

Requested by Representative WILLIAMSON

**PROPOSED AMENDMENTS TO
HOUSE BILL 4155**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the
2 rest of the line and delete line 3 and insert “and declaring an emergency.”.

3 Delete lines 5 through 24 and delete pages 2 through 11 and insert:

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**
7 **or radio that enables a person to transmit data to or receive data be-**
8 **tween the person’s customer premises equipment, including mobile**
9 **devices, and all, or substantially all, Internet endpoints;**

10 **“(ii) Any service that the Public Utility Commission finds is pro-**
11 **viding a service that is the functional equivalent of the service de-**
12 **scribed in sub-subparagraph (i) of this subparagraph; or**

13 **“(iii) Any service that is incidental to or that enables the operation**
14 **of the service described in sub-subparagraph (i) of this subparagraph.**

15 **“(B) ‘Broadband Internet access service’ does not include dial-up**
16 **Internet access service.**

17 **“(b) ‘Broadband Internet access service provider’ means a person**
18 **or public body that provides broadband Internet access service.**

19 **“(c) ‘Content, applications or services’ means all traffic transmitted**
20 **to or from end users of a broadband Internet access service.**

21 **“(d) ‘Edge provider’ means any person that provides content, ap-**

1 **plications or services over the Internet, and any person that provides**
2 **a device used for accessing content, applications or services over the**
3 **Internet.**

4 **“(e) ‘End user’ means any person that uses a broadband Internet**
5 **access service.**

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

10 **“(g) ‘Mobile broadband Internet access service’ means broadband**
11 **Internet access service that serves end users primarily using mobile**
12 **stations.**

13 **“(h) ‘Nonharmful device’ means a device the Public Utility Com-**
14 **mission determines by rule to be nonharmful to broadband Internet**
15 **access services.**

16 **“(i) ‘Paid prioritization’ means a broadband Internet access service**
17 **provider’s management of its network to directly or indirectly favor**
18 **some traffic over other traffic, including through traffic shaping,**
19 **prioritization, resource reservation or other forms of preferential**
20 **traffic management, either in exchange for consideration from a third**
21 **party or to benefit an affiliated entity.**

22 **“(j) ‘Public body’ means a public body, as defined in ORS 174.109,**
23 **in this state.**

24 **“(2) For the purposes of this section, a public body contracts with**
25 **a broadband Internet access service provider if the public body pro-**
26 **cures, or provides funding for the procurement of, broadband Internet**
27 **access service, including fixed broadband Internet access service or**
28 **mobile broadband Internet access service, from the broadband Internet**
29 **access service provider.**

30 **“(3) A public body may not contract with a broadband Internet ac-**

1 cess service provider that, at any time on or after the operative date
2 specified in section 3 of this 2018 Act:

3 “(a) Engages in paid prioritization;

4 “(b) Blocks lawful content, applications or services or nonharmful
5 devices;

6 “(c) Impairs or degrades lawful Internet traffic for the purpose of
7 discriminating against or favoring certain Internet content, applica-
8 tions or services or the use of nonharmful devices;

9 “(d) Unreasonably interferes with or unreasonably disadvantages
10 an end user’s ability to select, access and use the broadband Internet
11 access service or lawful Internet content, applications or services or
12 devices of the end user’s choice; or

13 “(e) Unreasonably interferes with or unreasonably disadvantages
14 an edge provider’s ability to make devices or lawful content, applica-
15 tions or services available to end users.

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

18 “(a) Is the sole provider of fixed broadband Internet access service
19 to the geographic location subject to the contract;

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

24 “(c) Engages in paid prioritization if the Public Utility Commission
25 determines that the broadband Internet access service provider’s paid
26 prioritization provides significant public interest benefits and does not
27 harm the open nature of the provided broadband Internet access ser-
28 vice;

29 “(d) Engages in any activities described in subsection (3)(b) to (d)
30 of this section if the Public Utility Commission determines that the

1 broadband Internet access service provider’s engagement in the activ-
2 ity is reasonable network management. An activity is reasonable net-
3 work management if the activity:

4 “(A) Has a technical network management justification;

5 “(B) Does not include other business practices; and

6 “(C) Is narrowly tailored to achieve a legitimate network manage-
7 ment purpose, taking into account the particular network architecture
8 and technology of the broadband Internet access service; or

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

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

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

18 “(5)(a) A broadband Internet access service provider engaged in the
19 provision of broadband Internet access service to a public body shall
20 publicly disclose information regarding the provider’s network man-
21 agement practices and performance characteristics and the commer-
22 cial terms of the provider’s broadband Internet access service
23 sufficient for end users to verify that the service is provided in com-
24 pliance with subsections (3) and (4) of this section.

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

27 “SECTION 2. Section 1 of this 2018 Act does not apply to a contract
28 entered into before the operative date specified in section 3 of this 2018
29 Act. However, section 1 of this 2018 Act applies to a renewal or ex-
30 tension of an existing contract on or after the operative date specified

1 in section 3 of this 2018 Act as well as to a new contract entered into
2 on or after the operative date specified in section 3 of this 2018 Act.

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

5 **“(2) The Public Utility Commission may adopt rules and take any**
6 **action before the operative date specified in subsection (1) of this sec-**
7 **tion that is necessary to enable the commission, on and after the op-**
8 **erative date specified in subsection (1) of this section, to exercise all**
9 **of the powers and functions conferred on the commission by section**
10 **1 of this 2018 Act.**

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

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