

REFERENCE TITLE: ballot measures; paid circulators; registration

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1232

Introduced by
Senator Reagan

AN ACT

AMENDING SECTION 19-112, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 209, SECTION 8; AMENDING SECTION 19-112, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 332, SECTION 24; AMENDING SECTION 19-118, ARIZONA REVISED STATUTES; AMENDING SECTION 19-121.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 209, SECTION 10; AMENDING SECTION 19-121.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 209, SECTION 22; RELATING TO INITIATIVE AND REFERENDUM; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 19-112, Arizona Revised Statutes, as amended by
3 Laws 2013, chapter 209, section 8, is amended to read:

4 19-112. Signatures and verification; attachment; registration
5 of circulators

6 A. Every qualified elector signing a petition shall do so in the
7 presence of the person who is circulating the petition and who is to execute
8 the affidavit of verification. At the time of signing, the qualified elector
9 shall sign his first and last names in the spaces provided and the elector so
10 signing shall print his first and last names and write, in the appropriate
11 spaces following the signature, the signer's residence address, giving street
12 and number, and if he has no street address, a description of his residence
13 location. The elector so signing shall write, in the appropriate spaces
14 following the elector's address, the date on which the elector signed the
15 petition.

16 B. The signature sheets shall be attached at all times during
17 circulation to a full and correct copy of the title and text of the measure
18 or constitutional amendment proposed or referred by the petition. The title
19 and text shall be in at least eight point type and shall include both the
20 original and the amended text. The text shall indicate material deleted, if
21 any, by printing the material with a line drawn through the center of the
22 letters of the material and shall indicate material added or new material by
23 printing the letters of the material in capital letters. The secretary of
24 state's time-and-date-marked copy of the measure or constitutional amendment
25 with its proposed text set out in full with the original and the amended text
26 constitutes the full and correct copy and is the only valid copy of the title
27 and text of the measure for circulation for signatures. Signatures that are
28 collected with any copy of the measure or constitutional amendment that is
29 not a facsimile of the time-and-date-marked copy with title and text that is
30 identical to the time-and-date-marked copy are invalid.

31 C. The person before whom the signatures, names and addresses were
32 written on the signature sheet, on the affidavit form pursuant to this
33 section, shall subscribe and swear before a notary public that each of the
34 names on the sheet was signed and the name and address were printed by the
35 elector and the circulator on the date indicated, that in his belief each
36 signer was a qualified elector of a certain county of the state, or, in the
37 case of a city, town or county measure, of the city, town or county affected
38 by the measure on the date indicated, and that at all times during
39 circulation of the signature sheet a copy of the title and text was attached
40 to the signature sheet. ~~Circulators who are not residents of this state must
41 be registered as circulators with the secretary of state before circulating
42 petitions. The secretary of state shall provide for a method of receiving
43 service of process for those petition circulators who register pursuant to
44 this subsection. The secretary of state shall establish in the instructions
45 and procedures manual issued pursuant to section 16-452 a procedure for~~

1 Sec. 2. Section 19-112, Arizona Revised Statutes, as amended by Laws
2 2011, chapter 332, section 24, is amended to read:

3 19-112. Signatures and verification; attachment; registration
4 of circulators

5 A. Every qualified elector signing a petition shall do so in the
6 presence of the person who is circulating the petition and who is to execute
7 the affidavit of verification. At the time of signing, the qualified elector
8 shall sign his first and last names in the spaces provided and the elector so
9 signing shall print his first and last names and write, in the appropriate
10 spaces following the signature, the signer's residence address, giving street
11 and number, and if he has no street address, a description of his residence
12 location. The elector so signing shall write, in the appropriate spaces
13 following the elector's address, the date on which the elector signed the
14 petition.

15 B. The signature sheets shall be attached at all times during
16 circulation to a full and correct copy of the title and text of the measure
17 or constitutional amendment proposed or referred by the petition. The title
18 and text shall be in at least eight point type and shall include both the
19 original and the amended text. The text shall indicate material deleted, if
20 any, by printing the material with a line drawn through the center of the
21 letters of the material and shall indicate material added or new material by
22 printing the letters of the material in capital letters.

23 C. The person before whom the signatures, names and addresses were
24 written on the signature sheet ~~shall~~, on the affidavit form pursuant to this
25 section, ~~SHALL~~ subscribe and swear before a notary public that each of the
26 names on the sheet was signed and the name and address were printed by the
27 elector and the circulator on the date indicated, ~~and~~ that in his belief each
28 signer was a qualified elector of a certain county of the state, or, in the
29 case of a city, town or county measure, of the city, town or county affected
30 by the measure on the date indicated, and that at all times during
31 circulation of the signature sheet a copy of the title and text was attached
32 to the signature sheet. ~~Circulators who are not residents of this state must~~
33 ~~be registered as circulators with the secretary of state before circulating~~
34 ~~petitions. The secretary of state shall provide for a method of receiving~~
35 ~~service of process for those petition circulators who register pursuant to~~
36 ~~this subsection. The secretary of state shall establish in the instructions~~
37 ~~and procedures manual issued pursuant to section 16-452 a procedure for~~
38 ~~registering circulators and receiving service of process.~~ All signatures of
39 petitioners on a signature sheet shall be those of qualified electors who are
40 registered to vote in the same county. However, if signatures from more than
41 one county appear on the same signature sheet, only the valid signatures from
42 the same county that are most numerous on the signature sheet shall be
43 counted. Signature and handwriting comparisons may be made.

1 D. The affidavit shall be in the following form printed on the reverse
2 side of each signature sheet:

3 Affidavit of Circulator

4 State of Arizona)
5) ss.:
6 County of _____)
7 (Where notarized)

8 I, _____(print name)_____, a person who is not required to
9 be a resident of this state but who is otherwise qualified to
10 register to vote in the county of _____, in the state of
11 Arizona at all times during my circulation of this petition
12 sheet, and under the penalty of a class 1 misdemeanor, depose
13 and say that subject to section 19-115, Arizona Revised
14 Statutes, each individual printed the individual's own name and
15 address and signed this sheet of the foregoing petition in my
16 presence on the date indicated and I believe that each signer's
17 name and residence address or post office address are correctly
18 stated and that each signer is a qualified elector of the state
19 of Arizona (or in the case of a city, town or county measure, of
20 the city, town or county affected by the measure proposed to be
21 initiated or referred to the people) and that at all times
22 during circulation of this signature sheet a copy of the title
23 and text was attached to the signature sheet.

24 (Signature of affiant) _____
25 (Residence address, street
26 and number of affiant, or
27 if no street address, a
28 description of residence
29 location) _____

30 _____
31 Subscribed and sworn to before me on _____.
32 (date)

33 _____
34 Notary Public
35 _____, Arizona.
36 My commission expires on _____.
37 (date)

38 E. The eight point type required by subsection B OF THIS SECTION shall
39 not apply to maps, charts or other graphics.

40 Sec. 3. Section 19-118, Arizona Revised Statutes, is amended to read:
41 19-118. Registered circulators; requirements; definition

42 A. ALL CIRCULATORS WHO ARE NOT RESIDENTS OF THIS STATE AND ALL PAID
43 CIRCULATORS MUST REGISTER AS CIRCULATORS WITH THE SECRETARY OF STATE BEFORE
44 CIRCULATING PETITIONS PURSUANT TO THIS TITLE. THE SECRETARY OF STATE SHALL
45 ESTABLISH IN THE INSTRUCTIONS AND PROCEDURES MANUAL ISSUED PURSUANT TO

1 SECTION 16-452 A PROCEDURE FOR REGISTERING CIRCULATORS AND SHALL PUBLISH ON A
2 WEBSITE MAINTAINED BY THE SECRETARY OF STATE ALL INFORMATION REGARDING
3 CIRCULATORS THAT IS REQUIRED PURSUANT TO THIS SECTION. THE SECRETARY OF
4 STATE SHALL DISQUALIFY ALL SIGNATURES COLLECTED BY A CIRCULATOR WHO FAILS TO
5 REGISTER PURSUANT TO THIS SUBSECTION AS PROVIDED FOR IN SECTION 19-121.01,
6 SUBSECTION A.

7 B. THE REGISTRATION REQUIRED BY SUBSECTION A OF THIS SECTION SHALL
8 INCLUDE THE FOLLOWING PROVISIONS:

9 1. THE CIRCULATOR CONSENTS TO THE JURISDICTION OF THE COURTS OF THIS
10 STATE IN RESOLVING ANY DISPUTES CONCERNING THE CIRCULATION OF PETITIONS BY
11 THAT CIRCULATOR.

12 2. THE CIRCULATOR SHALL DESIGNATE AN ADDRESS IN THIS STATE AT WHICH
13 THE CIRCULATOR WILL ACCEPT SERVICE OF PROCESS RELATED TO DISPUTES CONCERNING
14 CIRCULATION OF THAT CIRCULATOR'S PETITIONS. SERVICE OF PROCESS IS EFFECTED
15 UNDER THIS SECTION BY DELIVERING A COPY OF THE SUBPOENA TO THAT PERSON
16 INDIVIDUALLY OR BY LEAVING A COPY OF THE SUBPOENA AT THE ADDRESS DESIGNATED
17 BY THE CIRCULATOR WITH A PERSON OF SUITABLE AGE.

18 C. IF A REGISTERED CIRCULATOR IS PROPERLY SERVED WITH A SUBPOENA TO
19 PROVIDE EVIDENCE IN AN ACTION REGARDING CIRCULATION OF PETITIONS AND FAILS TO
20 APPEAR OR PRODUCE DOCUMENTS AS PROVIDED FOR IN THE SUBPOENA, ALL SIGNATURES
21 COLLECTED BY THAT CIRCULATOR ARE DEEMED INVALID. THE PARTY SERVING THE
22 SUBPOENA MAY REQUEST AN ORDER FROM THE COURT DIRECTING THE SECRETARY OF STATE
23 TO REMOVE ANY SIGNATURES COLLECTED BY THE CIRCULATOR AS PROVIDED FOR IN
24 SECTION 19-121.01, SUBSECTION A.

25 D. ANY PERSON MAY CHALLENGE THE LAWFUL REGISTRATION OF CIRCULATORS IN
26 THE SUPERIOR COURT OF THE COUNTY IN WHICH THE CIRCULATOR IS REGISTERED. A
27 CHALLENGE MAY NOT BE COMMENCED MORE THAN FIVE DAYS AFTER THE DATE ON WHICH
28 THE PETITIONS FOR WHICH THE CIRCULATOR IS REGISTERED ARE FILED WITH THE
29 SECRETARY OF STATE OR OTHER FILING OFFICER. AN ACTION PURSUANT TO THIS
30 SECTION SHALL BE ADVANCED ON THE CALENDAR AND DECIDED BY THE COURT AS SOON AS
31 POSSIBLE. EITHER PARTY MAY APPEAL TO THE SUPREME COURT WITHIN FIVE CALENDAR
32 DAYS AFTER ENTRY OF JUDGMENT. THE PREVAILING PARTY IN AN ACTION TO CHALLENGE
33 THE REGISTRATION OF A CIRCULATOR UNDER THIS SECTION IS ENTITLED TO REASONABLE
34 ATTORNEY FEES.

35 E. For the purposes of this title, "paid circulator":

36 1. Means a natural person who receives monetary or other compensation
37 that is based on the number of signatures obtained on a petition or on the
38 number of petitions circulated that contain signatures.

39 2. Does not include a paid employee of any political committee
40 organized pursuant to title 16, chapter 6, unless that employee's primary
41 responsibility is circulating petitions to obtain signatures.

1 Sec. 4. Section 19-121.01, Arizona Revised Statutes, as amended by
2 Laws 2013, chapter 209, section 10, is amended to read:

3 19-121.01. Secretary of state; removal of petition and
4 ineligible signatures; facsimile sheets; random
5 sample

6 A. Within twenty days, excluding Saturdays, Sundays and other legal
7 holidays, of the date of filing of an initiative or referendum petition and
8 issuance of the receipt, the secretary of state shall:

9 1. Remove the following:

10 (a) Those sheets not attached to a copy of the complete title and text
11 of the measure that is marked by the official date and time of receipt by the
12 secretary of state.

13 (b) The copy of the title and text from the remaining petition sheets.

14 (c) Those sheets not bearing the correct petition serial number in the
15 lower right-hand corner of each side.

16 (d) Those sheets containing a circulator's affidavit that is not
17 completed or signed.

18 (e) Those sheets on which the affidavit of the circulator is not
19 notarized, the notary's signature is missing, the notary's commission has
20 expired or the notary's seal is not affixed.

21 (f) Those sheets on which the signatures of the circulator or the
22 notary are dated earlier than the dates on which the electors signed the face
23 of the petition sheet.

24 (g) Those sheets that are circulated by a circulator who is prohibited
25 from participating in any election, initiative, referendum or recall campaign
26 pursuant to section 19-119.01.

27 (h) **THOSE SHEETS ON WHICH THE CIRCULATOR IS REQUIRED TO BE REGISTERED**
28 **WITH THE SECRETARY OF STATE PURSUANT TO SECTION 19-118.**

29 2. After completing the steps in paragraph 1 of this subsection,
30 review each sheet to determine the county of the majority of the signers and
31 shall:

32 (a) Place a three or four letter abbreviation designating that county
33 in the upper right-hand corner of the face of the petition.

34 (b) Remove all signatures of those not in the county of the majority
35 on each sheet by marking an "SS" in red ink in the margin to the right of the
36 signature line.

37 (c) Cause all signature sheets to be grouped together by county of
38 registration of the majority of those signing and attach them to one or more
39 copies of the title and text of the measure. If the sheets are too bulky for
40 convenient grouping by the secretary of state in one volume by county, they
41 may be bound in two or more volumes with those in each volume attached to a
42 single printed copy of the measure. The remaining detached copies of the
43 title and text of the measure shall be delivered to the applicant.

1 3. After completing the steps in paragraph 2 of this subsection,
2 remove the following signatures that are not eligible for verification by
3 marking an "SS" in red ink in the margin to the right of the signature line:

4 (a) If the signature of the qualified elector is missing.

5 (b) If the residence address or the description of residence location
6 is missing.

7 (c) If the date on which the petitioner signed is missing.

8 (d) Signatures in excess of the fifteen signatures permitted per
9 petition.

10 (e) Signatures withdrawn pursuant to section 19-113.

11 (f) Signatures for which the secretary of state determines that the
12 petition circulator has printed the elector's first and last names or other
13 information in violation of section 19-112.

14 4. After the removal of petition sheets and signatures, count the
15 number of signatures for verification on the remaining petition sheets and
16 note that number in the upper right-hand corner of the face of each petition
17 sheet immediately above the county designation.

18 5. Number the remaining petition sheets that were not previously
19 removed and that contain signatures eligible for verification in consecutive
20 order on the front side of each petition sheet in the upper left-hand corner.

21 6. Count all remaining petition sheets and signatures not previously
22 removed and issue a receipt to the applicant of this total number eligible
23 for verification.

24 B. If the total number of signatures for verification as determined
25 pursuant to subsection A, paragraph 6 of this section equals or exceeds the
26 constitutional minimum, the secretary of state, during the same twenty day
27 period provided in subsection A of this section, shall select, at random,
28 five per cent of the total signatures eligible for verification by the county
29 recorders of the counties in which the persons signing the petition claim to
30 be qualified electors. The random sample of signatures to be verified shall
31 be drawn in such a manner that every signature eligible for verification has
32 an equal chance of being included in the sample. The random sample produced
33 shall identify each signature selected by petition page and line number. The
34 signatures selected shall be marked according to the following procedure:

35 1. Using red ink, mark the selected signature by circling the line
36 number and drawing a line from the base of the circle extending into the left
37 margin.

38 2. If a signature line selected for the random sample is found to be
39 blank or was removed from the verification process pursuant to subsection A
40 of this section and is marked with an "SS", then the next line down, even if
41 that requires going to the next petition sheet in sequence, on which an
42 eligible signature appears shall be selected as a substitute if that line has
43 not already been selected for the random sample. If the next eligible line
44 is already being used in the random sample, the secretary of state shall
45 proceed back up the page from the signature line originally selected for the

1 random sample to the next previous signature line eligible for verification.
2 If that line is already being used in the random sample, the secretary of
3 state shall continue moving down the page or to the next page from the line
4 originally selected for the random sample and shall select the next eligible
5 signature as its substitute for the random sample. The secretary of state
6 shall use this process of alternately moving forward and backward until a
7 signature eligible for verification and not already included in the random
8 sample can be selected and substituted.

9 C. After the selection of the random sample and the marking of the
10 signatures selected on the original petition sheets pursuant to subsection B
11 of this section, the secretary of state shall reproduce a facsimile of the
12 front of each signature sheet on which a signature included in the random
13 sample appears. The secretary of state shall clearly identify those
14 signatures marked for verification by color highlighting or other similar
15 method and shall transmit by personal delivery or certified mail to each
16 county recorder a facsimile sheet of each signature sheet on which a
17 signature appears of any individual who claims to be a qualified elector of
18 that county and whose signature was selected for verification as part of the
19 random sample.

20 D. The secretary of state shall retain in custody all signature sheets
21 removed pursuant to this section except as otherwise prescribed in this
22 title.

23 Sec. 5. Section 19-121.01, Arizona Revised Statutes, as amended by
24 Laws 2010, chapter 209, section 22, is amended to read:

25 19-121.01. Secretary of state: removal of petition and
26 ineligible signatures: facsimile sheets: random
27 sample

28 A. Within twenty days, excluding Saturdays, Sundays and other legal
29 holidays, of the date of filing of an initiative or referendum petition and
30 issuance of the receipt, the secretary of state shall:

31 1. Remove the following:

32 (a) Those sheets not attached to a copy of the title and text of the
33 measure.

34 (b) The copy of the title and text from the remaining petition sheets.

35 (c) Those sheets not bearing the petition serial number in the lower
36 right-hand corner of each side.

37 (d) Those sheets containing a circulator's affidavit that is not
38 completed or signed.

39 (e) Those sheets on which the affidavit of the circulator is not
40 notarized, the notary's signature is missing, the notary's commission has
41 expired or the notary's seal is not affixed.

42 (f) Those sheets on which the signatures of the circulator or the
43 notary are dated earlier than the dates on which the electors signed the face
44 of the petition sheet.

1 (g) ~~Beginning after November 2, 2010,~~ Those sheets that are circulated
2 by a circulator who is prohibited from participating in any election,
3 initiative, referendum or recall campaign pursuant to section 19-119.01.

4 (h) **THOSE SHEETS ON WHICH THE CIRCULATOR IS REQUIRED TO BE REGISTERED**
5 **WITH THE SECRETARY OF STATE PURSUANT TO SECTION 19-118.**

6 2. After completing the steps in paragraph 1 of this subsection,
7 review each sheet to determine the county of the majority of the signers and
8 shall:

9 (a) Place a three or four letter abbreviation designating that county
10 in the upper right-hand corner of the face of the petition.

11 (b) Remove all signatures of those not in the county of the majority
12 on each sheet by marking an "SS" in red ink in the margin to the right of the
13 signature line.

14 (c) Cause all signature sheets to be grouped together by county of
15 registration of the majority of those signing and attach them to one or more
16 copies of the title and text of the measure. If the sheets are too bulky for
17 convenient grouping by the secretary of state in one volume by county, they
18 may be bound in two or more volumes with those in each volume attached to a
19 single printed copy of the measure. The remaining detached copies of the
20 title and text of the measure shall be delivered to the applicant.

21 3. After completing the steps in paragraph 2 of this subsection,
22 remove the following signatures that are not eligible for verification by
23 marking an "SS" in red ink in the margin to the right of the signature line:

24 (a) If the signature of the qualified elector is missing.

25 (b) If the residence address or the description of residence location
26 is missing.

27 (c) If the date on which the petitioner signed is missing.

28 (d) Signatures in excess of the fifteen signatures permitted per
29 petition.

30 (e) Signatures withdrawn pursuant to section 19-113.

31 (f) ~~Beginning after November 2, 2010,~~ Signatures for which the
32 secretary of state determines that the petition circulator has printed the
33 elector's first and last names or other information in violation of section
34 19-112.

35 4. After the removal of petition sheets and signatures, count the
36 number of signatures for verification on the remaining petition sheets and
37 note that number in the upper right-hand corner of the face of each petition
38 sheet immediately above the county designation.

39 5. Number the remaining petition sheets that were not previously
40 removed and that contain signatures eligible for verification in consecutive
41 order on the front side of each petition sheet in the upper left-hand corner.

42 6. Count all remaining petition sheets and signatures not previously
43 removed and issue a receipt to the applicant of this total number eligible
44 for verification.

1 B. If the total number of signatures for verification as determined
2 pursuant to subsection A, paragraph 6 of this section equals or exceeds the
3 constitutional minimum, the secretary of state, during the same twenty day
4 period provided in subsection A of this section, shall select, at random,
5 five per cent of the total signatures eligible for verification by the county
6 recorders of the counties in which the persons signing the petition claim to
7 be qualified electors. The random sample of signatures to be verified shall
8 be drawn in such a manner that every signature eligible for verification has
9 an equal chance of being included in the sample. The random sample produced
10 shall identify each signature selected by petition page and line number. The
11 signatures selected shall be marked according to the following procedure:

12 1. Using red ink, mark the selected signature by circling the line
13 number and drawing a line from the base of the circle extending into the left
14 margin.

15 2. If a signature line selected for the random sample is found to be
16 blank or was removed from the verification process pursuant to subsection A
17 of this section and is marked with an "SS", then the next line down, even if
18 that requires going to the next petition sheet in sequence, on which an
19 eligible signature appears shall be selected as a substitute if that line has
20 not already been selected for the random sample. If the next eligible line
21 is already being used in the random sample, the secretary of state shall
22 proceed back up the page from the signature line originally selected for the
23 random sample to the next previous signature line eligible for verification.
24 If that line is already being used in the random sample, the secretary of
25 state shall continue moving down the page or to the next page from the line
26 originally selected for the random sample and shall select the next eligible
27 signature as its substitute for the random sample. The secretary of state
28 shall use this process of alternately moving forward and backward until a
29 signature eligible for verification and not already included in the random
30 sample can be selected and substituted.

31 C. After the selection of the random sample and the marking of the
32 signatures selected on the original petition sheets pursuant to subsection B
33 of this section, the secretary of state shall reproduce a facsimile of the
34 front of each signature sheet on which a signature included in the random
35 sample appears. The secretary of state shall clearly identify those
36 signatures marked for verification by color highlighting or other similar
37 method and shall transmit by personal delivery or certified mail to each
38 county recorder a facsimile sheet of each signature sheet on which a
39 signature appears of any individual who claims to be a qualified elector of
40 that county and whose signature was selected for verification as part of the
41 random sample.

42 D. The secretary of state shall retain in custody all signature sheets
43 removed pursuant to this section except as otherwise prescribed in this
44 title.

1 Sec. 6. Conditional enactment

2 A. Section 19-112, Arizona Revised Statutes, as amended by Laws 2013,
3 chapter 209, section 8 and section 1 of this act, is effective only if Laws
4 2013, chapter 209, the subject of referendum petition R-03-2014, is approved
5 by a vote of the people at the next general election or if Laws 2013, chapter
6 209, the subject of referendum petition R-03-2014, fails to be referred to
7 the voters at the next general election.

8 B. Section 19-112, Arizona Revised Statutes, as amended by Laws 2011,
9 chapter 332, section 24 and section 2 of this act, is effective only if Laws
10 2013, chapter 209, the subject of referendum petition R-03-2014, is rejected
11 by a vote of the people at the next general election.

12 C. Section 19-121.01, Arizona Revised Statutes, as amended by Laws
13 2013, chapter 209, section 10 and section 4 of this act, is effective only if
14 Laws 2013, chapter 209, the subject of referendum petition R-03-2014, is
15 approved by a vote of the people at the next general election or if Laws
16 2013, chapter 209, the subject of referendum petition R-03-2014, fails to be
17 referred to the voters at the next general election.

18 D. Section 19-121.01, Arizona Revised Statutes, as amended by Laws
19 2010, chapter 209, section 22 and section 5 of this act, is effective only if
20 Laws 2013, chapter 209, the subject of referendum petition R-03-2014, is
21 rejected by a vote of the people at the next general election.