
A BILL FOR AN ACT

RELATING TO BROADBAND INTERNET ACCESS.

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

1 PART I

2 SECTION 1. In December 2017, the United States Federal
3 Communications Commission dismantled the previously existing net
4 neutrality rules governing broadband internet service providers.
5 Although the regulations requiring net neutrality have only been
6 in effect since 2015, net neutrality was the position of the
7 federal government for over a decade.

8 The 2015 rules required internet service providers to treat
9 all websites equally. Internet service providers could not use
10 their power over the internet infrastructure to serve their own
11 interests or restrict access to certain information by blocking
12 content or altering the speed at which specific information
13 could be uploaded or downloaded. The net neutrality rules
14 prevented internet service providers from creating choke points
15 for the flow of information between internet users.

16 The end of net neutrality gives rise to legitimate
17 concerns. First, internet service providers will be able to



1 prioritize their profit-seeking interests over individuals'
2 choices regarding the type of information to consume. Second,
3 internet service providers may be able to manipulate
4 individuals' political, social, and economic decision-making by
5 shaping the information that is disseminated for public
6 consumption. Third, internet service providers, with their
7 significant leverage as information gatekeepers, may be able to
8 force higher prices upon both content creators and content
9 consumers in exchange for the transmittal of information.

10 Although the Federal Communications Commission claimed
11 preemptive power over the Internet and stated in its December
12 2017 ruling that state and local governments could not create
13 their own net neutrality rules, states across the nation have
14 pushed back. Lawmakers in California, New York, Massachusetts,
15 Nebraska, Rhode Island, and Washington have introduced bills in
16 their respective state legislatures that would forbid internet
17 service providers from blocking or slowing down internet sites
18 or online services.

19 For example, a Washington representative has introduced a
20 bill in that state's legislature that would authorize the
21 state's attorney general to enforce net neutrality. In



1 addition, the bill prohibits internet service providers from
2 blocking lawful content, applications, services, or non-harmful
3 devices; impairing or degrading traffic on the basis of content,
4 application, service, or use of non-harmful devices, an action
5 known as "throttling" within the internet industry; and favoring
6 some traffic over other traffic in exchange for consideration or
7 benefit for itself or an affiliated company, also known as "paid
8 prioritization."

9 The Internet has become integral to the lives of most
10 individuals and, for some, serves as the primary method of
11 obtaining and sharing information. The end of net neutrality
12 gives internet service providers tremendous influence over what
13 individuals learn, how individuals communicate with each other,
14 and what decisions individuals make. Allowing corporations
15 unfettered discretion to restrict information is antithetical to
16 the free exchange of ideas, which has always been the bedrock of
17 American ideals and Hawaii's political, social, and economic
18 advancement.

19 Therefore, the legislature finds that the Internet should
20 be equal and open to all to ensure that a few corporations do
21 not become the sole arbiters of the information individuals are



1 able to access. Accordingly, the legislature urges the United
2 States Congress to reverse the Federal Communications
3 Commission's ruling against net neutrality and finds that it
4 serves the State's interests to mitigate any harm done by the
5 ruling so long as it remains in force.

6 The purpose of this Act is to explore methods to mitigate
7 the adverse effect on the State of the Federal Communications
8 Commission's ruling against net neutrality by:

- 9 (1) Regulating providers of broadband internet access; and
10 (2) Establishing a task force to examine the benefit and
11 feasibility of the State's classifying internet
12 service as a public utility and providing internet
13 service to consumers in Hawaii through a state-owned
14 internet service provider company.

15 PART II

16 SECTION 2. The legislature finds that it is essential to
17 ensure that individuals can access websites and information
18 freely and fairly over the Internet, which provides worldwide
19 communication and a platform for a global marketplace in which
20 even the smallest businesses can participate.



1 internet endpoints, including any capabilities that are
2 incidental to and enable the operation of the communications
3 service, but excluding dial-up internet access service.

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

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

11 "Paid prioritization" means the management of a broadband
12 provider's network to directly or indirectly favor some traffic
13 over other traffic, including through the use of techniques such
14 as traffic shaping, prioritization, resource reservation, or
15 other forms of preferential traffic management, either:

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

18 (2) To benefit an affiliated entity.

19 "Reasonable network management" means a practice that has a
20 primarily technical network management justification, but does
21 not include other business practices. A network management



1 practice is reasonable if it is primarily used and tailored to
2 achieve a legitimate network management purpose, taking into
3 account the particular network architecture and technology of
4 the broadband internet access service.

5 **§ -2 Broadband internet access service; protections.** A
6 person engaged in the provision of broadband internet access
7 service in the State, insofar as such a person is so engaged,
8 shall not:

- 9 (1) Block lawful content, applications, services, or
10 nonharmful devices, subject to reasonable network
11 management;
- 12 (2) Impair or degrade lawful internet traffic on the basis
13 of internet content, application, or service, or use
14 of a nonharmful device, subject to reasonable network
15 management;
- 16 (3) Engage in paid prioritization; or
- 17 (4) Unreasonably interfere with or unreasonably
18 disadvantage:
- 19 (A) End users' ability to select, access, and use
20 broadband internet access service or the lawful



1 internet content, applications, services, or
2 devices of their choice; or
3 (B) Edge providers' ability to make lawful content,
4 applications, services, or devices available to
5 end users;
6 provided that paid prioritization otherwise prohibited pursuant
7 to paragraph (3) of this subsection may be permitted if a
8 petitioner demonstrates that the practice would provide some
9 significant public interest benefit and would not harm the open
10 nature of the Internet in the State."

11 PART III

12 SECTION 4. The legislature finds that it is in the State's
13 interest to explore the possibility of establishing a state-
14 owned public utility company to provide broadband internet
15 service.

16 In several jurisdictions, internet service providers have
17 stymied efforts to establish public utility companies to provide
18 internet service through aggressive lobbying and litigation.
19 However, the success of public companies providing internet
20 service in municipalities such as Chattanooga, Tennessee, and



1 Sandy, Oregon, demonstrates that there are concrete, societal
2 benefits to treating internet service like a public utility.

3 The purpose of this part is to establish a task force to
4 examine the costs and benefits to the State to supply broadband
5 internet service through a state-owned public utility company.

6 SECTION 5. (a) There is established for administrative
7 purposes within the public utilities commission a task force on
8 the establishment of a state-owned public utility company to
9 provide internet service to users in Hawaii.

10 (b) The task force shall provide guidance to the
11 legislature on the costs and benefits of state-provided internet
12 service through a public utility company, including but not
13 limited to:

14 (1) The financial cost of building and managing an
15 internet service network and the number of internet
16 service subscribers that would be necessary to offset
17 outlay costs;

18 (2) Options to mitigate the costs associated with setting
19 up or managing an internet service network;



- 1 (3) The effect of a public utility internet service
2 provider on competition and the price paid by
3 consumers for internet service;
- 4 (4) The effect of a public utility internet service
5 provider on users' access to the Internet,
6 particularly for users accessing the Internet in
7 communities that are unserved or underserved by
8 private internet service providers;
- 9 (5) The regulatory framework that would allow the public
10 utility company to operate without discouraging
11 private sector job creation and investment; and
- 12 (6) The industries that would benefit from having both
13 public and private internet service providers
14 available within the State.

15 (c) The chair of the public utilities commission shall
16 serve as the chair of the task force, and shall invite the
17 appropriate stakeholders to participate in the task force.

18 The members of the task force shall serve without
19 compensation and shall not be subject to the requirements of
20 chapter 84, Hawaii Revised Statutes, solely due to their
21 participation in the task force.



1 (d) The task force shall serve until June 30, 2019;
2 provided that the members of the task force may represent
3 themselves as task force members after June 30, 2019, when
4 testifying or commenting on the actions or recommendations of
5 the task force.

6 (e) The task force shall submit a report to the
7 legislature no later than twenty days prior to the convening of
8 the regular session of 2019. The report shall contain the task
9 force's recommendations, including any proposed legislation,
10 related to cost, benefits, feasibility, and scope to ensure that
11 consumers in Hawaii have free and open access to the Internet.

12 PART IV

13 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

Broadband Internet Service; Public Utility; Net Neutrality

Description:

Regulates broadband internet service providers to ensure a free and open Internet. Establishes a task force to examine the costs and benefits of creating a state-owned public utility company to provide broadband internet service. (HB1995 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

