

HOUSE No. 1323

By Mr. Binienda of Worcester, petition of John J. Binienda and others for legislation to clarify Massachusetts law relative to consumer protection. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

John J. Binienda
David M. Torrissi

Bradley H. Jones, Jr.

In the Year Two Thousand and Seven.

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

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

11 (3) It is necessary for the General Court to clarify the causation
12 requirement in consumer protection actions, in order to more ade-
13 quately express the original legislative intent behind the consumer
14 protection laws.

1 SECTION 2. Section 9 of Chapter 93A of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 striking all of current paragraph (2) after the words “similarly situ-
4 ated” in the first sentence and inserting following the words “simi-

5 larly situated” the following:— “, bring such action as a class action
6 if the requirements of Massachusetts Civil Procedure Rule 23 are
7 satisfied.”

1 SECTION 3. Said section 9 of Chapter 93A, as so appearing, is
2 hereby further amended by striking the word “shall” in the fifth sen-
3 tence, which begins “In addition, the court”, and inserting in place
4 thereof the word “may.”

1 SECTION 4. Said section 9 of Chapter 93A, as so appearing, is
2 hereby further amended by adding the following paragraph:—
3 (4) Each person seeking to recover under this section shall be
4 required to prove that his or her injury and damages were proxi-
5 mately caused by a method, act or practice declared to be unlawful
6 by section two or any rule or regulation issued thereunder. Proof of
7 the existence of an unlawful method, act or practice shall not support
8 an award of damages or other relief without proof that the person
9 seeking recovery suffered an actual injury and that such injury was
10 proximately caused by the unlawful method, act or practice.

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

1 SECTION 7. This Act is intended to clarify existing Massachu-
2 setts law and thus shall take effect immediately upon passage and
3 shall apply to all actions commenced or pending on or after the
4 effective date of this section.