

**SENATE . . . . . No.**

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**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 to protect safety and privacy by stopping the sale of location data.

PETITION OF:

NAME:

*Cynthia Stone Creem*

DISTRICT/ADDRESS:

*Norfolk and Middlesex*

**SENATE . . . . . No.**

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[Pin Slip]

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 148 OF 2023-2024.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-Fourth General Court  
(2025-2026)**  
\_\_\_\_\_

An Act to protect safety and privacy by stopping the sale of location 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, as appearing in the 2022 Official Edition, are hereby  
2 amended by inserting after chapter 93M the following chapter:

3 Section 1. Definitions

4 (a) As used in this chapter, the following words shall, unless the context clearly requires  
5 otherwise, have the following meanings:

6 (1) “Application”, a software program that runs on the operating system of a device.

7 (2) “Collect”, to obtain, infer, generate, create, receive, or access an individual’s location  
8 information.

9 (3) “Consent”, freely given, specific, informed, unambiguous, opt-in consent. This term  
10 does not include either of the following: (i) agreement secured without first providing to the  
11 individual a clear and conspicuous disclosure of all information material to the provision of  
12 consent, apart from any privacy policy, terms of service, terms of use, general release, user  
13 agreement, or other similar document; or (ii) agreement obtained through the use of a user  
14 interface designed or manipulated with the substantial effect of subverting or impairing user  
15 autonomy, decision making, or choice.

16 (4) “Covered entity”, any individual, partnership, corporation, limited liability company,  
17 association, or other group, however organized. A covered entity does not include a state or local  
18 government agency, or any court of Massachusetts, a clerk of the court, or a judge or justice  
19 thereof. A covered entity does not include an individual acting in a non-commercial context. A  
20 covered entity includes all agents of the entity.

21 (5) “Device”, a mobile telephone, as defined in section 1 of chapter 90 of the general  
22 laws, or any other electronic device that is or may commonly be carried by or on an individual  
23 and is capable of connecting to a cellular, bluetooth, or other wireless network.

24 (6) “Disclose”, to make location information available to a third party, including but not  
25 limited to by sharing, publishing, releasing, transferring, disseminating, providing access to, or  
26 otherwise communicating such location information orally, in writing, electronically, or by any  
27 other means.

28 (7) “Individual”, a person located in the Commonwealth of Massachusetts.

29 (8) “Location information”, information derived from a device or from interactions  
30 between devices, with or without the knowledge of the user and regardless of the technological

31 method used, that pertains to or directly or indirectly reveals the present or past geographical  
32 location of an individual or device within the Commonwealth of Massachusetts with sufficient  
33 precision to identify street-level location information within a range of 1,850 feet or less.

34 Location information includes but is not limited to (i) an internet protocol address capable of  
35 revealing the physical or geographical location of an individual; (ii) Global Positioning System  
36 (GPS) coordinates; and (iii) cell-site location information. This term does not include location  
37 information identifiable or derived solely from the visual content of a legally obtained image,  
38 including the location of the device that captured such image, or publicly posted words.

39 (9) “Location Privacy Policy”, a description of the policies, practices, and procedures  
40 controlling a covered entity’s collection, processing, management, storage, retention, and  
41 deletion of location information.

42 (10) “Monetize”, to collect, process, or disclose an individual’s location information for  
43 profit or in exchange for monetary or other consideration. This term includes but is not limited to  
44 selling, renting, trading, or leasing location information.

45 (11) “Person”, any natural person.

46 (12) “Permissible purpose”, one of the following purposes: (i) provision of a product,  
47 service, or service feature to the individual to whom the location information pertains when that  
48 individual requested the provision of such product, service, or service feature by subscribing to,  
49 creating an account, or otherwise contracting with a covered entity; (ii) initiation, management,  
50 execution, or completion of a financial or commercial transaction or fulfill an order for specific  
51 products or services requested by an individual, including any associated routine administrative,  
52 operational, and account-servicing activity such as billing, shipping, delivery, storage, and

53 accounting; (iii) compliance with an obligation under federal or state law; or (iv) response to an  
54 emergency service agency, an emergency alert, a 911 communication, or any other  
55 communication reporting an imminent threat to human life.

56 (13) "Process", to perform any action or set of actions on or with location information,  
57 including but not limited to collecting, accessing, using, storing, retaining, analyzing, creating,  
58 generating, aggregating, altering, correlating, operating on, recording, modifying, organizing,  
59 structuring, disposing of, destroying, de-identifying, or otherwise manipulating location  
60 information. This term does not include disclosing location information.

61 (14) "Reasonably understandable", of length and complexity such that an individual with  
62 an eighth-grade reading level, as established by the department of elementary and secondary  
63 education, can read and comprehend.

64 (15) "Service feature", a discrete aspect of a service provided by a covered entity,  
65 including but not limited to real-time directions, real-time weather, and identity authentication.

66 (16) "Service provider", an individual, partnership, corporation, limited liability  
67 company, association, or other group, however organized, that collects, processes, or transfers  
68 location information for the sole purpose of, and only to the extent that such service provider is,  
69 conducting business activities on behalf of, for the benefit of, at the direction of, and under  
70 contractual agreement with a covered entity.

71 (17) "Third party", any covered entity or person other than (i) a covered entity that  
72 collected or processed location information in accordance with this chapter or its service  
73 providers, or (ii) the individual to whom the location information pertains. This term does not  
74 include government entities.

75 Section 2. Protection of location information

76 (a) It shall be unlawful for a covered entity to collect or process an individual's location  
77 information except for a permissible purpose. Prior to collecting or processing an individual's  
78 location information for one of those permissible purposes, a covered entity shall provide the  
79 individual with a copy of the Location Privacy Policy and obtain consent from that individual;  
80 provided, however, that this shall not be required when the collection and processing is done in  
81 (1) compliance with an obligation under federal or state law or (2) in response to an emergency  
82 service agency, an emergency alert, a 911 communication, or any other communication reporting  
83 an imminent threat to human life.

84 (b) If a covered entity collects location information for the provision of multiple  
85 permissible purposes, it shall be mentioned in the Location Privacy Policy and individuals shall  
86 provide discrete consent for each purpose; provided, however, that this shall not be required for  
87 the purpose of collecting and processing location information to comply with an obligation under  
88 federal or state law or to respond to an emergency service agency, an emergency alert, a 911  
89 communication, or any other communication reporting an imminent threat to human life.

90 (c) A covered entity that directly delivers targeted advertisements as part of its product or  
91 services shall provide individuals with a clear, conspicuous, and simple means to opt out of the  
92 processing of their location information for purposes of selecting and delivering targeted  
93 advertisements.

94 (d) Consent provided under this section shall expire (1) after one year, (2) when the initial  
95 purpose for processing the information has been satisfied, or (3) when the individual revokes  
96 consent, whichever occurs first, provided that consent may be renewed pursuant to the same

97 procedures. Upon expiration of consent, any location information possessed by a covered entity  
98 shall be permanently destroyed.

99 (e) It shall be unlawful for a covered entity or service provider that lawfully collects and  
100 processes location information to:

101 (1) collect more precise location information than necessary to carry out the permissible  
102 purpose;

103 (2) retain location information longer than necessary to carry out the permissible purpose;

104 (3) sell, rent, trade, or lease location information to third parties; or

105 (4) derive or infer from location information any data that is not necessary to carry out a  
106 permissible purpose.

107 (5) disclose, cause to disclose, or assist with or facilitate the disclosure of an individual's  
108 location information to third parties, unless such disclosure is (i) necessary to carry out the  
109 permissible purpose for which the information was collected, or (ii) requested by the individual  
110 to whom the location data pertains.

111 (f) It shall be unlawful for a covered entity or service providers to disclose location  
112 information to any federal, state, or local government agency or official unless (1) the agency or  
113 official serves the covered entity or service provider with a valid warrant or establishes the  
114 existence of exigent circumstances that make it impracticable to obtain a warrant, (2) disclosure  
115 is mandated under federal or state law, including in response to a court order or lawfully issued  
116 and properly served subpoena or civil investigative demand under state or federal law, or (3) the  
117 data subject requests such disclosure.

118 (g) A covered entity shall maintain and make available to the data subject a Location  
119 Privacy Policy, which shall include, at a minimum, the following:

120 (1) the permissible purpose for which the covered entity is collecting, processing, or  
121 disclosing any location information;

122 (2) the type of location information collected, including the precision of the data;

123 (3) the identities of service providers with which the covered entity contracts with respect  
124 to location data;

125 (4) any disclosures of location data necessary to carry out a permissible purpose and the  
126 identities of the third parties to whom the location information could be disclosed;

127 (5) whether the covered entity's practices include the internal use of location information  
128 for purposes of targeted advertisement;

129 (6) the data management and data security policies governing location information; and

130 (7) the retention schedule and guidelines for permanently deleting location information.

131 (h) A covered entity in lawful possession of location information shall provide notice to  
132 individuals to whom that information pertains of any change to its Location Privacy Policy at  
133 least 20 business days before the change goes into effect, and shall request and obtain consent  
134 before collecting or processing location information in accordance with the new Location  
135 Privacy Policy.

136 (i) It shall be unlawful for a government entity to monetize location information.

137 Section 3: Prohibition Against Retaliation

138 A covered entity shall not take adverse action against an individual because the  
139 individual exercised or refused to waive any of such individual's rights under this chapter, unless  
140 location data is essential to the provision of the good, service, or service feature that the  
141 individual requests, and then only to the extent that such data is essential. This prohibition  
142 includes but is not limited to:

143 (1) refusing to provide a good or service to the individual;

144 (2) charging different prices or rates for goods or services, including through the use of  
145 discounts or other benefits or imposing penalties; or

146 (3) providing a different level or quality of goods or services to the individual.

#### 147 Section 4. Enforcement

148 (a) A violation of this chapter or a regulation promulgated under this chapter regarding an  
149 individual's location information constitutes an injury to that individual and shall be deemed an  
150 unfair or deceptive act or practice in the conduct of trade or commerce under chapter 93A.

151 (b) Any individual alleging a violation of this chapter by a covered entity or service  
152 provider may bring a civil action in the superior court or any court of competent jurisdiction;  
153 provided that, venue in the superior court shall be proper in the county in which the plaintiff  
154 resides or was located at the time of any violation.

155 (c) An individual protected by this chapter shall not be required, as a condition of service  
156 or otherwise, to file an administrative complaint with the attorney general or to accept mandatory  
157 arbitration of a claim arising under this chapter.

158 (d) In a civil action in which the plaintiff prevails, the court may award (1) actual  
159 damages, including damages for emotional distress, or \$5,000 per violation, whichever is greater,  
160 (2) punitive damages; and (3) any other relief, including but not limited to an injunction or  
161 declaratory judgment, that the court deems to be appropriate. The court shall consider each  
162 instance in which a covered entity or service provider collects, processes, or discloses location  
163 information in a manner prohibited by this chapter or a regulation promulgated under this chapter  
164 as constituting a separate violation of this chapter or regulation promulgated under this chapter.  
165 In addition to any relief awarded, the court shall award reasonable attorney's fees and costs to  
166 any prevailing plaintiff.

167 (e) The attorney general may bring an action pursuant to section 4 of chapter 93A against  
168 a covered entity or service provider to remedy violations of this chapter and for other relief that  
169 may be appropriate.

170 (f) Any provision of a contract or agreement of any kind, including a covered entity's  
171 terms of service or policies, including but not limited to the Location Privacy Policy, that  
172 purports to waive or limit in any way an individual's rights under this chapter, including but not  
173 limited to any right to a remedy or means of enforcement, shall be deemed contrary to state law  
174 and shall be void and unenforceable.

175 (g) No private or government action brought pursuant to this chapter shall preclude any  
176 other action under this chapter.

#### 177 Section 5. Implementation

178 The Attorney General may adopt, amend or repeal rules and regulations for the  
179 implementation, administration, and enforcement of this chapter.

180 SECTION 2. Location Information Collected Before Effective Date

181 Location information collected, processed, and stored prior to the effective date of this  
182 Act shall be subject to subsections 2(e)(3), 2(e)(5), and 2(f) of Chapter 93N.

183 SECTION 3. Effective Date

184 This Act shall take effect 1 year after enactment.