

Accompanying the seventh recommendation of the Executive Office of Consumer Affairs and Business Regulation (House, No. 34).  
Commerce and Labor.

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**The Commonwealth of Massachusetts**

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

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**AN ACT TO PROTECT CONSUMERS' DEPOSITS IN SALES TRANSACTIONS.**

*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 93 of the General Laws as appearing in the 1988 Official  
2 Edition is hereby amended by adding at the end thereof the  
3 following new section: —

4 Section 104. Any prepayments taken by a retail seller for goods  
5 not in stock, shall be limited to either 10% of the purchase price  
6 or \$100, whichever is less. All prepayments shall remain the  
7 property of the buyer until the goods ordered are received by the  
8 buyer, and shall be beyond the claims of creditors. If the goods  
9 are not received by the buyer by the date specified at the time of  
10 placing the order, or if no date is specified, within 8 weeks, the  
11 buyer may cancel the transaction and shall be entitled to  
12 immediate return of the prepayment without penalty. Nothing  
13 contained herein shall prevent a seller from adopting a more  
14 liberal cancellation policy, or a bona fide layaway plan.

15 The seller shall keep a record of all prepayments including the  
16 name and address of the buyer, and the amounts and dates the  
17 monies were received. Upon request, the seller shall disclose to  
18 any buyer, the Secretary of Consumer Affairs and Business  
19 Regulation, or any other law enforcement authority, such record.  
20 Any seller who violates any provision of this section shall, at the  
21 buyer's option, either reduce the selling price of the goods by the  
22 amount of the prepayment, or cancel the transaction and  
23 immediately return the buyer's prepayment. Sellers shall be fined

24 \$500 by said Secretary for each violation of this section. Said fine  
25 shall be payable to the Commonwealth within 30 days of its  
26 issuance. Said secretary may promulgate regulations or issue  
27 guidelines for the enforcement and interpretation of this section.