

SENATE No. 2397

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to disclosure of political spending.

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. The definition of “Electioneering communication” in section 1 of chapter
2 55 of the General Laws, as appearing in the 2010 official edition, is hereby amended by striking
3 out, in line 89, the words “and (7) internet or email communications” and inserting in place
4 thereof the following words:- (7) email communications; and (8) internet communications which
5 are not paid advertisements.

6 SECTION 2. Said section 1 of said chapter 55, as so appearing, is hereby further
7 amended by inserting after the definition of “Electioneering communication” the following
8 definition:-

9 “Electioneering communication expenditure”, any expenditure made or liability incurred
10 by an individual, group, association, corporation, labor union or other entity as payment for an
11 electioneering communication including any transfer of money or anything of value to another
12 individual, group, association, corporation, labor union or other entity for the purpose of making
13 an electioneering communication by the recipient or some other individual, group, association,
14 corporation, labor union or other entity.

SECTION 3. Said section 1 of said chapter 55, as so appearing, is hereby further amended by striking out the definition of “Independent expenditure” and inserting in place thereof the following definition:-

"Independent expenditure", an expenditure made or liability incurred by an individual, group, association, corporation, labor union or other entity as payment for goods or services including any transfer of money or anything of value to another individual, group, association, corporation, labor union or other entity expressly advocating the election or defeat of a clearly identified candidate, which is made or incurred without cooperation or consultation with a candidate, a nonelected political committee organized on behalf of a candidate or an agent of a candidate and which is not made or incurred in concert with, or at the request or suggestion of, a candidate, a nonelected political committee organized on behalf of a candidate or agent of such candidate.

SECTION 4. Section 3 of said chapter 55, as so appearing, is hereby amended by adding the following paragraph:-

The director shall adopt regulations regarding electioneering communication expenditures and independent expenditure that involves the transfer of money or anything of value from 1 individual, group, association, corporation, labor union or other entity to another individual, group, association, corporation, labor union or other entity for the purpose of making an electioneering expenditure or independent expenditure to ensure that the true origin of that expenditure is disclosed in the manner and on the schedule for reports of such expenditures provided for by this chapter.

SECTION 5. Section 8 of said chapter 55, as so appearing, is hereby amended by striking out, in line 22, the words “Any corporation violating any provision of this section” and inserting in place thereof the following words:- Any such corporation violating this chapter.

SECTION 6. Chapter 55 of the General Laws is hereby amended by inserting after section 8A the following section:-

Section 8B. Nothing in this chapter shall be construed as authorizing an electioneering communication, electioneering communication expenditure or an independent expenditure by a corporation, including any requirement to report such communication or expenditure, unless such communication or expenditure is protected by the Constitution of the United States or the commonwealth.

SECTION 7. Subsection (a) of section 18A of said chapter 55, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 1 and 9, the words “or association” and inserting in place thereof, in each instance, the following words:- association, corporation, labor union or other entity.

SECTION 8. Said section 18A of said chapter 55, as so appearing, is hereby amended by inserting after the word “association”, in lines 16, 20 and 21 and 25, each time it appears, the following words:- , corporation, labor union, other entity.

SECTION 9. Paragraph (7) of subsection (b) of section 18C of said chapter 55, as so appearing, is hereby amended by inserting after the word “association”, in line 36, the following words:- , corporation, labor union, other entity.

SECTION 10. Paragraph (9) of said subsection (b) of said section 18C of said chapter 55, as so appearing, is hereby amended by striking out, in line 44, the words “or association” and inserting in place thereof the following words:- association, corporation, labor union or other entity.

SECTION 11. Said chapter 55 of the General Laws is hereby further amended by striking out section 18F, as so appearing, and inserting in place thereof the following section:-

Section 18F. Every individual, group, association, corporation, labor union or other entity not defined as a political committee who makes an electioneering communication expenditure, in an aggregate amount exceeding \$250 during a calendar year, shall electronically file with the director, within 7 days after making that expenditure, a report stating the name and address of the individual, group, association, corporation, labor union or other entity making the electioneering communication, the name of any candidate clearly identified in the communication, the total amount or value of the communication, the name and address of the vendor to whom the payments were made and the purpose and date of any such expenditure. In addition, any individual, group, association, corporation, labor union or other entity not defined as a political committee who makes electioneering communication expenditures, in an aggregate amount exceeding \$250 during a calendar year, who receives funds for the purpose of making such electioneering communications shall include in the electronic filing the date the funds were received and the name and address of the provider of any such funds in excess of \$250, if any, and the value of the funds received. Reports required under this section shall be filed with the director, as provided in section 18C, if electioneering communications refer to any candidate who files with the director. Reports required under this section shall be filed with the city or

town clerk if the electioneering communications refer to any candidate seeking public office in a city or town election who does not otherwise file with the director.

Any person, group, association, corporation, labor union or other entity that makes or contracts to make electioneering communications aggregating \$1,000 or more within 7 days before the date of an election shall file a report containing the information required under this section within 48 hours after making such expenditure.

A violation of this section shall be punished by a fine of not more than \$5,000 or by imprisonment in the house of correction for not more than 1 year.

SECTION 12. Section 18G of said chapter 55, as so appearing, is hereby amended by inserting after the first paragraph the following 2 paragraphs: -

If the independent expenditure or electioneering communication is paid for by an entity that is not an individual, the advertisement or communication shall contain the words “Top Contributors” and a written statement listing the 5 persons or entities, or if less than 5 persons or entities then the total of all such persons or entities, making the largest contributions to that entity for the purpose of making an independent expenditure or electioneering communication; provided, that such contributions shall be in excess of \$5,000 reportable under this chapter during the 12-month period before the date of the advertisement or communication. If no such contribution is received by the entity making an independent expenditure or electioneering communication, then the advertisement or communication may exclude such a statement.