

SENATE No. 2146

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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 promoting net neutrality and consumer protection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/24/2021</i>

SENATE No. 2146

By Ms. Creem, a petition (accompanied by bill, Senate, No. 2146) of Cynthia Stone Creem and Harriette L. Chandler for legislation to promote net neutrality and consumer protection. Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1936 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act promoting net neutrality and consumer protection.

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 7 of the General Laws, as appearing in the 2016 official edition, is
2 hereby amended by inserting after section 23B the following section:-

3 Section 23C. Notwithstanding any general or special law relating to procurement, and to
4 the extent permitted by federal law, a state agency or state authority, as defined in section 1 of 5
5 chapter 29, shall establish a preference for the procurement of internet service from an internet
6 service provider, as defined in section 9 of chapter 25C, that meets or exceeds the standards
7 established under subsection (e) of section 9 of chapter 25C.

SECTION 2. Section 11E of chapter 12 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the words “transmission company”, in line 7, the following words:- , internet service provider.

SECTION 3. Chapter 25C of the General Laws is hereby amended by adding the following section:-

Section 9. (a) As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

“Broadband internet access service”, a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including capabilities that are incidental to and enable the operation of the service, but excluding dial-up internet access service.

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

“Customer proprietary information”, personal information of a customer, including, but not limited to, financial information, health information, information pertaining to a child of the customer who is under the age of 18, Social Security number, precise geolocation information, driver’s license number or state-issued identification card number, content of communications, web browsing history, application usage history, the functional equivalents of web browsing or application usage history and any information, including metadata and de-identified data, that is linked, or reasonably may be linked, to a specific customer or device.

“Internet service provider”, a person who provides broadband internet access service to customers in the commonwealth.

“Paid prioritization”, the management of a broadband provider’s network to favor, either directly or indirectly, certain traffic over other traffic, which may include, but shall not be limited to, the use of techniques such as traffic shaping, prioritization, resource reservation or other forms of preferential traffic management, either: (i) in exchange for consideration, monetary or otherwise, from a third party; or (ii) to benefit an affiliated entity.

(b) There shall be an internet service provider registry to make broadband internet access service quality and network management practices readily available to customers in the commonwealth. The department shall compile for the registry information disclosed by internet service providers in the commonwealth pursuant to this section and from the verification tests conducted pursuant to this section. The department shall organize the registry in a format that is conducive to review and comparison by customers and prospective customers of internet service. The registry shall be available on the department’s website and shall include net neutrality and consumer privacy grades under subsection (f) in 1 comparison chart for fixed line internet service providers and 1 comparison chart for wireless internet service providers. The department shall provide the information in the registry upon request.

(c) Annually, not later than October 1, all internet service providers shall file current and accurate copies of the following disclosures with the department: (i) the internet service provider’s network management practices, performance characteristics and commercial terms of its broadband internet access services under 47 C.F.R. 8.1; and (ii) the internet service provider’s

privacy policy under the California Business and Professions Code §§ 22575 to 22579, if applicable.

(d) The department shall conduct regular verification tests on its own or through a third party to determine the accuracy of the disclosures made by each internet service provider under subsection (c).

(e) The department shall establish standards for a Massachusetts Net Neutrality and Consumer Privacy Seal that shall allow an internet service provider to demonstrate that it: (i) provides equal access to an open and neutral internet; (ii) commits to and enforces policies which prohibit paid prioritization; and (iii) provides customers with a mechanism to easily opt-out of third-party access to customer proprietary information for purposes other than the provision of broadband internet access service from which that customer proprietary information was derived. Annually, not later than July 1, the department shall publish standards to measure the network management practices of each internet service provider. The department shall determine whether each internet service provider meets the standards established under this subsection. An internet service provider that meets the standards may display the Massachusetts Net Neutrality and Consumer Privacy Seal on its marketing materials. Use of the Massachusetts Net Neutrality and Consumer Privacy Seal while not in compliance with the standards set forth by the department shall be considered a deceptive practice under chapter 93A.

(f) Based on the standards established in subsection (e), the department shall grade internet service providers on the provider's internet service quality, policies on paid prioritization, network management practices and consumer privacy practices. The highest

grades shall be given to an internet service provider who meets or exceeds the standards of net neutrality and consumer privacy under subsection (e).

(g) An internet service provider that conducts business in the commonwealth shall disclose to each customer its net neutrality and consumer privacy grade before entering into an agreement for service and annually thereafter, and shall provide the customer with the website and phone number for the registry. Failure to disclose a net neutrality and consumer privacy score as required by this section shall be considered a deceptive practice under chapter 93A.

(h) Nothing in this section shall preclude or limit an action brought under chapter 93A or any other law.

(i) Notwithstanding any other section of chapter 25C or any other general or special law to the contrary, the department shall have jurisdiction, general supervision, regulation and control over an internet service provider's compliance with this section.

(j) The department shall promulgate regulations to implement this section.

SECTION 4. Section 47E of chapter 164 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word "system", in line 6, the following words:- , including, but not limited to, internet access and wireless internet access,

SECTION 5. The department of telecommunications and cable shall promulgate the regulations required under to implement section 9 of chapter 25C of the General Laws, as appearing in section 2, not later than July 1, 2024.

SECTION 6. Section 3 shall take effect on December 31, 2024.