

By Mr. Koutoujian of Waltham, petition of Peter J. Koutoujian and others relative to the marketing of light cigarettes and the effect on public health. Public Health.

The Commonwealth of Massachusetts

PETITION OF:

Peter J. Koutoujian
Rachel Kaprielian
Ruth B. Balsler

John W. Scibak
Kathleen M. Teahan

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE MARKETING OF LIGHT CIGARETTES AND THE EFFECT ON PUBLIC HEALTH.

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

1 The General Laws are hereby amended by inserting after
2 Section 5 of Chapter 94F, as appearing in the 2004 Official Edi-
3 tion, the following section:

4 Section 6. (a) A tobacco product manufacturer whose cigarettes
5 are sold in the Commonwealth, whether directly or through an
6 intermediary, shall execute and deliver to the Attorney General
7 and to the Commissioner of the Department of Public Health, in a
8 form and manner prescribed by the Department of Public Health,
9 a certification under penalty of perjury containing the scientific
10 basis for each and every claim of reduction in risk made by the
11 manufacturer for each of its brand families or product members
12 thereof. The scientific basis provided in each such certification
13 shall include a detailed description of the analysis of each brand
14 family or product members thereof, upon which the manufacturer
15 supports the related claim of reduction of risk.

16 (b) A claim of reduction in risk that fails to demonstrate, based
17 on reasonable scientific analysis of the manufacturer or the
18 Department of Public Health, a reduction in harm to users of the

19 brand family or product members thereof shall constitute an unfair
20 or deceptive act or practice under the provisions of chapter 93A,
21 notwithstanding any contrary provision of any other law of the
22 commonwealth or any exemption provided by said chapter 93A.
23 Manufacturers shall be afforded notice and opportunity to com-
24 ment prior to a final determination by Department of Public
25 Health under this subsection (b).

26 (c) For purposes of this section, the term “claim of reduction in
27 risk” shall mean any expressed or implied claim on behalf of the
28 manufacturer that a cigarette, as defined in Chapter 94E,
29 (1) exposes the user to a reduced quantity of one or more toxic or
30 carcinogenic constituents, (2) emits fewer particulates than other
31 cigarettes, (3) may reduce the likelihood of one or more adverse
32 health effects or irritations associated with tobacco use or expo-
33 sure to tobacco smoke, (4) is a light or ultralight cigarette, and
34 (5) is in anyway safer or less addictive than other cigarettes.

35 (d) It shall be the duty of the Attorney General of the Common-
36 wealth to institute proceedings in the Superior Court to prevent
37 and restrain violations of this section when the Attorney General
38 has reason to believe that any tobacco manufacturer is engaging in
39 a violation of this section. The Attorney General shall bring an
40 action to enjoin the manufacturer from engaging in a violation of
41 this section.

42 (e) Nothing in this section shall affect the rights of any person
43 under section 9 of chapter 93A.