SENATE DOCKET, NO. 1668 FILED ON: 2/18/2021

SENATE . . . . . No. 1938

The Commonwealth of Massachusetts

PRESENTED BY:

Susan L. Moran

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 increase accountability in the sale of personal data.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Susan L. Moran	*Plymouth and Barnstable*	
Michael O. Moore	*Second Worcester*	*3/9/2021*

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SENATE . . . . . No. 1938

By Ms. Moran, a petition (accompanied by bill, Senate, No. 1938) of Susan L. Moran and Michael O. Moore for legislation to increase accountability in the sale of personal data. Revenue.

The Commonwealth of Massachusetts

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

An Act to increase accountability in the sale of personal data.

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

SECTION 1. The General Laws are hereby amended by inserting after chapter 65C the following chapter:-

CHAPTER 65D. TAXATION OF SALES OF DATA

Section 1. Definitions. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

(a) “Address”, physical, mailing, or internet protocol addresses, or similar addresses.

(b) “Engaging within this state”, any business entity, including foreign and domestic entities, that generates gross income of the business from selling or exchanging for consideration personal information of individuals located in the Commonwealth and has gross income attributable to the sale, or exchange for consideration, of personal information of residents of the

Commonwealth. For the purposes of this chapter, an individual is located in this state if any addresses of that individual is located in this state.

(c) "Personal information" means information that identifies, relates to, describes, or is capable of being associated with a particular individual, including but not limited to their name; physical address, mailing address, or other locational information; telephone number; email address; internet protocol address; signature; physical characteristics or description; biometric data; driver's license number, state identification car number, passport number, social security number, or other government-issued identification number; bank account number, debit card number, credit car number, or any other financial information; insurance information; medical information; employment information; and educational information; browser habits; consumer preferences; and any other data that can be attributed to an individual and can be used for marketing, or determining access and costs related to insurance, credit, or health care.

Section 2. Every person or entity engaging within this state in the business of making sales of personal information or exchanging personal information for consideration must register with the department.

(a) Registration under this section must be completed annually, at the date set by the department, and must consist of the following:

(1) The name, principal place of business, and character of the business, including: (i) The specific types of personal information from residents of the Commonwealth sold or exchanged for consideration; (ii) the types of entities that personal information is sold to or exchanged with for consideration; (iii) The sources and methods by which the personal information was obtained; and (iv) the gross income of the business attributable to the sale, or

exchange for consideration, of personal information of residents of the Commonwealth, to be calculated using the following:

(A) The ratio, expressed as a percentage, that the number of Massachusetts addressed in the personal information bears to all addresses in the personal information; or (B) if the ratio in (A) of this subsection is not readily attainable, the ratio, expressed as a percentage, that the population of this state bears to all the states of the United States in the taxpayer's market, or by any other reasonable methods allowed by the department; and

(2) Submission of a return, in the form prescribed by the commissioner

(b) A person who is required to register under subsection (a) of this section and who fails to do so , or submits incomplete or inaccurate information, is subject to a fine of up to one hundred dollars, indexed annually for inflation beginning in the year this section shall take effect, per day of delinquency in addition to an amount equal to any expense incurred by the office of the attorney general in the investigation or prosecution of the delinquency.

(c) By no later than 12 months following the passage of this legislation, the department must report to the appropriate committees of the legislature a summary of the information received under subsection 2 of this section and provide a recommendation for how to impose a tax on these businesses in order to ensure appropriate compensation to the people of the Commonwealth.

Section 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Section 4. All revenue generated from section (3) and the tax described in (4) shall be designated to the municipal broadband fund.

SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting after section 2CCCC the following section:-

Section 2DDDD. The Municipal Broadband Fund

(a) There shall be established upon the books of the commonwealth a fund to be known as the Municipal Broadband Fund. The fund shall be administered by the department of telecommunications and cable. The fund shall be credited with revenue from the tax on personal data as described in (1) in 65D; (2) interest earned on such revenues; and (3) funds from public and private sources such as gifts, grants and donations. Amounts credited to the fund shall not be subject to further appropriation and money remaining in the fund at the end of the fiscal year shall not revert to the General Fund.

(b) The department of telecommunications and cable shall promulgate regulations necessary to allocate amounts credited to the fund to municipalities in across the commonwealth lacking access to broadband, including limited or inconsistent access to broadband at appropriate speeds. Allocated funds shall be directed to building and maintenance of broadband infrastructure.

(c) Annually, no later than October 1 in the year following implementation of the tax described in chapter 65D, the commissioner shall report to the clerks of the house of representatives and senate committees on ways and means on the fund's activity. The report shall include, but not be limited to: (1) the source of funds received; (2) the amounts distributed and the purpose of expenditures from the fund; (3) anticipated revenue and expenditure projections

for the next year; and (4) anticipated funding required to meet the municipal broadband needs of the Commonwealth.