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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-3295.1/18

ATTY/TYPIST: ML:akl

BRIEF DESCRIPTION: Protecting consumers by prohibiting blocking, throttling, or paid prioritization in the provision of internet service in Washington state.

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; and adding a new chapter to Title 19  
4 RCW.

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

6 NEW SECTION. **Sec. 1.** (1) A person engaged in the provision of  
7 broadband internet access service in Washington state, insofar as the  
8 person is so engaged, may not:

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

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

14 (c) Engage in paid prioritization.

15 (2) The utilities and transportation commission may waive the  
16 prohibition on paid prioritization in subsection (1)(c) of this  
17 section only if the petitioner demonstrates that the practice would  
18 provide some significant public interest benefit and would not harm  
19 the open nature of the internet in Washington state.

20 (3) The definitions in this subsection apply throughout this  
21 section unless the context clearly requires otherwise.

1 (a)(i) "Broadband internet access service" means a mass-market  
2 retail service by wire or radio that provides the capability to  
3 transmit data to and receive data from all or substantially all  
4 internet endpoints, including any capabilities that are incidental to  
5 and enable the operation of the communications service, but excluding  
6 dial-up internet access service.

7 (ii) "Broadband internet access service" also encompasses any  
8 service that the federal communications commission finds to be  
9 providing a functional equivalent of the service described in (a)(i)  
10 of this subsection, or that is used to evade the protections set  
11 forth in this section.

12 (b) "Paid prioritization" means the management of a broadband  
13 provider's network to directly or indirectly favor some traffic over  
14 other traffic, including through the use of techniques such as  
15 traffic shaping, prioritization, resource reservation, or other forms  
16 of preferential traffic management, either:

17 (i) In exchange for consideration (monetary or otherwise) from a  
18 third party; or

19 (ii) To benefit an affiliated entity.

20 (c) "Reasonable network management" means a practice that has a  
21 primarily technical network management justification, but does not  
22 include other business practices. A network management practice is  
23 reasonable if it is primarily used for and tailored to achieving a  
24 legitimate network management purpose, taking into account the  
25 particular network architecture and technology of the broadband  
26 internet access service.

27 NEW SECTION. **Sec. 2.** (1) The legislature finds that the  
28 practices covered by this chapter are matters vitally affecting the  
29 public interest for the purpose of applying the consumer protection  
30 act, chapter 19.86 RCW. A violation of this chapter is not reasonable  
31 in relation to the development and preservation of business and is an  
32 unfair or deceptive act in trade or commerce and an unfair method of  
33 competition for the purpose of applying the consumer protection act,  
34 chapter 19.86 RCW.

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

37 NEW SECTION. **Sec. 3.** The internet consumer access account is  
38 created in the state treasury. All receipts from recoveries by the

1 office of the attorney general for lawsuits related to the consumer  
2 protection act under the provisions of this chapter, or otherwise  
3 designated to this account, must be deposited into the account.  
4 Moneys in the account may be spent only after appropriation.  
5 Expenditures from the account may be used only for costs incurred by  
6 the office of the attorney general in the administration and  
7 enforcement of this chapter.

8 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act  
9 constitute a new chapter in Title 19 RCW.

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