HOUSE DOCKET, NO. 382 FILED ON: 1/14/2011

HOUSE . . . . . No. 106

The Commonwealth of Massachusetts

PRESENTED BY:

Viriato Manuel deMacedo

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relating to commercial law deceptive trade practices.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Viriato Manuel deMacedo	*1st Plymouth*
Sheila C. Harrington	*1st Middlesex*

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HOUSE . . . . . No. 106

By Mr. deMacedo of Plymouth, a petition (accompanied by bill, House, No. 106) of Viriato Manuel deMacedo and Sheila C. Harrington relative to certain deceptive trade practices. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *235* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relating to commercial law deceptive 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:

SECTION 1: Chapter 93A, of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following section:-

Section 12: In addition to the foregoing sections, it shall be an unfair method of competition and unfair or deceptive act or practice to engage in any of the following:

(i) passing off goods or services as those of another;

(ii) causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;

(iii) causing likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;

(iv) using deceptive representations or designations of geographic origin in connection with goods or services;

(v) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he or she does not have;

15 (vi) representing that goods are original or new if they are deteriorated, altered,

16 reconditioned, reclaimed, used, or secondhand; and if household goods have been
17 repaired or reconditioned, without conspicuously noting the defect which necessitated the repair
18 on the tag which contains the cost to the consumer of the goods;

19 (vii) representing that goods or services are of a particular standard, quality, or grade, or
20 that goods are of a particular style or model, if they are of another;

21 (viii) disparaging the goods, services, or business of another by false or misleading
22 representation of fact;

23 (ix) advertising goods or services with intent not to sell them as advertised;

24 (x) advertising goods or services with intent not to supply reasonably expectable public
25 demand, unless the advertisement discloses a limitation of quantity;

26 (xi) making false or misleading statements of fact concerning the reasons for, existence
27 of, or amounts of price reductions;

28 (xii) engaging in any other conduct that similarly creates a likelihood of confusion or of
29 misunderstanding;

30 (xiii) engaging in any act or practice that is unfair or deceptive to the consumer;

31 (xiv) using any other methods, acts or practices which mislead or deceive members of the
32 public in a material respect;

33 (xv) advertising any brand name goods for sale and then selling substituted brand names
34 in their place;

35 (xvi) failure to include the brand name and or manufacturer of goods in any

36 advertisement of the goods for sale, and, if the goods are used or secondhand, failure to
37 include the information in the advertisement;

38 (xvii) advertising claims concerning safety, performance, and comparative price unless
39 the advertiser, upon request by any person, the consumer council, or the attorney general, makes
40 available documentation substantiating the validity of the claim;

41 (xviii) representing that work has been performed on or parts replaced in goods when the
42 work was not in fact performed or the parts not in fact replaced; or

43 (xix) failing to separately state the amount charged for labor and the amount charged for
44 services when requested by the purchaser

45 (xx) advertising for sale at a retail establishment the availability of a manufacturer's
46 rebate by displaying the net price of the advertised item (the price of the item after he rebate as
47 been deducted from the item's price) in the advertisement, unless the amount of the
48 manufacturer's rebate is provided to the consumer by the retailer at the time of the purchase
49 of the advertised item. It shall be the retailer's burden to redeem the rebate offered to the
50 consumer by the manufacturer.

51 (xxi) refusing to accept a photocopy or other reasonable facsimile of an original sales
52 receipt when the consumer is redeeming a rebate.