

1 A bill to be entitled
2 An act relating to paid petition circulators; creating s.
3 100.372, F.S.; providing definitions; requiring
4 registration of paid petition circulators and prohibiting
5 the payment of compensation to those not properly
6 registered; establishing registration and training
7 requirements for paid petition circulators; providing
8 application requirements; requiring the submission of a
9 signed affirmation by an initiative sponsor to the
10 supervisor of elections verifying compliance of initiative
11 petition forms; requiring the Department of State to adopt
12 rules prescribing the affirmation form; requiring
13 possession of evidence of registration; requiring
14 registration numbers to appear on certain forms; providing
15 circumstances under which initiative petitions shall be
16 rejected; prescribing procedures for the signing of
17 replacement initiative petitions when a signature is
18 invalidated; providing circumstances under which a
19 registration becomes invalid; requiring the department to
20 create a training program; requiring the department to
21 adopt rules; providing for a registration fee; providing
22 for disposition of funds; providing for counting and
23 verification of signatures appearing on certain forms
24 submitted before and after a specified date; providing
25 severability; providing an effective date.

26
27 WHEREAS, the Legislature determines that the protection of
28 the personal information and identities of Florida residents

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29 signing initiative petition forms in this state is a compelling
 30 and important state interest, and

31 WHEREAS, as a result of actions by various groups and
 32 individuals before the 2008 elections, the Legislature
 33 determines that it is necessary to take measures to ensure the
 34 integrity of the system of collecting and verifying petition
 35 signatures, and

36 WHEREAS, in order to ensure an open, fair, and accountable
 37 process for obtaining signatures on initiative petition forms,
 38 to protect the personal information and identities of Florida
 39 residents, and to restore public confidence in the process of
 40 participatory democracy, it is necessary that this state impose
 41 reasonable and necessary regulations on the actions of
 42 individuals and groups seeking to engage in initiative petition-
 43 gathering activities, NOW, THEREFORE,

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 45 Be It Enacted by the Legislature of the State of Florida:

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 47 Section 1. Section 100.372, Florida Statutes, is created
 48 to read:

49 100.372 Paid petition circulators.--

50 (1) DEFINITIONS.--For purposes of this section:

51 (a) "Department" means the Department of State.

52 (b) "Initiative sponsor" means the political committee
 53 registered pursuant to s. 106.03 that has submitted the text of
 54 a proposed amendment to the Secretary of State.

55 (c) "Paid petition circulator" means a petition circulator
 56 who receives compensation or other valuable consideration as a

57 direct or indirect consequence of the activities described in
 58 paragraph (d), other than for the reimbursement of legitimate
 59 out-of-pocket expenses incurred by the petition circulator in
 60 the ordinary course of these activities, as specified by rule of
 61 the department.

62 (d) "Petition circulator" means a person who, in the
 63 context of a direct, face-to-face interaction, presents to
 64 another person for his or her possible signature an initiative
 65 petition form.

66 (e) "Registrant" means a person who is registered with the
 67 department as a paid petition circulator.

68 (2) PROHIBITION ON UNREGISTERED PAID PETITION
 69 CIRCULATING.--A person may not engage in any activities as a
 70 paid petition circulator in this state without first registering
 71 with the department. A person or entity may not provide
 72 compensation or other valuable consideration as a direct or
 73 indirect consequence of the activities described in paragraph
 74 (1) (d) to a petition circulator who is not registered with the
 75 department as a paid petition circulator.

76 (3) REGISTRATION FOR PAID PETITION CIRCULATORS;
 77 REQUIREMENTS.--

78 (a) A person may not engage in activities as a paid
 79 petition circulator unless the person:

- 80 1. Has registered with the department;
- 81 2. Certifies under penalty of perjury that he or she has
 82 not been convicted of a criminal offense in this state or any
 83 other state or under federal law involving fraud, deceit,
 84 forgery, perjury, or identity theft within the 5 years preceding

85 the date of the application; and

86 3. Does not receive compensation based upon the number of
87 initiative petition signatures obtained.

88 (b) A person may apply to the department for the
89 registration required under paragraph (a). The application must
90 include:

91 1. The full name and any assumed name of the applicant.

92 2. The residential street address of the applicant.

93 3. The signature of the applicant.

94 4. Identification of the initiative petitions that the
95 applicant will be circulating.

96 5. The name, street address, and telephone number of the
97 person or entity from which the applicant will receive
98 compensation as a direct or indirect consequence of the
99 activities described in paragraph (1) (d).

100 6. A statement signed by the applicant acknowledging that
101 the applicant has read and understands state and federal law
102 applicable to the gathering of signatures on initiative petition
103 forms, as the law is summarized in the training program
104 established by the department.

105 7. Evidence indicating that the applicant has completed
106 the training program set forth in subsection (6).

107 8. Three 2-inch by 2-inch passport-style photographs of
108 the applicant.

109 9. Such other information as the department deems
110 necessary for the effective administration of the registration
111 program.

112 (c) If an applicant meets the requirements of paragraph

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113 (a), the department shall register the applicant and assign the
114 registrant a registration number no later than 2 business days
115 after the date on which the completed application is received.
116 As a condition of registration, the registrant must notify the
117 department in writing of any change in the information submitted
118 pursuant to this subsection within 5 business days after such
119 change.

120 (4) AFFIRMATION AND EVIDENCE OF REGISTRATION REQUIRED;
121 EFFECTS OF NONCOMPLIANCE.--

122 (a) A signed, written affirmation from an authorized
123 representative of the initiative sponsor must accompany any
124 initiative petition forms submitted for verification to a
125 supervisor of elections if the forms were collected by a paid
126 petition circulator. The affirmation must attest that the
127 initiative petition forms were collected in compliance with the
128 requirements of this section. The department shall adopt rules
129 prescribing the form for such affirmation. The form shall
130 identify the potential criminal and civil penalties for
131 submitting a false affirmation.

132 (b) A registrant must carry evidence of registration on
133 his or her person while he or she is obtaining signatures for an
134 initiative petition and must produce such evidence of
135 registration upon request by any law enforcement officer. The
136 evidence of registration shall include the registrant's
137 photograph and registration number. The department shall
138 designate by rule the form of the evidence of registration.

139 (c) Every initiative petition form presented by a
140 registrant to a person for his or her possible signature must

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141 contain the registrant's registration number as issued by the
142 department.

143 (d) If a signature on a petition form regarding ballot
144 placement for an initiative is not gathered in full compliance
145 with this section, the signature is invalid and may not be
146 verified and counted by the supervisor of elections. If a
147 signature is invalidated under this section, the supervisor of
148 elections shall return, at the expense of the initiative
149 sponsor, the invalid initiative petition form to the initiative
150 sponsor within 30 days after invalidation. The initiative
151 sponsor shall, within 30 days after receipt of an invalid
152 initiative petition form from a supervisor of elections, provide
153 written notice to an elector whose signature was invalidated.
154 This notice must inform the elector that his or her signature on
155 the initiative petition form was invalidated due to the failure
156 of the paid petition circulator who obtained the elector's
157 signature on the initiative petition form to comply with the
158 laws of this state and must provide the elector the opportunity
159 to sign a replacement initiative petition form for that
160 initiative petition. An elector whose signature on an initiative
161 petition form is invalidated under this section and who signs a
162 replacement initiative petition form for that initiative
163 petition is not subject to s. 104.185(1) for purposes of this
164 paragraph. An initiative petition form submitted to a supervisor
165 of elections under the conditions set forth in this paragraph is
166 subject to s. 100.371.

167 (5) INVALID REGISTRATION.--If, at any time, a registered
168 paid petition circulator no longer satisfies one or more of the

169 requirements set forth in this section, the registration is
 170 immediately rendered invalid by operation of law and the
 171 registrant shall cease all activities as a paid petition
 172 circulator. The person shall also notify the department in
 173 writing of his or her failure to meet one or more of the
 174 requirements set forth in this section within 5 business days.

175 (6) TRAINING OF PAID PETITION CIRCULATORS.--The department
 176 shall create a training program to provide applicants with an
 177 overview and explanation of the state and federal laws governing
 178 the gathering of initiative petitions in this state, including,
 179 but not limited to, all relevant statutes, rules, and court
 180 rulings. The department may conduct training programs through a
 181 secure website and may contract with a third-party vendor for
 182 the administration of the training program.

183 (7) RULEMAKING.--The Department of State shall adopt rules
 184 pursuant to ss. 120.536(1) and 120.54 to administer this
 185 section, including the adoption of a registration fee necessary
 186 to cover the department's cost of registration, training, and
 187 regulation. Funds collected from registrants shall be deposited
 188 in the Grants and Donations Trust Fund of the Department of
 189 State.

190 Section 2. Any signature gathered on a previously approved
 191 initiative petition form that has been submitted for
 192 verification before October 1, 2009, may be verified and counted
 193 if otherwise valid. However, any signature gathered on an
 194 initiative petition form that is submitted for verification on
 195 or after that date may be verified and counted only if such form
 196 complies with this act.

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197 Section 3. If any provision of this act or its application
198 to any person or circumstance is held invalid, the invalidity
199 does not affect other provisions or applications of the act
200 which can be given effect without the invalid provision or
201 application, and to this end the provisions of this act are
202 severable.

203 Section 4. This act shall take effect July 1, 2009.