

SENATE No. 1113

The Commonwealth of Massachusetts

PRESENTED BY:

Rebecca L. Rausch

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 strengthening the commonwealth's Anti-SLAPP law.

PETITION OF:

NAME:

Rebecca L. Rausch

DISTRICT/ADDRESS:

Norfolk, Worcester and Middlesex

SENATE No. 1113

By Ms. Rausch, a petition (accompanied by bill, Senate, No. 1113) of Rebecca L. Rausch for legislation to strengthen the commonwealth's Anti-SLAPP law. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act strengthening the commonwealth's Anti-SLAPP law.

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. Section 59H of Chapter 231 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by striking the section in its entirety and inserting in place
3 thereof the following new section:-

4 Section 59H. Strategic Litigation Against Public Participation; Special Motion to Dismiss

5 (a) In any case in which a party asserts that the civil claims, counterclaims, or cross
6 claims against it are based, either in whole or in part, on its exercise of freedom of expression,
7 freedom of speech or freedom of petition under the Constitution of the United States or the
8 constitution of the commonwealth, the party may bring a special motion to dismiss.

9 (b) The court shall advance any such special motion so that it may be heard and
10 determined as expeditiously as possible. For those claims or allegations that are based on
11 protected speech activity, the court shall grant such special motion, unless the party against
12 whom such special motion is made shows that: (i) the moving party’s exercise of its right to the

13 freedom of petition, the freedom of speech, the freedom of expression or in connection with any
14 matter of public concern, either acting solely or in concert with other citizens, was devoid of any
15 reasonable factual support or any arguable basis in law; and (ii) the moving party's acts caused
16 actual injury to the responding party. In making its determination, the court shall consider the
17 pleadings and supporting and opposing affidavits stating the facts upon which the liability or
18 defense is based.

19 (c) The attorney general, on their behalf or on behalf of any government agency or
20 subdivision to which the moving party's acts were directed, may intervene to defend or
21 otherwise support the moving party on such special motion.

22 (d) All discovery proceedings shall be stayed upon the filing of a special motion to
23 dismiss pursuant to this section; provided, however, that the court, on motion and after a hearing
24 and for good cause shown, may order that limited, specified discovery on the motion may be
25 conducted. The stay of discovery shall remain in effect until notice of entry of the order ruling on
26 the special motion.

27 (e) The special motion to dismiss may be filed within 60 days of the service of the
28 complaint or, in the court's discretion, at any later time upon terms it deems proper.

29 (f) If the court grants a special motion to dismiss filed pursuant to this section, the court
30 shall award the moving party all costs and reasonable attorneys' fees, including those incurred
31 for the special motion and any related discovery matters. Nothing in this section shall affect the
32 right of the moving party to any remedy otherwise authorized by law.

33 (g) As used in paragraph (b) of this section, the phrase “freedom of petition, the freedom
34 of speech, the freedom of expression” means those rights as defined under the United States
35 Constitution or the constitution of the commonwealth.

36 (h) As used in paragraph (b) of this section, the term “any matter of public concern” shall
37 include any written or verbal statement that is recorded, displayed or distributed in person or via
38 any form of media, concerning any topic or subject related to a good, product, or service in the
39 marketplace or otherwise offered to the public.