
SUBSTITUTE HOUSE BILL 2284

State of Washington

65th Legislature

2018 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Smith, Cody, Tarleton, DeBolt, Springer, Santos, McBride, Chapman, Wylie, Fitzgibbon, Peterson, Morris, Stonier, Kagi, Senn, Kirby, Stanford, Blake, Reeves, Kilduff, Clibborn, Macri, Pettigrew, Orcutt, Stambaugh, Ormsby, Ryu, Hayes, Pollet, Doglio, Ortiz-Self, Riccelli, McDonald, Jinkins, and Gregerson)

READ FIRST TIME 01/29/18.

1 AN ACT Relating to protecting consumers by prohibiting blocking,
2 throttling, or paid prioritization in the provision of internet
3 service in Washington state; adding a new chapter to Title 19 RCW;
4 and providing a contingent effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) Any person providing broadband
7 internet access service in Washington state shall publicly disclose
8 accurate information regarding the network management practices,
9 performance characteristics, and commercial terms of its broadband
10 internet access services sufficient to enable consumers to make
11 informed choices regarding the purchase and use of such services and
12 entrepreneurs and other small businesses to develop, market, and
13 maintain internet offerings. The disclosure must be made via a
14 publicly available, easily accessible web site.

15 (2) A person engaged in the provision of broadband internet
16 access service in Washington state, insofar as the person is so
17 engaged, may not:

18 (a) Block lawful content, applications, services, or nonharmful
19 devices, subject to reasonable network management;

1 (b) Impair or degrade lawful internet traffic on the basis of
2 internet content, application, or service, or use of a nonharmful
3 device, subject to reasonable network management; or

4 (c) Engage in paid prioritization.

5 (3) Nothing in this chapter:

6 (a) Supersedes any obligation or authorization a provider of
7 broadband internet access service may have to address the needs of
8 emergency communications or law enforcement, public safety, or
9 national security authorities, consistent with or as permitted by
10 applicable law, or limits the provider's ability to do so; or

11 (b) Prohibits reasonable efforts by a provider of broadband
12 internet access service to address copyright infringement or other
13 unlawful activity.

14 (4) The definitions in this subsection apply throughout this
15 section unless the context clearly requires otherwise.

16 (a)(i) "Broadband internet access service" means a mass-market
17 retail service by wire or radio that provides the capability to
18 transmit data to and receive data from all or substantially all
19 internet endpoints, including any capabilities that are incidental to
20 and enable the operation of the communications service, but excluding
21 dial-up internet access service.

22 (ii) "Broadband internet access service" also encompasses any
23 service that the federal communications commission finds to be
24 providing a functional equivalent of the service described in (a)(i)
25 of this subsection, or that is used to evade the protections set
26 forth in this section.

27 (b) "Edge provider" means any individual or entity that provides
28 any content, application, or service over the internet, and any
29 individual or entity that provides a device used for accessing any
30 content, application, or service over the internet.

31 (c) "End user" means any individual or entity that uses a
32 broadband internet access service.

33 (d)(i) "Paid prioritization" means the management of a broadband
34 provider's network to directly or indirectly favor some traffic over
35 other traffic, including through the use of techniques such as
36 traffic shaping, prioritization, resource reservation, or other forms
37 of preferential traffic management, either:

38 (A) In exchange for consideration, monetary or otherwise, from a
39 third party; or

40 (B) To benefit an affiliated entity.

1 (ii) "Paid prioritization" does not include the provision of
2 tiered internet access service or offerings to a retail end user.

3 (e) "Reasonable network management" means a practice that has a
4 primarily technical network management justification, but does not
5 include other business practices. A network management practice is
6 reasonable if it is primarily used for and tailored to achieving a
7 legitimate network management purpose, taking into account the
8 particular network architecture and technology of the broadband
9 internet access service.

10 (f) "Tiered internet access service" means offering end users a
11 choice between different packages of service with clearly advertised
12 speeds, prices, terms, and conditions; for example, a ten megabit
13 service for one price and a fifty megabit service for a different
14 price.

15 NEW SECTION. **Sec. 2.** (1) The legislature finds that the
16 practices covered by this chapter are matters vitally affecting the
17 public interest for the purpose of applying the consumer protection
18 act, chapter 19.86 RCW. A violation of this chapter is not reasonable
19 in relation to the development and preservation of business and is an
20 unfair or deceptive act in trade or commerce and an unfair method of
21 competition for the purpose of applying the consumer protection act,
22 chapter 19.86 RCW.

23 (2) This chapter may be enforced solely by the attorney general
24 under the consumer protection act, chapter 19.86 RCW.

25 NEW SECTION. **Sec. 3.** The internet consumer access account is
26 created in the state treasury. All receipts from recoveries by the
27 office of the attorney general for lawsuits related to the consumer
28 protection act under the provisions of this chapter, or otherwise
29 designated to this account, must be deposited into the account.
30 Moneys in the account may be spent only after appropriation.
31 Expenditures from the account may be used only for costs incurred by
32 the office of the attorney general in the administration and
33 enforcement of this chapter.

34 NEW SECTION. **Sec. 4.** (1) This act takes effect on the later of
35 the following:

36 (a) Ninety days after adjournment of the legislative session in
37 which this act is passed; or

1 (b) The date the federal communications commission's restoring
2 internet freedom order (FCC 17-166) as issued on January 4, 2018,
3 takes effect.

4 (2) The utilities and transportation commission must provide
5 notice of the effective date of this act to affected parties, the
6 chief clerk of the house of representatives, the secretary of the
7 senate, the office of the code reviser, and others as deemed
8 appropriate by the utilities and transportation commission.

9 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act
10 constitute a new chapter in Title 19 RCW.

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