LEGISLATURE OF THE STATE OF IDAHO
Sixty-fourth Legislature Second Regular Session - 2018

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 425

BY JORDAN

AN ACT

RELATING TO INTERNET SERVICE PROVIDERS; PROVIDING LEGISLATIVE INTENT;
AMENDING TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE
61, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE DUTIES OF INTERNET SERVICE
PROVIDERS, TO PROVIDE REQUIRED DISCLOSURE OF INFORMATION, TO PROVIDE
FOR UNLAWFUL ACTS AND TO PROVIDE EXCEPTIONS; AND AMENDING SECTION
62-616A, IDAHO CODE, TO PROVIDE THAT A TELEPHONE CORPORATION AND ANY
COMMUNICATIONS PROVIDER IT CONTRACTS WITH SHALL ENSURE THAT ALL INTER-
NET SERVICE IT OFFERS AND ALL INTERNET SERVICE PROVIDERS IT HOSTS OR
ACCOMMODATES MEET CERTAIN STANDARDS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature
that:
(1) The Internet enables users to communicate with one another with
unprecedented speed and efficiency and has dramatically changed how people
share and receive information. It is also a means of diverse and democratic
political communication and is the marketplace of ideas. In many ways,
Internet rights are civil rights. The digital and Internet revolution has
provided the most diverse, democratic, interactive, and participatory com-
 munications system that people have ever experienced. For Idahoans, the
Internet deserves as much First Amendment protection as traditional media.
The role of government should be to maintain this unique and vast free speech
zone.

(2) The Internet is one of the most important components of commerce in
the state. Internet access and commerce not only provide for online access
to business customers, but also provide a viable means for new businesses to
compete against other established businesses. The open Internet guarantees
that new and innovative businesses can and will provide products or services
without interference or restriction from competitors that are affiliated or
contract with Internet service providers. The Internet has provided small
businesses the ability to market products or services to customers or con-
sumers in a true global market and has created a means by which to reach in-
ternational audiences at minimal costs. Net neutrality promotes innovation
by preventing large companies from leveraging their market power to restrict
competition from smaller, dynamic, web-based innovator companies;

(3) Net neutrality is the principle that Internet service providers
should treat online data equally by not: (a) discriminating based on user or
content; or (b) limiting or restricting access to certain websites, appli-
cations, or content. Net neutrality is the way that the Internet has always
worked for the majority of Idaho Internet users.
SECTION 2. That Title 61, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 14, Title 61, Idaho Code, and to read as follows:

CHAPTER 14
INTERNET NEUTRALITY

61-1401. DEFINITIONS. As used in this chapter:
(1) "Broadband internet access service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. Broadband internet access service includes any service that provides a functional equivalent of the service described in this chapter or that is used to evade the protections set forth in this chapter.
(2) "Content, applications, and services" means all traffic transmitted to or from end users of a broadband internet access service, including traffic that may not fit clearly into any of these categories.
(3) "Edge provider" means any person or entity that provides any content, application, or service over the internet and any person or entity that provides a device used for accessing any content, application, or service over the internet.
(4) "End user" means any person or entity that uses a broadband internet access service.
(5) "Fixed broadband internet access service" means a broadband internet access service that serves end users primarily at fixed endpoints using stationary equipment. Fixed broadband internet access service includes fixed wireless services, fixed unlicensed wireless services, and fixed satellite services.
(6) "Mobile broadband internet" access service means a broadband internet access service that serves end users primarily using mobile stations.
(7) "Paid prioritization" means the management of a broadband internet access service provider's network to directly or indirectly favor some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either in exchange for monetary or other consideration from a third party or to benefit an affiliated entity.
(8) "Reasonable network management" means a network management 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.

61-1402. INTERNET SERVICE PROVIDER DUTIES. An internet service provider shall not provide any fixed or mobile broadband internet access service that is not in full compliance with this chapter and rules promulgated thereto. An internet service provider that is not a telephone corporation shall file a notice with the commission, which notice shall set forth the following information: the name of the internet service provider and the
address of its principal place of business within the state; a description of the internet services offered by such internet services provider; and the area served by it or in which it offers internet services. Such notice shall be filed on or before January 1 of each year.

61-1403. DISCLOSURE OF INFORMATION. Any internet service provider that provides fixed or mobile broadband internet access service shall publicly disclose accurate information regarding the network management practices, performance, and commercial terms of its broadband internet access service sufficient for users of those services to be able to fully and accurately determine if the service is in compliance with this chapter and rules promulgated pursuant thereto.

61-1404. UNLAWFUL ACTS. (1) An internet service provider that provides fixed or mobile broadband internet access service shall not block lawful content, applications, services, or nonharmful devices, subject to reasonable network management.

(2) An internet service provider that provides fixed or mobile broadband internet access service shall not impair or degrade lawful internet traffic on the basis of content, application, or service or use of a nonharmful device, subject to reasonable network management.

(3) An internet service provider that provides fixed or mobile broadband internet access service shall not engage in paid prioritization. A user of such service may waive the ban on paid prioritization as to a particular broadband internet access service only if the internet service provider demonstrates that the practice would provide some significant public interest benefit and would not harm the open nature of such service.

(4) An internet service provider that provides fixed or mobile broadband internet access service shall not unreasonably interfere with or unreasonably disadvantage: (a) the ability of users of such services to select, access, or use broadband internet access service, lawful content, application, or service, or devices of their choice; or (b) the ability of edge providers to make lawful content, application, service, or devices available to users of such service. Reasonable network management shall not be considered a violation of this section.

61-1405. EXCEPTIONS. Nothing in this chapter supersedes any obligation or authorization or limits the ability of a provider of fixed or mobile broadband internet access service to address the needs of emergency communications or law enforcement, public safety, or national security authorities consistent with or as permitted by applicable law. Nothing in this chapter shall prohibit reasonable efforts by a fixed or mobile provider of broadband internet access service to address copyright infringement or other unlawful activity.

SECTION 3. That Section 62-616A, Idaho Code, be, and the same is hereby amended to read as follows:

62-616A. DUTY OF TELEPHONE COMPANY TO CUSTOMERS RELATING TO UNAUTHORIZED CHARGES BY A THIRD-PARTY SERVICE PROVIDER. (1) If a customer of a telephone corporation, whether subject to the provisions of this chapter or ti-
title 61, Idaho Code, notifies the telephone corporation that an unauthorized charge from a third-party service provider has been included on the telephone customer's bill by the telephone corporation, the telephone corporation shall remove the disputed charge from the bill and shall credit to the customer any amounts for unauthorized charges, whether paid or unpaid, that were billed by the telephone corporation on behalf of the third-party service provider during the period of six (6) months prior to the customer's notification to the telephone corporation that unauthorized charges from a third-party service provider have been included on the telephone corporation customer's bill. Nothing contained herein shall restrict the right of the telephone corporation to recover credited charges from the third-party service provider.

(2) A telephone corporation and any communications provider it contracts with shall ensure that all internet service it offers, or any internet service provider it hosts or accommodates in the provision of its internet service, is in compliance with chapter 14, title 61, Idaho Code, and any rules promulgated pursuant thereto.