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HOUSE BILL 2282

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State of Washington

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By Representatives Hansen, Cody, Goodman, Pettigrew, Tarleton, Fey, DeBolt, Bergquist, Springer, Santos, McBride, Smith, Chapman, Slatter, Peterson, Wylie, Fitzgibbon, Morris, Stonier, Lytton, Sawyer, Robinson, Tharinger, Kagi, Pellicciotti, Dolan, Orwall, Valdez, Haler, Kilduff, Senn, Frame, Sells, Kirby, Stanford, Blake, Reeves, Clibborn, Macri, Kloba, Appleton, Stambaugh, Jinkins, Ormsby, Ryu, Hayes, Pollet, Doglio, Ortiz-Self, Riccelli, and McDonald

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1 AN ACT Relating to protecting an open internet in Washington  
2 state; and adding a new chapter to Title 19 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** (1) A person engaged in the provision of  
5 broadband internet access service in Washington state shall publicly  
6 disclose accurate information regarding the network management  
7 practices, performance, and commercial terms of its broadband  
8 internet access services sufficient for consumers to make informed  
9 choices regarding use of such services and for content, application,  
10 service, and device providers to develop, market, and maintain  
11 internet offerings.

12 (2) A person engaged in the provision of broadband internet  
13 access service in Washington state, insofar as such a person is so  
14 engaged, may not:

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

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

20 (c) Engage in paid prioritization;

1 (d) Unreasonably interfere with or unreasonably disadvantage: (i)  
2 End users' ability to select, access, and use broadband internet  
3 access service or the lawful internet content, applications,  
4 services, or devices of their choice; or (ii) edge providers' ability  
5 to make lawful content, applications, services, or devices available  
6 to end users.

7 (3) The utilities and transportation commission may waive the  
8 prohibition on paid prioritization in subsection (1)(c) of this  
9 section only if the petitioner demonstrates that the practice would  
10 provide some significant public interest benefit and would not harm  
11 the open nature of the internet in Washington state.

12 (4) The definitions in this subsection apply throughout this  
13 section unless the context clearly requires otherwise.

14 (a)(i) "Broadband internet access service" means a mass-market  
15 retail service by wire or radio that provides the capability to  
16 transmit data to and receive data from all or substantially all  
17 internet endpoints, including any capabilities that are incidental to  
18 and enable the operation of the communications service, but excluding  
19 dial-up internet access service.

20 (ii) The term also encompasses any service that the federal  
21 communications commission finds to be providing a functional  
22 equivalent of the service described in (a)(i) of this subsection, or  
23 that is used to evade the protections set forth in this section.

24 (b) "Edge provider" means any individual or entity that provides  
25 any content, application, or service over the internet, and any  
26 individual or entity that provides a device used for accessing any  
27 content, application, or service over the internet.

28 (c) "End user" means any individual or entity that uses a  
29 broadband internet access service.

30 (d) "Mobile broadband internet access service" means a broadband  
31 internet service that serves end users primarily using mobile  
32 stations.

33 (e) "Paid prioritization" means the management of a broadband  
34 provider's network to directly or indirectly favor some traffic over  
35 other traffic, including through the use of techniques such as  
36 traffic shaping, prioritization, resource reservation, or other forms  
37 of preferential traffic management, either:

38 (i) In exchange for consideration, monetary or otherwise, from a  
39 third party; or

40 (ii) To benefit an affiliated entity.

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

8 NEW SECTION. **Sec. 2.** The legislature finds that the practices  
9 covered by this chapter are matters vitally affecting the public  
10 interest for the purpose of applying the consumer protection act,  
11 chapter 19.86 RCW. A violation of this chapter is not reasonable in  
12 relation to the development and preservation of business and is an  
13 unfair or deceptive act in trade or commerce and an unfair method of  
14 competition for the purpose of applying the consumer protection act,  
15 chapter 19.86 RCW.

16 NEW SECTION. **Sec. 3.** The internet consumer access account is  
17 created in the state treasury. All receipts from recoveries by the  
18 office of the attorney general for lawsuits related to the consumer  
19 protection act under the provisions of this chapter, or otherwise  
20 designated to this account, must be deposited into the account.  
21 Moneys in the account may be spent only after appropriation.  
22 Expenditures from the account may be used only for costs incurred by  
23 the office of the attorney general in the administration and  
24 enforcement of this chapter.

25 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act  
26 constitute a new chapter in Title 19 RCW.

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