

SENATE No. 953

The Commonwealth of Massachusetts

PRESENTED BY:

Nick Collins

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 to further protect employees through a private right of action.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Nick Collins</i>	<i>First Suffolk</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/4/2021</i>

SENATE No. 953

By Mr. Collins, a petition (accompanied by bill, Senate, No. 953) of Nick Collins and James B. Eldridge for legislation to further protect employees through a private right of action. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act to further protect employees through a private right of action.

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 at section 150 of chapter 149 is hereby amended at the second
2 paragraph to add the number “27” before the number “33E” and by adding as a new third
3 paragraph the following:

4 “Private Attorney General Action Option”

5 (a) Sections 27, 27F-H, 148, 148A, 152A, and 150 of chapter 149 and section 1B or
6 chapter 151, sections 1B, are hereby amended by removing the word “treble” and replacing it
7 with the word “double”. Such amendment shall remain in effect while the language that follows
8 in subsection (b) remains in effect and unchanged by any court decision or ruling. In the event
9 that the language below is not in effect or is changed by any court decision or ruling deeming
10 subsection (b), or any part of it, as invalid or unenforceable for any reason whatsoever then this
11 amendment shall cease and the word “treble” shall be deemed returned to such chapters and
12 sections replacing the word “double”.

(b) In addition to the above and all other available remedies, any person claiming to be aggrieved by a violation of sections 26, 27, 27A-H, 148, 148A, 148B, 150 or 152A of chapter 149 or sections 1, 1A, 1B or 19 of chapter 151 shall be entitled to bring an action on behalf of the Commonwealth against an employer that violates sections 26, 27, 27A-H, 148, 148B, 150 or 152A of chapter 149 or sections 1, 1A, 1B or 19 of chapter 151. A civil action filed under this section shall be deemed a private attorney general action.

The representative nature of such an action on behalf of the Commonwealth is not waivable. There is no need for the employee to satisfy class certification requirements in order to bring such an action, as well as in any portion of the employee's wage action under chapter 149 that also includes a claim under this section, so long as there is at least a common question of law or fact among a group of two or more employees. The person filing such an action shall provide a copy of the complaint, within 10 days of

the filing to the attorney general. If the employee prevails, the employee shall recover penalties, for each violation of law, in the amount of \$50 per pay period per affected employee. Two-thirds of these penalties will be for the Commonwealth and one-third of these penalties will be for the employee or employees on whose behalf the action is instituted. In addition, the employee may bring on behalf of the Commonwealth a claim for injunctive and declaratory relief and shall also be awarded the costs of the litigation

and reasonable attorneys' fees. If the court finds, within 120 days from the date the action was originally filed, that such action was filed frivolously, the court may award two times the amount of attorney fees and costs incurred by the defendant, in addition to any other remedy or penalty the court may impose.

35 (c) The superior court shall have jurisdiction to hear such action described in subsection
36 (b), and the employee's accompanying actions if any, regardless as to the amount in controversy.