

# STATE OF NEW YORK

8882

2017-2018 Regular Sessions

## IN ASSEMBLY

December 22, 2017

Introduced by M. of A. FAHY, MORELLE, BARRETT, ORTIZ, MAGNARELLI --  
Multi-Sponsored by -- M. of A. McDONALD -- read once and referred to  
the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law and the state finance law, in  
relation to instituting internet service neutrality

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The article heading of article 11 of the public service  
2 law, as added by chapter 83 of the laws of 1995, is amended to read as  
3 follows:

PROVISIONS RELATING TO CABLE TELEVISION AND INTERNET  
SERVICE COMPANIES

6 § 2. Section 212 of the public service law is amended by adding a new  
7 subdivision 15 to read as follows:

8 15. "Internet service provider" shall mean any person, business or  
9 organization qualified to do business in this state, including municipal  
10 broadband providers, that provides individuals, corporations, or other  
11 entities with the ability to connect to the internet.

12 § 3. The section heading of section 215 of the public service law, as  
13 added by chapter 83 of the laws of 1995, is amended and a new subdivi-  
14 sion 14 is added to read as follows:

15 Duties of the commission in respect to cable television and internet  
16 service companies.

17 14. Develop and maintain a statewide plan for the monitoring of inter-  
18 net service providers, including the annual certification that internet  
19 service providers comply with the internet service neutrality require-  
20 ments established in section two hundred thirty-one of this article.

21 § 4. The state finance law is amended by adding a new section 148 to  
22 read as follows:

23 § 148. Internet service neutrality requirements in certain procurement  
24 contracts. Notwithstanding any other provision of law to the contrary,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 where a contract that includes internet connection services is to be  
2 awarded by a state agency, public authority or municipality pursuant to  
3 a competitive bidding process or a request for proposal process, such  
4 competitive bidding process or request for proposal and the subsequent  
5 awarded contract shall require that such internet connection services  
6 are compliant with the internet service neutrality requirements estab-  
7 lished in section two hundred thirty-one of the public service law.

8 § 5. The public service law is amended by adding a new section 231 to  
9 read as follows:

10 § 231. Internet service neutrality. 1. For purposes of this section,  
11 "reasonable network management" shall mean a network management practice  
12 is a practice that has a primarily technical network management justi-  
13 fication, but does not include other business practices. A network  
14 management practice is reasonable if it is primarily used for and  
15 tailored to achieving a legitimate network management purpose, taking  
16 into account the particular network architecture and technology of the  
17 broadband internet access service.

18 2. The commission shall certify annually that any internet service  
19 provider qualified to do business in this state, does not:

20 (a) block lawful content, applications, services, or non-harmful  
21 devices, subject to reasonable network management.

22 (b) impair or degrade lawful internet traffic on the basis of internet  
23 content, application, or service, or use of a non-harmful device,  
24 subject to reasonable network management.

25 (c) engage in paid prioritization, including, but not limited to,  
26 traffic shaping, prioritization, resource reservation, or other forms of  
27 preferential traffic management, either (i) in exchange for consider-  
28 ation (monetary or otherwise) from a third party, or (ii) to benefit an  
29 affiliated entity.

30 § 6. This act shall take effect on the thirtieth day after it shall  
31 have become a law.