

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 425

BY JORDAN

AN ACT

1 RELATING TO INTERNET SERVICE PROVIDERS; PROVIDING LEGISLATIVE INTENT;
2 AMENDING TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE
3 61, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE DUTIES OF INTERNET SERVICE
4 PROVIDERS, TO PROVIDE REQUIRED DISCLOSURE OF INFORMATION, TO PROVIDE
5 FOR UNLAWFUL ACTS AND TO PROVIDED EXCEPTIONS; AND AMENDING SECTION
6 62-616A, IDAHO CODE, TO PROVIDE THAT A TELEPHONE CORPORATION AND ANY
7 COMMUNICATIONS PROVIDER IT CONTRACTS WITH SHALL ENSURE THAT ALL INTER-
8 NET SERVICE IT OFFERS AND ALL INTERNET SERVICE PROVIDERS IT HOSTS OR
9 ACCOMMODATES MEET CERTAIN STANDARDS.
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11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature
13 that:

14 (1) The Internet enables users to communicate with one another with
15 unprecedented speed and efficiency and has dramatically changed how people
16 share and receive information. It is also a means of diverse and democratic
17 political communication and is the marketplace of ideas. In many ways,
18 Internet rights are civil rights. The digital and Internet revolution has
19 provided the most diverse, democratic, interactive, and participatory com-
20 munications system that people have ever experienced. For Idahoans, the
21 Internet deserves as much First Amendment protection as traditional media.
22 The role of government should be to maintain this unique and vast free speech
23 zone.

24 (2) The Internet is one of the most important components of commerce in
25 the state. Internet access and commerce not only provide for online access
26 to business customers, but also provide a viable means for new businesses to
27 compete against other established businesses. The open Internet guarantees
28 that new and innovative businesses can and will provide products or services
29 without interference or restriction from competitors that are affiliated or
30 contract with Internet service providers. The Internet has provided small
31 businesses the ability to market products or services to customers or con-
32 sumers in a true global market and has created a means by which to reach in-
33 ternational audiences at minimal costs. Net neutrality promotes innovation
34 by preventing large companies from leveraging their market power to restrict
35 competition from smaller, dynamic, web-based innovator companies;

36 (3) Net neutrality is the principle that Internet service providers
37 should treat online data equally by not: (a) discriminating based on user or
38 content; or (b) limiting or restricting access to certain websites, appli-
39 cations, or content. Net neutrality is the way that the Internet has always
40 worked for the majority of Idaho Internet users.

1 SECTION 2. That Title 61, Idaho Code, be, and the same is hereby amended
2 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
3 ter 14, Title 61, Idaho Code, and to read as follows:

4 CHAPTER 14
5 INTERNET NEUTRALITY

6 61-1401. DEFINITIONS. As used in this chapter:

7 (1) "Broadband internet access service" means a mass-market retail
8 service by wire or radio that provides the capability to transmit data to and
9 receive data from all or substantially all internet endpoints, including any
10 capabilities that are incidental to and enable the operation of the communi-
11 cations service, but excluding dial-up internet access service. Broadband
12 internet access service includes any service that provides a functional
13 equivalent of the service described in this chapter or that is used to evade
14 the protections set forth in this chapter.

15 (2) "Content, applications, and services" means all traffic transmit-
16 ted to or from end users of a broadband internet access service, including
17 traffic that may not fit clearly into any of these categories.

18 (3) "Edge provider" means any person or entity that provides any con-
19 tent, application, or service over the internet and any person or entity that
20 provides a device used for accessing any content, application, or service
21 over the internet.

22 (4) "End user" means any person or entity that uses a broadband internet
23 access service.

24 (5) "Fixed broadband internet access service" means a broadband inter-
25 net access service that serves end users primarily at fixed endpoints using
26 stationary equipment. Fixed broadband internet access service includes
27 fixed wireless services, fixed unlicensed wireless services, and fixed
28 satellite services.

29 (6) "Mobile broadband internet" access service means a broadband in-
30 ternet access service that serves end users primarily using mobile stations.

31 (7) "Paid prioritization" means the management of a broadband internet
32 access service provider's network to directly or indirectly favor some traf-
33 fic over other traffic, including through use of techniques such as traffic
34 shaping, prioritization, resource reservation, or other forms of preferen-
35 tial traffic management, either in exchange for monetary or other considera-
36 tion from a third party or to benefit an affiliated entity.

37 (8) "Reasonable network management" means a network management prac-
38 tice that has a primarily technical network management justification but
39 does not include other business practices. A network management practice is
40 reasonable if it is primarily used for and tailored to achieving a legitimate
41 network management purpose, taking into account the particular network ar-
42 chitecture and technology of the broadband internet access service.

43 61-1402. INTERNET SERVICE PROVIDER DUTIES. An internet service
44 provider shall not provide any fixed or mobile broadband internet access
45 service that is not in full compliance with this chapter and rules promul-
46 gated thereto. An internet service provider that is not a telephone corpo-
47 ration shall file a notice with the commission, which notice shall set forth
48 the following information: the name of the internet service provider and the

1 address of its principal place of business within the state; a description
2 of the internet services offered by such internet services provider; and the
3 area served by it or in which it offers internet services. Such notice shall
4 be filed on or before January 1 of each year.

5 61-1403. DISCLOSURE OF INFORMATION. Any internet service provider
6 that provides fixed or mobile broadband internet access service shall
7 publicly disclose accurate information regarding the network management
8 practices, performance, and commercial terms of its broadband internet ac-
9 cess service sufficient for users of those services to be able to fully and
10 accurately determine if the service is in compliance with this chapter and
11 rules promulgated pursuant thereto.

12 61-1404. UNLAWFUL ACTS. (1) An internet service provider that pro-
13 vides fixed or mobile broadband internet access service shall not block
14 lawful content, applications, services, or nonharmful devices, subject to
15 reasonable network management.

16 (2) An internet service provider that provides fixed or mobile broad-
17 band internet access service shall not impair or degrade lawful internet
18 traffic on the basis of content, application, or service or use of a nonharm-
19 ful device, subject to reasonable network management.

20 (3) An internet service provider that provides fixed or mobile broad-
21 band internet access service shall not engage in paid prioritization. A user
22 of such service may waive the ban on paid prioritization as to a particu-
23 lar broadband internet access service only if the internet service provider
24 demonstrates that the practice would provide some significant public inter-
25 est benefit and would not harm the open nature of such service.

26 (4) An internet service provider that provides fixed or mobile broad-
27 band internet access service shall not unreasonably interfere with or un-
28 reasonably disadvantage: (a) the ability of users of such services to se-
29 lect, access, or use broadband internet access service, lawful content, ap-
30 plication, or service, or devices of their choice; or (b) the ability of edge
31 providers to make lawful content, application, service, or devices avail-
32 able to users of such service. Reasonable network management shall not be
33 considered a violation of this section.

34 61-1405. EXCEPTIONS. Nothing in this chapter supersedes any obliga-
35 tion or authorization or limits the ability of a provider of fixed or mobile
36 broadband internet access service to address the needs of emergency communi-
37 cations or law enforcement, public safety, or national security authorities
38 consistent with or as permitted by applicable law. Nothing in this chapter
39 shall prohibit reasonable efforts by a fixed or mobile provider of broadband
40 internet access service to address copyright infringement or other unlawful
41 activity.

42 SECTION 3. That Section 62-616A, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 62-616A. DUTY OF TELEPHONE COMPANY TO CUSTOMERS RELATING TO UNAUTHO-
45 RIZED CHARGES BY A THIRD-PARTY SERVICE PROVIDER. (1) If a customer of a tele-
46 phone corporation, whether subject to the provisions of this chapter or ti-

1 tle 61, Idaho Code, notifies the telephone corporation that an unauthorized
2 charge from a third-party service provider has been included on the tele-
3 phone customer's bill by the telephone corporation, the telephone corpora-
4 tion shall remove the disputed charge from the bill and shall credit to the
5 customer any amounts for unauthorized charges, whether paid or unpaid, that
6 were billed by the telephone corporation on behalf of the third-party ser-
7 vice provider during the period of six (6) months prior to the customer's
8 notification to the telephone corporation that unauthorized charges from a
9 third-party service provider have been included on the telephone corpora-
10 tion customer's bill. Nothing contained herein shall restrict the right of
11 the telephone corporation to recover credited charges from the third-party
12 service provider.

13 (2) A telephone corporation and any communications provider it con-
14 tracts with shall ensure that all internet service it offers, or any internet
15 service provider it hosts or accommodates in the provision of its internet
16 service, is in compliance with chapter 14, title 61, Idaho Code, and any
17 rules promulgated pursuant thereto.