

SENATE No. 1892

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 taxing the mental health impacts of social media.

PETITION OF:

NAME:

Susan L. Moran

DISTRICT/ADDRESS:

Plymouth and Barnstable

SENATE No. 1892

By Ms. Moran, a petition (accompanied by bill, Senate, No. 1892) of Susan L. Moran for legislation to tax the mental health impacts of social media. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act taxing the mental health impacts of social media.

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 is hereby amended by adding, after chapter 64N, the
2 following chapter:-

3 CHAPTER 64O: TAX ON THE COLLECTION OF CONSUMER DATA BY
4 COMMERCIAL DATA COLLECTORS

5 Section 1. Definitions

6 For the purpose of this chapter, the following words shall have the following definitions:

7 “Commercial Data Collector”, a for-profit entity that:

8 (a) Collects, maintains, uses, processes, sells, or shares consumer data in support of its
9 business activities;

10 (b) Collects consumer data, other than consumer contact information, on more than one
11 million individual Massachusetts consumers in a month within the calendar year; and

12 (c) Owns, maintains, or otherwise manages a social media site.

13 “Consumer”, an individual who purchases goods and services from a commercial data
14 collector or uses the services of a commercial data collector, whether charged for those services
15 or not.

16 “Consumer contact information”, (a) a consumer’s email address, telephone number,
17 telefax number, home address, mailing address; or (b) credit card information necessary to
18 engage in a sales transaction.

19 “Consumer data”, any information that identifies, relates to, describes, is capable of being
20 associated with, or could reasonably be linked with a consumer, whether directly submitted to
21 the commercial data collector by the consumer or derived from other sources.

22 “Department”, the department of revenue.

23 “Massachusetts consumer”, a consumer whose primary residence is in the commonwealth
24 of Massachusetts.

25 “Social media site”, any website that facilitate user participation, networking and
26 collaboration through the submission of user generated content.

27 Section 2. Tax Liability

28 There is hereby imposed a monthly tax on the collection of the consumer data of
29 individual Massachusetts consumers by commercial data collectors. The tax shall apply
30 regardless of the format, electronic or otherwise, in which the consumer data is collected by the
31 commercial data collector.

32 The tax shall be imposed on commercial data collectors at the following rates based on
33 the number of Massachusetts consumers a commercial data collector collects data on within the
34 month:

35 A commercial data collector that collects data on 1 million or fewer Massachusetts
36 consumers shall not pay any additional tax under this section.

37 A commercial data collector that collects data on more than 1 million but less than or
38 equal to 2 million Massachusetts consumers shall pay a tax of 5 cents per month on the number
39 of Massachusetts consumers the commercial data collector serves.

40 A commercial data collector that collects data on more than 2 million but less than or
41 equal to 3 million Massachusetts consumers shall pay a tax of 50 thousand dollars per month
42 plus 10 cents per month on the number of Massachusetts consumers the commercial data
43 collector serves.

44 A commercial data collector that collects data on more than 3 million but less than or
45 equal to 4 million Massachusetts consumers shall pay a tax of 150 thousand dollars per month
46 plus 15 cents per month on the number of Massachusetts consumers the commercial data
47 collector serves.

48 A commercial data collector that collects data on more than 4 million but less than or
49 equal to 5 million Massachusetts consumers shall pay a tax of 300 thousand dollars per month
50 plus 20 cents per month on the number of Massachusetts consumers the commercial data
51 collector serves.

52 A commercial data collector that collects data on more than 5 million but less than or
53 equal to 6 million Massachusetts consumers shall pay a tax of 500 thousand dollars per month
54 plus 25 cents per month on the number of Massachusetts consumers the commercial data
55 collector serves.

56 A commercial data collector that collects data on more than 6 million but less than or
57 equal to 7 million Massachusetts consumers shall pay a tax of 750 thousand dollars per month
58 plus 30 cents per month on the number of Massachusetts consumers the commercial data
59 collector serves.

60 Section 3. Tax Collection

61 A commercial data collector that collects data from Massachusetts consumers shall
62 maintain detailed records of the number of Massachusetts consumers that it collects data from
63 per month.

64 A commercial data collector shall file a monthly statement with the department of
65 revenue that details the number of Massachusetts consumers that the collector collected data
66 from during the previous month and states the amount owed by the collector to the
67 commonwealth for the previous month.

68 A commercial data collector that fails to submit a monthly statement for the previous
69 month within 10 days of the end of said month shall be assessed a monetary penalty amount of 5
70 per cent of the collector's assessment for said month.

71 A commercial data collector that fails to submit a monthly statement for the previous
72 month within 20 days of the end of said month shall be assessed a monetary penalty amount of
73 10 per cent of the collector's assessment for said month.

74 (c) The department shall use each monthly statement to assess the amount owed by each
75 commercial data collector under section 2 of this chapter.

76 (d) Upon written notice of assessment from the department, a commercial data collector
77 shall submit payment to the commonwealth within 30 days of such notice.

78 (1) A commercial data collector that fails to submit payment within 30 days of written
79 notice of assessment from the department shall be assessed a monetary penalty amount of 5 per
80 cent of the collector's assessment for said month.

81 (2) A commercial data collector that fails to submit payment within 60 days of written
82 notice of assessment from the department shall be assessed a monetary penalty amount of 10 per
83 cent of the collector's assessment for said month.

84 (e) The department shall partner with any other state agency for the purposes of
85 determining an accurate assessment of tax liability for commercial data collectors pursuant to
86 section 2 of this chapter.

87 (f) The department shall promulgate any regulations necessary for the collection of tax
88 liability pursuant to this chapter.

89 Section 4. Authority to Audit

90 (a) The Commonwealth shall have the right to conduct an audit or review of the records
91 reasonably related to a commercial data collector's computation of tax liability detailed within
92 section 2 of this chapter within the previous 3 years.

93 (b) Within 30 days of a written request from the department, a commercial data collector
94 shall provide the department with copies of all records related to the computation of tax liability
95 pursuant to this chapter for Massachusetts consumers served by the commercial data collector.

96 (c) In the event of an alleged underpayment, the department shall provide the commercial
97 data collector with a written statement indicating the basis for the alleged underpayment. The
98 commercial data collector shall have 30 days from the receipt of a statement regarding an alleged
99 underpayment to provide the department any written objection to the results of any assessment
100 review or audit, including any substantiating documentation. Based on this exchange of
101 information, the department shall make a final determination of the underpayment(s), if any,
102 within 30 days of the commercial data collector's objection and shall provide the collector with
103 written notice of the determination.

104 (d) Any additional assessments due to the commonwealth as a result of the review or
105 audit shall be paid to the department by the commercial data collector within 45 days from the
106 date of written notification of the final decision. If the review or audit shows that amounts have
107 been underpaid, then the commercial data collector shall pay the underpaid amount plus
108 monetary fines equal to 10 per cent of the underpayment.

109 (e) A commercial data collector adversely affected by any final action, or failure to act, of
110 the department that is inconsistent with this section may, within 30 days after such action or

111 failure to act, commence an action in any court of competent jurisdiction within the
112 Commonwealth. The court shall hear and decide such action on an expedited basis.

113 Section 5. Judicial Remedy

114 (a) In accordance with section 1 of chapter 12, the Attorney General is authorized to
115 enforce this chapter. The Attorney General may, within 7 years, bring an action to recover any
116 unpaid assessments and monetary penalties, or enjoin the operations of any non-compliant entity,
117 in any court of competent jurisdiction.

118 (b) Any community media center adversely impacted by the action, or failure to act, of
119 any commercial data collector under this chapter, may, within 7 years, bring an action to recover
120 any unpaid assessments and monetary penalties, or enjoin the operations of any non-compliant
121 entity, in any court of competent jurisdiction.

122 Section 6. Taxpayers

123 For the purposes of this chapter, the following shall apply to taxpayers:

124 There shall be a rebuttable presumption that a consumer whose information on record
125 with or available to a commercial data collector indicates a Massachusetts home address, a
126 Massachusetts mailing address, or an internet protocol address connected with a Massachusetts
127 location is a Massachusetts consumer. The presumption may be rebutted by evidence that a
128 consumer's primary residence is outside of Massachusetts.

129 A Massachusetts consumer shall be counted only once in the calculation of the monthly
130 tax imposed on a commercial data collector.

131 Business entities having common ownership as defined in section 1563(A) of the federal
132 internal revenue code shall be treated as a single taxpayer for the purposes of meeting the
133 definition of commercial data collector under this chapter. The entities constituting the single
134 taxpayer are jointly and severally liable for any tax due.

135 The single member of a single member limited liability company shall be treated as a
136 consumer under this chapter.

137 Section 7. Revenue Distribution

138 90 per cent of amounts collected pursuant to this chapter shall be credited to the Mental
139 Health Resilience fund as established by section 2RRRRR of chapter 29.

140 10 per cent of amounts collected pursuant to this chapter shall be distributed to
141 community media centers in the commonwealth and further allocated proportionally based upon
142 population.

143 SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting, after
144 section 2QQQQQ, the following section:-

145 Section 2RRRRR. Mental Health Resilience Fund

146 There shall be a mental health resilience fund which shall be administered by the
147 department of mental health with the objective of developing innovative strategies for improving
148 the mental health of all residents within the commonwealth. Notwithstanding any general or
149 special laws to the contrary, the following amounts shall be credited to the fund: 90 per cent of
150 the amounts collected pursuant to chapter 64O, any appropriations, grants, gifts or other monies
151 authorized by the general court or other parties and specifically designated to be credited to the

152 fund, and any income derived from the investment of amounts credited to the fund. All amounts
153 credited to the fund shall be used without further appropriation to accomplish the objective of the
154 fund. Initiatives to accomplish the objective of the fund may include, but shall not be limited to:

155 Developing innovative strategies to provide recreational alternatives to social media
156 usage for commonwealth residents, particularly youth;

157 Developing innovative strategies to increase the number of mental health providers in the
158 commonwealth and achieving the goal of mental health provider availability for all
159 commonwealth residents;

160 Mental health staff providing supports to summer camps and afterschool programs; and

161 Providing in-home therapy to children in crisis.

162 No expenditure from the fund shall cause the fund to be in deficiency at the close of a
163 fiscal year. Monies deposited in the fund that are unexpended at the end of the fiscal year shall
164 not revert to the General Fund and shall be available for expenditure in the subsequent year. The
165 fund shall be exempt from the indirect and fringe benefits that would otherwise be assessed
166 pursuant to this chapter.

167 SECTION 3. This act shall take effect upon its passage.