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

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

NEW SECTION. Sec. 1. (1) A person engaged in the provision of broadband internet access service in Washington 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.

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

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

(b) 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;

(c) Engage in paid prioritization;
(d) Unreasonably interfere with or unreasonably disadvantage: (i) 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 (ii) edge providers' ability to make lawful content, applications, services, or devices available to end users.

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

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

(a)(i) "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.

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

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

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

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

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

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

(ii) To benefit an affiliated entity.
(f) "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.

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

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

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