

HOUSE No. 3892

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

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 mental health promotion through realistic advertising images.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>

HOUSE No. 3892

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 3892) of Kay Khan and others for legislation to establish a realistic advertising tax credit. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to mental health promotion through realistic advertising images.

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 62 of the General Laws is hereby amended by inserting after
2 section 6M the following section:-

3 Section 6O. (a) The purpose of this section shall be to provide incentives for business to
4 recognize the benefits of digitally unaltered advertising. Digitally altered images of human
5 models set unattainable standards of beauty and damage the well-being of many exposed to
6 them, leading to the development of eating disorders and poor emotional and physical health
7 outcomes. The goal of this tax credit is to incentivize businesses to reduce the use of advertising
8 with digitally manipulated images of human models in advertising campaigns.

9 (b) There is hereby established a Massachusetts realistic advertising tax credit. The total
10 of all tax credits available to a taxpayer pursuant to this section or section 38II of chapter 63 shall
11 not exceed \$10,000 in any 1 tax year. A business that implements exclusively digitally unaltered
12 advertising shall be allowed a credit, to be computed as hereinafter provided, against taxes owed

13 to the commonwealth under chapter 62 or chapter 63 or other applicable law. For the purposes of
14 this section, "businesses" shall include personal care, cosmetics and apparel businesses that
15 generate \$100,000 or more in annual revenue in the commonwealth.

16 (c) For the purposes of this section, "digitally unaltered" shall mean the use of
17 commercial images wherein a human model's skin tone, skin texture including wrinkles, body
18 size or body shape are not changed by digital editing.

19 (d) The credit allowed under this chapter shall be equal to 1 per cent of the costs
20 associated with digitally unaltered advertising, with a maximum credit of \$10,000 per business in
21 any 1 fiscal year. The department of revenue, in consultation with the department of public
22 health, shall determine the criteria for eligibility for the credit and the criteria to be set forth in
23 regulations promulgated under this section. The regulations shall require proof of using digitally
24 unaltered advertising. The department of revenue shall issue a certification to the taxpayer after
25 the taxpayer submits documentation as required by the department. Such certification shall be
26 acceptable as proof that the expenditures related to the implementation of digitally unaltered
27 advertising for the purposes of the credit allowed under this section.

28 (e) Digitally unaltered advertising program tax credits allowed to a business under this
29 section shall be allowed for the taxable year in which the program is implemented; provided,
30 however, that a tax credit allowed under this section shall not reduce the tax owed below zero. A
31 taxpayer allowed a credit under this section for a taxable year may carry over and apply against
32 such taxpayer's tax liability in any of the succeeding 5 taxable years, as long as the taxpayer
33 provides proof of continued compliance with the digitally unaltered advertising requirements

34 each year, the portion, as reduced from year to year, of those credits which exceed the tax for the
35 taxable year.

36 SECTION 2. Section 6O of chapter 62 of the General Laws is hereby repealed.

37 SECTION 3. Chapter 63 of the General Laws is hereby amended by inserting after
38 section 38HH the following section:-

39 Section 38II. (a) The purpose of this section shall be to provide incentives for business to
40 recognize the benefits of digitally unaltered advertising. Digitally altered images of human
41 models set unattainable standards of beauty and damage the well-being of many exposed to
42 them, leading to the development of eating disorders and poor health outcomes. The goal of this
43 tax credit is to incentivize businesses to reduce the use of advertising with digitally manipulated
44 images of human models in advertising campaigns.

45 (b) There is hereby established a Massachusetts realistic advertising tax credit. The
46 commissioner of the department of revenue, in consultation with the department of public health,
47 shall authorize annually under this section together with section 6O of chapter 62, an amount not
48 to exceed \$1,000,000 per year. The total of all tax credits available to a taxpayer pursuant to this
49 section or section 6O of chapter 62 shall not exceed \$10,000 in any 1 tax year. A business that
50 implements digitally unaltered advertising shall be allowed a credit, to be computed as
51 hereinafter provided, against taxes owed to the commonwealth under chapter 62 or chapter 63 or
52 other applicable law. For the purposes of this section, "businesses" shall include personal care,
53 cosmetics and apparel businesses that generate \$100,000 or more in annual revenue in the
54 commonwealth.

55 (c) The credit allowed under this chapter shall be equal to 1 per cent of the costs
56 associated with digitally unaltered advertising, with a maximum credit of \$10,000 per business in
57 any 1 fiscal year. The department of revenue, in consultation with the department of public
58 health, shall determine the criteria for eligibility for the credit and the criteria to be set forth in
59 regulations promulgated under this section. The regulations shall require proof of using digitally
60 unaltered advertising. The department of revenue shall issue a certification to the taxpayer after
61 the taxpayer submits documentation as required by the department. Such certification shall be
62 acceptable as proof that the expenditures related to the implementation of digitally unaltered
63 advertising for the purposes of the credit allowed under this section.

64 (d) The credit allowed in this chapter for any taxable year shall not reduce the excise to
65 less than the amount due under subsection (b) of section 39, section 67 or any other applicable
66 section.

67 (e) Digitally unaltered advertising program tax credits allowed to a business under this
68 section shall be allowed for the taxable year in which the program is implemented. A taxpayer
69 allowed a credit under this section for a taxable year may carry over and apply against the
70 taxpayer's tax liability in any of the succeeding 5 taxable years, as long as the taxpayer provides
71 proof of continued compliance with the digitally unaltered advertising requirements each year,
72 the portion, as reduced from year to year, of those credits which exceed the tax for the taxable
73 year.

74 SECTION 4. Section 38II of chapter 63 of the General Laws is hereby repealed.

75 SECTION 5. Sections 2 and 4 shall take effect on December 31, 2022.