SENATE DOCKET, NO. 496 FILED ON: 1/16/2013

SENATE . . . . . No. 332

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:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stanley C. Rosenberg	*Hampshire, Franklin and Worcester*
Kay Khan	*11th Middlesex*
Michael F. Rush	*Norfolk and Suffolk*
Kenneth J. Donnelly	*Fourth Middlesex*
Denise Andrews	*2nd Franklin*
James T. Welch	*Hampden*
Christine E. Canavan	*10th Plymouth*
Gale D. Candaras	*First Hampden and Hampshire*
James J. O'Day	*14th Worcester*
Brian M. Ashe	*2nd Hampden*
John F. Keenan	*Norfolk and Plymouth*
James B. Eldridge	*Middlesex and Worcester*
Eileen M. Donoghue	*First Middlesex*
John P. Fresolo	*16th Worcester*

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By Mr. Rosenberg, a petition (accompanied by bill, Senate, No. 332) of Stanley C. Rosenberg, Kay Khan, Michael F. Rush, Kenneth J. Donnelly and other members of the General Court for legislation to protect the integrity of initiative and referendum petitions. Election Laws.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *314* OF 2011-2012.]

The Commonwealth of Massachusetts

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:

SECTION 1. Chapter 53 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting at the end of section seven the following: – The state secretary shall further promulgate regulations governing the conduct of paid signature gatherers for ballot questions, designed to achieve and maintain security from forgery and fraud in the collection of signatures on petitions for ballot questions and names thereon. Such regulations shall:

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

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
22 information:

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

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

25 iii. his or her signature;

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

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

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

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

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

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

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

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

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

51 v. a signed statement attesting that the entity owner or owners: (1)
52 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.

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

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

83 photograph and registration number. If requested, the paid signature gatherer shall produce the
84 evidence of registration.

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

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

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

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

114 When the state secretary is informed that a paid signature gatherer has been
115 convicted of any sex offense, he or she will have his or her registration number permanently
116 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.

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

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

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

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

152 SECTION 5. Section 11 of chapter 56 of the General Laws, as appearing in the
153 2008 Official Edition, is hereby amended by inserting the following words after the word
154 "altered" in line 7: – "or knowingly or willfully executes falsely the affidavit required on
155 initiative and referendum petitions by section 22A of chapter 53,".

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

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