

SENATE No. 1896

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:

Susan L. Moran

DISTRICT/ADDRESS:

Plymouth and Barnstable

SENATE No. 1896

By Ms. Moran, a petition (accompanied by bill, Senate, No. 1896) of Susan L. Moran for legislation to increase accountability in the sale of personal data. Revenue.

The Commonwealth of Massachusetts

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

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:

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

3 CHAPTER 65D. TAXATION OF SALES OF DATA

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

6 “Address”, physical, mailing, or internet protocol addresses, or similar addresses.

7 “Engaging within this state”, any business entity, including foreign and domestic entities,
8 that generates gross income of the business from selling or exchanging for consideration
9 personal information of individuals located in the Commonwealth and has gross income
10 attributable to the sale, or exchange for consideration, of personal information of residents of the
11 Commonwealth. For the purposes of this chapter, an individual is located in this state if any
12 addresses of that individual is located in this state. For the purposes of this chapter, an individual

13 shall be considered to be located in the commonwealth if that individual’s information on record
14 with a business entity indicates a Massachusetts home or mailing address, or an internet protocol
15 address associated with a Massachusetts location.

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

26 Section 2. Every person or entity engaging within this state that sells personal
27 information or exchanges personal information for consideration must register with the
28 department of revenue.

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

31 (1) The name, principal place of business, and character of the business, including: (i)
32 The specific types of personal information from residents of the Commonwealth sold or
33 exchanged for consideration; (ii) the types of entities that personal information is sold to or
34 exchanged with for consideration; (iii) The sources and methods by which the personal

35 information was obtained; and (iv) the gross income of the business attributable to the sale, or
36 exchange for consideration, of personal information of residents of the Commonwealth, to be
37 calculated using the following:

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

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

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

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

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

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

59 Section 5. No person or entity engaging within this state shall sell or exchange personal
60 information for consideration to the United States Immigration and Customs Enforcement or to
61 any person, entity, or agency that plans to sell or exchange said personal information to the
62 United States Immigration and Customs Enforcement.

63 Section 6. For the purposes of this chapter, a social media company with users that are
64 individuals located in Massachusetts shall be considered an entity engaging within this state.

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

67 Section 2RRRRR. The Municipal Broadband Fund

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

75 (b) The department of telecommunications and cable shall promulgate regulations
76 necessary to allocate amounts credited to the fund to municipalities in across the commonwealth
77 lacking access to broadband, including limited or inconsistent access to broadband at appropriate

78 speeds. Allocated funds shall be directed to building and maintenance of broadband
79 infrastructure.

80 (c) Annually, no later than October 1 in the year following implementation of the tax
81 described in chapter 65D, the commissioner shall report to the clerks of the house of
82 representatives and senate committees on ways and means on the fund's activity. The report shall
83 include, but not be limited to: (1) the source of funds received; (2) the amounts distributed and
84 the purpose of expenditures from the fund; (3) anticipated revenue and expenditure projections
85 for the next year; and (4) anticipated funding required to meet the municipal broadband needs of
86 the Commonwealth.