

HOUSE No. 3437

By Mr. LaFontaine of Gardner, petition of Raymond M. LaFontaine, Joseph D. Early and Robert B. Ambler for regulating the sending of unsolicited goods, wares or merchandise intended for sale. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Nine.

AN ACT REGULATING THE SENDING OF UNSOLICITED GOODS, WARES OR MERCHANDISE INTENDED FOR SALE.

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 106 of the General Laws is hereby amended by in-
2 serting after section 37 the following new section:—

3 *Section 37A.* Notwithstanding the provisions of section thirty-
4 seven, in any action for goods sold and delivered, or in any
5 action for the return of the goods, where the offer includes the
6 voluntary and unsolicited sending of goods, wares or mer-
7 chandise not actually ordered or requested by the recipient,
8 either orally or in writing, notwithstanding the failure to return
9 such goods, wares or notwithstanding the failure to return such
10 goods, wares or merchandise to the sender, it shall be a complete
11 defense that the goods, wares or merchandise were delivered
12 voluntarily and that the defendant did not actually order or
13 request such goods, wares or merchandise, either orally or in
14 writing.

15 The consumer is regularly besieged by a volume of unre-
16 quested, unsolicited merchandise of various kinds. This im-
17 poses a burden on the recipient to either, (1) purchase the
18 item(s), (2) return same at some inconvenience and/or expense,
19 (3) store the merchandise for future pickup. Since the goods
20 were not requested in the first instance which has become a
21 widespread practice by mail order companies the failure to re-

22 turn the goods usually results in the recipient being billed and
 23 dunned for payment and sometimes an unfavorable report to a
 24 credit bureau which might impair the recipients' credit.

25 This law would strengthen the existing common law on con-
 26 tracts by putting mail order companies "on notice" that re-
 27 covery of the merchandise or payment therefor will shift the
 28 problem to the firms sending the merchandise by providing a
 29 complete statutory defense.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Nine.

AN ACT RELATIVE TO THE RIGHTS OF CONSUMERS IN MAIL ORDER TRANSACTIONS.

Enacted by the Senate and House of Representatives in the year one thousand nine hundred and sixty-nine.

- 1 Chapter 106A of the General Laws is hereby amended by the
- 2 adding after section 27 the following new sections:-
- 3 SECTION 27A. Whoever sells the possession of goods, wares or
- 4 things, in any action for goods sold and delivered, or in any
- 5 action for the return of the goods, where the bill included the
- 6 voluntary and published writing or card, shall be con-
- 7 sidered not actually misled or deceived by the transaction,
- 8 either orally or in writing, notwithstanding the failure to return
- 9 such goods, wares or merchandise, if he in fact returns such
- 10 goods, wares or merchandise to the sender, or shall be deemed to
- 11 return them, that the goods, wares or merchandise were delivered
- 12 voluntarily and that the defendant has a contract with the
- 13 sender, with goods, wares or merchandise, even if the
- 14 writing.
- 15 The contract is hereby defined by a contract of or to
- 16 goods, wares or merchandise of various kinds. The in-
- 17 poses a burden on the recipient to return, if possible, the
- 18 goods, wares or merchandise to the sender, if he is required
- 19 to return such goods, wares or merchandise, if he is required
- 20 to return such goods, wares or merchandise, if he is required
- 21 to return such goods, wares or merchandise, if he is required
- 22 to return such goods, wares or merchandise, if he is required
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- 28 to return such goods, wares or merchandise, if he is required
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- 30 to return such goods, wares or merchandise, if he is required
- 31 to return such goods, wares or merchandise, if he is required
- 32 to return such goods, wares or merchandise, if he is required
- 33 to return such goods, wares or merchandise, if he is required