

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 986 - L.D. 1364

An Act Regarding Net Neutrality and Internet Policy

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §1541-B is enacted to read:

§1541-B. Net neutrality

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advanced communications technology infrastructure" has the same meaning as in Title 35-A, section 9202, subsection 1.

B. "Broadband Internet access service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the service, but excluding dial-up Internet access service.

C. "Commit state funds" means to enter into a contract, make a grant or otherwise commit any state funds, including but not limited to any act that would incur a financial obligation against the State Government subject to review under section 1541, subsection 2.

D. "Internet service provider" has the same meaning as in section 200-B, subsection 1-A, paragraph A.

E. "Net neutral service" means fixed or mobile broadband Internet access service that is provided without engaging in any of the following:

(1) Blocking of lawful content, applications, services or devices, subject to reasonable network management practices;

(2) Throttling; or

(3) Paid prioritization.

F. "Paid prioritization" means management of the network of an Internet service provider that provides broadband Internet access service to directly or indirectly favor

some traffic over other traffic, either in exchange for monetary or other consideration from a 3rd party or to benefit an affiliated entity.

G. "Reasonable network management practice" means a practice that has a primarily technical network management justification and is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service. "Reasonable network management practice" does not include other business practices.

H. "State entity" means a department, agency or instrumentality of the State.

I. "Throttling" means impairing or degrading lawful Internet traffic on the basis of Internet content, application or service or use of a nonharmful device, subject to reasonable network management practices.

2. Provider agreement. A state entity may not commit state funds to an Internet service provider unless:

A. The Internet service provider agrees in writing to provide net neutral service in the provision of broadband Internet access service:

(1) Directly to the state entity; or

(2) Across advanced communications technology infrastructure constructed with the use of the state funds;

B. The state entity provides to the State Controller:

(1) Notice of its intent to commit state funds to an Internet service provider; and

(2) A written agreement from the Internet service provider that conforms to the requirements of paragraph A; and

C. The State Controller finds that the requirements of paragraphs A and B have been satisfied and authorizes the state agency or instrumentality to commit state funds.

Nothing in this section limits the authority of the State Controller under any other provision of law to limit or prohibit a state entity from committing state funds.

Nothing in this section prohibits reasonable efforts by an Internet service provider providing broadband Internet access service to address copyright infringement or other unlawful activity.

Nothing in this section supersedes any obligations, authorizations or restrictions on an Internet service provider providing broadband Internet access service to address the needs of emergency communications or law enforcement, public safety or national security authorities under the laws of the State and the United States of America and the United States Constitution and the Constitution of Maine.

Upon receipt of information or complaint from any person that an Internet service provider may be failing to meet the requirements of an agreement made under this section, the Attorney General may undertake an investigation and take any action the

Attorney General determines appropriate, including, but not limited to, action pursuant to section 192.