutory amounts of giving. In some states, officials were not prohibited from requesting gifts that did not exceed such limits.

Nearly all state governments with statutory definitions of lobbying activities or prohibitions also required occasional public disclosure of various details. If states required that either registered lobbyists or principals report activities more frequently than once a year, they received an additional point on Newmark's index. Some states required registered individuals to report the type of legislation or regulations they sought to influence within a reporting period, or the names of those laws and regulations. States were coded as "1" for this requirement if the type of interest area groups sought to affect were required for registration.

Expenditures (on behalf of groups) benefiting public officials or employees were frequently reported to both the relevant registration office and the officials or employees in question. Such requirements appeared to enable lawmakers to refuse gifts from some groups so as to avoid associations with those groups or appearances of impropriety. Compensation standards for reporting were coded as present if principals, or lobbyists, were required to file separate reports for each lobbyist, or principal, listing amounts of compensation from individual firms. Each reporting requirement was coded as present if either lobbyists or their principals were subject. Table 3 presents summary statistics for each of the variables included in this study.

Table 3. Summary statistics, explanatory and response variables, 1990 – 2012

Variable	Mean	Std. Dev.	Variance	Minimum	Maximum
Registrations	962.9760	768.4599	590530.6179	72.0000	5138.0000
Real GSP	0.2373	0.2875	0.0827	0.0073	1.7635
Definitions	3.7980	1.3087	1.7126	0	7
Prohibitions	1.4120	1.2038	1.4492	0	4
Reporting	5.0100	1.7122	2.9318	0	7

Note: summary statistics are from restricted sample of Model 1. Real GSP is reported in billions of U.S. dollars.

Data Sources and Modeling Specifications

Data of total registrations are available mostly from two sources for several years: counts conducted by Virginia Gray and David Lowery and by the National Institute for Money in State Politics (hereafter the Institute). Figures for 1990, 1997, and 1999 are derived from counts published in Gray and Lowery (1996, 87), Lowery and Brasher (2004, 76–77), and Newmark (2008, 91), respectively. These counts are of the total groups registered to lobby in each state at the conclusion of each year. They were collected mostly by "mail or web page from state agencies responsible for their maintenance" (Gray et al. forthcoming, 8).[6] Figures for more recent years (2006 and later) are from the Institute. As with earlier data, these totals are of registration counts conducted at the end of each year. For greater accuracy, counts were requested individually from state offices. Figures provided directly from state offices were imputed into my analysis.

Measurements of state-level real gross domestic product were made available from the Bureau of Economic Analysis. Measurements that are adjusted for inflation more accurately capture the changing size of a state's aggregate output. Gray and Lowery (1996, 91) have established that nominal measures of gross state product can inflate group density measures. Economic statistics for all years were adjusted for state-level changes in the Consumer Price Index to reflect purchasing value in 2005 dollars. Figure 6 illustrates yearly fluctuations in interest density in the American states using data from my unrestricted sample of 612 observations. Density is expressed as real gross state product divided by registered group totals.

While each model regresses contemporaneous values of the outcome against contemporaneous values of the input, there are data management issues to making sure that the

[6] Gray et al. (forthcoming) employed registration data for 2007 from the Institute for use in a study that also used their data from 1997 and 1999, collected personally.

input is always observed temporally before the outcome. In the models I present, yearly registrations are regressed against available measures of regulations that immediately preceded them. Gray and Lowery's counts from 1990, 1997, and 1999 are regressed against regulations from January 1990, February 1996, and February 1998, respectively. More recent counts from the Institute are regressed against regulations from October of each year. For example, if the Institute reported data from the end of a calendar year, then the data are assumed to have been influenced by regulations enforced during that preceding autumn.[7] Figure 5 illustrates the quadratic relationship between total registrations and statutory definitions using data from my unrestricted sample of 612 observations. The largest totals for each score is labeled by state.

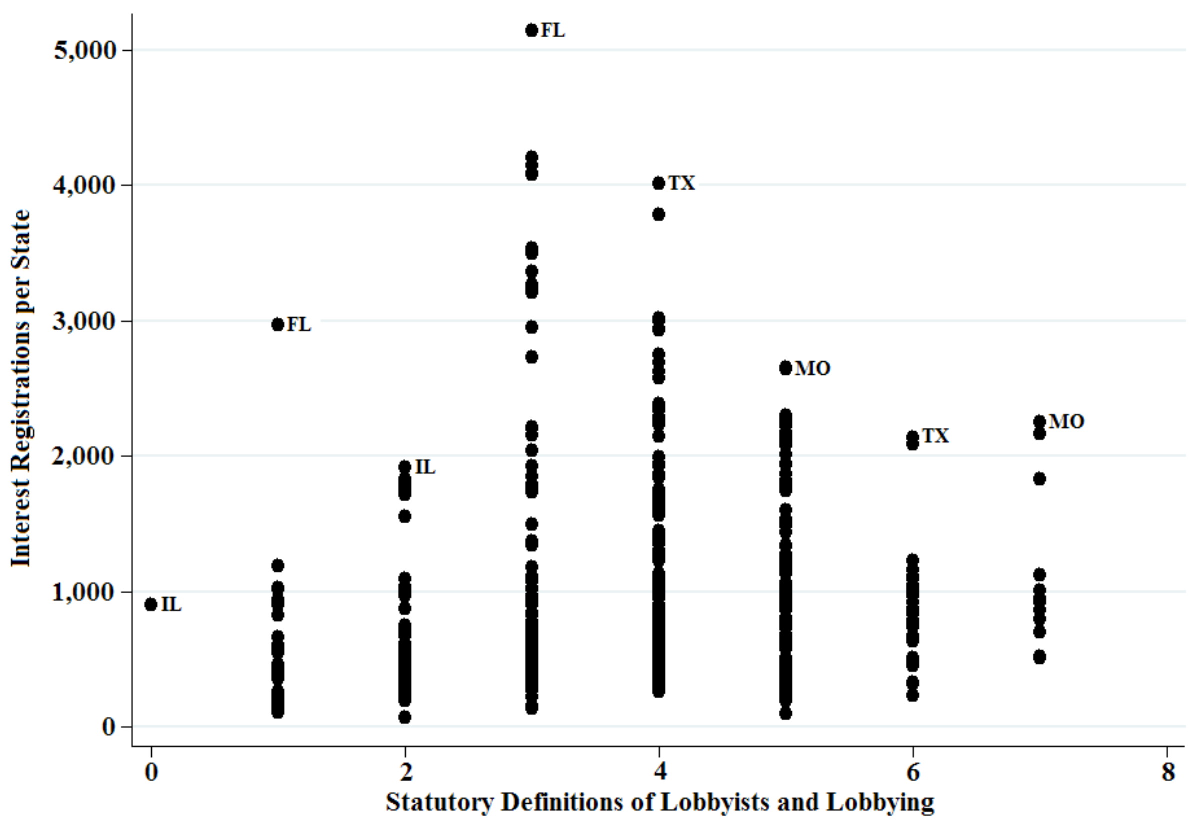

Figure 5. Definitions and Interest Registrations in the American States, 1988 – 2012

[7] Personal correspondence with an editor of the *Lobbying, PACs, and Campaign Finance 50 State Handbooks* revealed that state-level contributors have until October of each preceding calendar year to finalize updates on state lobbying regulations.

Figure 6. Interest Group Density in the American States, 1988 – 2012

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