

# SENATE . . . . . No. 314

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Stanley C. Rosenberg*

*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:
<i>Stanley C. Rosenberg</i>	<i>Hampshire, Franklin and Worcester</i>
<i>Thomas P. Kennedy</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Vincent A. Pedone</i>	<i>15th Worcester</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Daniel A. Wolf</i>	

# SENATE . . . . . No. 314

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By Mr. Rosenberg, a petition (accompanied by bill, Senate, No. 314) of Stanley C. Rosenberg, Thomas P. Kennedy, Denise Provost, Frank I. Smizik and other members of the General Court for legislation to protect the integrity of initiative and referendum petitions. Election Laws.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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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

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

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

(b) provide for fees to be charged to registrants in an amount sufficient, but not higher, than an amount reasonably calculated to generate sufficient revenue to cover the cost of operating the registry, which fees shall be retained by the office of the secretary and used solely for the purpose of operating the registry.

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

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

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

- i. his or her full name and assumed name, if any;
- ii. the street address of his or her permanent residence;
- iii. his or her signature;
- iv. a list of the ballot questions on which the paid signature gatherer will gather signatures;
- v. a signed statement attesting that the paid signature gatherer: (1) has not been convicted of a criminal offense involving fraud, forgery, or identification theft within the past five years; (2) has not been adjudicated to have engaged in corrupt practices with regard to elections as defined in section 32 of chapter 55, or its equivalent in another jurisdiction; (3)

has not been convicted of any offense under chapter 56 of the General Laws, or the equivalent laws of any other jurisdiction within the past five years; and (4) is not a convicted sex offender;

vi. a signed statement acknowledging that the paid signature gatherer has read and understands Massachusetts law applicable to the gathering of signatures on ballot questions;

vii. a conventional photograph showing the paid signature gatherer's head, neck, and shoulders, and is appropriate for copying and processing by the state secretary.

(f) for any legal entity, the said registry shall include the following information:

i. the name of the entity as registered with the applicable state or municipal agency depending on the business structure, which may include the department of revenue, the secretary, or a city or town clerk, as well as any other names under which the business is doing business, or any trade names;

ii. the street address of the main office in the state, the mailing address, if different, the office phone number, and the entity's e-mail address, if any;

iii. the full name, and any assumed names, of the owner or owners of the entity;

iv. a signature of the entity owner or owners;

v. a signed statement attesting that the entity owner or owners: (1) have not been convicted of a criminal offense involving fraud, forgery, or identification theft

53 within the past five years; (2) have not been adjudicated to have engaged in corrupt practices  
54 with regard to elections as defined in section 32 of chapter 55, or its equivalent in another  
55 jurisdiction; (3) have not been convicted of any offense under chapter 56 of the General Laws, or  
56 the equivalent laws of any other jurisdiction within the past five years; (4) are not a convicted  
57 sex offenders.

58 vi. a list of the ballot questions on which the entity will be  
59 involved with the gathering of signatures;

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

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

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

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

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

(j) provide that, when gathering signatures, a paid signature gatherer must carry on his or her person evidence of registration including the paid signature gatherer's photograph and registration number. If requested, the paid signature gatherer shall produce the evidence of registration.

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

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

A registered paid signature gatherer who knowingly submits an invalid signature will have his or her registration number revoked and he or she is prohibited from registering for five years from the date of the state secretary's revocation order. This paragraph applies when: (i) the paid signature gatherer provides a petition that contains an invalid signature

as determined by the secretary; and (ii) the secretary determines that the signature was obtained by that paid signature gatherer and the paid signature gatherer knew or should have known the signature was invalid. However, this paragraph does not apply when the paid signature gatherer had no knowledge or reason to know that the signature was invalid including, but not limited to, the paid signature gatherer did not know and had no reason to know the signature was a duplicate, that the person's signature had changed over time and no longer matched the signature on file with the city or town registrar, that the person had moved to a new residence but failed to update his or her voter registration before signing the petition, and the signature did not match a valid registered voter.

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

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

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

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

124           SECTION 2. Section 22A of chapter 53 of the General Laws, as appearing in  
125   the 2008 Official Edition, is hereby amended by inserting after the sentence ending in  
126   “secretary” in line 20 the following sentences: – Each initiative and referendum petition shall  
127   have printed thereon an affidavit in substantially the following form, which shall be executed by  
128   the person circulating the petition prior to its submission to the registrar of a city or town:  
129   “Commonwealth of Massachusetts , County of (county where signed), ss. I, (name of  
130   circulator), state under the pains and penalties of perjury that I reside at (full residential address,  
131   including number and street, apartment number where applicable, city or town, state and zip  
132   code); that each signature contained on the this petition was executed in my presence; and that to  
133   the best of my knowledge and belief each person whose signature appears on the this petition is a  
134   voter qualified to sign this petition; and that each signature contained on this petition is the  
135   genuine signature of the person whose name it purports to be (Signature of circulator and date).”  
136   No city or town registrar shall certify any signature on any petition where the forgoing affidavit  
137   has not been duly executed by the person circulating the petition, or where the name and address  
138   of the circulator is incomplete or not plainly legible.



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

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

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

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

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

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

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