

**SENATE . . . . . No. 1936**

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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 promoting net neutrality and consumer protection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/28/2019</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>1/30/2019</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>	<i>1/31/2019</i>

**SENATE . . . . . No. 1936**

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By Ms. Creem, a petition (accompanied by bill, Senate, No. 1936) of Cynthia Stone Creem, Joanne M. Comerford, Harriette L. Chandler and Carlos Gonzalez for legislation to promote net neutrality and consumer protection. Telecommunications, Utilities and Energy.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2610 OF 2017-2018.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
\_\_\_\_\_

An Act promoting net neutrality and consumer protection.

*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. Chapter 7 of the General Laws, as appearing in the 2016 official edition, is  
2 hereby amended by inserting after section 23B the following section:-

3 Section 23C. Notwithstanding any general or special law relating to procurement, and to  
4 the extent permitted by federal law, a state agency or state authority, as defined in section 1 of 5  
5 chapter 29, shall establish a preference for the procurement of internet service from an internet  
6 service provider, as defined in section 9 of chapter 25C, that meets or exceeds the standards  
7 established under subsection (e) of section 9 of chapter 25C.

8 SECTION 2. Section 11E of chapter 12 of the General Laws, as appearing in the 2016  
9 Official Edition, is hereby amended by inserting after the words “transmission company”, in line  
10 7, the following words:- , internet service provider.

11 SECTION 3. Chapter 25C of the General Laws is hereby amended by adding the  
12 following section:-

13 Section 9. (a) As used in this section, the following words shall have the following  
14 meanings, unless the context clearly requires otherwise:

15 “Broadband internet access service”, a mass-market retail service by wire or radio that  
16 provides the capability to transmit data to and receive data from all or substantially all internet  
17 endpoints, including capabilities that are incidental to and enable the operation of the service, but  
18 excluding dial-up internet access service.

19 “Customer”, a current or former subscriber to a broadband internet access service in the  
20 commonwealth or an applicant for an internet service in the commonwealth.

21 “Customer proprietary information”, personal information of a customer, including, but  
22 not limited to, financial information, health information, information pertaining to a child of the  
23 customer who is under the age of 18, Social Security number, precise geolocation information,  
24 driver’s license number or state-issued identification card number, content of communications,  
25 web browsing history, application usage history, the functional equivalents of web browsing or  
26 application usage history and any information, including metadata and de-identified data, that is  
27 linked, or reasonably may be linked, to a specific customer or device.

28 “Internet service provider”, a person who provides broadband internet access service to  
29 customers in the commonwealth.

30 “Paid prioritization”, the management of a broadband provider’s network to favor, either  
31 directly or indirectly, certain traffic over other traffic, which may include, but shall not be limited  
32 to, the use of techniques such as traffic shaping, prioritization, resource reservation or other  
33 forms of preferential traffic management, either: (i) in exchange for consideration, monetary or  
34 otherwise, from a third party; or (ii) to benefit an affiliated entity.

35 (b) There shall be an internet service provider registry to make broadband internet access  
36 service quality and network management practices readily available to customers in the  
37 commonwealth. The department shall compile for the registry information disclosed by internet  
38 service providers in the commonwealth pursuant to this section and from the verification tests  
39 conducted pursuant to this section. The department shall organize the registry in a format that is  
40 conducive to review and comparison by customers and prospective customers of internet service.  
41 The registry shall be available on the department’s website and shall include net neutrality and  
42 consumer privacy grades under subsection (f) in 1 comparison chart for fixed line internet  
43 service providers and 1 comparison chart for wireless internet service providers. The department  
44 shall provide the information in the registry upon request.

45 (c) Annually, not later than October 1, all internet service providers shall file current and  
46 46 accurate copies of the following disclosures with the department: (i) the internet service  
47 provider’s network management practices, performance characteristics and commercial terms of  
48 its broadband internet access services under 47 C.F.R. 8.1; and (ii) the internet service provider’s

49 privacy policy under the California Business and Professions Code §§ 22575 to 22579, if  
50 applicable.

51 (d) The department shall conduct regular verification tests on its own or through a third  
52 party to determine the accuracy of the disclosures made by each internet service provider under  
53 subsection (c).

54 (e) The department shall establish standards for a Massachusetts Net Neutrality and  
55 Consumer Privacy Seal that shall allow an internet service provider to demonstrate that it: (i)  
56 provides equal access to an open and neutral internet; (ii) commits to and enforces policies which  
57 prohibit paid prioritization; and (iii) provides customers with a mechanism to easily opt-out of  
58 third-party access to customer proprietary information for purposes other than the provision of  
59 broadband internet access service from which that customer proprietary information was derived.  
60 Annually, not later than July 1, the department shall publish standards to measure the network  
61 management practices of each internet service provider. The department shall determine whether  
62 each internet service provider meets the standards established under this subsection. An internet  
63 service provider that meets the standards may display the Massachusetts Net Neutrality and  
64 Consumer Privacy Seal on its marketing materials. Use of the Massachusetts Net Neutrality and  
65 Consumer Privacy Seal while not in compliance with the standards set forth by the department  
66 shall be considered a deceptive practice under chapter 93A.

67 (f) Based on the standards established in subsection (e), the department shall grade  
68 internet service providers on the provider's internet service quality, policies on paid  
69 prioritization, network management practices and consumer privacy practices. The highest

70 grades shall be given to an internet service provider who meets or exceeds the standards of net  
71 neutrality and consumer privacy under subsection (e).

72 (g) An internet service provider that conducts business in the commonwealth shall  
73 disclose to each customer its net neutrality and consumer privacy grade before entering into an  
74 agreement for service and annually thereafter, and shall provide the customer with the website  
75 and phone number for the registry. Failure to disclose a net neutrality and consumer privacy  
76 score as required by this section shall be considered a deceptive practice under chapter 93A.

77 (h) Nothing in this section shall preclude or limit an action brought under chapter 93A or  
78 any other law.

79 (i) Notwithstanding any other section of chapter 25C or any other general or special law  
80 to the contrary, the department shall have jurisdiction, general supervision, regulation and  
81 control over an internet service provider's compliance with this section.

82 (j) The department shall promulgate regulations to implement this section.

83 SECTION 4. Section 47E of chapter 164 of the General Laws, as appearing in the 2016  
84 84 Official Edition, is hereby amended by inserting after the word "system", in line 6, the  
85 following words:- , including, but not limited to, internet access and wireless internet access,

86 SECTION 5. The department of telecommunications and cable shall promulgate the 87  
87 regulations required under to implement section 9 of chapter 25C of the General Laws, as 88  
88 appearing in section 2, not later than July 1, 2022.

89 SECTION 6. Section 3 shall take effect on December 31, 2022.