

SENATE NO. 867

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

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

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

11 SECTION 2. Section 9 of Chapter 93A of the General Laws, as appearing in the 2002 Official
12 Edition, is hereby amended by striking current paragraph (2) in its entirety.

13 SECTION 3. Said section 9 of Chapter 93A, as so appearing, is hereby further amended by
14 renumbering current paragraph (3) as new paragraph (2) and renumbering all subsequent references
15 accordingly, and new paragraph (2) is further amended by striking the word “shall” in the fifth
16 sentence, which begins “In addition, the court”, and inserting in place thereof the word “may.”

17 SECTION 4. Said section 9 of Chapter 93A, as so appearing, is hereby further amended by
18 renumbering current paragraph (3A) as new paragraph (3), and further amended by deleting the words
19 “as provided in paragraph (2)” in the second sentence.

20 SECTION 5. Said section 9 of Chapter 93A, as so appearing, is hereby further amended by adding the
21 following paragraph:

22 (4) Each person seeking to recover under this section shall be required to prove that his or her
23 injury and damages were proximately caused by a method, act or practice declared to be unlawful by
24 section two or any rule or regulation issued thereunder. Proof of the existence of an unlawful method,
25 act or practice shall not support an award of damages or other relief without proof that the person
26 seeking recovery suffered an actual out-of-pocket loss and that such loss was proximately caused by
27 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 effect
31 immediately upon passage and shall apply to all actions commenced or pending on or after the
32 effective date of this section.