AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS -- THE NET NEUTRALITY PROTECTION ACT OF 2018

Introduced By: Representatives Regunberg, O'Grady, Ruggiero, Ajello, and Filippi

Date Introduced: February 02, 2018

Referred To: House Corporations

It is enacted by the General Assembly as follows:

SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND CARRIERS" is hereby amended by adding thereto the following chapter:

CHAPTER 19.1

THE NET NEUTRALITY PROTECTION ACT OF 2018


In the course of its regular obligations, a state or municipality may be involved in the purchase and/or funding of broadband Internet access services.

Specifically, the state or municipality may purchase Internet access services as the direct end user of those services, such as when it purchases them for use by government employees at a state or municipal agency. The state or municipality may also purchase Internet access services for the benefit of nongovernmental end users, such as through the provision of public Wi-Fi access or Internet access services at a public school or library. Finally, the state or municipality may provide grant funds to a public-benefit entity, such as a local nonprofit, so it may purchase Internet access services for its own employees and/or clients. In each instance, a state or municipality's objectives as the direct purchaser or funder of such Internet access services cannot be achieved where those access services are provided in a biased manner; to wit, the Internet access service provider may unilaterally decide to favor certain Internet content over other content. Such content discrimination risks impeding the end users of the state or municipality...
purchased or funded Internet access services from receiving full, fair, accurate, and equal access
to all Internet content, from which they can arrive at independent decisions as to what information
they favor.

Internet access services that fail to provide unbiased access to the Internet, through a
commitment to the net neutrality principals detailed below, fall far short of satisfying the state or
municipality's interests in purchasing or funding such services.

The purpose of this chapter is to ensure that any Internet access services purchased or
funded by the state or municipality are provided in an unbiased manner, consistent with net
neutrality principles, so as to meet the state or municipality's minimum standards as the purchaser
or funder of such services.


(1) "Broadband Internet access service" shall mean a mass-market retail service by wire
or radio that provides the capability to transmit data to and receive data from all or substantially
all Internet endpoints, including any capabilities that are incidental to and enable the operation of
the communications service, but excluding dial-up Internet access service. This term also
encompasses any service that the commission finds to be providing a functional equivalent of the
service described in the previous sentence, or that is used to evade the protections set forth in this
chapter.

(2) "Content, applications, and services" shall mean all traffic transmitted to or from end
users of a broadband Internet access service, including traffic that may not fit clearly into any of
these categories.

(3) "Edge provider" shall mean any person or entity that provides any content,
application, or service over the Internet, and any person or entity that provides a device used for
accessing any content, application, or service over the Internet.

(4) "End user" shall mean any person or entity that uses a broadband Internet access
service.

(5) "Fixed broadband Internet access service" shall mean a broadband Internet access
service that serves end users primarily at fixed endpoints using stationary equipment. Fixed
broadband Internet access service includes fixed wireless services (including fixed unlicensed
wireless services), and fixed satellite services.

(6) "Mobile broadband Internet access service" shall mean a broadband Internet access
service that serves end users primarily using mobile stations.
(7) “Paid prioritization” shall mean the management of a broadband Internet access service provider’s network to directly or indirectly favor some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either (i) in exchange for consideration (monetary or otherwise) from a third party, or (ii) to benefit an affiliated entity.

(8) “Reasonable network management” shall mean a network management practice is a practice that has a primarily technical network management justification, but does not include other business practices. A network management practice is reasonable if it is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access services.

39-19.1-3. Prohibition on purchasing or funding biased broadband Internet access services.

Except as otherwise prohibited by law, neither the state or a municipality, nor any agency or subdivisions thereof, shall:

(1) Purchase any fixed or mobile broadband Internet access services that are not in full compliance with the provisions of this chapter; or

(2) Provide funding for the purchase of any fixed or mobile broadband Internet access services that are not in full compliance with the provisions of this chapter.


A person or entity engaged in the provision of fixed or mobile broadband Internet access services purchased or funded by the state or a municipality shall publicly disclose accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services sufficient for end users of those purchased or funded services, including the state or a municipality, to fully and accurately ascertain if the service is in compliance with the provisions of this chapter.


A person or entity engaged in the provision of fixed or mobile broadband Internet access services purchased or funded by the state or municipality, insofar as such person or entity is so engaged, shall not block lawful content, applications, services, or non-harmful devices, subject to reasonable network management.


A person or entity engaged in the provision of fixed or mobile broadband Internet access services purchased or funded by the state or municipality, insofar as such person or entity is so engaged, shall not impair or degrade lawful Internet traffic on the basis of Internet content.
application, or service, or use of a non-harmful device, subject to reasonable network
management.

A person or entity engaged in the provision of fixed or mobile broadband Internet access
services purchased or funded by the state or municipality, insofar as such person or entity is so
engaged, shall not engage in paid prioritization. The state or municipality may waive the ban on
paid prioritization as to a particular purchased or funded Internet access services only if the
petitioner demonstrates that the practice would provide some significant public interest benefit
and would not harm the open nature of the provided Internet access services.

Any person or entity engaged in the provision of fixed or mobile broadband Internet
access services purchased or funded by the state or municipality, insofar as such person or entity
is so engaged, shall not unreasonably interfere with or unreasonably disadvantage end users'
ability to select, access, and use broadband Internet access service or the lawful Internet content,
applications, services, or devices of their choice, or edge providers' ability to make lawful
content, applications, services, or devices available to end users. Reasonable network
management shall not be considered a violation of this rule.

Nothing in this chapter supersedes any obligation or authorization a provider of fixed or
mobile broadband Internet access service may have to address the needs of emergency
communications or law enforcement, public safety, or national security authorities, consistent
with or as permitted by applicable law, or limits the provider's ability to do so. Nothing in this
chapter prohibits reasonable efforts by a fixed or mobile provider of broadband Internet access
service to address copyright infringement or other unlawful activity.

Notwithstanding the provisions of this chapter, it shall not be a violation of this chapter
for the state or municipality, or an agency or subdivisions thereof, to purchase or fund fixed
broadband Internet access services in a geographic location where such services are only
available from a single broadband Internet access service provider.

The provisions in this chapter are severable. If any part or provision of this chapter, or the
application of this chapter to any person or circumstance, is held invalid, the remainder of this
chapter, including the application of such part or provisions to other persons or circumstances,
shall not be affected by such holding and shall continue to have force and effect.
SECTION 2. This act shall take effect upon passage.
This act would establish the Net Neutrality Protection Act of 2018, prohibiting unreasonable interference with or unreasonably disadvantaging end users' ability to select, access, and use broadband Internet access service or the lawful Internet content, applications, services, or devices of their choice, or edge providers' ability to make lawful content, applications, services, or devices available to end users.

This act would take effect upon passage.