

# STATE OF NEW YORK

8882--A

2017-2018 Regular Sessions

## IN ASSEMBLY

December 22, 2017

Introduced by M. of A. FAHY, MORELLE, BARRETT, ORTIZ, MAGNARELLI, GOTTFRIED, ENGLEBRIGHT, THIELE, SIMON, D'URSO, GLICK, LUPARDO, JAFFEE, ZEBROWSKI, SANTABARBARA, COLTON, CAHILL, JENNE, GALEF, MOSLEY, ARROYO, SEAWRIGHT, PICHARDO, LIFTON, TITONE, BRABENEC, BRINDISI, DINOWITZ, VANEL, STIRPE, L. ROSENTHAL, STECK, ABINANTI -- Multi-Sponsored by -- M. of A. CROUCH, HOOPER, McDONALD -- read once and referred to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 Assembly, do enact as follows:

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

PROVISIONS RELATING TO CABLE TELEVISION AND INTERNET  
SERVICE COMPANIES

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

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

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

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

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

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

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

7 § 148. Internet service neutrality requirements in certain procurement  
8 contracts. Notwithstanding any other provision of law to the contrary,  
9 where a contract that includes internet connection services is to be  
10 awarded by a state agency, public authority, public library or municipal  
11 corporation as defined in subdivision two of section sixty-six of the  
12 general construction law pursuant to a competitive bidding process or a  
13 request for proposal process, such competitive bidding process or  
14 request for proposal and the subsequent awarded contract shall require  
15 that such internet connection services are compliant with the internet  
16 service neutrality requirements established in section two hundred thir-  
17 ty-one of the public service law.

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

20 § 231. Internet service neutrality. 1. For purposes of this section,  
21 "reasonable network management" shall mean a network management practice  
22 is a practice that has a primarily technical network management justi-  
23 fication, but does not include other business practices. A network  
24 management practice is reasonable if it is primarily used for and  
25 tailored to achieving a legitimate network management purpose, taking  
26 into account the particular network architecture and technology of the  
27 broadband internet access service.

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

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

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

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

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