

HOUSE No.

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

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

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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:-

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5 "Clearly identified candidate," a candidate whose name, photo or image appears in a
6 communication or a candidate whose identity is apparent by unambiguous reference in a
7 communication.

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9 SECTION 2. Section 1 of chapter 55 of the General Laws, as so appearing, is hereby further
10 amended by inserting, after the definition of "Election," the following

11 definition:-

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13 "Electioneering communication," shall mean any broadcast, cable, mail, satellite, or print
14 communication that fulfills each of the following conditions:

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a) the communication refers to a clearly identified candidate; and

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b) the communication is publicly distributed 90 days prior to an election in which the

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candidate is seeking election or reelection.

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The following communications are exempt from the definition of “electioneering

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communication”:

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a) a communication that is disseminated through a means other than a broadcast

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station, radio station, cable television system or satellite system, newspaper, magazine,

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periodical, or billboard advertisement, or mail to less than 100 recipients;

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b) a news story, commentary, letter to the editor, news release, column, op-ed, or

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editorial broadcast by a television station, radio station, cable television system or

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satellite system, or printed in a newspaper, magazine, or other periodical in general

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circulation;

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c) expenditures or independent expenditures or contributions that must otherwise be

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reported under this chapter;

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d) a communication from a membership organization exclusively to its members and

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their families, otherwise known as a membership communication;

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

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f) internet or email.

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SECTION 3. Section 1 of chapter 55 of the General Laws, as so appearing, is hereby further

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amended by inserting, after the definition of “Expenditure,” the following definition:-

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43 “Independent Expenditure,” shall mean an expenditure by an individual, group, or association,
44 not defined as a political committee, expressly advocating the election or defeat of a clearly
45 identified candidate which is made without cooperation or consultation with any candidate, or
46 a nonelected political committee organized on behalf of a candidate, or any agent of a
47 candidate and which is not made in concert with, or at the request or suggestion of, any
48 candidate, or any nonelected political committee organized on behalf of a candidate or agent of
49 such candidate.

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

54 No person or persons, group or association not defined as a political committee, shall solicit or
55 receive from such corporation or such holders of stock any gift, payment, expenditure,
56 contribution or promise to give, pay, expend or contribute for use for an electioneering
57 communication or communications, nor shall such corporation directly or indirectly give, pay,
58 expend or contribute, or promise to give, pay, expend or contribute, any money or other
59 valuable thing for the purpose of making an electioneering communication except for a voter
60 guide or questionnaire where all candidates running for the same office are asked the same
61 question or questions and where all such candidates are given an equal opportunity to respond
62 to each question or questions, provided that said questionnaire or guide does not contain
63 additional language, images, or symbols, conveying support or opposition to the opinions of the
64 candidates.

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66 SECTION 5. Chapter 55 is hereby amended by striking out Section 18A, as so appearing, and
67 inserting in place thereof the following section:-

68 Section 18A. Every individual, group or association not defined as a political committee,
69 who makes an independent expenditure or expenditures in an aggregate amount exceeding
70 \$250 during any calendar year for the express purpose of promoting the election or defeat of
71 any candidate or candidates shall file with the director, or with the city or town clerk if such
72 candidate or candidates seek public office at a city or town election and is a non-depository
73 candidate, within seven business days after making such independent expenditure or
74 expenditures, on a form prescribed by the director, a report stating the name and address of
75 the individual, group or association making the expenditure or expenditures; the name of the
76 candidate or candidates whose election or defeat the expenditure promoted; the name and

77 address of the person or persons to whom the expenditure or expenditures were made; and
78 the total amount or value; the purpose and the date of the expenditure or expenditures.

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

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85 Violation of any provision of this section or section 18C shall be punished by
86 imprisonment for not more than one year or by a fine of not more than \$10,000.

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88 SECTION 6. Section 18C of Chapter 55, as so appearing, is amended by inserting, in line 19,
89 after the figure "\$10,000" the following:

90 (4) Every individual, group, or association who makes an independent expenditure or
91 electioneering communication expenditure in an aggregate amount exceeding \$250 during any
92 calendar year.

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94 SECTION 7. Said chapter 55, as so appearing, is hereby amended by inserting after section 18C
95 the following new section:-

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97 Section 18D. Every individual, group or association not defined as a political committee,
98 who makes an electioneering communication expenditure or expenditures, in an aggregate
99 amount exceeding \$250, shall file with the director, or with the city or town clerk if such
100 candidate or candidates seek public office at a city or town election and is a non-depository
101 candidate, within seven days after making such an expenditure, a report electronically to the
102 office of campaign and political finance stating the name and address of the individual, group or
103 association making the electioneering communication; the name of the candidate or candidates
104 clearly identified in the communication; the total amount or value of the communication; the
105 name and address of the vendor to whom the payments are made; and the purpose and date
106 of the expenditure or expenditures.

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108 Any person, group or association that makes or contracts to make electioneering
109 communications aggregating \$1,000 or more within seven days prior to the date of an election
110 shall file a report containing the information required by this section within 24 hours of making
111 such expenditure.

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113 Violation of any provision of this section shall be punished by imprisonment for not
114 more than one year or by a fine of not more than \$10,000.

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116 SECTION 8. Section 24 of said chapter 55, as so appearing, is amended, in line 14, by striking
117 the following:- "director." and inserting in place there of the following:- director, including all
118 statements required to be filed by sections 18A and 18D regardless of the office sought.

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

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

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136 I hereby authorize the affixing of my/our name to the attached political advertisement on
137 behalf of _____ or in opposition to _____, candidate for _____ in the
138 election to be held in the current year, or on behalf of or in opposition to a question being
139 submitted to the voters in the election in the current year.
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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:	

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

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