

HOUSE No. 1283

The Commonwealth of Massachusetts

PRESENTED BY:

John J. Binienda

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 consumer protection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John J. Binienda	17th Worcester
John P. Fresolo	16th Worcester
Michael R. Knapik	Second Hampden and Hampshire

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1323 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO CONSUMER PROTECTION.

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. The General Court finds that:

2 (1) Current Massachusetts statutory law provides that plaintiffs in consumer protection actions
3 must have been “injured by” a method, act or practice that is unlawful under Section 2 of
4 Chapter 93A or any rule or regulation issued thereunder, thus imposing a causation requirement
5 in these actions;

6 (2) Despite this requirement, decisions of the courts of the Commonwealth indicate that the
7 courts may have misinterpreted the General Court’s intention to require plaintiffs to prove
8 causation in consumer protection actions; and

9 (3) It is necessary for the General Court to clarify the causation requirement in consumer
10 protection actions, in order to more adequately express the original legislative intent behind the
11 consumer protection laws.

12 SECTION 2. Section 9 of Chapter 93A of the General Laws, as appearing in the 2006 Official
13 Edition, is hereby amended by striking all of current paragraph (2) after the words “similarly
14 situated” in the first sentence and inserting following the words “similarly situated” the
15 following: “, bring such action as a class action if the requirements of Massachusetts Civil
16 Procedure Rule 23 are satisfied.”

17 SECTION 3. Said section 9 of Chapter 93A, as so appearing, is hereby further amended by
18 striking the word “shall” in the fifth sentence, which begins “In addition, the court”, and
19 inserting in place thereof the word “may.”

20 SECTION 4. Said section 9 of Chapter 93A, as so appearing, is hereby further amended by
21 adding the following paragraph:

22 (4) Each person seeking to recover under this section shall be required to prove that his or
23 her injury and damages were proximately caused by a method, act or practice declared to be
24 unlawful by section two or any rule or regulation issued thereunder. Proof of the existence of an
25 unlawful method, act or practice shall not support an award of damages or other relief without
26 proof that the person seeking recovery suffered an actual injury and that such injury was
27 proximately caused by the unlawful method, act or practice.

28 SECTION 6. Said section 9 of Chapter 93A, as so appearing, is hereby further amended by
29 renumbering current paragraph (4) as new paragraph (5).

30 SECTION 7. This Act is intended to clarify existing Massachusetts law and thus shall take
31 effect immediately upon passage and shall apply to all actions commenced or pending on or after
32 the effective date of this section.

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