

HOUSE No. 3698

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia A. Haddad

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 relative to internet privacy.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
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| <i>Patricia A. Haddad</i> | <i>5th Bristol</i> |
| <i>Carole A. Fiola</i> | <i>6th Bristol</i> |
| <i>James M. Cantwell</i> | <i>4th Plymouth</i> |
| <i>Thomas P. Walsh</i> | <i>12th Essex</i> |
| <i>Cory Atkins</i> | <i>14th Middlesex</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> |
| <i>David M. Rogers</i> | <i>24th Middlesex</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> |
| <i>Tricia Farley-Bouvier</i> | <i>3rd Berkshire</i> |
| <i>Linda Dean Campbell</i> | <i>15th Essex</i> |
| <i>James J. O'Day</i> | <i>14th Worcester</i> |
| <i>Natalie Higgins</i> | <i>4th Worcester</i> |
| <i>Sarah K. Peake</i> | <i>4th Barnstable</i> |
| <i>Anne M. Gobi</i> | <i>Worcester, Hampden, Hampshire and Middlesex</i> |
| <i>Mark C. Montigny</i> | <i>Second Bristol and Plymouth</i> |
| <i>Denise C. Garlick</i> | <i>13th Norfolk</i> |

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| <i>Jennifer E. Benson</i> | <i>37th Middlesex</i> |
| <i>Claire D. Cronin</i> | <i>11th Plymouth</i> |
| <i>Daniel M. Donahue</i> | <i>16th Worcester</i> |
| <i>David T. Vieira</i> | <i>3rd Barnstable</i> |
| <i>Alan Silvia</i> | <i>7th Bristol</i> |
| <i>Tackey Chan</i> | <i>2nd Norfolk</i> |
| <i>James R. Miceli</i> | <i>19th Middlesex</i> |
| <i>William Driscoll</i> | <i>7th Norfolk</i> |
| <i>Stephen Kulik</i> | <i>1st Franklin</i> |
| <i>Michael S. Day</i> | <i>31st Middlesex</i> |
| <i>David Paul Linsky</i> | <i>5th Middlesex</i> |
| <i>Carolyn C. Dykema</i> | <i>8th Middlesex</i> |
| <i>John W. Scibak</i> | <i>2nd Hampshire</i> |
| <i>Jonathan Hecht</i> | <i>29th Middlesex</i> |
| <i>Kate Hogan</i> | <i>3rd Middlesex</i> |
| <i>Paul McMurtry</i> | <i>11th Norfolk</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> |
| <i>Elizabeth A. Malia</i> | <i>11th Suffolk</i> |
| <i>Gailanne M. Cariddi</i> | <i>1st Berkshire</i> |
| <i>Jeffrey N. Roy</i> | <i>10th Norfolk</i> |
| <i>Kevin J. Kuros</i> | <i>8th Worcester</i> |
| <i>Timothy R. Whelan</i> | <i>1st Barnstable</i> |
| <i>Josh S. Cutler</i> | <i>6th Plymouth</i> |
| <i>Carmine L. Gentile</i> | <i>13th Middlesex</i> |
| <i>Bradley H. Jones, Jr.</i> | <i>20th Middlesex</i> |
| <i>Peter V. Kocot</i> | <i>1st Hampshire</i> |
| <i>John C. Velis</i> | <i>4th Hampden</i> |
| <i>Ann-Margaret Ferrante</i> | <i>5th Essex</i> |
| <i>Denise Provost</i> | <i>27th Middlesex</i> |
| <i>Brian Murray</i> | <i>10th Worcester</i> |
| <i>Angelo J. Puppolo, Jr.</i> | <i>12th Hampden</i> |
| <i>Jay R. Kaufman</i> | <i>15th Middlesex</i> |
| <i>Paul Tucker</i> | <i>7th Essex</i> |
| <i>James J. Dwyer</i> | <i>30th Middlesex</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> |
| <i>Jack Lewis</i> | <i>7th Middlesex</i> |
| <i>Ruth B. Balsler</i> | <i>12th Middlesex</i> |
| <i>William C. Galvin</i> | <i>6th Norfolk</i> |
| <i>Mike Connolly</i> | <i>26th Middlesex</i> |

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| <i>Robert M. Koczera</i> | <i>11th Bristol</i> |
| <i>Paul W. Mark</i> | <i>2nd Berkshire</i> |
| <i>Peter J. Durant</i> | <i>6th Worcester</i> |
| <i>Daniel Cullinane</i> | <i>12th Suffolk</i> |
| <i>Steven Ultrino</i> | <i>33rd Middlesex</i> |
| <i>Elizabeth A. Poirier</i> | <i>14th Bristol</i> |
| <i>Chris Walsh</i> | <i>6th Middlesex</i> |
| <i>James Arciero</i> | <i>2nd Middlesex</i> |
| <i>Paul Brodeur</i> | <i>32nd Middlesex</i> |
| <i>Michael J. Barrett</i> | <i>Third Middlesex</i> |
| <i>Aaron Vega</i> | <i>5th Hampden</i> |
| <i>Christopher M. Markey</i> | <i>9th Bristol</i> |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> |
| <i>Colleen M. Garry</i> | <i>36th Middlesex</i> |
| <i>Smitty Pignatelli</i> | <i>4th Berkshire</i> |
| <i>Dylan Fernandes</i> | <i>Barnstable, Dukes and Nantucket</i> |
| <i>Steven S. Howitt</i> | <i>4th Bristol</i> |
| <i>Paul J. Donato</i> | <i>35th Middlesex</i> |
| <i>Alice Hanlon Peisch</i> | <i>14th Norfolk</i> |
| <i>Shaunna L. O'Connell</i> | <i>3rd Bristol</i> |

HOUSE No. 3698

By Mrs. Haddad of Somerset, a petition (subject to Joint Rule 12) of Patricia A. Haddad and others relative to the disclosure of customer proprietary information by internet service providers. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

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

An Act relative to internet privacy.

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

1 Chapter 93 of the General Laws is hereby amended by adding the following section:-

2 Section 115. (a) As used in this section, the following words shall, unless the context
3 clearly requires otherwise, have the following meanings:-

4 “Customer”, a current or former subscriber to an internet service in the commonwealth or
5 an applicant for an internet service in the commonwealth.

6 “Opt-in approval”, the method for obtaining customer consent to collect, use, disclose, or
7 permit access to sensitive customer proprietary information. This approval method requires that
8 the provider obtain from the customer affirmative, express consent allowing the requested
9 collection, usage, disclosure, or access to the sensitive customer proprietary information after the
10 customer is provided appropriate notification of the provider’s request.

11 “Sensitive customer proprietary information”, financial information, health information,
12 information pertaining to children, Social Security numbers, precise geo-location information,
13 content of communications, call detail information, and web browsing history, application usage
14 history, and the functional equivalents of either.

15 (b) An internet service provider may not collect, use, disclose, or permit access to
16 sensitive customer proprietary information except as described in subsection (c) or with the opt-
17 in approval of a customer as described in subsection (d).

18 (c) An internet service provider may collect, use, disclose, or permit access to sensitive
19 customer proprietary information without customer approval for the following purposes: (1) in
20 its provision of the internet service from which such information is derived, or in its provision of
21 services necessary to, or used in, the provision of such service; (2) to initiate, render, bill, and
22 collect for internet service; (3) to protect the rights or property of the internet service provider, or
23 to protect users of the internet service and other providers from fraudulent, abusive, or unlawful
24 use of the service; (4) to provide any inbound marketing, referral, or administrative services to
25 the customer for the duration of a real-time interaction, if such interaction was initiated by the
26 customer; (5) to provide location information or other customer proprietary information to: (i) a
27 public safety answering point, emergency medical service provider or emergency dispatch
28 provider, public safety, fire service, or law enforcement official, or hospital emergency or trauma
29 care facility, in order to respond to the user’s request for emergency services; (ii) inform the
30 user’s legal guardian or members of the user’s immediate family of the user’s location in an
31 emergency situation that involves the risk of death or serious physical harm; or (iii) providers of
32 information or database management services solely for purposes of assisting in the delivery of

33 emergency services in response to an emergency; or (6) as otherwise required or authorized by
34 law.

35 (d) Except as otherwise provided in this section, an internet service provider shall obtain
36 opt-in approval from a customer to: (1) collect, use, disclose, or permit access to any of the
37 customer's sensitive customer proprietary information; or (2) make any material retroactive
38 change that would result in a use, disclosure, or permission of access to any of the customer's
39 proprietary information previously collected by the provider for which the customer did not
40 previously grant approval.

41 (e) An internet service provider shall, at a minimum solicit customer approval pursuant to
42 subsection (d), as applicable, at the point of sale and when making 1 or more material changes to
43 privacy policies. The solicitation of customer approval must be clear and conspicuous, and in
44 language that is comprehensible and not misleading. The solicitation must disclose: (i) the types
45 of sensitive customer proprietary information for which the provider is seeking customer
46 approval to collect, use, disclose, or permit access to; (ii) the purposes for which such sensitive
47 customer proprietary information will be used; and (iii) the categories of entities to which the
48 provider intends to disclose or permit access to such sensitive customer proprietary information.
49 The solicitation of customer approval must be completely translated into a language other than
50 English if the internet service provider transacts business with the customer in that language.

51 (f) An internet service provider shall make available a simple, easy-to-use mechanism for
52 customers to grant, deny, or withdraw opt-in approval at any time. The mechanism must be clear
53 and conspicuous, in language that is comprehensible and not misleading, and made available at
54 no additional cost to the customer. The mechanism must be persistently available on or through

55 the provider's website; the provider's application, if it provides an application for account
56 management purposes; and any functional equivalent to the provider's homepage or application.
57 If a provider does not have a website, the provider shall provide a persistently available
58 mechanism by another means, including, but not limited to, a toll-free telephone number. The
59 customer's grant, denial, or withdrawal of approval must be given effect promptly and remain in
60 effect until the customer revokes or limits such grant, denial, or withdrawal of approval.