

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 736

Short Title: Preserve Net Neutrality/Statewide Broadband. (Public)

Sponsors: Senators Chaudhuri, Woodard (Primary Sponsors); Clark and Waddell.

Referred to: Rules and Operations of the Senate

May 24, 2018

1 A BILL TO BE ENTITLED
2 AN ACT PRESERVING AN OPEN INTERNET IN NORTH CAROLINA AND
3 APPROPRIATING FUNDS FOR STATEWIDE BROADBAND ACCESS.

4 Whereas, the free and open exchange of information, secured by a free and open
5 Internet, has never been more essential to modern social, commercial, and civic life; and

6 Whereas, North Carolinians expect and rely on the traditional principle that Internet
7 service providers will not pick and choose what content they can see; rather, North Carolinians
8 expect that their Internet service providers will be "neutral" and abide by principles commonly
9 referred to as "Internet neutrality"; and

10 Whereas, guided by principles of Internet neutrality, the information society and our
11 economy have flourished; and

12 Whereas, North Carolinians rely on a free and open Internet to meet the world, to
13 learn, to entertain, to make informed personal choices about their families, and to make public
14 choices about our society; and

15 Whereas, businesses rely on a free and open Internet to enter new markets, to gain
16 new insights, to recruit, to compete, and to grow; few changes in human communications have
17 revolutionized commerce so quickly; and

18 Whereas, educational institutions rely on a free and open Internet to provide North
19 Carolinians with world-class educational opportunities; and

20 Whereas, the loss of Internet neutrality principles threatens to increase the costs of
21 accessing and sharing information for people and for businesses alike; and

22 Whereas, the Federal Communications Commission (FCC) has argued that violations
23 of Internet neutrality principles may violate state competition and fair trade practices laws, which
24 requires the vigilance and attention of state governments; and

25 Whereas, significant broadband and mobile Internet services providers have made
26 public pledges to adhere to certain Internet neutrality principles in the wake of changes by federal
27 regulators; Now, therefore,

28 The General Assembly of North Carolina enacts:

29 **SECTION 1.** Title. – This act shall be known and may be cited as the "Preserve Net
30 Neutrality in North Carolina Act."

31 **SECTION 2.** Net Neutrality. – Chapter 75 of the General Statutes is amended by
32 adding a new Article to read:

33 "Article 2B.

34 "Preserve Net Neutrality.

35 **"§ 75-70. Preserve net neutrality.**

36 (a) Definitions. – The following definitions apply in this section:



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- 1 (1) Blocking. – Preventing an action or command by an end user over the Internet.
- 2 (2) Broadband Internet access service. – A mass-market retail service by wire,
- 3 radio, or electronic means that provides the capability to transmit data to and
- 4 receive data from all or substantially all Internet endpoints, including any
- 5 capabilities that are incidental to and enable the operation of the
- 6 communications service, but excluding dial-up Internet access service. The
- 7 term includes any service that the Federal Communications Commission finds
- 8 to be providing a functional equivalent or that is used to evade the
- 9 requirements of this section.
- 10 (3) End user or user. – Any person who uses a broadband Internet access service.
- 11 (4) Internet service provider or provider. – Any person that provides end user
- 12 customers with access to the Internet.
- 13 (5) Paid prioritization. – The management of a broadband provider's network to
- 14 directly or indirectly favor some traffic over other traffic, including through
- 15 the use of techniques such as traffic shaping, prioritization, resource
- 16 reservation, or other forms of preferential traffic management, either (i) in
- 17 exchange for consideration, whether monetary or otherwise, from a third party
- 18 or (ii) to benefit an entity affiliated with the broadband provider. The term
- 19 does not include the provision of tiered Internet access service or offerings to
- 20 a retail end user.
- 21 (6) Practice inconsistent with net neutrality principles. – When an Internet service
- 22 provider engages in blocking, throttling, or paid prioritization.
- 23 (7) Reasonable network management. – A practice that has a primarily technical
- 24 network management justification, but does not include other business
- 25 practices. A network management practice is reasonable if it is primarily used
- 26 for and tailored to achieving a legitimate network management purpose,
- 27 taking into account the particular network architecture and technology of the
- 28 broadband Internet access service.
- 29 (8) Throttling. – Regulating the rate at which service or application processing is
- 30 conducted over the Internet.
- 31 (b) Findings and Intent. – The General Assembly finds that North Carolinians rely on the
- 32 Internet as a basic tool for everyday life. Further, it is in the best interests of the State to encourage
- 33 the free and open exchange of information secured by a free and open Internet. The preservation
- 34 of net neutrality is the public policy of this State as provided by this Article.
- 35 (c) Net Neutrality Required. – The Department of Justice (DOJ) shall establish a process
- 36 for each Internet service provider having customers in this State to certify that the provider will
- 37 not engage in practices inconsistent with net neutrality principles.
- 38 (d) Unlawful Trade Practice. – An Internet service provider having customers in this State
- 39 shall not engage in practices inconsistent with net neutrality principles. A provider's violation of
- 40 this subsection is an unfair trade practice under G.S. 75-1.1.
- 41 (e) Public Disclosure of Network Management Practices Required. – Any person
- 42 providing broadband Internet access service in North Carolina shall publicly disclose accurate
- 43 information regarding the network management practices, performance characteristics, and
- 44 commercial terms of its broadband Internet access services sufficient to enable consumers to
- 45 make informed choices regarding the purchase and use of the services and entrepreneurs and
- 46 other small businesses to develop, market, and maintain Internet offerings. The disclosure shall
- 47 be made using a publicly available and easily accessible Internet Web site. The Department of
- 48 Justice shall adopt rules and policies regarding these public disclosures in consultation with the
- 49 Department of Information Technology. A provider's violation of this subsection is an unfair
- 50 trade practice under G.S. 75-1.1.

1 (f) Compliance. – The Department of Justice shall monitor compliance with this section.
2 The Department of Information Technology shall provide the DOJ with technical assistance, as
3 needed.

4 (g) Waivers. – Practices inconsistent with net neutrality principles may be allowed by the
5 Department of Justice on a limited basis for significant benefit to the public's interest.

6 (h) Statutory Construction. – Nothing in this section shall be construed to:

7 (1) Supersede or limit any obligation or authorization a provider may have to
8 address the needs of emergency communications or law enforcement, public
9 safety, or national security authorities, consistent with or as permitted by
10 applicable law.

11 (2) Prohibit reasonable efforts by a provider to address copyright infringement or
12 other unlawful activity."

13 **SECTION 3.** Statewide Broadband Access. – There is appropriated from the General
14 Fund to the Department of Information Technology (DIT) for the 2018-2019 fiscal year the sum
15 of twenty million dollars (\$20,000,000) to establish broadband deployment grants to secure
16 broadband Internet service in areas without service or service below the minimum threshold
17 recognized by the DIT, to be allocated as follows:

18 (1) Seventeen million five hundred thousand dollars (\$17,500,000) to increase
19 access and improve service to underserved households, businesses, and
20 community anchor institutions to encourage private investment by lowering
21 capital expenditures for existing and new service providers.

22 (2) Two million five hundred thousand dollars (\$2,500,000) for mobile hotspots
23 and other devices for students without home broadband access to help close
24 the State's Homework Gap.

25 Further, the DIT shall explore potential partnerships and additional sources of funding to advance
26 these statewide broadband initiatives.

27 **SECTION 4.** Effective Date. – Section 3 and Section 4 of this act become effective
28 July 1, 2018. The remainder of this act becomes effective January 1, 2019.