

SENATE No. 1938

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:	DISTRICT/ADDRESS:	
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/9/2021</i>

SENATE No. 1938

By Ms. Moran, a petition (accompanied by bill, Senate, No. 1938) of Susan L. Moran and Michael O. Moore for legislation to increase accountability in the sale of personal data. Revenue.

The Commonwealth of Massachusetts

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

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 (a) “Address”, physical, mailing, or internet protocol addresses, or similar addresses.

7 (b) “Engaging within this state”, any business entity, including foreign and domestic
8 entities, 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.

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

23 Section 2. Every person or entity engaging within this state in the business of making
24 sales of personal information or exchanging personal information for consideration must register
25 with the department.

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

28 (1) The name, principal place of business, and character of the business, including: (i)
29 The specific types of personal information from residents of the Commonwealth sold or
30 exchanged for consideration; (ii) the types of entities that personal information is sold to or
31 exchanged with for consideration; (iii) The sources and methods by which the personal
32 information was obtained; and (iv) the gross income of the business attributable to the sale, or

33 exchange for consideration, of personal information of residents of the Commonwealth, to be
34 calculated using the following:

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

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

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

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

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

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

56 SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting after
57 section 2CCCC the following section:-

58 Section 2DDDD. The Municipal Broadband Fund

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

66 (b) The department of telecommunications and cable shall promulgate regulations
67 necessary to allocate amounts credited to the fund to municipalities in across the commonwealth
68 lacking access to broadband, including limited or inconsistent access to broadband at appropriate
69 speeds. Allocated funds shall be directed to building and maintenance of broadband
70 infrastructure.

71 (c) Annually, no later than October 1 in the year following implementation of the tax
72 described in chapter 65D, the commissioner shall report to the clerks of the house of
73 representatives and senate committees on ways and means on the fund's activity. The report shall
74 include, but not be limited to: (1) the source of funds received; (2) the amounts distributed and
75 the purpose of expenditures from the fund; (3) anticipated revenue and expenditure projections

76 for the next year; and (4) anticipated funding required to meet the municipal broadband needs of
77 the Commonwealth.