

HOUSE No. 689

By Mr. Petruccelli of Boston, petition of Anthony Petruccelli and others for legislation to further regulate the use of electronic communications in campaigns for public office. Election Laws.

The Commonwealth of Massachusetts

PETITION OF:

Anthony Petruccelli	Martin J. Walsh
Edward M. Augustus, Jr.	Anne M. Gobi
Richard R. Tisei	John W. Scibak

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO ELECTIONEERING COMMUNICATION 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
2 appearing in the 2002 Official Edition is hereby amended by
3 inserting the following definitions:—

4 “Clearly identified candidate”, a candidate whose name, photo or
5 image appears in a communication or a candidate’s identity is
6 apparent by unambiguous reference in a communication.

7 “Electioneering communication” shall mean any broadcast, cable,
8 mail, satellite, or print communication that fulfills each of the
9 following conditions:— a) the communication refers to a clearly
10 identified candidate; and b) the communication is publicly distrib-
11 uted 90 days prior to an election in which the candidate is seeking
12 election or reelection.

13 The following communications are exempt from the definition of
14 “electioneering communication”:—

15 a) a communication that is disseminated through a means other
16 than a broadcast station, radio station, cable television system or
17 satellite system, newspaper, magazine, periodical, or billboard

18 advertisement, or mail, provided however, that communications to
19 less than 100 recipients shall be exempt;

20 b) a news story, commentary, letter to the editor, news release,
21 column, op-ed, or editorial broadcast by a television station, radio
22 station, cable television system or satellite system, or printed in a
23 newspaper, magazine, or other periodical in general circulation;

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

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

29 e) Bonafide candidate debates or forums and advertising or pro-
30 motion of the same; and

31 f) internet or email.

32 “Independent Expenditure” shall mean an expenditure by an indi-
33 vidual, group, or association, not defined as a political committee,
34 expressly advocating the election or defeat of a clearly identified
35 candidate which is made without cooperation or consultation with
36 any candidate, or a non-elected political committee organized on
37 behalf of a candidate, or any agent of a candidate and which is not
38 made in concert with, or at the request or suggestion of, any candi-
39 date, or any non-elected political committee organized on behalf of a
40 candidate or agent of such candidate.

1 SECTION 2. Section 8 of said Chapter 55, as so appearing, is
2 hereby amended by inserting after the second paragraph the
3 following new paragraph:—

4 No person or persons, group or association not defined as a polit-
5 ical committee, shall solicit or receive from such corporation or such
6 holders of stock any gift, payment, expenditure, contribution or
7 promise to give, pay, expend or contribute for use for an election-
8 eering communication or communications, nor shall such corpora-
9 tion directly or indirectly give, pay, expend or contribute, or promise
10 to give, pay, expend or contribute, any money or other valuable thing
11 for the purpose of making an electioneering communication except
12 for a voter guide or questionnaire where all candidates running for
13 the same office are asked the same question or questions and where
14 all such candidates are given an equal opportunity to respond to each
15 question or questions, provided that said questionnaire or guide does

16 not contain additional language, images, or symbols, conveying sup-
17 port or opposition to the opinions of the candidates.

1 SECTION 3. Chapter 55 is hereby amended by striking Section
2 18A and inserting in place thereof:—

3 Section 18A. Every individual, group or association not defined
4 as a political committee, who makes an independent expenditure or
5 expenditures in an aggregate amount exceeding two hundred fifty
6 dollars during any calendar year for the express purpose of pro-
7 moting the election or defeat of any candidate or candidates shall file
8 with the director, within seven days after making such independent
9 expenditure or expenditures, on a form prescribed by the director, a
10 report stating the name and address of the individual, group or asso-
11 ciation making the expenditure or expenditures; the name of the can-
12 didate or candidates whose election or defeat the expenditure
13 promoted; the name and address of the person or persons to whom
14 the expenditure or expenditures were made; and the total amount or
15 value; the purpose and the date of the expenditure or expenditures.

16 Any person, group or association that makes or contracts to make
17 independent expenditures aggregating \$1,000 or more within seven
18 days prior to the date of an election shall file a report containing the
19 information required by this section within 24 hours of making such
20 expenditure.

21 Violation of any provision of this section or Section 18C shall be
22 punished by imprisonment for not more than one year or by a fine of
23 not more than ten thousand dollars.

1 SECTION 4. Section 18C of Chapter 55 is amended by inserting
2 after Section (b) (3) the following:—

3 (4) Every individual, group, or association who makes an inde-
4 pendent expenditure or electioneering communication expenditure in
5 an aggregate amount exceeding two hundred and fifty dollars during
6 any calendar year.

1 SECTION 5. Said Chapter 55, as so appearing, is hereby
2 amended by inserting after Section 18C the following new
3 section:—

4 Section 18D. Every individual, group or association not defined
5 as a political committee, who makes an electioneering

6 communication expenditure or expenditures, in an aggregate amount
7 exceeding two hundred fifty dollars, shall electronically file with the
8 director, within seven days after making such an expenditure, a
9 report stating the name and address of the individual, group or asso-
10 ciation making the electioneering communication; the name of the
11 candidate or candidates clearly identified in the communication; the
12 total amount or value of the communication; the name and address
13 of the vendor to whom the payments are made; and the purpose and
14 date of the expenditure or expenditures. In addition, any individual,
15 group, or association not defined as a political committee, who
16 makes an electioneering communication expenditure or expendi-
17 tures, in an aggregate amount exceeding two hundred and fifty dol-
18 lars during any calendar year, who receives funds for the purpose of
19 making such electioneering communications shall include in said
20 electronic filing the date the funds were received and the name and
21 address of the provider of any such funds in excess of two hundred
22 dollars, if any. Any person, group or association that makes or con-
23 tracts to make electioneering communications aggregating \$1,000 or
24 more within seven days prior to the date of an election shall file a
25 report containing the information required by this section within 24
26 hours of making such expenditure. Violation of any provision of this
27 section shall be punished by imprisonment for not more than one
28 year or by a fine of not more than ten thousand dollars.

1 SECTION 6. Section 24 of Chapter 55 is amended by inserting
2 after the words “all other such statements shall be filed with the
3 director” at the end of the first sentence the following:—including
4 all statements required to be filed by Sections 18A and 18D regard-
5 less of the office sought.

1 SECTION 7. Chapter 56 is amended by deleting Section 39 and
2 inserting in place thereof the following section:—
3 Section 39. No person, group, organization or association shall
4 publish or broadcast or cause to be published or broadcast in a news-
5 paper, periodical, radio broadcast, television broadcast, including
6 cable or other means of electronic dissemination, any paid advertise-
7 ment designed or tending to aid, injure, or defeat any candidate for
8 public office or any question submitted to the voters, unless the
9 name of the person, group, or organization paying for such adver-
10 tisement appears therein in the case of any of the aforementioned

11 visual media in a clearly visible and prominent typeface and in the
 12 case of a radio broadcast clearly audible statement; provided, how-
 13 ever, that a duly authorized agent eighteen years of age or older has
 14 signed his name in the presence of a witness to the following state-
 15 ment authorizing the insertion or broadcast of such advertisement.
 16 The statement shall be retained by the newspaper, periodical, radio
 17 broadcast, television broadcast, including cable, for not less than one
 18 year, shall be available to any person upon request, and shall be in
 19 substantially the following form:—

20 I hereby authorize the affixing of my/our name to the attached
 21 political advertisement on behalf of _____ or in opposition
 22 to _____, candidate for _____ in the election to be
 23 held in the current year, or on behalf of or in opposition to a question
 24 being submitted to the voters in the election in the current year.

25		
26	Witness:	Signature:
27	Address:	Address:
28	Date:	Date:
29	Organization or group:	Statement of group interests and/or
30		mission that clearly identifies the
31		economic or other special interest
32		or employer, if identifiable, of a
33		majority of its organizers or con-
34		tributors:

35 Chairman and Treasurer:

36
 37 Political advertisements inserted in reading columns shall be pre-
 38 ceded or followed by the word “Advertisement” in a separate line, in
 39 type not smaller than that of the body type of the newspaper or other
 40 periodical. This section shall not authorize expenditures otherwise
 41 prohibited by this chapter. Any corporation violating any provision
 42 of this section or Section thirty-eight, relative to payments to news-
 43 papers and periodicals, and to political advertising, shall be punished
 44 by a fine of not more than ten thousand dollars, and any officer,
 45 director or agent of a corporation violating any such provision, who
 46 authorized such violation, or any person who violates, or in any way
 47 knowingly aids or abets the violation of, any such provision, shall be
 48 punished by a fine of not more than one thousand dollars, or by
 49 imprisonment for not more than one year.