



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5094

by Rep. Jaime M. Andrade, Jr.

SYNOPSIS AS INTRODUCED:

220 ILCS 5/13-805 new
815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

Amends the Telecommunications Article of the Public Utilities Act. Requires broadband providers to publicly disclose accurate information regarding network management practices, performance, and commercial terms of its broadband Internet access service sufficient for consumers to make informed choices concerning the use of the service. Restricts broadband providers from blocking lawful content, applications, services, or non-harmful devices subject to reasonable network management practices. Restricts broadband providers from impairing or degrading Internet traffic on the basis of content, application, or service. Restricts broadband providers from engaging in paid prioritization. Restricts broadband providers from unreasonably interfering with or unreasonably disadvantaging a consumer's ability to use the service or a content provider's ability to make content available to a customer. Provides that the Attorney General may enforce a violation of the provisions as an unlawful practice within the meaning of the Consumer Fraud and Deceptive Business Practices Act. Amends the Consumer Fraud and Deceptive Business Practices Act to make conforming changes. Effective immediately.

LRB100 18447 SMS 33662 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by adding
5 Section 13-805 as follows:

6 (220 ILCS 5/13-805 new)

7 Sec. 13-805. Net neutrality.

8 (a) As used in this Section:

9 "Broadband Internet access service" means a mass-market
10 retail service that provides the capability to transmit data to
11 and receive data from all or substantially all Internet
12 endpoints, including any capabilities that are incidental to
13 and enable the operation of the communications service, but
14 excluding dial-up Internet access service. "Broadband Internet
15 access service" includes any service that the Federal
16 Communications Commission finds to be providing a functional
17 equivalent of broadband Internet access service.

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

1 affiliated entity.

2 "Reasonable network management" means a practice
3 determined by the Commission to be a primarily technical
4 network management justification, but does not include other
5 business practices. A network management practice is
6 reasonable if it is primarily used for and tailored to
7 achieving a legitimate network management purpose, taking into
8 account the particular network architecture and technology of
9 the broadband Internet access service.

10 (b) A person or entity providing broadband Internet access
11 service in this State shall publicly disclose accurate
12 information regarding the network management practices,
13 performance, and commercial terms of its broadband Internet
14 access services sufficient for consumers to make informed
15 choices regarding the use of such services and for content,
16 application, service, and device providers to develop, market,
17 and maintain Internet offerings.

18 (c) A person or entity providing broadband Internet access
19 service in this State may not:

20 (1) block lawful content, applications, services, or
21 non-harmful devices subject to reasonable network
22 management practices as determined by the Commission;

23 (2) impair or degrade lawful Internet traffic on the
24 basis of Internet content, application, or service or use
25 of a non-harmful device subject to reasonable network
26 management practices as determined by the Commission;

1 (3) engage in paid prioritization, including, but not
2 limited to, traffic shaping, prioritization, resource
3 reservation, or other forms of preferential traffic
4 management either in exchange for consideration from a
5 third party or benefit to an affiliated entity; or

6 (4) unreasonably interfere with, or unreasonably
7 disadvantage, either a customer's ability to select,
8 access, and use broadband Internet access service or lawful
9 Internet content, applications, services, or devices of
10 the customer's choice or a content provider's ability to
11 make lawful content, applications, services, or devices
12 available to a customer.

13 (d) The Attorney General may enforce a violation of this
14 Section as an unlawful practice within the meaning of the
15 Consumer Fraud and Deceptive Business Practices Act.

16 Section 10. The Consumer Fraud and Deceptive Business
17 Practices Act is amended by changing Section 2Z as follows:

18 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

19 Sec. 2Z. Violations of other Acts. Any person who knowingly
20 violates the Automotive Repair Act, the Automotive Collision
21 Repair Act, the Home Repair and Remodeling Act, the Dance
22 Studio Act, the Physical Fitness Services Act, the Hearing
23 Instrument Consumer Protection Act, the Illinois Union Label
24 Act, the Installment Sales Contract Act, the Job Referral and

1 Job Listing Services Consumer Protection Act, the Travel
2 Promotion Consumer Protection Act, the Credit Services
3 Organizations Act, the Automatic Telephone Dialers Act, the
4 Pay-Per-Call Services Consumer Protection Act, the Telephone
5 Solicitations Act, the Illinois Funeral or Burial Funds Act,
6 the Cemetery Oversight Act, the Cemetery Care Act, the Safe and
7 Hygienic Bed Act, the Illinois Pre-Need Cemetery Sales Act, the
8 High Risk Home Loan Act, the Payday Loan Reform Act, the
9 Mortgage Rescue Fraud Act, subsection (a) or (b) of Section
10 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section
11 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the
12 Internet Caller Identification Act, paragraph (6) of
13 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
14 Section 11-1431, 18d-115, 18d-120, 18d-125, 18d-135, 18d-150,
15 or 18d-153 of the Illinois Vehicle Code, Article 3 of the
16 Residential Real Property Disclosure Act, the Automatic
17 Contract Renewal Act, the Reverse Mortgage Act, Section 25 of
18 the Youth Mental Health Protection Act, the Personal
19 Information Protection Act, ~~or~~ the Student Online Personal
20 Protection Act, or Section 13-805 of the Public Utilities Act
21 commits an unlawful practice within the meaning of this Act.

22 (Source: P.A. 99-331, eff. 1-1-16; 99-411, eff. 1-1-16; 99-642,
23 eff. 7-28-16; 100-315, eff. 8-24-17; 100-416, eff. 1-1-18;
24 revised 10-6-17.)

25 Section 97. Severability. The provisions of this Act are

1 severable under Section 1.31 of the Statute on Statutes.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.