

HOUSE No. 235

The Commonwealth of Massachusetts

PRESENTED BY:

Viriato Manuel deMacedo

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 relating to commercial law deceptive trade practices.

PETITION OF:

NAME:

Viriato Manuel deMacedo

DISTRICT/ADDRESS:

1st Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3842 OF 2007-2008.]

The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine
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AN ACT RELATING TO COMMERCIAL LAW DECEPTIVE TRADE PRACTICES.

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

SECTION 1: Chapter 93A, of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following section:-

Section 12: In addition to the foregoing sections, it shall be an unfair method of competition and unfair or deceptive act or practice to engage in any of the following:

- (i) passing off goods or services as those of another;
- (ii) causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
- (iii) causing likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;
- (iv) using deceptive representations or designations of geographic origin in connection with goods or services;
- (v) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he or she does not have;
- (vi) representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand; and if household goods have been repaired or reconditioned, without conspicuously noting the defect which necessitated the repair on the tag which contains the cost to the consumer of the goods;
- (vii) representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;
- (viii) disparaging the goods, services, or business of another by false or misleading representation of fact;
- (ix) advertising goods or services with intent not to sell them as advertised;
- (x) advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;
- (xi) making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;
- (xii) engaging in any other conduct that similarly creates a likelihood of confusion or of misunderstanding;
- (xiii) engaging in any act or practice that is unfair or deceptive to the consumer;
- (xiv) using any other methods, acts or practices which mislead or deceive members of the public in a material respect;
- (xv) advertising any brand name goods for sale and then selling substituted brand names in their place;
- (xvi) failure to include the brand name and or manufacturer of goods in any advertisement of the goods for sale, and, if the goods are used or secondhand, failure to include the information in the advertisement;

(xvii) advertising claims concerning safety, performance, and comparative price unless the advertiser, upon request by any person, the consumer council, or the attorney general, makes available documentation substantiating the validity of the claim;

(xviii) representing that work has been performed on or parts replaced in goods when the work was not in fact performed or the parts not in fact replaced; or

(xix) failing to separately state the amount charged for labor and the amount charged for services when requested by the purchaser

(xx) advertising for sale at a retail establishment the availability of a manufacturer's rebate by displaying the net price of the advertised item (the price of the item after the rebate has been deducted from the item's price) in the advertisement, unless the amount of the manufacturer's rebate is provided to the consumer by the retailer at the time of the purchase of the advertised item. It shall be the retailer's burden to redeem the rebate offered to the consumer by the manufacturer.

(xxi) refusing to accept a photocopy or other reasonable facsimile of an original sales receipt when the consumer is redeeming a rebate.