SENATE BILL 287

P1, L6

By: Senators Manno, Currie, Guzzone, Kelley, Peters, and Pinsky
Introduced and read first time: January 22, 2018
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

State Funds – Procurement of Services From Internet Service Providers – Restriction

FOR the purpose of providing that State funds may be used only by the State, a political subdivision, or a unit, an agency, or any instrumentality of the State or a political subdivision or by a person awarded a contract or grant by certain persons to procure services from an Internet Service Provider that does not block certain content applications, services, and devices, impair or degrade certain Internet traffic on a certain basis, or engage in certain commercial traffic preferencing; defining certain terms; and generally relating to the use of State funds to procure services from Internet Service Providers.

BY adding to Article – State Finance and Procurement Section 2–801 to be under the new subtitle “Subtitle 8. Restrictions on the Use of State Funds”

Annotated Code of Maryland (2015 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

SUBTITLE 8. RESTRICTIONS ON THE USE OF STATE FUNDS.

2–801.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.
(2) "INTERNET–CONNECTED DEVICE" MEANS A PHYSICAL OBJECT THAT:

(i) IS CAPABLE OF CONNECTING TO AND IS IN REGULAR CONNECTION WITH THE INTERNET; AND

(ii) HAS COMPUTER PROCESSING CAPABILITIES THAT CAN COLLECT, SEND, OR RECEIVE DATA.

(3) (i) "REASONABLE NETWORK MANAGEMENT" MEANS A NETWORK MANAGEMENT PRACTICE THAT HAS PRIMARILY TECHNICAL NETWORK MANAGEMENT JUSTIFICATION.

(ii) "REASONABLE NETWORK MANAGEMENT" INCLUDES A PRACTICE THAT 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.

(iii) "REASONABLE NETWORK MANAGEMENT" DOES NOT INCLUDE OTHER BUSINESS PRACTICES.

(B) STATE FUNDS MAY BE USED ONLY BY THE STATE, A POLITICAL SUBDIVISION, OR A UNIT, AN AGENCY, OR ANY INSTRUMENTALITY OF THE STATE OR A POLITICAL SUBDIVISION OR A PERSON AWARDED A CONTRACT OR GRANT BY THE STATE, A POLITICAL SUBDIVISION, OR A UNIT, AN AGENCY, OR ANY INSTRUMENTALITY OF THE STATE OR A POLITICAL SUBDIVISION TO PROCURE SERVICES FROM AN INTERNET SERVICE PROVIDER THAT DOES NOT:

(1) BLOCK LAWFUL CONTENT, APPLICATIONS, SERVICES, OR NONHARMFUL DEVICES, SUBJECT TO REASONABLE NETWORK MANAGEMENT;

(2) IMPAIR OR DEGRADE LAWFUL INTERNET TRAFFIC ON THE BASIS OF INTERNET CONTENT, APPLICATION, OR SERVICE, OR USE OF A NONHARMFUL DEVICE, SUBJECT TO REASONABLE NETWORK MANAGEMENT; AND

(3) ENGAGE IN COMMERCIAL TRAFFIC PREFERENCING, INCLUDING TRAFFIC SHAPING, PRIORITIZATION, RESOURCE RESERVATION, OR OTHER FORMS OF PREFERENTIAL TRAFFIC MANAGEMENT, EITHER:

(i) IN EXCHANGE FOR CONSIDERATION FROM A THIRD PARTY; OR
(II) TO BENEFIT AN AFFILIATED ENTITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.