

HOUSE No. 2735

The Commonwealth of Massachusetts

PRESENTED BY:

Denise Provost

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to protect the integrity of initiative and referendum petitions.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-------------------------------|-----------------------|------------------|
| <i>Denise Provost</i> | <i>27th Middlesex</i> | <i>1/21/2011</i> |
| <i>Carl M. Sciortino, Jr.</i> | <i>34th Middlesex</i> | <i>2/4/2011</i> |
| <i>Denise Andrews</i> | <i>2nd Franklin</i> | <i>2/4/2011</i> |
| <i>Patricia D. Jehlen</i> | | <i>2/4/2011</i> |

HOUSE No. 2735

By Ms. Provost of Somerville, a petition (accompanied by bill, House, No. 2735) of Denise Provost and others relative to to initiative and referendum petitions. Election Laws.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to protect the integrity of initiative and referendum petitions.

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. Chapter 53 of the General Laws, as appearing in the 2008 Official Edition,
2 is hereby amended by inserting at the end of section seven the following: – The state secretary
3 shall further promulgate regulations governing the conduct of paid signature gatherers for ballot
4 questions, designed to achieve and maintain security from forgery and fraud in the collection of
5 signatures on petitions for ballot questions and names thereon. Such regulations shall:

6 (a) provide for the establishment and maintenance of a registry of: (i) any natural
7 person or legal entity, howsoever organized or formed, employing or contracting with any person
8 who is compensated by money or other valuable consideration, whether as an employee or
9 independent contractor, to obtain signatures on ballot questions; (ii) any person so employed or
10 contracted with to obtain signatures on ballot questions.

11 (b) provide for fees to be charged to registrants in an amount sufficient, but not
12 higher, than an amount reasonably calculated to generate sufficient revenue to cover the cost of

13 operating the registry, which fees shall be retained by the office of the secretary and used solely
14 for the purpose of operating the registry.

15 (c) provide for the collection of such information as will readily permit the
16 identification and location of entities and persons registered therewith, as well as facilitate the
17 service of legal process on such entities or persons.

18 (d) provide for public access to the information in the registry on the
19 commonwealth's website.

20 (e) for any natural person, the said registry shall include the following information:

21 i. his or her full name and assumed name, if any;

22 ii. the street address of his or her permanent residence;

23 iii. his or her signature;

24 iv. a list of the ballot questions on which the paid signature gatherer will gather
25 signatures;

26 v. a signed statement attesting that the paid signature gatherer: (1) has not been
27 convicted of a criminal offense involving fraud, forgery, or identification theft within the past
28 five years; (2) has not been adjudicated to have engaged in corrupt practices with regard to
29 elections as defined in section 32 of chapter 55, or its equivalent in another jurisdiction; (3) has
30 not been convicted of any offense under chapter 56 of the General Laws, or the equivalent laws
31 of any other jurisdiction within the past five years; and (4) is not a convicted sex offender;

- 32 vi. a signed statement acknowledging that the paid signature gatherer has read and
33 understands Massachusetts law applicable to the gathering of signatures on ballot questions;
- 34 vii. a conventional photograph showing the paid signature gatherer's head, neck, and
35 shoulders, and is appropriate for copying and processing by the state secretary.
- 36 (f) for any legal entity, the said registry shall include the following information:
- 37 i. the name of the entity as registered with the applicable state or municipal agency
38 depending on the business structure, which may include the department of revenue, the secretary,
39 or a city or town clerk, as well as any other names under which the business is doing business, or
40 any trade names;
- 41 ii. the street address of the main office in the state, the mailing address, if different,
42 the office phone number, and the entity's e-mail address, if any;
- 43 iii. the full name, and any assumed names, of the owner or owners of the entity;
- 44 iv. a signature of the entity owner or owners;
- 45 v. a signed statement attesting that the entity owner or owners: (1) have not been
46 convicted of a criminal offense involving fraud, forgery, or identification theft within the past
47 five years; (2) have not been adjudicated to have engaged in corrupt practices with regard to
48 elections as defined in section 32 of chapter 55, or its equivalent in another jurisdiction; (3) have
49 not been convicted of any offense under chapter 56 of the General Laws, or the equivalent laws
50 of any other jurisdiction within the past five years; (4) are not a convicted sex offenders.
- 51 vi. a list of the ballot questions on which the entity will be involved with the
52 gathering of signatures;

53 vii. a signed statement acknowledging the entity owner or owners have read and
54 understand Massachusetts law applicable to the gathering of signatures on ballot questions; and

55 viii. a conventional photograph showing the owner(s)' head, neck, and shoulders, and
56 is appropriate for copying and processing by the state secretary.

57 (g) provide that registration is valid for only one ballot question in the case of a
58 natural person, and that, in the event a natural person is gathering signatures for more than one
59 ballot question, registration and a separate registration number is required for each petition.

60 (h) provide that registration is valid for one calendar year in the case of a legal entity
61 in the commonwealth engaged in the activity of collecting signatures for ballot questions, and
62 that, in the event that such entity involved with the collection of signatures for ballot questions
63 that are using paid signature gatherers that were not listed on their original registration for that
64 calendar year, the business must notify the secretary within five working days of becoming
65 involved in the new petition.

66 (i) provide that a natural person, including an owner of a legal entity required to be
67 registered, is ineligible for registration if he or she: (a) has been convicted of a criminal offense
68 involving fraud, forgery, or identification theft within the past five years; (b) has been
69 adjudicated to have engaged in corrupt practices with regard to elections as defined in section 32
70 of chapter 55, or its equivalent in another jurisdiction; (c) has been convicted of any offense
71 under chapter 56 of the General Laws, or the equivalent laws of any other jurisdiction within the
72 past five years; or (d) is a convicted sex offender.

73 (j) provide that, when gathering signatures, a paid signature gatherer must carry on
74 his or her person evidence of registration including the paid signature gatherer's photograph and

75 registration number. If requested, the paid signature gatherer shall produce the evidence of
76 registration.

77 (k) provide for procedures for the revocation of registrations and the assessment of
78 civil penalties authorized by this section.

79 If a person receives money or other valuable consideration for obtaining signatures of
80 voters on ballot questions and the paid signature gatherer was not registered as required by this
81 section at the time the signatures were obtained, the signatures shall not be counted for purposes
82 of determining whether a petition for a ballot question contains the required number signatures of
83 voters.

84 A registered paid signature gatherer who knowingly submits an invalid signature will
85 have his or her registration number revoked and he or she is prohibited from registering for five
86 years from the date of the state secretary's revocation order. This paragraph applies when: (i) the
87 paid signature gatherer provides a petition that contains an invalid signature as determined by the
88 secretary; and (ii) the secretary determines that the signature was obtained by that paid signature
89 gatherer and the paid signature gatherer knew or should have known the signature was invalid.
90 However, this paragraph does not apply when the paid signature gatherer had no knowledge or
91 reason to know that the signature was invalid including, but not limited to, the paid signature
92 gatherer did not know and had no reason to know the signature was a duplicate, that the person's
93 signature had changed over time and no longer matched the signature on file with the city or
94 town registrar, that the person had moved to a new residence but failed to update his or her voter
95 registration before signing the petition, and the signature did not match a valid registered voter.

96 When the state secretary is informed that a registered paid signature gatherer: (i) has been
97 convicted of a criminal offense involving fraud, forgery, or identification theft; (ii) has been
98 adjudicated to have engaged in corrupt practices with regard to elections as defined in section 32
99 of chapter 55, or its equivalent in another jurisdiction; (iii) has been convicted of any offense
100 under chapter 56 of the General Laws, or the equivalent laws of any other jurisdiction within the
101 past five years; (iv) has been determined by the secretary to have submitted false information on
102 his or her registration application, he or she shall have his or her registration number revoked and
103 he or she is prohibited from applying for future registrations for a period of five years from the
104 date of the secretary’s revocation order.

105 When the state secretary is informed that a paid signature gatherer has been convicted of
106 any sex offense, he or she will have his or her registration number permanently revoked and he
107 or she is prohibited from applying for or obtaining future registrations.

108 The failure to register as required by this section by an entity operating in the
109 commonwealth engaged in the activity of collecting signatures for ballot questions using paid
110 signature gatherers will result in the invalidation of any signatures gathered by the entity and its
111 paid signature gatherers and the entity will be subject to civil penalties of up to ten thousand
112 dollars.

113 None of the provisions of this section relating to the registration of paid signature
114 gatherers for ballot questions shall apply to volunteer signature gatherers.

115 SECTION 2. Section 22A of chapter 53 of the General Laws, as appearing in the 2008
116 Official Edition, is hereby amended by inserting after the sentence ending in “secretary” in line
117 20 the following sentences: – Each initiative and referendum petition shall have printed thereon

118 an affidavit in substantially the following form, which shall be executed by the person circulating
119 the petition prior to its submission to the registrar of a city or town: “Commonwealth of
120 Massachusetts , County of (county where signed), ss. I, (name of circulator), state under the
121 pains and penalties of perjury that I reside at (full residential address, including number and
122 street, apartment number where applicable, city or town, state and zip code); that each signature
123 contained on the this petition was executed in my presence; and that to the best of my knowledge
124 and belief each person whose signature appears on the this petition is a voter qualified to sign
125 this petition; and that each signature contained on this petition is the genuine signature of the
126 person whose name it purports to be (Signature of circulator and date).” No city or town
127 registrar shall certify any signature on any petition where the forgoing affidavit has not been duly
128 executed by the person circulating the petition, or where the name and address of the circulator is
129 incomplete or not plainly legible.

130 SECTION 3. Chapter 53 of the General Laws, as appearing in the 2008 Official Edition,
131 is hereby amended by inserting the following sections after section 22B: –

132 Section 22C. A person may not pay a circulator of an initiative or a referendum petition
133 or another person who causes the circulation of ballot questions for the collection of signatures if
134 that payment is based on the number of signatures collected. Nothing in this section prohibits a
135 circulator of an initiative or a referendum petition or a person who causes the circulation of an
136 initiative or a referendum petition from being paid a salary that is not based on the number of
137 signatures collected.

138 Section 22D. No person may simultaneously solicit signatures on petitions relating to
139 more than one initiative or referendum question.

140 SECTION 4. Section 10 of chapter 55B of the General Laws, as appearing in the 2008
141 Official Edition, is hereby amended by striking the word “twenty-first” as appearing in line 17
142 and substituting in place thereof the word: – “forty-second.”

143 SECTION 5. Section 11 of chapter 56 of the General Laws, as appearing in the 2008
144 Official Edition, is hereby amended by inserting the following words after the word “altered” in
145 line 7: – “or knowingly or willfully executes falsely the affidavit required on initiative and
146 referendum petitions by section 22A of chapter 53,”.

147 SECTION 6. If any provision of this act or the application thereof to any person or
148 circumstance is held by any court to be unconstitutional or otherwise invalid, such invalidity
149 shall not affect other provisions or applications of this act that can be given effect without the
150 invalid provision or application, and to this end the provisions of this act are declared to be
151 severable.

152 SECTION 7. This act shall take effect upon its passage.