SENATE DOCKET, NO. 373 FILED ON: 1/13/2023

SENATE . . . . . No. 1924

The Commonwealth of Massachusetts

PRESENTED BY:

Rebecca L. Rausch

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:
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*

SENATE DOCKET, NO. 373 FILED ON: 1/13/2023

SENATE . . . . . No. 1924

By Ms. Rausch, a petition (accompanied by bill, Senate, No. 1924) of Rebecca L. Rausch for legislation relative to mental health promotion through realistic advertising images. Revenue.

The Commonwealth of Massachusetts

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

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:

SECTION 1. Chapter 62 of the General Laws is hereby amended by inserting after section 6M the following section:-

Section 6O. (a) As used in this section the following words, unless the context clearly requires otherwise, shall have the following meanings:—

"Advertising," a printed or televisual representation made for the purpose of promoting the use or sale of a product or service by the producer, manufacturer, distributer, seller or any other person with a commercial interest in the product or service.

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

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

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

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

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

SECTION 2. Section 6O of chapter 62 of the General Laws is hereby repealed.

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

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

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

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

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

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

(c) The department of revenue, in consultation with the department of public health, shall determine the criteria for eligibility for the credit and the criteria to be set forth in regulations promulgated under this section.

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

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

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

SECTION 5. Sections 2 and 4 shall take effect on December 31, 2025.