

HOUSE No. 4058

The Commonwealth of Massachusetts

PRESENTED BY:

Diana DiZoglio and Michelle M. DuBois

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 adoption of the accompanying bill:

An Act to improve contract provisions waiving certain rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Diana DiZoglio</i>	<i>14th Essex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Juana Matias</i>	<i>16th Essex</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>

<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>
<i>Bud Williams</i>	<i>11th Hampden</i>

HOUSE No. 4058

By Representatives DiZoglio of Methuen and DuBois of Brockton, a petition (subject to Joint Rule 12) of Diana DiZoglio, Michelle M. Dubois and others relative to the provisions of certain rights within employment contracts. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to improve contract provisions waiving certain rights.

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

1 Chapter 149 of the General Laws is hereby amended by adding the following section:-

2 Section 192. (a) A provision in any contract waiving any substantive or procedural
3 right or remedy relating to a claim of discrimination, non-payment of wages or benefits,
4 retaliation, harassment or violation of public policy in employment shall be deemed
5 unconscionable, void and unenforceable, with respect to any such claim arising after the
6 waiver is made. No right or remedy arising under this section, this chapter, common law,
7 any other provision of law or rule of procedure or the constitution shall be prospectively
8 waived. This section shall not render void or unenforceable the remainder of the contract or
9 agreement. The provisions of this subdivision shall not apply to the terms of any collective
10 bargaining agreement between an employer and the bona fide collective bargaining
11 representative of that employer's employees.

12 (b) Whoever enforces or attempts to enforce a waiver deemed unconscionable, void or
13 unenforceable under this section shall be liable for reasonable attorney's fees and costs.

14 (c) No person or employer shall take any retaliatory action, including, but not limited to,
15 failure to hire, discharge, suspension, demotion, discrimination in the terms, conditions or
16 privileges of employment, or other adverse action, against a person, because the person does
17 not enter into an agreement or contract that contains a waiver deemed unconscionable, void or
18 unenforceable under this section.

19 (d) A person aggrieved of a violation of this section may, within three years after the
20 violation, institute and prosecute in such person's own name and on such person's own behalf a
21 civil action for torts remedies, injunctive relief, and the costs of litigation and reasonable
22 attorney's fees. The rights and remedies contained in this section shall not be exclusive and shall
23 not preempt other procedures and remedies available under other applicable laws.

24 Section 193. This act shall take effect upon its passage and shall apply to all contracts
25 entered into, renewed, modified or amended on or after such date.