

By Mr. Healy of Charlemont, petition of Winston Healy and other members of the House for providing protection for the consumer against unfair trade practices. Commerce and Labor.

**The Commonwealth of Massachusetts**

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

AN ACT PROVIDING PROTECTION FOR THE CONSUMER AGAINST UNFAIR 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:*

1 SECTION 1. The General Laws are hereby amended by in-  
2 serting after chapter 93 the following chapter:—

3 CHAPTER 93A.  
4 REGULATION OF BUSINESS PRACTICES FOR CONSUMERS  
5 PROTECTION.

6 *Section 1.* The following words, as used in this chapter unless  
7 the text otherwise requires or a different meaning is specifi-  
8 cally required, shall mean:—

9 (a) "Person" shall include, where applicable, natural per-  
10 sons, corporations, trusts, partnerships, incorporated or unin-  
11 corporated associations, and any other legal entity.

12 (b) "Trade" and "commerce" shall include the advertising,  
13 offering for sale, sale, or distribution of any services and any  
14 property, tangible or intangible, real, personal or mixed, and  
15 any other article, commodity, or thing of value wherever  
16 situate, and shall include any trade or commerce directly or  
17 indirectly affecting the people of this commonwealth.

18 (c) "Documentary material" shall include the original or a  
19 copy of any book, record, report, memorandum, paper, com-  
20 munication, tabulation, map, chart, photograph, mechanical  
21 transcription, or other tangible document or recording wher-  
22 ever situate.

23 *Section 2.* Unfair methods of competition and unfair or  
24 deceptive acts or practices in the conduct of any trade or  
25 commerce are hereby declared unlawful.

26 (b) It is the intent of the legislature that in construing  
27 paragraph (a) of this section the courts will be guided by the  
28 interpretations given by the Federal Trade Commission and  
29 the Federal Courts to section 5 (a) (1) of the Federal Trade  
30 Commission Act (15U.S.C.45(a) (1)), as from time to time  
31 amended.

32 (c) The attorney general may make rules and regulations  
33 interpreting the provisions of subsection two (a) of this chap-  
34 ter. Such rules and regulations shall not be inconsistent with  
35 the rules, regulations and decisions of the Federal Trade Com-  
36 mission and the Federal Courts interpreting the provisions of  
37 15 U.S.C. 45 (a) (1) (The Federal Trade Commission Act)  
38 as from time to time amended.

39 *Section 3.* (1) Nothing in this chapter shall apply to

40 (a) transactions or actions otherwise permitted under laws  
41 as administered by any regulatory board or officer acting under  
42 statutory authority of the commonwealth or of the United  
43 States; or

44 (b) trade or commerce of any person of whose gross reve-  
45 nue at least twenty per cent is derived from transactions in  
46 interstate commerce, excepting however transactions and ac-  
47 tions which (i) occur primarily and substantially within the  
48 commonwealth, and (ii) as to which the Federal Trade Com-  
49 mission or its designated representative has failed to assert in  
50 writing within fourteen days of notice to it and to said per-  
51 son by the attorney general its objection to action proposed  
52 by him and set forth in said notice; or

53 (c) transactions or actions of any person who shows that  
54 he has had served upon him by the Federal Trade Commis-  
55 sion a complaint pursuant to 15 U.S.C. 45 (b) relating to said  
56 transactions or actions until the Federal Trade Commission  
57 has either dismissed said complaint, secured an assurance of  
58 voluntary compliance, or issued a cease and desist order re-  
59 lating to said complaint pursuant to 15 U.S.C. 45 (b).

60 (2) For purposes of (b) and (c) the burden of proving  
61 exemptions from the provisions of this chapter shall be upon  
62 the person claiming the exemptions.



63 *Section 4.* Whenever the attorney general has reason to  
64 believe that any person is using or is about to use any method,  
65 act or practice declared by section two of this chapter to be  
66 unlawful, and that proceedings would be in the public interest,  
67 he may bring an action in the name of the state against such  
68 person to restrain by temporary or permanent injunction  
69 the use of such method, act or practice. At least ten days  
70 prior to commencement of any action under this section, the  
71 attorney general shall notify the person of his intended action,  
72 and give the person an opportunity to confer with the attorney  
73 general in person or by counsel or other representative as to  
74 the proposed action. Notice shall be given the person by mail,  
75 postage prepaid, sent to his usual place of business, or if he  
76 has no usual place of business, to his last known address. The  
77 action may be brought in the superior court of the county  
78 in which such person resides or has his principal place of busi-  
79 ness, or, with the consent of the parties, may be brought in  
80 the superior court of Suffolk county. The said courts are au-  
81 thorized to issue temporary or permanent injunctions to re-  
82 strain and prevent violations of this chapter; provided, how-  
83 ever, that no restraining order or injunction shall be issued  
84 except upon notice and an opportunity to be heard. Any  
85 district attorney or law enforcement officer reviewing notice  
86 of any alleged violation of this chapter, shall immediately  
87 forward written notice of the same with any other informa-  
88 tion that he may have to the office of the attorney general.  
89 Any person who violates the terms of an injunction issued  
90 under this section shall forfeit and pay to the commonwealth  
91 a civil penalty of not more than ten thousand dollars for each  
92 violation. For the purposes of this section, the court issuing  
93 such injunction shall retain jurisdiction, and the cause shall  
94 be continued, and in such cases the attorney general acting in  
95 the name of the state may petition for recovery of such civil  
96 penalty.

97 *Section 5.* In any case where the attorney general has  
98 authority to institute an action or proceeding under section  
99 four of this chapter, in lieu thereof he may accept an assur-  
100 ance of discontinuance of any method, act or practice in vio-  
101 lation of this chapter from any person alleged to be engaged  
102 or to have been engaged in such method, act or practice. Such

103 assurance may include a stipulation for the voluntary pay-  
104 ment by such person of the costs of investigation, or of an  
105 amount to be held in escrow pending the outcome of an action  
106 or as restitution to aggrieved buyers, or both. Any such as-  
107 surance of discontinuance shall be in writing and be filed with  
108 the superior court of Suffolk county. Matters thus closed  
109 may at any time be reopened by the attorney general for  
110 further proceedings in the public interest.

111 *Section 6.* The attorney general, whenever he believes any  
112 person to be or to have been in violation of this chapter, may  
113 examine or cause to be examined for that purpose, any books,  
114 records, papers and memoranda of whatever nature relevant  
115 to such alleged violation. The attorney general may require  
116 the attendance of such person or of any other person having  
117 knowledge in the premises at any place in the county where  
118 such person resides or has a place of business or in Suffolk  
119 county if such person is a nonresident or has no place of  
120 business within the state, and may take testimony and require  
121 proof material for his information, and may administer oaths  
122 or take acknowledgment in respect of any book, record, paper  
123 or memorandum. The attorney general shall serve notice of  
124 the time, place and cause of such examination or attendance  
125 at least ten days prior to the date of such examination.

126 (a) Service of any such notice may be made by:

127 (1) Delivering a duly executed copy thereof to the person  
128 to be served or to a partner or to any officer or agent author-  
129 ized by appointment or by law to receive service of process  
130 on behalf of such person;

131 (2) Delivering a duly executed copy thereof to the prin-  
132 cipal place of business in this state of the person to be served;  
133 or

134 (3) Mailing by registered or certified mail a duly executed  
135 copy thereof addressed to the person to be served at the  
136 principle place of business in this state or, if said person has  
137 no place or business in this state, to his principal office or  
138 place of business.

139 (b) Each such notice shall:

140 (1) State the time and place for taking the examination  
141 and the name and address of each person to be examined, if  
142 known, and, if the name is not known, a general description



143 sufficient to identify him or the particular class or group to  
144 which he belongs.

145 (2) State the statute and section thereof, the alleged vio-  
146 lation of which is under investigation, and the general subject  
147 matter of the investigation;

148 (3) Describe the class or classes of documentary material  
149 to be produced thereunder with reasonable specificity so as  
150 fairly to indicate the material demanded;

151 (4) Prescribe a return date within which the documentary  
152 material is to be produced; and

153 (5) Identify the members of the Attorney General's staff  
154 to whom such documentary material is to be made available  
155 for inspection and copying.

156 (c) No such notice shall:

157 (1) Contain any requirement which would be unreasonable  
158 or improper if contained in a subpoena duces tecum issued by  
159 a court of this state; or

160 (2) Require the disclosure of any documentary material  
161 which would be privileged, or which contains trade secret  
162 information, or which for any other reason would not be re-  
163 quired by a subpoena duces tecum issued by a court of this  
164 state.

165 Documentary material demanded pursuant to the provi-  
166 sions of this section shall be produced for inspection and  
167 copying during normal business hours at the principal office  
168 or place of business of the person served, or at such other  
169 times and places as may be agreed upon by the person served  
170 and the attorney general. Any book, record, paper, memo-  
171 randum or other information produced by any person pur-  
172 suant to this section shall not unless otherwise ordered by a  
173 court of this state for good cause shown, be disclosed to any  
174 person other than the authorized agent or representative of  
175 the attorney general, unless with the consent of the person  
176 producing the same. This section shall not be applicable to  
177 any criminal prosecution brought under the laws of this  
178 state.

179 At any time prior to the date specified in the notice, or  
180 within twenty-one days after the notice has been served  
181 whichever period is shorter, the court may, upon motion for  
182 good cause shown, extended such reporting date or modify or

183 set aside such demand. The motion may be filed in the su-  
184 perior court of the county in which the person served re-  
185 sides or has his equal place of business, or in Suffolk county.  
186 This section shall not be applicable to any criminal proceeding  
187 nor shall information obtained under the authority of this  
188 section be admissible in evidence in any criminal prosecution  
189 for substantially identical transactions.

190 *Section 7.* A person upon whom a notice is served pursuant  
191 to the provisions of section six shall comply with the terms  
192 thereof unless otherwise provided by the order of a court of  
193 this state. Any person who fails to appear, or with intent to  
194 avoid, evade, or prevent compliance, in whole or in part, with  
195 any civil investigation under this section, removes from any  
196 place, conceals, withholds, or destroys, mutilates, alters, or by  
197 any other means falsifies any documentary material in the  
198 possession, custody or control of any person subject of any  
199 such notice, or knowingly conceals any relevant information,  
200 shall be fined not more than five thousand dollars.

201 Whenever any person fails to comply with any notice served  
202 upon him under this section or whenever satisfactory copying  
203 reproduction of any such material cannot be done and such  
204 person refuses to surrender such material, the attorney gen-  
205 eral may file, in the superior court of the county in which  
206 such person resides or has his principal place of business or  
207 of Suffolk county if such person is a nonresident or has no  
208 principal place of business in this state, and serve upon such  
209 person or in the same manner as provided in section six a  
210 petition for an order of such court for the enforcement of this  
211 section. Any disobedience of any final order entered under this  
212 section by any court shall be punished as a contempt thereof.

213 *Section 8.* Upon petition by the general court may for ha-  
214 bitual violation of injunctions issued pursuant to section four  
215 order the dissolution, or suspension or forfeiture of franchise  
216 of any corporation or the right of any foreign corporation to  
217 do business in the commonwealth whenever said corporation  
218 violates the terms of an injunction issued under section four  
219 of this chapter.

1 SECTION 2. This act shall be known and designated as the  
2 "Regulation of Business Practice and Consumer Protection  
3 Act".

EDUCATION OF THE DEAF

1907-1908

REPORT OF THE COMMISSIONER OF EDUCATION

FOR THE YEAR 1907-1908

ALBANY: THE UNIVERSITY OF THE STATE OF NEW YORK, 1908.

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The first thing I noticed when I stepped out of the car was a sharp, cold wind that seemed to pierce my skin. I pulled my coat tighter around me and looked up at the sky. The clouds were heavy and grey, and a low, rumbling sound of thunder could be heard in the distance. The air was thick with the smell of wet earth and the faint scent of pine trees. I took a deep breath, feeling the cold air fill my lungs. The ground beneath my feet was a mix of snow and ice, and I had to be careful not to slip. The street was empty, and the only sound was the occasional creak of a door or the distant call of a dog. I felt a sense of isolation and a little bit of fear, but I also felt a sense of peace. It was a quiet, still moment in time, and I was grateful for it.

I walked slowly down the street, my boots crunching on the snow. The buildings on either side were old and weathered, with peeling paint and windows that looked like they had been boarded up for years. The streetlights were on, but they didn't seem to make much difference in the overall gloom of the scene. I saw a few people in the distance, bundled up in heavy winter clothing, and I felt a little less alone. I continued to walk, my mind wandering to the events of the day. I had just finished a long and tiring day of work, and I was looking forward to a quiet evening at home. But the weather was just what I needed to clear my mind and give me some time to think. I felt a sense of calm and a little bit of hope. Maybe this was just what I needed to get through the winter.

I turned a corner and saw a small, cozy-looking cafe. The sign above the door was lit up, and I could see people sitting at tables inside. I felt a little bit of warmth and decided to go in for a hot drink. I ordered a cup of coffee and a slice of pie, and I sat at a small table by the window. I looked out at the street and saw a few more people walking. The wind was still blowing, but it didn't seem so cold anymore. I felt a sense of comfort and a little bit of happiness. I was in good luck. I had found a nice place to sit and enjoy a hot drink. I took a sip of my coffee and felt the warmth spread throughout my body. I closed my eyes for a moment and let the world around me fade away. I was in good luck. I had found a nice place to sit and enjoy a hot drink. I took a sip of my coffee and felt the warmth spread throughout my body. I closed my eyes for a moment and let the world around me fade away.

I opened my eyes and saw the cafe owner standing behind the counter. She was smiling at me and holding a tray with a new cup of coffee. I thanked her and took a sip. The coffee was perfect. I felt a sense of peace and a little bit of happiness. I was in good luck. I had found a nice place to sit and enjoy a hot drink. I took a sip of my coffee and felt the warmth spread throughout my body. I closed my eyes for a moment and let the world around me fade away. I was in good luck. I had found a nice place to sit and enjoy a hot drink. I took a sip of my coffee and felt the warmth spread throughout my body. I closed my eyes for a moment and let the world around me fade away.