

HOUSE No. 3952

The Commonwealth of Massachusetts

PRESENTED BY:

David Henry Argosky LeBoeuf and Harriette L. Chandler

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 internet service outages.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/19/2021</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/19/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/23/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/26/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/26/2021</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>3/17/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>7/6/2021</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>7/6/2021</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>7/8/2021</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>7/8/2021</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>7/9/2021</i>

HOUSE No. 3952

By Representative LeBoeuf of Worcester and Senator Chandler, a joint petition (accompanied by bill, House, No. 3952) of David Henry Argosky LeBoeuf, Harriette L. Chandler and others relative to internet service outages. Advanced Information Technology, the Internet and Cybersecurity.

The Commonwealth of Massachusetts

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

An Act relative to internet service outages.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

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

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

4 “Broadband internet access service” or “service”, a mass-market retail service by wire or
5 radio that provides the capability to transmit data to and receive data from all or substantially all
6 internet endpoints, including any capabilities that are incidental to and enable the operation of
7 the communications service, but excluding dial-up internet access service. The term “broadband
8 internet access service” or “service” shall also encompass any service that the federal
9 communications commission finds to be providing a functional equivalent of the service
10 described in the first sentence of this definition or that is used to evade the protections set forth in
11 this section.

12 “Internet service provider” or “provider”, any person, business or organization qualified
13 to do business in the commonwealth that provides individuals, corporations or other entities with
14 broadband internet access service.

15 (b) Each internet service provider conducting business in the commonwealth shall
16 annually, on or before May 15, submit to the department an emergency response plan for review
17 and approval. The emergency response plan shall be designed for the reasonably prompt
18 restoration of service in the case of an emergency event, which is an event where widespread
19 outages have occurred in the service area of the company due to storms or other causes beyond
20 the control of the provider. The emergency response plan shall include, but not be limited to, the
21 following:--

22 (1) the identification of management staff responsible for provider operations during an
23 emergency, the number of service workers who are available to respond to an emergency within
24 24 hours and an estimate of the number of crews who are available to respond to an emergency
25 within 24 hours;

26 (2) a communications system with customers during an emergency that includes
27 continuous access to staff assistance and 3 times daily updates on estimated return of service
28 including via telephone, a website in which the 3 times daily updates shall be displayed
29 prominently for easy public access and 1 other form of appropriate media outreach; provided,
30 that such updates shall begin upon completion of a damage assessment or after the first 24 hours
31 of a damage assessment, whichever occurs first;

32 (3) contact with and procedures for prioritizing service restoration to customers who had
33 documented their need for essential internet service;

34 (4)(i) designation of staff to communicate with designated local emergency management
35 officials, relevant regulatory agencies and designated community liaisons as required by
36 subsection (g); and (ii) designation of staff to be posted at the Massachusetts emergency
37 management agency's emergency operations center, as required by subsection (f);

38 (5) provisions regarding how the provider will assure the safety of its employees and
39 contractors;

40 (6) procedures for deploying provider and mutual aid crews to work assignment areas;

41 (7) identification of additional supplies and equipment needed during an emergency and
42 the means of obtaining additional supplies and equipment; and

43 (8) designation of a call center located in the commonwealth for service assistance for the
44 duration of an emergency or until full service is restored, whichever occurs first. The call center
45 shall be staffed continuously for the duration of the emergency and to ensure sufficient staffing
46 levels to handle all customer calls.

47 The submission to the department shall also include a copy of all written mutual
48 assistance agreements among providers and utilities. The department shall accord protected
49 treatment under section 5D of chapter 25 of confidential, competitively sensitive or other
50 proprietary information contained in any emergency response plan and shall also confirm the
51 application of subclause (n) of clause Twenty-sixth of section 7 of chapter 4 so as not to
52 jeopardize public safety.

53 (c) After review of an internet service provider's emergency response plan, the
54 department may request that the provider amend the plan. The department may open an

55 investigation of the provider's plan. If, after hearings, the department finds a material deficiency
56 in the plan, the department may order the provider to make such modifications that it deems
57 reasonably necessary to remedy the deficiency.

58 (d) Any internet service provider failing to file its emergency response plan may be fined
59 \$500 for each day during which such failure continues. The fines levied by the department shall
60 be deposited in the General Fund.

61 (e) Notwithstanding any existing power or authority, the department may open an
62 investigation to review the performance of any internet service provider in restoring service
63 during an emergency event. If, after evidentiary hearings or other investigatory proceedings, the
64 department finds that, as a result of the failure of the provider to implement its emergency
65 response plan, the length of the outages were materially longer than they would have been but
66 for the provider's failure, the department may deny the recovery of all, or any part of, the service
67 restoration costs through costs to consumers, commensurate with the degree and impact of the
68 service outage.

69 (f) Each internet service provider, when implementing an emergency response plan, shall
70 designate an employee or employees to remain stationed at the Massachusetts emergency
71 management agency's emergency operations center for the length of the emergency. The
72 employee or employees shall coordinate communications efforts with designated local
73 emergency management officials and emergency management officials, as required by this
74 section.

75 (g) Each internet service provider, when implementing an emergency response plan, shall
76 designate an employee or employees to serve as community liaisons for each municipality within

77 their service territory. A provider shall provide each community liaison with the necessary feeder
78 map or maps outlining distribution networks and up-to-date customer outage reports at the time
79 of designation as a community liaison. A provider shall provide each community liaison with 3
80 times daily customer outage report updates for the liaison's respective city or town. The
81 community liaison shall utilize the maps and outage reports to respond to inquiries from state
82 and local officials and relevant regulatory agencies.

83 (h) Notwithstanding any general or special law or rule or regulation to the contrary, each
84 internet service provider conducting business in the commonwealth shall provide periodic
85 reports to the department and the Massachusetts emergency management agency regarding
86 emergency conditions and restoration performance during an emergency event.

87 (i) Each internet service provider shall file with the emergency management director of
88 each municipality within their service territory a copy of the emergency response plan and any
89 updates. Failure to file the plan with each emergency management director shall result in a fine
90 of \$500. The fines levied by the department shall be deposited in the General Fund.

91 (j) On or before October 1 of each year, every city or town shall notify each internet
92 service provider and the Massachusetts emergency management agency the name of the
93 emergency management official or designee responsible for coordinating the emergency
94 response during storm restoration. If a municipality does not have a designated emergency
95 management official, the chief municipal officer shall designate 1 public safety official
96 responsible for said emergency response.