
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 392 Session of
2019

INTRODUCED BY FARNESE, LEACH, TARTAGLIONE, HUGHES, COSTA,
BREWSTER AND SCHWANK, MARCH 13, 2019

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
MARCH 13, 2019

AN ACT

1 Providing for disclosure requirements for broadband Internet
2 access service providers, for prohibitions and for contracts,
3 grants and tax credits; and imposing civil penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Open Internet
8 Protection Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Broadband Internet access service." As follows:

14 (1) The term includes any of the following:

15 (i) A mass-market retail service by wire or radio
16 that provides the capability to transmit data to and
17 receive data from all or substantially all Internet
18 endpoints, including capabilities that are incidental to

1 and enable the operation of the communications service.

2 (ii) A service that the Federal Communications
3 Commission determines to provide the functional
4 equivalent of the service described under subparagraph
5 (i) or used to evade the provisions of this act.

6 (2) The term does not include dial-up Internet access
7 service.

8 "Commonwealth agency." As defined in 62 Pa.C.S. § 103
9 (relating to definitions).

10 "Edge provider." A person or entity that provides any of the
11 following:

12 (1) Content, application or services over the Internet.

13 (2) A device used for accessing content, applications or
14 services over the Internet.

15 "End user." A person or entity that uses a broadband
16 Internet access service.

17 "Paid prioritization." The management of a provider's
18 network to directly or indirectly favor some Internet traffic
19 over other Internet traffic, including through the use of
20 techniques such as Internet traffic shaping, prioritization,
21 resource reservation or other forms of preferential Internet
22 traffic management, in exchange for economic consideration from
23 a third party or to benefit an affiliated entity.

24 "Provider." A person or entity that provides broadband
25 Internet access service to end users in this Commonwealth.

26 "Reasonable network management." A practice that has a
27 primarily technical network management justification and is
28 primarily used for and tailored to achieve a legitimate network
29 management purpose considering the particular network
30 architecture and technology of the broadband Internet access

1 service. The term does not include other business practices.

2 Section 3. Disclosure requirements for providers.

3 A provider shall publicly disclose accurate information
4 regarding network management practices, performance and
5 commercial terms of the provider's broadband Internet access
6 services to ensure the following:

7 (1) Consumers are able to make informed choices
8 regarding use of the broadband Internet access services.

9 (2) Edge providers are able to develop, market and
10 maintain content, applications and service offerings.

11 Section 4. Prohibitions on providers.

12 Except for the purpose of reasonable network management, a
13 provider may not engage in any of the following acts:

14 (1) Blocking lawful content, applications, services or
15 nonharmful devices.

16 (2) Impairing or degrading lawful Internet traffic on
17 the basis of content, applications, services or use of
18 nonharmful devices.

19 (3) Paid prioritization.

20 (4) Unreasonably interfering or disadvantaging the
21 ability of an end user to select, access or use broadband
22 Internet access service or lawful Internet content,
23 applications, services or nonharmful devices of the end
24 user's choice.

25 (5) Unreasonably interfering or disadvantaging the
26 ability of a provider to make lawful Internet content,
27 applications, services or nonharmful devices available to end
28 users.

29 Section 5. Contracts, grants and tax credits for providers.

30 (a) Contracts and grants.--Notwithstanding any other

1 provision of law, a Commonwealth agency or political subdivision
2 may not contract with or award grants or tax credits to a
3 provider that fails to comply with this act.

4 (b) Applicability.--This section shall apply to contracts
5 executed and grants and tax credits awarded on or after the
6 effective date of this act.

7 Section 6. Civil penalties.

8 A provider that fails to comply with this act shall be in
9 violation of the act of December 17, 1968 (P.L.1224, No.387),
10 known as the Unfair Trade Practices and Consumer Protection Law.

11 Section 7. Effective date.

12 This act shall take effect in 60 days.