

STATE OF NEW YORK

8882--B

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, RICHARDSON, WRIGHT, WALLACE -- 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 -- again reported from said committee with amendments, 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 broadband internet access services is to
10 be awarded by a state agency as defined in section one hundred sixty of
11 this chapter or any state or local authority as such terms are defined
12 in section two of public authorities law, municipal corporation as
13 defined in section two of the general municipal law, public library or
14 association library, as such terms are defined in section two hundred
15 fifty-three of the education law, the legislature, judiciary, state
16 university of New York, or city university of New York pursuant to a
17 competitive bidding process or a request for proposal process, such
18 competitive bidding process or request for proposal and the subsequent
19 awarded contract shall require that such broadcast internet access
20 services are compliant with the internet service neutrality requirements
21 established in section two hundred thirty-one of the public service law.
22 Provided, however, the entity awarding such contract may award such
23 contract to any broadband internet service provider that is not certi-
24 fied by the public service commission pursuant to subdivision two of
25 section two hundred thirty-one of the public service law only if such
26 entity demonstrates to the public service commission that either (i)
27 there are no other broadband internet service providers available to
28 contract with, or (ii) awarding such contract to a certified broadband
29 internet service provider would result in a significant financial hard-
30 ship when compared to awarding the contract to a broadband internet
31 service provider not certified by the public service commission.

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

34 § 231. Internet service neutrality. 1. For purposes of this section,
35 "reasonable network management" shall mean a network management practice
36 is a practice that has a primarily technical network management justi-
37 fication, but does not include other business practices. A network
38 management practice is reasonable if it is primarily used for and
39 tailored to achieving a legitimate network management purpose, taking
40 into account the particular network architecture and technology of the
41 broadband internet access service.

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

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

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

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

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