

HOUSE No. 2974

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: | DATE ADDED: |
|------------------------------------|---------------------------------------|------------------|
| <i>Kay Khan</i> | <i>11th Middlesex</i> | <i>2/18/2021</i> |
| <i>David Henry Argosky LeBoeuf</i> | <i>17th Worcester</i> | <i>2/22/2021</i> |
| <i>Rebecca L. Rausch</i> | <i>Norfolk, Bristol and Middlesex</i> | <i>2/23/2021</i> |
| <i>Lindsay N. Sabadosa</i> | <i>1st Hampshire</i> | <i>2/26/2021</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> | <i>1/19/2022</i> |

HOUSE No. 2974

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 2974) of Kay Khan and others for legislation to provide for credit against taxes for the costs of certain advertising campaigns that feature digitally unaltered images of human models. Revenue.

The Commonwealth of Massachusetts

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

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) As used in this section the following words, unless the context clearly
4 requires otherwise, shall have the following meanings:—

5 “Advertising,” a printed or televisual representation made for the purpose of promoting
6 the use or sale of a product or service by the producer, manufacturer, distributor, seller or any
7 other person with a commercial interest in the product or service.

8 “Digitally unaltered images,” visual depictions of human models to which computer-
9 enabled postproduction editing techniques have not been applied, including without limitation
10 the deliberate alteration of natural body size, body shape, skin tone, skin texture, or the use of
11 digital airbrush techniques.

12 “Qualifying business,” business that: (i) generates not less than \$100,000 in annual
13 revenue from activities conducted in the commonwealth; and (ii) is engaged in the production,
14 manufacture, distribution, or sale of cosmetics, clothing, or products intended for use in personal
15 hygiene and grooming.

16 (b) A taxpayer engaged in qualifying business shall be allowed a credit against the taxes
17 imposed by this chapter for the costs of advertising campaigns that feature digitally unaltered
18 images of human models. The credit shall be equal to 1 per cent of the costs of media purchases
19 associated with a qualifying advertising campaign, provided that said credit shall not exceed
20 \$10,000 in any tax year.

21 (c) The department of revenue, in consultation with the department of public health, shall
22 promulgate by regulation criteria for eligibility for the credit provided under this section.

23 (d) Digitally unaltered advertising campaign credits allowed to a taxpayer under this
24 section shall be allowed for the taxable year in which the advertising campaign is conducted;
25 provided, however, that a tax credit allowed under this section shall not reduce the tax owed
26 below zero. A taxpayer allowed a credit under this section may carry over and apply those
27 credits which exceed the taxpayer’s liability for a taxable year against the taxpayer's tax liability
28 in any of the succeeding 5 tax years, provided that said taxpayer maintains continued compliance
29 with the eligibility criteria set forth pursuant to subsection (c).

30 SECTION 2. Section 60 of chapter 62 of the General Laws is hereby repealed.

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

33 Section 38II. (a) As used in this section the following words, unless the context clearly
34 requires otherwise, shall have the following meanings:-

35 “Advertising,” a printed or televisual representation made for the purpose of promoting
36 the use or sale of a product or service by the producer, manufacturer, distributor, seller or any
37 other person with a commercial interest in the product or service.

38 “Digitally unaltered images,” visual depictions of human models to which computer-
39 enabled postproduction editing techniques have not been applied, including without limitation
40 the deliberate alteration of natural body size, body shape, skin tone, skin texture, or the use of
41 digital airbrush techniques.

42 “Qualifying business,” a business corporation that: (i) generates not less than \$100,000 in
43 annual revenue from activities conducted in the commonwealth; and (ii) is engaged in the
44 production, manufacture, distribution, or sale of cosmetics, clothing, or products intended for use
45 in personal hygiene and grooming.

46 (b) A qualifying business shall be allowed a credit against the taxes imposed by this
47 chapter for the costs of advertising campaigns that feature digitally unaltered images of human
48 models. The credit shall be equal to 1 per cent of the costs of media purchases associated with a
49 qualifying advertising campaign, provided that said credit shall not exceed \$10,000 in any tax
50 year.

51 (c) The department of revenue, in consultation with the department of public health, shall
52 promulgate by regulation criteria for eligibility for the credit provided under this section.

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

56 (e) Digitally unaltered advertising campaign tax credits allowed to a qualifying business
57 under this section shall be allowed for the taxable year in which the advertising campaign is
58 conducted. A taxpayer allowed a credit under this section may carry over and apply those credits
59 which exceed the taxpayer's liability for a taxable year against the taxpayer's tax liability in any
60 of the succeeding 5 tax years, provided that said taxpayer maintains continued compliance with
61 the eligibility criteria set forth pursuant to subsection (c).

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

63 SECTION 5. Sections 2 and 4 shall take effect on December 31, 2030.