

HOUSE BILL 1064

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By: **Delegate Reznik**

Introduced and read first time: February 5, 2021

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Maryland Net Neutrality Act of 2021**

3 FOR the purpose of prohibiting fixed Internet service providers and mobile broadband
4 Internet access service providers, in the course of providing certain services and
5 subject to a certain limitation, from blocking certain content, applications, services,
6 or devices, or impairing or degrading certain Internet traffic on a certain basis;
7 prohibiting fixed Internet service providers and mobile broadband Internet access
8 service providers, in the course of providing certain services, from requiring certain
9 consideration from an edge provider; prohibiting fixed Internet service providers and
10 mobile broadband Internet access service providers, in the course of providing
11 certain services, from managing the Internet service provider's network to directly
12 or indirectly favor certain Internet traffic over other Internet traffic under certain
13 circumstances; prohibiting fixed Internet service providers and mobile broadband
14 Internet access service providers, in the course of providing certain services, from
15 engaging in zero-rating in exchange for consideration from a third party, zero-rating
16 only certain Internet traffic, failing to publicly disclose certain information, or
17 engaging in certain practices that have a certain purpose; prohibiting fixed Internet
18 service providers and mobile Internet service providers, in the course of providing
19 certain services and subject to a certain limitation, from unreasonably interfering
20 with or disadvantaging an end user's ability to select, access, and use certain
21 services, content, applications, or devices or an edge provider's ability to make
22 certain content, applications, services, or devices available to end users; providing
23 that it is not a violation of certain provisions of this Act to zero-rate Internet traffic
24 in a certain manner under certain circumstances; prohibiting fixed Internet service
25 providers and mobile Internet service providers from offering or providing certain
26 services under certain circumstances; prohibiting fixed Internet service providers
27 and mobile Internet providers from engaging in certain practices related to certain
28 traffic exchange; authorizing the State, political subdivisions, and units, agencies, or
29 instrumentalities of the State or a political subdivision and certain other persons to
30 use State funds to purchase broadband Internet access service only from a provider
31 in compliance with certain provisions of this Act; requiring the State, political

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 subdivisions, and certain other persons to certify to a certain division of the Public
2 Service Commission that the State funds used to procure certain services were used
3 only to procure certain services offered by a certain provider in compliance with
4 certain provisions of this Act; providing for the application of this Act; providing that
5 a certain waiver is unenforceable and void; defining certain terms; stating the intent
6 of the General Assembly; making the provisions of this Act severable; and generally
7 relating to net neutrality.

8 BY adding to

9 Article – Commercial Law

10 Section 14–4301 through 14–4305 to be under the new subtitle “Subtitle 43.
11 Maryland Net Neutrality Act”

12 Annotated Code of Maryland

13 (2013 Replacement Volume and 2020 Supplement)

14 BY repealing and reenacting, without amendments,

15 Article – General Provisions

16 Section 1–101 and 1–114

17 Annotated Code of Maryland

18 (2019 Replacement Volume and 2020 Supplement)

19 BY adding to

20 Article – State Finance and Procurement

21 Section 2–901 and 2–902 to be under the new subtitle “Subtitle 9. Restrictions on the
22 Use of State Funds”

23 Annotated Code of Maryland

24 (2015 Replacement Volume and 2020 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

26 That the Laws of Maryland read as follows:

27 **Article – Commercial Law**

28 **SUBTITLE 43. MARYLAND NET NEUTRALITY ACT.**

29 **14–4301.**

30 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
31 **INDICATED.**

32 **(B) “APPLICATION–AGNOSTIC” MEANS NOT DIFFERENTIATING ON THE**
33 **BASIS OF SOURCE, DESTINATION, INTERNET CONTENT, APPLICATION, SERVICE, OR**
34 **DEVICE, OR CLASS OF INTERNET CONTENT, APPLICATION, SERVICE, OR DEVICE.**

35 **(C) (1) “BROADBAND INTERNET ACCESS SERVICE” MEANS A MASS**
36 **MARKET RETAIL SERVICE BY WIRE OR RADIO THAT PROVIDES THE CAPABILITY TO**

1 TRANSMIT DATA TO AND RECEIVE DATA FROM SUBSTANTIALLY ALL INTERNET
2 ENDPOINTS.

3 (2) "BROADBAND INTERNET ACCESS SERVICE" INCLUDES:

4 (I) ANY FUNCTIONALLY EQUIVALENT SERVICE;

5 (II) ANY SERVICE THAT IS USED TO EVADE THE PROTECTIONS
6 ESTABLISHED UNDER THIS SUBTITLE; AND

7 (III) ANY CAPABILITIES THAT ARE INCIDENTAL TO AND ENABLE
8 THE OPERATION OF THE COMMUNICATIONS SERVICE.

9 (3) "BROADBAND INTERNET ACCESS SERVICE" DOES NOT INCLUDE
10 DIAL-UP INTERNET ACCESS SERVICE.

11 (D) "CLASS OF INTERNET CONTENT, APPLICATION, SERVICE, OR DEVICE"
12 MEANS INTERNET CONTENT OR A GROUP OF INTERNET APPLICATIONS, SERVICES,
13 OR DEVICES THAT SHARE A COMMON CHARACTERISTIC, INCLUDING:

14 (1) SHARING THE SAME SOURCE OR DESTINATION;

15 (2) BELONGING TO THE SAME TYPE OF CONTENT, APPLICATION,
16 SERVICE, OR DEVICE;

17 (3) USING THE SAME APPLICATION-LAYER PROTOCOL;

18 (4) USING THE SAME TRANSPORT-LAYER PROTOCOL; AND

19 (5) HAVING SIMILAR TECHNICAL CHARACTERISTICS INCLUDING
20 SIZE, SEQUENCING, TIMING OF PACKETS, OR SENSITIVITY TO DELAY.

21 (E) (1) "CONTENT, APPLICATIONS, OR SERVICES" MEANS ALL INTERNET
22 TRAFFIC TRANSMITTED TO OR FROM END USERS OF A BROADBAND INTERNET
23 ACCESS SERVICE.

24 (2) "CONTENT, APPLICATIONS, OR SERVICES" INCLUDES TRAFFIC
25 THAT MAY NOT CLEARLY FIT WITHIN THE CATEGORIES OF CONTENT, APPLICATIONS,
26 OR SERVICES.

27 (F) "EDGE PROVIDER" MEANS A PERSON THAT PROVIDES:

28 (1) ANY CONTENT, APPLICATIONS, OR SERVICES OVER THE

1 INTERNET; OR

2 (2) A DEVICE USED FOR ACCESSING ANY CONTENT, APPLICATIONS,
3 OR SERVICES THROUGH THE INTERNET.

4 (G) "END USER" MEANS A PERSON THAT USES A BROADBAND INTERNET
5 ACCESS SERVICE.

6 (H) "ENTERPRISE SERVICE OFFERING" MEANS AN OFFERING TO LARGER
7 ENTITIES THROUGH CUSTOMIZED OR INDIVIDUALLY NEGOTIATED ARRANGEMENTS
8 OR SPECIAL ACCESS SERVICES.

9 (I) (1) "FIXED BROADBAND INTERNET ACCESS SERVICE" MEANS A
10 BROADBAND INTERNET ACCESS SERVICE THAT SERVES END USERS PRIMARILY AT
11 FIXED ENDPOINTS USING STATIONARY EQUIPMENT.

12 (2) "FIXED BROADBAND INTERNET ACCESS SERVICE" INCLUDES
13 FIXED WIRELESS SERVICES INCLUDING FIXED UNLICENSED WIRELESS SERVICES
14 AND FIXED SATELLITE SERVICES.

15 (J) "FIXED INTERNET SERVICE PROVIDER" MEANS AN ENTITY THAT
16 PROVIDES FIXED BROADBAND INTERNET ACCESS SERVICE TO AN INDIVIDUAL, AN
17 ENTITY, A GOVERNMENT, OR ANY OTHER CUSTOMER IN THE STATE.

18 (K) (1) "IMPAIR OR DEGRADE LAWFUL INTERNET TRAFFIC ON THE BASIS
19 OF INTERNET CONTENT, APPLICATION, OR SERVICE, OR USE OF A NONHARMFUL
20 DEVICE" MEANS TO IMPAIR OR DEGRADE:

21 (I) PARTICULAR CONTENT, APPLICATIONS, OR SERVICES;

22 (II) PARTICULAR CLASSES OF CONTENT, APPLICATIONS, OR
23 SERVICES;

24 (III) LAWFUL INTERNET TRAFFIC TO PARTICULAR
25 NONHARMFUL DEVICES; OR

26 (IV) LAWFUL INTERNET TRAFFIC TO PARTICULAR CLASSES OF
27 NONHARMFUL DEVICES.

28 (2) "IMPAIR OR DEGRADE LAWFUL INTERNET TRAFFIC ON THE BASIS
29 OF INTERNET CONTENT, APPLICATION, OR SERVICE, OR USE OF A NONHARMFUL
30 DEVICE" INCLUDES DIFFERENTIATING, POSITIVELY OR NEGATIVELY, BETWEEN:

1 (I) PARTICULAR CONTENT, APPLICATIONS, OR SERVICES;

2 (II) PARTICULAR CLASSES OF CONTENT, APPLICATIONS, OR
3 SERVICES;

4 (III) LAWFUL INTERNET TRAFFIC TO PARTICULAR
5 NONHARMFUL DEVICES; OR

6 (IV) LAWFUL INTERNET TRAFFIC TO PARTICULAR CLASSES OF
7 NONHARMFUL DEVICES.

8 (L) "INTERNET SERVICE PROVIDER" MEANS AN ENTITY THAT PROVIDES
9 BROADBAND INTERNET ACCESS SERVICE TO AN INDIVIDUAL, AN ENTITY, A
10 GOVERNMENT, OR ANY OTHER CUSTOMER IN THE STATE.

11 (M) "ISP TRAFFIC EXCHANGE" MEANS THE EXCHANGE OF INTERNET
12 TRAFFIC DESTINED FOR, OR ORIGINATING FROM, AN INTERNET SERVICE
13 PROVIDER'S END USERS BETWEEN THE INTERNET SERVICE PROVIDER'S NETWORK
14 AND ANOTHER INDIVIDUAL OR ENTITY, INCLUDING AN EDGE PROVIDER, CONTENT
15 DELIVERY NETWORK, OR OTHER NETWORK OPERATOR.

16 (N) "ISP TRAFFIC EXCHANGE AGREEMENT" MEANS AN AGREEMENT
17 BETWEEN AN INTERNET SERVICE PROVIDER AND ANOTHER INDIVIDUAL OR ENTITY,
18 INCLUDING AN EDGE PROVIDER, A CONTENT DELIVERY NETWORK, OR ANY OTHER
19 NETWORK OPERATOR, TO EXCHANGE INTERNET TRAFFIC DESTINED FOR, OR
20 ORIGINATING FROM, AN INTERNET SERVICE PROVIDER'S END USERS BETWEEN THE
21 INTERNET SERVICE PROVIDER'S NETWORK AND THE OTHER INDIVIDUAL OR ENTITY.

22 (O) (1) "MASS MARKET RETAIL SERVICE" MEANS A SERVICE MARKETED
23 AND SOLD ON A STANDARDIZED BASIS TO RESIDENTIAL CUSTOMERS, SMALL
24 BUSINESSES, AND OTHER CUSTOMERS INCLUDING SCHOOLS, INSTITUTIONS OF
25 HIGHER EDUCATION, AND LIBRARIES.

26 (2) "MASS MARKET RETAIL SERVICE" INCLUDES ANY BROADBAND
27 INTERNET ACCESS SERVICE THAT IS:

28 (I) PURCHASED WITH SUPPORT OF THE E-RATE AND RURAL
29 HEALTH CARE PROGRAMS AND SIMILAR PROGRAMS AT THE FEDERAL AND STATE
30 LEVEL, REGARDLESS OF WHETHER THEY ARE CUSTOMIZED OR INDIVIDUALLY
31 NEGOTIATED; OR

32 (II) OFFERED USING NETWORKS SUPPORTED BY THE CONNECT
33 AMERICA FUND OR SIMILAR PROGRAMS AT THE FEDERAL AND STATE LEVEL.

1 **(3) “MASS MARKET RETAIL SERVICE” DOES NOT INCLUDE**
2 **ENTERPRISE SERVICE OFFERINGS.**

3 **(P) (1) “MOBILE BROADBAND INTERNET ACCESS SERVICE” MEANS A**
4 **BROADBAND INTERNET ACCESS SERVICE THAT SERVES END USERS PRIMARILY**
5 **USING A RADIO COMMUNICATION STATION THAT IS CAPABLE OF BEING MOVED AND**
6 **THAT ORDINARILY MOVES.**

7 **(2) “MOBILE BROADBAND INTERNET ACCESS SERVICE” INCLUDES**
8 **BROADBAND INTERNET ACCESS SERVICE THAT USES SMARTPHONES OR**
9 **MOBILE-NETWORK-ENABLED TABLETS AS THE PRIMARY ENDPOINTS FOR**
10 **CONNECTION TO THE INTERNET AND MOBILE SATELLITE BROADBAND SERVICES.**

11 **(Q) “MOBILE INTERNET SERVICE PROVIDER” MEANS AN ENTITY THAT**
12 **PROVIDES MOBILE BROADBAND INTERNET ACCESS SERVICE TO AN INDIVIDUAL, AN**
13 **ENTITY, A GOVERNMENT, OR ANY OTHER CUSTOMER IN THE STATE.**

14 **(R) “REASONABLE NETWORK MANAGEMENT” MEANS A PRACTICE THAT:**

15 **(1) HAS A PRIMARILY TECHNICAL NETWORK MANAGEMENT**
16 **JUSTIFICATION;**

17 **(2) DOES NOT INCLUDE OTHER BUSINESS PRACTICES;**

18 **(3) IS PRIMARILY USED FOR AND TAILORED TO ACHIEVING A**
19 **LEGITIMATE NETWORK MANAGEMENT PURPOSE TAKING INTO ACCOUNT THE**
20 **PARTICULAR NETWORK ARCHITECTURE AND TECHNOLOGY OF THE BROADBAND**
21 **INTERNET ACCESS; AND**

22 **(4) IS AS APPLICATION-AGNOSTIC AS POSSIBLE.**

23 **(S) “ZERO-RATING” MEANS THE PRACTICE OF EXEMPTING CERTAIN**
24 **INTERNET TRAFFIC FROM A CUSTOMER’S DATA USAGE ALLOWANCE.**

25 **14-4302.**

26 **(A) THE GENERAL ASSEMBLY FINDS THAT ALMOST EVERY SECTOR OF THE**
27 **STATE’S ECONOMY, DEMOCRACY, AND SOCIETY IS DEPENDENT ON THE OPEN AND**
28 **NEUTRAL INTERNET THAT SUPPORTS VITAL FUNCTIONS REGULATED UNDER THE**
29 **POLICE POWER OF THE STATE, INCLUDING:**

30 **(1) POLICE AND EMERGENCY SERVICES;**

1 **(2) HEALTH AND SAFETY SERVICES AND INFRASTRUCTURE;**

2 **(3) UTILITY SERVICES AND INFRASTRUCTURE;**

3 **(4) TRANSPORTATION INFRASTRUCTURE AND SERVICES, AND THE**
4 **EXPANSION OF ZERO-EMISSION AND LOW-EMISSION TRANSPORTATION OPTIONS;**

5 **(5) GOVERNMENT SERVICES, VOTING, AND DEMOCRATIC**
6 **DECISION-MAKING PROCESSES;**

7 **(6) EDUCATION, BUSINESS, AND ECONOMIC ACTIVITY;**

8 **(7) ENVIRONMENTAL MONITORING AND PROTECTION AND**
9 **ACHIEVEMENT OF STATE ENVIRONMENTAL GOALS; AND**

10 **(8) LAND USE REGULATION.**

11 **(B) THE GENERAL ASSEMBLY DECLARES THAT THIS SUBTITLE IS ENACTED**
12 **IN ACCORDANCE WITH THE INHERENT POLICE POWER OF THE STATE TO PROTECT**
13 **AND PROMOTE THE SAFETY, LIFE, PUBLIC HEALTH, PUBLIC CONVENIENCE,**
14 **GENERAL PROSPERITY, AND WELL-BEING OF SOCIETY AND WELFARE OF THE**
15 **STATE'S POPULATION AND ECONOMY THAT ARE INCREASINGLY DEPENDENT ON AN**
16 **OPEN AND NEUTRAL INTERNET.**

17 **14-4303.**

18 **(A) THIS SUBTITLE APPLIES ONLY TO BROADBAND INTERNET ACCESS**
19 **SERVICE PROVIDED TO CUSTOMERS IN THE STATE.**

20 **(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO PROHIBIT OR LIMIT:**

21 **(1) A FIXED INTERNET SERVICE PROVIDER OR MOBILE INTERNET**
22 **SERVICE PROVIDER FROM SATISFYING ANY LEGAL OBLIGATION OR AUTHORIZATION**
23 **TO ADDRESS THE NEEDS OF EMERGENCY COMMUNICATIONS OR THE PURPOSES OF**
24 **LAW ENFORCEMENT, PUBLIC SAFETY, OR NATIONAL SECURITY; OR**

25 **(2) REASONABLE EFFORTS TO ADDRESS COPYRIGHT INFRINGEMENT**
26 **OR OTHER UNLAWFUL ACTIVITY.**

27 **(C) ANY WAIVER OF THE PROVISIONS OF THIS SUBTITLE SHALL BE**
28 **UNENFORCEABLE AND VOID.**

1 14-4304.

2 (A) A FIXED INTERNET SERVICE PROVIDER, IN THE COURSE OF PROVIDING
3 FIXED BROADBAND INTERNET ACCESS SERVICE, MAY NOT:

4 (1) SUBJECT TO REASONABLE NETWORK MANAGEMENT:

5 (I) BLOCK LAWFUL CONTENT, APPLICATIONS, OR SERVICES,
6 OR NONHARMFUL DEVICES; OR

7 (II) IMPAIR OR DEGRADE LAWFUL INTERNET TRAFFIC ON THE
8 BASIS OF INTERNET CONTENT, APPLICATION, OR SERVICE, OR THE USE OF A
9 NONHARMFUL DEVICE;

10 (2) REQUIRE CONSIDERATION, MONETARY OR OTHERWISE, FROM AN
11 EDGE PROVIDER, IN EXCHANGE FOR:

12 (I) DELIVERING INTERNET TRAFFIC TO AND CARRYING
13 INTERNET TRAFFIC FROM THE INTERNET SERVICE PROVIDER'S END USERS;

14 (II) AVOIDING HAVING THE EDGE PROVIDER'S CONTENT,
15 APPLICATION, SERVICE, OR NONHARMFUL DEVICE BLOCKED FROM REACHING THE
16 INTERNET SERVICE PROVIDER'S END USERS; OR

17 (III) AVOIDING HAVING THE EDGE PROVIDER'S CONTENT,
18 APPLICATION, SERVICE, OR NONHARMFUL DEVICE IMPAIRED OR DEGRADED;

19 (3) MANAGE THE INTERNET SERVICE PROVIDER'S NETWORK TO
20 DIRECTLY OR INDIRECTLY FAVOR CERTAIN INTERNET TRAFFIC OVER OTHER
21 INTERNET TRAFFIC, INCLUDING THROUGH THE USE OF TECHNIQUES SUCH AS
22 TRAFFIC SHAPING, PRIORITIZATION, RESOURCE RESERVATION, OR OTHER FORMS
23 OF PREFERENTIAL TRAFFIC MANAGEMENT, EITHER:

24 (I) IN EXCHANGE FOR CONSIDERATION, MONETARY OR
25 OTHERWISE, FROM A THIRD PARTY; OR

26 (II) TO BENEFIT AN AFFILIATED ENTITY;

27 (4) ENGAGE IN ZERO-RATING IN EXCHANGE FOR CONSIDERATION,
28 MONETARY OR OTHERWISE, FROM A THIRD PARTY;

29 (5) ZERO-RATE ONLY CERTAIN INTERNET CONTENT, APPLICATIONS,
30 SERVICES, OR DEVICES IN A CATEGORY OF INTERNET CONTENT, APPLICATIONS,

1 SERVICES, OR DEVICES; OR

2 (6) FAIL TO PUBLICLY DISCLOSE ACCURATE INFORMATION
3 REGARDING THE NETWORK MANAGEMENT PRACTICES, PERFORMANCE, AND
4 COMMERCIAL TERMS OF ITS BROADBAND INTERNET ACCESS SERVICE SUFFICIENT
5 TO ALLOW:

6 (I) A CONSUMER TO MAKE AN INFORMED CHOICE REGARDING
7 THE USE OF THE BROADBAND INTERNET ACCESS SERVICE; AND

8 (II) CONTENT, APPLICATION, SERVICE, AND DEVICE
9 PROVIDERS TO DEVELOP, MARKET, AND MAINTAIN INTERNET OFFERINGS.

10 (B) (1) THE FOLLOWING ENTITIES MAY NOT ENGAGE IN PRACTICES,
11 INCLUDING AGREEMENTS, WITH RESPECT TO, RELATED TO, OR IN CONNECTION
12 WITH ISP TRAFFIC EXCHANGE, THAT HAVE THE PURPOSE OR EFFECT OF EVADING
13 THE PROHIBITIONS ESTABLISHED UNDER THIS SECTION AND § 14-4305 OF THIS
14 SUBTITLE:

15 (I) A FIXED INTERNET SERVICE PROVIDER, IN THE COURSE OF
16 PROVIDING FIXED BROADBAND INTERNET ACCESS SERVICE; OR

17 (II) A MOBILE INTERNET SERVICE PROVIDER, IN THE COURSE
18 OF PROVIDING MOBILE BROADBAND INTERNET ACCESS SERVICE.

19 (2) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT FIXED
20 INTERNET SERVICE PROVIDERS OR MOBILE INTERNET SERVICE PROVIDERS FROM
21 ENTERING INTO ISP TRAFFIC EXCHANGE AGREEMENTS THAT DO NOT HAVE THE
22 PURPOSE OR EFFECT OF EVADING THE PROHIBITIONS ESTABLISHED UNDER THIS
23 SECTION AND § 14-4305 OF THIS SUBTITLE.

24 (C) (1) A FIXED INTERNET SERVICE PROVIDER, IN THE COURSE OF
25 PROVIDING FIXED BROADBAND INTERNET ACCESS SERVICE, MAY NOT:

26 (I) SUBJECT TO REASONABLE NETWORK MANAGEMENT,
27 UNREASONABLY INTERFERE WITH OR UNREASONABLY DISADVANTAGE AN END
28 USER'S ABILITY TO SELECT, ACCESS, AND USE BROADBAND INTERNET ACCESS
29 SERVICE OR LAWFUL INTERNET CONTENT, APPLICATIONS, SERVICES, OR DEVICES
30 OF THE END USER'S CHOICE; OR

31 (II) SUBJECT TO REASONABLE NETWORK MANAGEMENT,
32 UNREASONABLY INTERFERE WITH OR UNREASONABLY DISADVANTAGE AN EDGE
33 PROVIDER'S ABILITY TO MAKE LAWFUL CONTENT, APPLICATIONS, SERVICES, OR

1 DEVICES AVAILABLE TO END USERS.

2 (2) IT IS NOT A VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION
3 FOR AN INTERNET SERVICE PROVIDER TO ZERO-RATE INTERNET TRAFFIC IN AN
4 APPLICATION-AGNOSTIC MANNER IF NO CONSIDERATION, MONETARY OR
5 OTHERWISE, IS PROVIDED BY A THIRD PARTY IN EXCHANGE FOR THE INTERNET
6 SERVICE PROVIDER'S DECISION TO ZERO-RATE INTERNET TRAFFIC.

7 (D) A MOBILE INTERNET SERVICE PROVIDER, IN THE COURSE OF
8 PROVIDING MOBILE BROADBAND INTERNET ACCESS SERVICE, MAY NOT ENGAGE IN
9 ANY OF THE ACTIVITIES DESCRIBED IN SUBSECTION (A), (B)(1), OR (C)(1) OF THIS
10 SECTION.

11 14-4305.

12 (A) A FIXED INTERNET SERVICE PROVIDER MAY NOT OFFER OR PROVIDE
13 SERVICES OTHER THAN BROADBAND INTERNET ACCESS SERVICE THAT ARE
14 DELIVERED OVER THE SAME LAST-MILE CONNECTION AS THE BROADBAND
15 INTERNET ACCESS SERVICE IF THE SERVICES:

16 (1) HAVE THE PURPOSE OR EFFECT OF EVADING THE PROHIBITIONS
17 ESTABLISHED UNDER § 14-4304 OF THIS SUBTITLE; OR

18 (2) NEGATIVELY AFFECT THE PERFORMANCE OF BROADBAND
19 INTERNET ACCESS SERVICE.

20 (B) A MOBILE INTERNET SERVICE PROVIDER MAY NOT OFFER OR PROVIDE
21 SERVICES OTHER THAN BROADBAND INTERNET ACCESS SERVICE THAT ARE
22 DELIVERED OVER THE SAME LAST-MILE CONNECTION AS THE BROADBAND
23 INTERNET ACCESS SERVICE IF THE SERVICES:

24 (1) HAVE THE PURPOSE OR EFFECT OF EVADING THE PROHIBITIONS
25 ESTABLISHED UNDER § 14-4304 OF THIS SUBTITLE; OR

26 (2) NEGATIVELY AFFECT THE PERFORMANCE OF BROADBAND
27 INTERNET ACCESS SERVICE.

28 (C) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A FIXED
29 INTERNET SERVICE PROVIDER OR MOBILE INTERNET SERVICE PROVIDER FROM
30 OFFERING OR PROVIDING SERVICES OTHER THAN BROADBAND INTERNET ACCESS
31 SERVICE THAT ARE DELIVERED OVER THE SAME LAST-MILE CONNECTION AS THE
32 BROADBAND INTERNET ACCESS SERVICE AND DO NOT VIOLATE THIS SECTION.

1 **Article – General Provisions**

2 1–101.

3 Except as otherwise provided in this Code, in this Code the following words have the
4 meanings indicated.

5 1–114.

6 “Person” includes an individual, receiver, trustee, guardian, personal representative,
7 fiduciary, representative of any kind, corporation, partnership, business trust, statutory
8 trust, limited liability company, firm, association, or other nongovernmental entity.

9 **Article – State Finance and Procurement**

10 **SUBTITLE 9. RESTRICTIONS ON THE USE OF STATE FUNDS.**

11 **2–901.**

12 **IN THIS SUBTITLE, “BROADBAND INTERNET ACCESS SERVICE” HAS THE**
13 **MEANING STATED IN § 14–4301 OF THE COMMERCIAL LAW ARTICLE.**

14 **2–902.**

15 **THE STATE, A POLITICAL SUBDIVISION, OR A UNIT, AN AGENCY, OR ANY**
16 **INSTRUMENTALITY OF THE STATE OR A POLITICAL SUBDIVISION OR A PERSON**
17 **AWARDED A CONTRACT OR GRANT BY THE STATE, A POLITICAL SUBDIVISION, OR A**
18 **UNIT, AN AGENCY, OR ANY INSTRUMENTALITY OF THE STATE OR A POLITICAL**
19 **SUBDIVISION:**

20 **(1) MAY USE STATE FUNDS TO PROCURE BROADBAND INTERNET**
21 **ACCESS SERVICE ONLY FROM AN INTERNET SERVICE PROVIDER THAT IS, AT ALL**
22 **TIMES, IN COMPLIANCE WITH THE REQUIREMENTS OF TITLE 14, SUBTITLE 43 OF**
23 **THE COMMERCIAL LAW ARTICLE.**

24 **(2) ON OR BEFORE MARCH 31 EACH YEAR, SHALL CERTIFY TO THE**
25 **TELECOMMUNICATIONS DIVISION OF THE PUBLIC SERVICE COMMISSION THAT THE**
26 **STATE FUNDS USED TO PROCURE BROADBAND INTERNET ACCESS SERVICE WERE**
27 **USED ONLY TO PROCURE BROADBAND INTERNET ACCESS SERVICE OFFERED BY AN**
28 **INTERNET SERVICE PROVIDER IN COMPLIANCE WITH THE REQUIREMENTS OF TITLE**
29 **14, SUBTITLE 43 OF THE COMMERCIAL LAW ARTICLE.**

30 **SECTION 2. AND BE IT FURTHER ENACTED,** That it is the intent of the General
31 Assembly that, if the State, a county, or a municipality provides broadband Internet access
32 service, the State, the county, or the municipality may not impose use restrictions that

1 prohibit the exercise of free speech.

2 SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
3 the application thereof to any person or circumstance is held invalid for any reason in a
4 court of competent jurisdiction, the invalidity does not affect other provisions or any other
5 application of this Act that can be given effect without the invalid provision or application,
6 and for this purpose the provisions of this Act are declared severable.

7 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
8 1, 2021.