

HOUSE No. 957

The Commonwealth of Massachusetts

PRESENTED BY:

John W. Scibak

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 adoption of the accompanying bill:

An Act prohibiting non-disparagement clauses in certain contracts.

PETITION OF:

NAME:

John W. Scibak

DISTRICT/ADDRESS:

2nd Hampshire

HOUSE No. 957

By Mr. Scibak of South Hadley, a petition (accompanied by bill, House, No. 957) of John W. Scibak relative to contracts or proposed contracts for the sale or lease of consumer goods or services. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1593 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act prohibiting non-disparagement clauses in certain contracts.

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. Chapter 93 of the General Laws is hereby amended by inserting after
2 section 101 the following section:-

3 Section 101A. (a) (1) A contract or proposed contract for the sale or lease of consumer
4 goods or services may not include a provision waiving the consumer’s right to make any
5 statement regarding the seller or lessor or its employees or agents, or concerning the goods or
6 services.

7 (2) It shall be unlawful to threaten or to seek to enforce a provision made unlawful under
8 this section, or to otherwise penalize a consumer for making any statement protected under this
9 section.

10 (b) Any waiver of the provisions of this section is contrary to public policy, and is void
11 and unenforceable.

12 (c) Any person, firm or corporation that violates this section shall be subject to a civil
13 penalty of up to \$2,500 for a first violation, and a civil penalty of up to \$5,000 for a second or
14 subsequent violation. Said civil penalties shall be assessed and collected in a civil action brought
15 by the consumer, by the Attorney General, or by the district attorney of the county in which the
16 violation occurred. When collected, the civil penalty shall be payable, as appropriate, to the
17 consumer or to the general fund of whichever governmental entity brought the action to assess
18 the civil penalty.

19 (d) Any person, firm or corporation that willfully, intentionally, or recklessly violates this
20 section shall be subject to a civil penalty of up to \$10,000.

21 (e) The penalty provided by this section is not an exclusive remedy, and does not affect
22 any other relief or remedy provided by law. This section shall not be construed to prohibit or
23 limit a person or business that hosts online consumer reviews or comments from removing a
24 statement that is otherwise lawful to remove.