

HOUSE BILL 2253

By Clemmons

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 5; Title 6; Title 7; Title 10; Title 12; Title 65;
Title 67 and Title 68, relative to internet neutrality.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 65, is amended by adding the following new chapter:

65-38-101.

For purposes of this chapter:

(1) "Broadband internet access service" means a mass-market retail service by wire or radio in this state 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" also encompasses any service in this state that provides a functional equivalent of that service or that is used to evade the protections set forth in this chapter, as determined by the commission;

(2) "Commission" means the Tennessee public utility commission;

(3) "Edge provider" means any individual or entity in this state that provides any content, application, or service over the internet, and any individual or entity in this state that provides a device used for accessing any content, application, or service over the internet;

(4) "Internet service provider" means a business that provides broadband internet access service to an individual, corporation, government, or other customer in this state;

(5) "Reasonable network management" means a practice that is disclosed to the state and 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 narrowly tailored to achieving a legitimate and demonstrable network management purpose, taking into account the particular network architecture and technology of the broadband internet access service; and

(6) "State" means the state of Tennessee and any agency, authority, branch, bureau, commission, corporation, department, or instrumentality of the state.

65-38-102.

An internet service provider shall not engage in any of the following activities when providing internet service to the state:

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

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

(3) Unreasonably interfering with, or unreasonably disadvantaging, either the state or a state employee's ability to select, access, and use broadband internet access service or lawful internet content, applications, services, or devices of the state or employee's choice, or an edge provider's ability to make lawful content, applications, services, or devices available to the state; or

(4) Engaging in deceptive or misleading marketing practices that misrepresent the treatment of internet traffic or content to the state.

65-38-103.

(a) After July 1, 2018:

(1) No state governmental entity shall contract with an internet service provider unless the provider is compliant with this chapter; and

(2) No internet service provider may enter into a contract to supply goods or services to a state governmental entity without first attesting in writing that the provider will comply with this chapter.

(b)

(1) If an internet service provider contracts to supply internet service to a state governmental entity is discovered to have knowingly violated this chapter in the performance of the contract, the chief procurement officer shall declare that person to be prohibited from contracting for or submitting a response for any contract to supply goods or services to a state governmental entity for a period of one (1) year from the date of discovery of the violation of this chapter.

(2) A provider who is prevented from contracting for or submitting a response for a contract to supply goods or services to a state governmental entity for one (1) year pursuant to subdivision (b)(1) may appeal the imposition of the one-year prohibition by utilizing an appeals process to be established by the chief procurement officer and approved by the procurement commission.

(c) The chief procurement officer is authorized to promulgate rules to effectuate the purposes of this section. All rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

65-38-104.

If any provision of this chapter or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to that end the provisions of this chapter are severable.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it, and shall apply to actions taken on or after that date.