

**SENATE . . . . . No. 1892**

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**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 taxing the mental health impacts of social media.**

PETITION OF:

NAME:

*Susan L. Moran*

DISTRICT/ADDRESS:

*Plymouth and Barnstable*

**SENATE . . . . . No. 1892**

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By Ms. Moran, a petition (accompanied by bill, Senate, No. 1892) of Susan L. Moran for legislation to tax the mental health impacts of social media. Revenue.

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**The Commonwealth of Massachusetts**

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

An Act taxing the mental health impacts of social media.

*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 is hereby amended by adding, after chapter 64N, the  
2 following chapter:-

3 CHAPTER 64O: TAX ON THE COLLECTION OF CONSUMER DATA BY  
4 COMMERCIAL DATA COLLECTORS

5 Section 1. Definitions

6 For the purpose of this chapter, the following words shall have the following definitions:

7 “Commercial Data Collector”, a for-profit entity that:

8 (a) Collects, maintains, uses, processes, sells, or shares consumer data in support of its  
9 business activities;

10 (b) Collects consumer data, other than consumer contact information, on more than one  
11 million individual Massachusetts consumers in a month within the calendar year; and

12 (c) Owns, maintains, or otherwise manages a social media site.

13 “Consumer”, an individual who purchases goods and services from a commercial data  
14 collector or uses the services of a commercial data collector, whether charged for those services  
15 or not.

16 “Consumer contact information”, (a) a consumer’s email address, telephone number,  
17 telefax number, home address, mailing address; or (b) credit card information necessary to  
18 engage in a sales transaction.

19 “Consumer data”, any information that identifies, relates to, describes, is capable of being  
20 associated with, or could reasonably be linked with a consumer, whether directly submitted to  
21 the commercial data collector by the consumer or derived from other sources.

22 “Department”, the department of revenue.

23 “Massachusetts consumer”, a consumer whose primary residence is in the commonwealth  
24 of Massachusetts.

25 “Social media site”, any website that facilitate user participation, networking and  
26 collaboration through the submission of user generated content.

## 27 Section 2. Tax Liability

28 There is hereby imposed a monthly tax on the collection of the consumer data of  
29 individual Massachusetts consumers by commercial data collectors. The tax shall apply  
30 regardless of the format, electronic or otherwise, in which the consumer data is collected by the  
31 commercial data collector.

32           The tax shall be imposed on commercial data collectors at the following rates based on  
33 the number of Massachusetts consumers a commercial data collector collects data on within the  
34 month:

35           A commercial data collector that collects data on 1 million or fewer Massachusetts  
36 consumers shall not pay any additional tax under this section.

37           A commercial data collector that collects data on more than 1 million but less than or  
38 equal to 2 million Massachusetts consumers shall pay a tax of 5 cents per month on the number  
39 of Massachusetts consumers the commercial data collector serves.

40           A commercial data collector that collects data on more than 2 million but less than or  
41 equal to 3 million Massachusetts consumers shall pay a tax of 50 thousand dollars per month  
42 plus 10 cents per month on the number of Massachusetts consumers the commercial data  
43 collector serves.

44           A commercial data collector that collects data on more than 3 million but less than or  
45 equal to 4 million Massachusetts consumers shall pay a tax of 150 thousand dollars per month  
46 plus 15 cents per month on the number of Massachusetts consumers the commercial data  
47 collector serves.

48           A commercial data collector that collects data on more than 4 million but less than or  
49 equal to 5 million Massachusetts consumers shall pay a tax of 300 thousand dollars per month  
50 plus 20 cents per month on the number of Massachusetts consumers the commercial data  
51 collector serves.

52           A commercial data collector that collects data on more than 5 million but less than or  
53 equal to 6 million Massachusetts consumers shall pay a tax of 500 thousand dollars per month  
54 plus 25 cents per month on the number of Massachusetts consumers the commercial data  
55 collector serves.

56           A commercial data collector that collects data on more than 6 million but less than or  
57 equal to 7 million Massachusetts consumers shall pay a tax of 750 thousand dollars per month  
58 plus 30 cents per month on the number of Massachusetts consumers the commercial data  
59 collector serves.

### 60           Section 3. Tax Collection

61           A commercial data collector that collects data from Massachusetts consumers shall  
62 maintain detailed records of the number of Massachusetts consumers that it collects data from  
63 per month.

64           A commercial data collector shall file a monthly statement with the department of  
65 revenue that details the number of Massachusetts consumers that the collector collected data  
66 from during the previous month and states the amount owed by the collector to the  
67 commonwealth for the previous month.

68           A commercial data collector that fails to submit a monthly statement for the previous  
69 month within 10 days of the end of said month shall be assessed a monetary penalty amount of 5  
70 per cent of the collector's assessment for said month.

71 A commercial data collector that fails to submit a monthly statement for the previous  
72 month within 20 days of the end of said month shall be assessed a monetary penalty amount of  
73 10 per cent of the collector's assessment for said month.

74 (c) The department shall use each monthly statement to assess the amount owed by each  
75 commercial data collector under section 2 of this chapter.

76 (d) Upon written notice of assessment from the department, a commercial data collector  
77 shall submit payment to the commonwealth within 30 days of such notice.

78 (1) A commercial data collector that fails to submit payment within 30 days of written  
79 notice of assessment from the department shall be assessed a monetary penalty amount of 5 per  
80 cent of the collector's assessment for said month.

81 (2) A commercial data collector that fails to submit payment within 60 days of written  
82 notice of assessment from the department shall be assessed a monetary penalty amount of 10 per  
83 cent of the collector's assessment for said month.

84 (e) The department shall partner with any other state agency for the purposes of  
85 determining an accurate assessment of tax liability for commercial data collectors pursuant to  
86 section 2 of this chapter.

87 (f) The department shall promulgate any regulations necessary for the collection of tax  
88 liability pursuant to this chapter.

89 Section 4. Authority to Audit

90 (a) The Commonwealth shall have the right to conduct an audit or review of the records  
91 reasonably related to a commercial data collector's computation of tax liability detailed within  
92 section 2 of this chapter within the previous 3 years.

93 (b) Within 30 days of a written request from the department, a commercial data collector  
94 shall provide the department with copies of all records related to the computation of tax liability  
95 pursuant to this chapter for Massachusetts consumers served by the commercial data collector.

96 (c) In the event of an alleged underpayment, the department shall provide the commercial  
97 data collector with a written statement indicating the basis for the alleged underpayment. The  
98 commercial data collector shall have 30 days from the receipt of a statement regarding an alleged  
99 underpayment to provide the department any written objection to the results of any assessment  
100 review or audit, including any substantiating documentation. Based on this exchange of  
101 information, the department shall make a final determination of the underpayment(s), if any,  
102 within 30 days of the commercial data collector's objection and shall provide the collector with  
103 written notice of the determination.

104 (d) Any additional assessments due to the commonwealth as a result of the review or  
105 audit shall be paid to the department by the commercial data collector within 45 days from the  
106 date of written notification of the final decision. If the review or audit shows that amounts have  
107 been underpaid, then the commercial data collector shall pay the underpaid amount plus  
108 monetary fines equal to 10 per cent of the underpayment.

109 (e) A commercial data collector adversely affected by any final action, or failure to act, of  
110 the department that is inconsistent with this section may, within 30 days after such action or

111 failure to act, commence an action in any court of competent jurisdiction within the  
112 Commonwealth. The court shall hear and decide such action on an expedited basis.

113 Section 5. Judicial Remedy

114 (a) In accordance with section 1 of chapter 12, the Attorney General is authorized to  
115 enforce this chapter. The Attorney General may, within 7 years, bring an action to recover any  
116 unpaid assessments and monetary penalties, or enjoin the operations of any non-compliant entity,  
117 in any court of competent jurisdiction.

118 (b) Any community media center adversely impacted by the action, or failure to act, of  
119 any commercial data collector under this chapter, may, within 7 years, bring an action to recover  
120 any unpaid assessments and monetary penalties, or enjoin the operations of any non-compliant  
121 entity, in any court of competent jurisdiction.

122 Section 6. Taxpayers

123 For the purposes of this chapter, the following shall apply to taxpayers:

124 There shall be a rebuttable presumption that a consumer whose information on record  
125 with or available to a commercial data collector indicates a Massachusetts home address, a  
126 Massachusetts mailing address, or an internet protocol address connected with a Massachusetts  
127 location is a Massachusetts consumer. The presumption may be rebutted by evidence that a  
128 consumer's primary residence is outside of Massachusetts.

129 A Massachusetts consumer shall be counted only once in the calculation of the monthly  
130 tax imposed on a commercial data collector.



131 Business entities having common ownership as defined in section 1563(A) of the federal  
132 internal revenue code shall be treated as a single taxpayer for the purposes of meeting the  
133 definition of commercial data collector under this chapter. The entities constituting the single  
134 taxpayer are jointly and severally liable for any tax due.

135 The single member of a single member limited liability company shall be treated as a  
136 consumer under this chapter.

### 137 Section 7. Revenue Distribution

138 90 per cent of amounts collected pursuant to this chapter shall be credited to the Mental  
139 Health Resilience fund as established by section 2RRRRR of chapter 29.

140 10 per cent of amounts collected pursuant to this chapter shall be distributed to  
141 community media centers in the commonwealth and further allocated proportionally based upon  
142 population.

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

### 145 Section 2RRRRR. Mental Health Resilience Fund

146 There shall be a mental health resilience fund which shall be administered by the  
147 department of mental health with the objective of developing innovative strategies for improving  
148 the mental health of all residents within the commonwealth. Notwithstanding any general or  
149 special laws to the contrary, the following amounts shall be credited to the fund: 90 per cent of  
150 the amounts collected pursuant to chapter 64O, any appropriations, grants, gifts or other monies  
151 authorized by the general court or other parties and specifically designated to be credited to the

152 fund, and any income derived from the investment of amounts credited to the fund. All amounts  
153 credited to the fund shall be used without further appropriation to accomplish the objective of the  
154 fund. Initiatives to accomplish the objective of the fund may include, but shall not be limited to:

155         Developing innovative strategies to provide recreational alternatives to social media  
156 usage for commonwealth residents, particularly youth;

157         Developing innovative strategies to increase the number of mental health providers in the  
158 commonwealth and achieving the goal of mental health provider availability for all  
159 commonwealth residents;

160         Mental health staff providing supports to summer camps and afterschool programs; and

161         Providing in-home therapy to children in crisis.

162         No expenditure from the fund shall cause the fund to be in deficiency at the close of a  
163 fiscal year. Monies deposited in the fund that are unexpended at the end of the fiscal year shall  
164 not revert to the General Fund and shall be available for expenditure in the subsequent year. The  
165 fund shall be exempt from the indirect and fringe benefits that would otherwise be assessed  
166 pursuant to this chapter.

167         SECTION 3. This act shall take effect upon its passage.