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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 393 Session of  
2019

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

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

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AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, in general provisions, further  
3 providing for definitions; and providing for Internet  
4 neutrality.

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

7 Section 1. Paragraph (1) of the definition of "public  
8 utility" in section 102 of Title 66 of the Pennsylvania  
9 Consolidated Statutes is amended to read:

10 § 102. Definitions.

11 Subject to additional definitions contained in subsequent  
12 provisions of this part which are applicable to specific  
13 provisions of this part, the following words and phrases when  
14 used in this part shall have, unless the context clearly  
15 indicates otherwise, the meanings given to them in this section:

16 \* \* \*

17 "Public utility."

18 (1) Any person or corporations now or hereafter owning

1 or operating in this Commonwealth equipment or facilities  
2 for:

3 (i) Producing, generating, transmitting,  
4 distributing or furnishing natural or artificial gas,  
5 electricity, or steam for the production of light, heat,  
6 or power to or for the public for compensation.

7 (ii) Diverting, developing, pumping, impounding,  
8 distributing, or furnishing water to or for the public  
9 for compensation.

10 (iii) Transporting passengers or property as a  
11 common carrier.

12 (iv) Use as a canal, turnpike, tunnel, bridge,  
13 wharf, and the like for the public for compensation.

14 (v) Transporting or conveying natural or artificial  
15 gas, crude oil, gasoline, or petroleum products,  
16 materials for refrigeration, or oxygen or nitrogen, or  
17 other fluid substance, by pipeline or conduit, for the  
18 public for compensation.

19 (vi) Conveying or transmitting messages or  
20 communications, except as set forth in paragraph (2)(iv),  
21 by telephone or telegraph or domestic public land mobile  
22 radio service including, but not limited to, point-to-  
23 point microwave radio service for the public for  
24 compensation.

25 (vii) Wastewater collection, treatment, or disposal  
26 for the public for compensation.

27 (viii) Providing limousine service in a county of  
28 the second class pursuant to Subchapter B of Chapter 11  
29 (relating to limousine service in counties of the second  
30 class).

1           (ix) Providing persons with the ability to connect  
2           to the Internet through equipment that is located in this  
3           Commonwealth.

4           \* \* \*

5           Section 2. Title 66 is amended by adding a chapter to read:

6                                   CHAPTER 30A

7                                   INTERNET NEUTRALITY

8           Sec.

9           30A01. Definitions.

10          30A02. Internet service providers.

11          30A03. Rules and regulations.

12          30A04. Violation of chapter.

13          30A05. Applicability.

14          § 30A01. Definitions.

15          The following words and phrases when used in this chapter  
16          shall have the meanings given to them in this section unless the  
17          context clearly indicates otherwise:

18          "Broadband Internet access service." A mass-market retail  
19          service by wire or radio that provides the capability to  
20          transmit data to and receive data from all or substantially all  
21          Internet endpoints, including any capabilities that are  
22          incidental to and enable the operation of the communications  
23          service. The term does not include dial-up Internet access  
24          service.

25          "Edge provider." A person that provides any content,  
26          application or service over the Internet and any device used for  
27          accessing any content, application or service over the Internet.

28          "Internet service provider." A person that provides  
29          broadband Internet access service in this Commonwealth.

30          "Paid prioritization." The management of an Internet service

1 provider's network to directly or indirectly favor some traffic  
2 over other traffic, including the use of techniques such as  
3 traffic shaping, prioritization, resource reservation or other  
4 forms of preferential traffic management in exchange for  
5 consideration, monetary or otherwise, from a third party or to  
6 benefit an affiliated person.

7 § 30A02. Internet service providers.

8 An Internet service provider that provides broadband Internet  
9 access service may not engage in any of the following:

10 (1) Blocking lawful content, applications, services or  
11 nonharmful devices, subject to reasonable network management  
12 practices.

13 (2) Impairing or degrading lawful Internet traffic on  
14 the basis of Internet content, application or service, or use  
15 of a nonharmful device, subject to reasonable network  
16 management practices.

17 (3) Engaging in paid prioritization or providing  
18 preferential treatment of some Internet traffic to an  
19 Internet customer.

20 (4) Unreasonably interfering with or unreasonably  
21 disadvantaging either a customer's ability to select, access  
22 and use broadband Internet access service or lawful Internet  
23 content, applications, services or devices of the customer's  
24 choice, or an edge provider's ability to make lawful content,  
25 applications, services or devices available to a customer.

26 (5) Engaging in deceptive or misleading marketing  
27 practices that misrepresent the treatment of Internet traffic  
28 or content to its customers.

29 (6) Advertising, offering for sale or selling broadband  
30 Internet access service without prominently disclosing with

1 specificity all aspects of the service advertised, offered  
2 for sale or sold.

3 § 30A03. Rules and regulations.

4 The Pennsylvania Public Utility Commission may promulgate  
5 rules and regulations necessary to administer and enforce this  
6 chapter.

7 § 30A04. Violation of chapter.

8 (a) Unfair trade practice.--It shall be an unfair or  
9 deceptive act or practice and a violation of the act of December  
10 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices  
11 and Consumer Protection Law, to violate any provision of this  
12 chapter.

13 (b) Commonwealth agency contracts.--A Commonwealth agency  
14 may not enter into a contract with an Internet service provider  
15 found to be in violation of this chapter.

16 (c) Definition.--As used in this section, the term  
17 "Commonwealth agency" shall have the meaning given to it in 62  
18 Pa.C.S. § 103 (relating to definitions).

19 § 30A05. Applicability.

20 This chapter shall apply to contracts entered into on or  
21 after the effective date of this section.

22 Section 3. This act shall take effect in 60 days.