

HOUSE No. 02735

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 passage of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>

HOUSE No. 02735

By Ms. Provost of Somerville, a petition (accompanied by bill, House, No. 2735) of Jehlen and others relative to to 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 Edition, is
2 hereby amended by inserting at the end of section seven the following: – The state secretary shall
3 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 person or
7 legal entity, howsoever organized or formed, employing or contracting with any person who is
8 compensated by money or other valuable consideration, whether as an employee or independent
9 contractor, to obtain signatures on ballot questions; (ii) any person so employed or contracted
10 with to obtain signatures on ballot questions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

113 SECTION 2. Section 22A of chapter 53 of the General Laws, as appearing in the 2008 Official
114 Edition, is hereby amended by inserting after the sentence ending in "secretary" in line 20 the
115 following sentences: – Each initiative and referendum petition shall have printed thereon an
116 affidavit in substantially the following form, which shall be executed by the person circulating

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

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

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

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

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

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

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

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