

JAN 19 2018

A BILL FOR AN ACT

RELATING TO BROADBAND SERVICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it is essential to
2 ensure that people can access websites and information freely
3 and fairly over the Internet, which provides worldwide
4 communication and a platform for a global marketplace where even
5 the smallest businesses can participate. In 2015, the Federal
6 Communications Commission adopted strong rules and regulations
7 to protect internet users, as all content over the internet was
8 treated equally and without preferential treatment. However,
9 the more recent Federal Communications Commission's ruling to
10 repeal net neutrality deregulates the internet service industry,
11 jeopardizing the future of access to websites and information
12 and creating an environment that could allow internet service
13 providers the opportunity to limit or prioritize certain access
14 to information at their discretion.

15 The purpose of this Act is to ensure that the Internet
16 remains free and open in the State by:



- (1) Requiring providers of broadband internet access services to be transparent with network management practices, performance, and commercial terms of its broadband internet access services; and
- (2) Prohibiting providers of broadband internet access services from:
- (A) Blocking lawful websites;
 - (B) Impairing or degrading lawful internet traffic;
 - (C) Engaging in paid prioritization; or
 - (D) Unreasonably interfering with or unreasonably disadvantaging users of broadband internet access services.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

BROADBAND INTERNET ACCESS SERVICE

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

"Broadband internet access service" means a mass-market retail service, including any service that the Federal



1 Communications Commission finds to be functionally equivalent,
2 by wire or radio that provides the capability to transmit data
3 to and receive data from all or substantially all internet
4 endpoints, including any capabilities that are incidental to and
5 enable the operation of the communications service, but
6 excluding dial-up internet access service.

7 "Edge provider" means any individual or entity that
8 provides any content, application, or service over the Internet,
9 and any individual or entity that provides a device used for
10 accessing any content, application, or service over the
11 Internet.

12 "End user" means any individual or entity that uses a
13 broadband internet access service.

14 "Mobile broadband internet access service" means a
15 broadband internet access service that serves end users
16 primarily using mobile stations.

17 "Paid prioritization" means the management of a broadband
18 provider's network to directly or indirectly favor some traffic
19 over other traffic, including through the use of techniques such
20 as traffic shaping, prioritization, resource reservation, or
21 other forms of preferential traffic management, either:



(1) In exchange for consideration, monetary or otherwise,
from a third party; or

(2) To benefit an affiliated entity.

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

**§ -2 Broadband internet access service; disclosure;
protections.** (a) A person engaged in the provision of
broadband internet access service in the State shall publicly
disclose accurate information regarding the network management
practices, performance, and commercial terms of its broadband
internet access services sufficient for consumers to make
informed choices regarding use of such services and for content,
application, service, and device providers to develop, market,
and maintain internet offerings.



(b) A person engaged in the provision of broadband internet access service in the State, insofar as such a person is so engaged, shall not:

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

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

(3) Engage in paid prioritization; or

(4) Unreasonably interfere with or unreasonably disadvantage:

(A) End users' ability to select, access, and use broadband internet access service or the lawful internet content, applications, services, or devices of their choice; or

(B) Edge providers' ability to make lawful content, applications, services, or devices available to end users;




S.B. NO. 2088

1 provided that the prohibition on paid prioritization pursuant to
 2 paragraph (3) of this subsection may be permitted if a
 3 petitioner demonstrates that the practice would provide some
 4 significant public interest benefit and would not harm the open
 5 nature of the Internet in the State."

6 SECTION 3. This Act shall take effect upon its approval.
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S.B. NO. 2088

Report Title:

Broadband Internet Access Service; Protections; Net Neutrality

Description:

Requires a provider of broadband internet access services to be transparent with network management practices, performance, and commercial terms of its broadband internet access services. Prohibits a provider of broadband internet access services from blocking lawful websites, impairing or degrading lawful internet traffic, engaging in paid prioritization, or interfering with or disadvantaging users of broadband internet access services.

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