

HOUSE No. 591

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to electioneering communications and independent expenditures..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 55 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by inserting, after the definition of “Contribution,” the
3 following definition:-

4 “Clearly identified candidate,” a candidate whose name, photo or image appears in a
5 communication or a candidate whose identity is apparent by unambiguous reference in a
6 communication.

7 SECTION 2. Section 1 of chapter 55 of the General Laws, as so appearing, is hereby
8 further amended by inserting, after the definition of “Election,” the following
9 definition:-

10 “Electioneering communication,” shall mean any broadcast, cable, mail, satellite, or print
11 communication that fulfills each of the following conditions:

12 a) the communication refers to a clearly identified candidate; and

13 b) the communication is publicly distributed 90 days prior to an election in which the
14 candidate is seeking election or reelection.

15 The following communications are exempt from the definition of “electioneering
16 communication”:

17 a) a communication that is disseminated through a means other than a broadcast station,
18 radio station, cable television system or satellite system, newspaper, magazine, periodical, or
19 billboard advertisement, or mail to less than 100 recipients;

20 b) a news story, commentary, letter to the editor, news release, column, op-ed, or
21 editorial broadcast by a television station, radio station, cable television system or satellite
22 system, or printed in a newspaper, magazine, or other periodical in general circulation;

23 c) expenditures or independent expenditures or contributions that must otherwise be
24 reported under this chapter;

25 d) a communication from a membership organization exclusively to its members and
26 their families, otherwise known as a membership communication;

27 e) bonafide candidate debates or forums and advertising or promotion of the same; and

28 f) internet or email.

29 SECTION 3. Section 1 of chapter 55 of the General Laws, as so appearing, is hereby
30 further amended by inserting, after the definition of “Expenditure,” the following definition:-

31 “Independent Expenditure,” shall mean an expenditure by an individual, group, or
32 association, not defined as a political committee, expressly advocating the election or defeat of a

33 clearly identified candidate which is made without cooperation or consultation with any
34 candidate, or a nonelected political committee organized on behalf of a candidate, or any agent
35 of a candidate and which is not made in concert with, or at the request or suggestion of, any
36 candidate, or any nonelected political committee organized on behalf of a candidate or agent of
37 such candidate.

38 SECTION 4. Section 8 of said chapter 55, as so appearing, is hereby amended by
39 inserting after the second paragraph the following new paragraph:-

40 No person or persons, group or association not defined as a political committee, shall
41 solicit or receive from such corporation or such holders of stock any gift, payment, expenditure,
42 contribution or promise to give, pay, expend or contribute for use for an electioneering
43 communication or communications, nor shall such corporation directly or indirectly give, pay,
44 expend or contribute, or promise to give, pay, expend or contribute, any money or other valuable
45 thing for the purpose of making an electioneering communication except for a voter guide or
46 questionnaire where all candidates running for the same office are asked the same question or
47 questions and where all such candidates are given an equal opportunity to respond to each
48 question or questions, provided that said questionnaire or guide does not contain additional
49 language, images, or symbols, conveying support or opposition to the opinions of the candidates.

50 SECTION 5. Chapter 55 is hereby amended by striking out Section 18A, as so
51 appearing, and inserting in place thereof the following section:-

52 Section 18A. Every individual, group or association not defined as a political committee,
53 who makes an independent expenditure or expenditures in an aggregate amount exceeding \$250
54 during any calendar year for the express purpose of promoting the election or defeat of any

55 candidate or candidates shall file with the director, or with the city or town clerk if such
56 candidate or candidates seek public office at a city or town election and is a non-depository
57 candidate, within seven business days after making such independent expenditure or
58 expenditures, on a form prescribed by the director, a report stating the name and address of the
59 individual, group or association making the expenditure or expenditures; the name of the
60 candidate or candidates whose election or defeat the expenditure promoted; the name and
61 address of the person or persons to whom the expenditure or expenditures were made; and the
62 total amount or value; the purpose and the date of the expenditure or expenditures.

63 Any person, group or association that makes or contracts to make independent
64 expenditures aggregating \$1,000 or more within seven days prior to the date of an election shall
65 file a report containing the information required by this section within 24 hours of making such
66 expenditure.

67 Violation of any provision of this section or section 18C shall be punished by
68 imprisonment for not more than one year or by a fine of not more than \$10,000.

69 SECTION 6. Section 18C of Chapter 55, as so appearing, is amended by inserting, in
70 line 19, after the figure "\$10,000" the following:

71 (4) Every individual, group, or association who makes an independent expenditure or
72 electioneering communication expenditure in an aggregate amount exceeding \$250 during any
73 calendar year.

74 SECTION 7. Said chapter 55, as so appearing, is hereby amended by inserting after
75 section 18C the following new section:-

76 Section 18D. Every individual, group or association not defined as a political committee,
77 who makes an electioneering communication expenditure or expenditures, in an aggregate
78 amount exceeding \$250, shall file with the director, or with the city or town clerk if such
79 candidate or candidates seek public office at a city or town election and is a non-depository
80 candidate, within seven days after making such an expenditure, a report electronically to the
81 office of campaign and political finance stating the name and address of the individual, group or
82 association making the electioneering communication; the name of the candidate or candidates
83 clearly identified in the communication; the total amount or value of the communication; the
84 name and address of the vendor to whom the payments are made; and the purpose and date of the
85 expenditure or expenditures.

86 Any person, group or association that makes or contracts to make electioneering
87 communications aggregating \$1,000 or more within seven days prior to the date of an election
88 shall file a report containing the information required by this section within 24 hours of making
89 such expenditure.

90 Violation of any provision of this section shall be punished by imprisonment for not more
91 than one year or by a fine of not more than \$10,000.

92 SECTION 8. Section 24 of said chapter 55, as so appearing, is amended, in line 14, by
93 striking the following:- “director.” and inserting in place there of the following:- director,
94 including all statements required to be filed by sections 18A and 18D regardless of the office
95 sought.

96 SECTION 7. Chapter 56, as so appearing, is amended by striking out section 39 and
97 inserting in place thereof the following section:-

98 Section 39. No person, group, organization or association shall publish or broadcast or
99 cause to be published or broadcast in a newspaper, periodical, radio broadcast, television
100 broadcast, including cable or other means of electronic dissemination, any paid advertisement
101 designed or tending to aid, injure, or defeat any candidate for public office or any question
102 submitted to the voters, unless the name of the person, group, or organization paying for such
103 advertisement appears therein in the case of any of the aforementioned visual media in a clearly
104 visible and prominent typeface and in the case of a radio broadcast clearly audible statement;
105 provided however, that a duly authorized agent 18 years of age or older has signed his name in
106 the presence of a witness to the following statement authorizing the insertion or broadcast of
107 such advertisement. The statement shall be retained by the newspaper, periodical, radio
108 broadcast, television broadcast, including cable, for not less than one year, shall be available to
109 any person upon request, and shall be in substantially the following form:

110 I hereby authorize the affixing of my/our name to the attached political advertisement on
111 behalf of _____ or in opposition to _____, candidate for _____ in the
112 election to be held in the current year, or on behalf of or in opposition to a question being
113 submitted to the voters in the election in the current year.

114 Witness:

115 Signature:

116 Address:

117 Address:

118 Date:

119 Date:

120 Organization or group:

121 Chairman and Treasurer:

122 Statement of group interests and/or mission that clearly identifies the economic or other

123 special interest or employer, if identifiable, of a majority of its organizers or contributors: