

**HOUSE . . . . . No. 591**

**The Commonwealth of Massachusetts**

PRESENTED BY:

**Bradley H. Jones, Jr.**

*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 passage of the accompanying bill:

An Act relative to electioneering communications and independent expenditures.

PETITION OF:

| NAME:                   | DISTRICT/ADDRESS: |
|-------------------------|-------------------|
| Viriato Manuel deMacedo | 1st Plymouth      |
| Bradley H. Jones, Jr.   | 20th Middlesex    |
| George N. Peterson, Jr. | 9th Worcester     |
| Elizabeth Poirier       | 14th Bristol      |
| Paul K. Frost           | 7th Worcester     |
| Susan Williams Gifford  | 2nd Plymouth      |
| Bradford R. Hill        | 4th Essex         |
| Jeffrey Davis Perry     | 5th Barnstable    |
| Richard J. Ross         | 9th Norfolk       |
| Todd M. Smola           | 1st Hampden       |
| Robert S. Hargraves     | 1st Middlesex     |

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 660 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### 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 Official  
2 Edition, is hereby amended by inserting, after the definition of “Contribution,” the following  
3 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 further  
8 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,  
19 periodical, or 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  
22 satellite system, or printed in a newspaper, magazine, or other periodical in general  
23 circulation;

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

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

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

29 f) internet or email.

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

32 "Independent Expenditure," shall mean an expenditure by an individual, group, or association,  
33 not defined as a political committee, expressly advocating the election or defeat of a clearly  
34 identified candidate which is made without cooperation or consultation with any candidate, or a  
35 nonelected political committee organized on behalf of a candidate, or any agent of a candidate  
36 and which is not made in concert with, or at the request or suggestion of, any candidate, or any  
37 nonelected political committee organized on behalf of a candidate or agent of such candidate.

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

40 No person or persons, group or association not defined as a political committee, shall solicit or  
41 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 appearing, and  
51 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 line 19,  
70 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 section 18C  
75 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 striking  
93 the following:- “director.” and inserting in place thereof the following:- director, including all  
94 statements required to be filed by sections 18A and 18D regardless of the office sought.

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

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

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

|                        |   |
|------------------------|---|
| Witness:               | Signature:  |
| Address:               | Address:  |
| Date:                  | Date:   |
| Organization or group: | Statement of group interests and/or mission that clearly identifies the economic or other special interest or employer, if identifiable, of a majority of its organizers or contributors: |

|                         |  |
|-------------------------|--|
| Chairman and Treasurer: |  |
|-------------------------|--|

113 Political advertisements inserted in reading columns shall be preceded or followed by the  
114 word "Advertisement" in a separate line, in type not smaller than that of the body type of the  
115 newspaper or other periodical. This section shall not authorize expenditures otherwise prohibited  
116 by this chapter.

117  
118 Any corporation violating any provision of this section or section 38, relative to payments  
119 to newspapers and periodicals, and to political advertising, shall be punished by a fine of not  
120 more than \$10,000, and any officer, director or agent of a corporation violating any such  
121 provision, who authorized such violation, or any person who violates, or in any way knowingly  
122 aids or abets the violation of, any such provision, shall be punished by a fine of not more than  
123 \$1,000, or by imprisonment for not more than one year.