

SENATE No. 00314

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 passage 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 and Franklin</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</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>	<i>Cape and Islands</i>

SENATE No. 00314

By Mr. Rosenberg, petition (accompanied by bill, Senate, No. 314) of Provost, Kennedy, Wolf and other members of the General Court for legislation to protect the integrity of initiative and referendum petitions [Joint Committee on 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
2 Edition, is hereby amended by inserting at the end of section seven the following: – The state
3 secretary shall further promulgate regulations governing the conduct of paid signature gatherers
4 for ballot questions, designed to achieve and maintain security from forgery and fraud in the
5 collection of signatures on petitions for ballot questions and names thereon. Such regulations
6 shall:

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

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

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

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

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

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

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

24 iii. his or her signature;

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

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

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

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

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

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

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

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

47 iv. a signature of the entity owner or owners;

48 v. a signed statement attesting that the entity owner or owners: (1) have not
49 been convicted of a criminal offense involving fraud, forgery, or identification theft within the
50 past five years; (2) have not been adjudicated to have engaged in corrupt practices with regard to
51 elections as defined in section 32 of chapter 55, or its equivalent in another jurisdiction; (3) have
52 not been convicted of any offense under chapter 56 of the General Laws, or the equivalent laws
53 of any other jurisdiction within the past five years; (4) are not a convicted sex offenders.

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

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

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

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

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

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

75 under chapter 56 of the General Laws, or the equivalent laws of any other jurisdiction within the
76 past five years; or (d) is a convicted sex offender.

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

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

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

88 A registered paid signature gatherer who knowingly submits an invalid signature will
89 have his or her registration number revoked and he or she is prohibited from registering for five
90 years from the date of the state secretary's revocation order. This paragraph applies when: (i) the
91 paid signature gatherer provides a petition that contains an invalid signature as determined by the
92 secretary; and (ii) the secretary determines that the signature was obtained by that paid signature
93 gatherer and the paid signature gatherer knew or should have known the signature was invalid.
94 However, this paragraph does not apply when the paid signature gatherer had no knowledge or
95 reason to know that the signature was invalid including, but not limited to, the paid signature
96 gatherer did not know and had no reason to know the signature was a duplicate, that the person's

97 signature had changed over time and no longer matched the signature on file with the city or
98 town registrar, that the person had moved to a new residence but failed to update his or her voter
99 registration before signing the petition, and the signature did not match a valid registered voter.

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

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

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

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

119 SECTION 2. Section 22A of chapter 53 of the General Laws, as appearing in the 2008
120 Official Edition, is hereby amended by inserting after the sentence ending in “secretary” in line
121 20 the following sentences: – Each initiative and referendum petition shall have printed thereon
122 an affidavit in substantially the following form, which shall be executed by the person circulating
123 the petition prior to its submission to the registrar of a city or town: “Commonwealth of
124 Massachusetts , County of (county where signed), ss. I, (name of circulator), state under the
125 pains and penalties of perjury that I reside at (full residential address, including number and
126 street, apartment number where applicable, city or town, state and zip code); that each signature
127 contained on the this petition was executed in my presence; and that to the best of my knowledge
128 and belief each person whose signature appears on the this petition is a voter qualified to sign
129 this petition; and that each signature contained on this petition is the genuine signature of the
130 person whose name it purports to be (Signature of circulator and date).” No city or town
131 registrar shall certify any signature on any petition where the forgoing affidavit has not been duly
132 executed by the person circulating the petition, or where the name and address of the circulator is
133 incomplete or not plainly legible.

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

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

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

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

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

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

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