

By Mr. Businger of Brookline, petition of John A. Businger relative to the rights of persons to collect signatures on election petitions or distribute election literature. Election Laws.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Seven.

AN ACT TO PRESERVE THE RIGHTS OF FREE SPEECH AND PETITION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 General Laws chapter 266 is hereby amended by striking section
2 120, as most recently amended by section 6 of chapter 678 of the
3 Acts of 1983, and inserting in place thereof the following section: —

4 Section 120. (a) Except as provided in subsections (b) and (c),
5 whoever, without right, enters or remains in or upon the dwelling
6 house, buildings, boats or improved or enclosed land, wharf, or pier
7 of another, after having been forbidden so to do by the person who
8 has lawful control of said premises, whether directly or by notice
9 posted thereon, or in violation of a court order pursuant to section
10 thirty-four B of chapter two hundred and eight or section three or
11 four of chapter two hundred and nine A, shall be punished by a fine
12 of not more than one hundred dollars or by imprisonment for not
13 more than thirty days or both such fine and imprisonment. Proof
14 that a court has given notice of such a court order to the alleged
15 offender shall be prima facie evidence that the notice requirement
16 of this section has been met. A person who is found committing
17 such trespass may be arrested by a sheriff, deputy sheriff, constable
18 or police officer and kept in custody in a convenient place, not more
19 than twenty-four hours, Sunday excepted, until a complaint can be
20 made against him for the offence, and he be taken upon a warrant
21 issued upon such complaint.

22 (b) Subsection (a) shall not apply to tenants or occupants of
23 residential premises who, having rightfully entered said premises at
24 the commencement of the tenancy or occupancy, remain therein
25 after such tenancy or occupancy has been or is alleged to have been

26 terminated. The owner or landlord of said premises may recover
27 possession thereof only through appropriate civil proceedings.

28 (c) Every person shall have a right of access to the common areas
29 of a shopping center during routine business hours in order (1) to
30 distribute political, religious, and other pamphlets, handbills, circu-
31 lars, and leaflets, (2) to solicit signatures on a petition, and (3) to
32 solicit signatures in connection with access to the ballot in a public
33 election; provided that such distribution or solicitation shall be
34 conducted in an orderly and unobtrusive manner, and provided
35 further that such activities may be subject to reasonable limitations
36 by the property owner or owners through written rules respecting
37 the time, location, and manner in which such distribution or solici-
38 tation shall occur.

39 (d) For purposes of subsection (c), "shopping center" shall mean
40 any plaza, mall or shopping area consisting of not less than four
41 retail stores or service establishments.

42 (e) Nothing in subsections (c) or (d) shall be construed to limit or
43 otherwise to restrict the rights of the people under article 9 of the
44 Declaration of Rights to collect signatures on election petitions or
45 distribute election literature.