

# A-Engrossed House Bill 4155

Ordered by the House February 22  
Including House Amendments dated February 22

Sponsored by Representatives WILLIAMSON, HOLVEY; Representatives ALONSO LEON, BARKER, BARNHART, CLEM, DOHERTY, FAHEY, GOMBERG, GORSEK, GREENLICK, HELM, HERNANDEZ, KENY-GUYER, KOTEK, LIVELY, MALSTROM, MARSH, MCLAIN, NOSSE, PILUSO, POWER, RAYFIELD, SALINAS, SANCHEZ, SMITH WARNER (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Prohibits broadband Internet access service provider from disclosing, selling or permitting access to personal information of customers of provider. Creates exceptions, including exception for giving express consent.]*

*[Requires broadband Internet access service provider to take reasonable measures to protect personal information of customers of provider.]*

*[Requires broadband Internet access service provider to provide notice of provisions of Act to potential customers of provider.]*

*[Makes violation of Act unlawful trade practice.]*

*[Establishes Task Force on Broadband Security to study uniformity of laws throughout United States with respect to protecting customers of broadband Internet access service providers. Requires task force to submit report, including recommendations for legislation, to interim committee of Legislative Assembly related to judiciary no later than December 15, 2018.]*

**Prohibits public bodies from contracting with broadband Internet access service providers that engage in certain network management activities based on paid prioritization, content blocking or other discrimination.**

**Provides limited exceptions, including for activities necessary to address needs of public safety and law enforcement.**

Becomes operative January 1, 2019.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to Internet service providers; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 **(a)(A) "Broadband Internet access service" means:**

6 **(i) A mass-market retail Internet access service provided by wire or radio that enables**  
7 **a person to transmit data to or receive data between the person's customer premises**  
8 **equipment, including mobile devices, and all, or substantially all, Internet endpoints;**

9 **(ii) Any service that the Public Utility Commission finds is providing a service that is the**  
10 **functional equivalent of the service described in sub-subparagraph (i) of this subparagraph;**

11 **or**

12 **(iii) Any service that is incidental to or that enables the operation of the service de-**  
13 **scribed in sub-subparagraph (i) of this subparagraph.**

14 **(B) "Broadband Internet access service" does not include dial-up Internet access service.**

15 **(b) "Broadband Internet access service provider" means a person or public body that**  
16 **provides broadband Internet access service.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) "Content, applications or services" means all traffic transmitted to or from end users  
2 of a broadband Internet access service.

3 (d) "Edge provider" means any person that provides content, applications or services  
4 over the Internet, and any person that provides a device used for accessing content, appli-  
5 cations or services over the Internet.

6 (e) "End user" means any person that uses a broadband Internet access service.

7 (f) "Fixed broadband Internet access service" means broadband Internet access service  
8 that serves end users primarily at fixed endpoints using stationary equipment, including fixed  
9 satellite services and licensed and unlicensed fixed wireless services.

10 (g) "Mobile broadband Internet access service" means broadband Internet access service  
11 that serves end users primarily using mobile stations.

12 (h) "Nonharmful device" means a device the Public Utility Commission determines by  
13 rule to be nonharmful to broadband Internet access services.

14 (i) "Paid prioritization" means a broadband Internet access service provider's manage-  
15 ment of its network to directly or indirectly favor some traffic over other traffic, including  
16 through traffic shaping, prioritization, resource reservation or other forms of preferential  
17 traffic management, either in exchange for consideration from a third party or to benefit an  
18 affiliated entity.

19 (j) "Public body" means a public body, as defined in ORS 174.109, in this state.

20 (2) For the purposes of this section, a public body contracts with a broadband Internet  
21 access service provider if the public body procures, or provides funding for the procurement  
22 of, broadband Internet access service, including fixed broadband Internet access service or  
23 mobile broadband Internet access service, from the broadband Internet access service pro-  
24 vider.

25 (3) A public body may not contract with a broadband Internet access service provider  
26 that, at any time on or after the operative date specified in section 3 of this 2018 Act:

27 (a) Engages in paid prioritization;

28 (b) Blocks lawful content, applications or services or nonharmful devices;

29 (c) Impairs or degrades lawful Internet traffic for the purpose of discriminating against  
30 or favoring certain Internet content, applications or services or the use of nonharmful de-  
31 vices;

32 (d) Unreasonably interferes with or unreasonably disadvantages an end user's ability to  
33 select, access and use the broadband Internet access service or lawful Internet content, ap-  
34 plications or services or devices of the end user's choice; or

35 (e) Unreasonably interferes with or unreasonably disadvantages an edge provider's ability  
36 to make devices or lawful content, applications or services available to end users.

37 (4) Notwithstanding subsection (3) of this section, a public body may contract with a  
38 broadband Internet access service provider that:

39 (a) Is the sole provider of fixed broadband Internet access service to the geographic lo-  
40 cation subject to the contract;

41 (b) Engages in any of the activities described in subsection (3) of this section in the  
42 process of addressing copyright infringement or other unlawful activity or the needs of  
43 emergency communications, law enforcement, public safety or national security authorities;

44 (c) Engages in paid prioritization if the Public Utility Commission determines that the  
45 broadband Internet access service provider's paid prioritization provides significant public

1 interest benefits and does not harm the open nature of the provided broadband Internet ac-  
2 cess service;

3 (d) Engages in any activities described in subsection (3)(b) to (d) of this section if the  
4 Public Utility Commission determines that the broadband Internet access service provider's  
5 engagement in the activity is reasonable network management. An activity is reasonable  
6 network management if the activity:

7 (A) Has a technical network management justification;

8 (B) Does not include other business practices; and

9 (C) Is narrowly tailored to achieve a legitimate network management purpose, taking  
10 into account the particular network architecture and technology of the broadband Internet  
11 access service; or

12 (e) Engaged in any of the activities described in subsection (3) of this section at any time  
13 on or after the operative date specified in section 3 of this 2018 Act if:

14 (A) The broadband Internet access service provider certifies that it has ceased engaging  
15 in all of the activities described in subsection (3) of this section; and

16 (B) The Public Utility Commission determines that allowing a public body to contract  
17 with the broadband Internet access service provider provides significant public interest ben-  
18 efits.

19 (5)(a) A broadband Internet access service provider engaged in the provision of broadband  
20 Internet access service to a public body shall publicly disclose information regarding the  
21 provider's network management practices and performance characteristics and the com-  
22 mercial terms of the provider's broadband Internet access service sufficient for end users  
23 to verify that the service is provided in compliance with subsections (3) and (4) of this sec-  
24 tion.

25 (b) The Public Utility Commission by rule shall specify the manner and form in which  
26 disclosures under this subsection shall be made.

27 **SECTION 2.** Section 1 of this 2018 Act does not apply to a contract entered into before  
28 the operative date specified in section 3 of this 2018 Act. However, section 1 of this 2018 Act  
29 applies to a renewal or extension of an existing contract on or after the operative date  
30 specified in section 3 of this 2018 Act as well as to a new contract entered into on or after  
31 the operative date specified in section 3 of this 2018 Act.

32 **SECTION 3.** (1) Section 1 of this 2018 Act becomes operative on January 1, 2019.

33 (2) The Public Utility Commission may adopt rules and take any action before the oper-  
34 ative date specified in subsection (1) of this section that is necessary to enable the commis-  
35 sion, on and after the operative date specified in subsection (1) of this section, to exercise  
36 all of the powers and functions conferred on the commission by section 1 of this 2018 Act.

37 **SECTION 4.** This 2018 Act being necessary for the immediate preservation of the public  
38 peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect  
39 on its passage.

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