

HOUSE No. 350

The Commonwealth of Massachusetts

PRESENTED BY:

William M. Straus

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 the online collection of personal information from children and minors.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>1/18/2019</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>1/22/2019</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>1/29/2019</i>

HOUSE No. 350

By Mr. Straus of Mattapoisett, a petition (accompanied by bill, House, No. 350) of William M. Straus, Louis L. Kafka and Daniel J. Hunt relative to the online collection of personal information from children and minors. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2827 OF 2017-2018.]

The Commonwealth of Massachusetts

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

An Act relative to the online collection of personal information from children and minors.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to safeguard children, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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. The General Laws, as appearing in the 2014 Official Edition, are hereby
2 amended by adding the following new chapter:-

3 Chapter 93L. Online Collection of Personal Information from Children and Minors.

4 Section 1. As used in this chapter, the following terms shall have the following
5 meanings, unless the context clearly requires otherwise:-

6 “Child”, an individual under the age of 13.

7 “Minor”, an individual over the age of 12 and under the age of 16.

8 “Targeted marketing”, advertising or other efforts to market a product or service that are
9 directed to a specific individual or device: (i) based on the personal information of the individual
10 or a unique identifier of the device; and (ii) as a result of use by the individual, or access by the
11 device, of a website, online service, online application, or mobile application.

12 Section 2. (a) An operator of a website, online service, online application, or mobile
13 application directed to children, or an operator having actual knowledge that personal
14 information being collected is from a child, shall not use, disclose to third parties, or compile
15 personal information for targeted marketing purposes without verifiable parental consent.

16 (b) An operator of a website, online service, online application, or mobile application
17 directed to minors, or an operator having actual knowledge that personal information being
18 collected is from a minor, shall not use, disclose to third parties, or compile personal information
19 for targeted marketing purposes without the consent of the minor.

20 Section 3. (a) An operator of a website, online service, online application, or mobile
21 application directed to children or minors, or an operator having actual knowledge that
22 geolocation information being collected is from a child or minor, shall provide clear and
23 conspicuous notice in clear and plain language of any geolocation information the operator
24 collects, how the operator uses such information, and whether the operator discloses such
25 information.

26 (b) Prior to collecting geolocation information from a child, an operator of a website,
27 online service, online application, or mobile application shall obtain verifiable parental consent;
28 provided, that the parent may at any time thereafter refuse to permit the further use or

29 maintenance in retrievable form, or future collection, by the operator of geolocation information
30 from the child.

31 (c) Prior to collecting geolocation information from a minor, an operator of a website,
32 online service, online application, or mobile application shall obtain affirmative express consent
33 from such minor or the parent of such minor; provided, that the minor or parent may at any time
34 thereafter refuse to permit the further use or maintenance in retrievable form, or future collection,
35 by the operator of geolocation information from the minor.

36 (d) Upon request by a minor, the parent of a minor, or the parent of a child, an operator of
37 a website, online service, online application, or mobile application shall provide to the person
38 making the request: (i) a description of the geolocation information collected from the minor or
39 child by the operator; and (ii) a means that is reasonable under the circumstances for the minor,
40 parent of a minor, or parent of a child to obtain any geolocation information collected from the
41 minor or child, if such information is available to the operator at the time the request is made;
42 provided, that neither an operator nor the operator's agent shall be held to be liable under any
43 federal or state law for any disclosure made in good faith and following reasonable procedures in
44 responding to a request for disclosure of geolocation information.

45 (e) An operator of a website, online service, online application, or mobile application
46 shall be prohibited from discontinuing service provided to a minor or child on the basis of a
47 refusal by a minor, parent of a minor, or parent of a child to permit the further use or
48 maintenance in retrievable form, or future online collection, of geolocation information from the
49 minor or child to the extent that the operator is capable of providing such service without such
50 information.

51 Section 4. The Office of Consumer Affairs and Business Regulation shall adopt rules
52 and regulations necessary to implement this chapter.