

# HOUSE BILL 1655

I3, P2

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By: **Delegates Reznik, Sydnor, Barve, Beidle, Bromwell, Carr, Clippinger, Cullison, Flanagan, Fraser-Hidalgo, Gaines, Healey, Hettleman, Krimm, J. Lewis, Lierman, Luedtke, A. Miller, Moon, Morhaim, Pena-Melnyk, Pendergrass, Robinson, Stein, M. Washington, Wilkins, K. Young, and P. Young**

Introduced and read first time: February 9, 2018

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Privacy and Net Neutrality Protections**

3 FOR the purpose of specifying the circumstances under which a broadband Internet access  
4 service provider may handle certain customer personal information in a certain  
5 manner; establishing a mechanism through which a broadband Internet access  
6 service provider may obtain customer consent to have certain personal information  
7 handled in a certain manner; prohibiting a broadband Internet access service  
8 provider from taking certain actions based on whether a customer has consented to  
9 have certain customer personal information handled in a certain manner; specifying  
10 the circumstances under which a broadband Internet access service provider may  
11 handle certain customer personal information in a certain manner without consent  
12 from a customer; authorizing a broadband Internet access service provider to handle  
13 certain customer personal information in a certain manner for the purpose of  
14 advertising or marketing to the customer; requiring a broadband Internet access  
15 service provider to disclose certain customer personal information under certain  
16 circumstances; requiring a broadband Internet access service provider to implement  
17 certain measures to protect certain customer personal information; authorizing a  
18 broadband Internet access service provider to take certain actions to comply with the  
19 requirement to implement certain measures to protect certain customer personal  
20 information; prohibiting a broadband Internet access service provider from retaining  
21 certain customer personal information for longer than a certain amount of time,  
22 subject to certain exceptions; requiring a broadband Internet access service provider  
23 to provide certain notice; specifying that a certain term in a contract is void and  
24 unenforceable under certain circumstances; providing that a violation of a portion of  
25 this Act is an unfair or deceptive trade practice under the Consumer Protection Act  
26 and is subject to certain enforcement and penalty provisions; providing for the  
27 enforcement of a portion of this Act; providing that State funds may be used only by

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the State, a political subdivision, or a unit, an agency, or any instrumentality of the  
2 State or a political subdivision or by a person awarded a contract or grant by certain  
3 persons to procure services from an Internet service provider that does not block  
4 certain content applications, services, and devices, impair or degrade certain  
5 Internet traffic on a certain basis, or engage in certain commercial traffic  
6 preferencing; stating the intent of the General Assembly; authorizing the governing  
7 body of a county or municipality to grant a franchise for a broadband Internet access  
8 service; authorizing a certain franchise agreement for a certain service to include a  
9 certain requirement for compliance with this Act and certain corresponding  
10 provisions of law; requiring the Board of Public Works to establish a certain process  
11 to authorize a unit to obtain a certain waiver; requiring a waiver process to include  
12 a certain hearing and vote; requiring the Board to publish a certain notice on its  
13 website within a certain period of time; requiring the Board to submit a certain  
14 report to the General Assembly on or before a certain date each year; providing for  
15 the construction and application of this Act; defining certain terms; and generally  
16 relating to Internet privacy and usage.

17 BY repealing and reenacting, with amendments,  
18 Article – Commercial Law  
19 Section 13–301(14)(xxix)  
20 Annotated Code of Maryland  
21 (2013 Replacement Volume and 2017 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article – Commercial Law  
24 Section 13–301(14)(xxx)  
25 Annotated Code of Maryland  
26 (2013 Replacement Volume and 2017 Supplement)

27 BY adding to  
28 Article – Commercial Law  
29 Section 13–301(14)(xxxi); and 14–4101 through 14–4111 to be under the new subtitle  
30 “Subtitle 41. Internet Privacy and Net Neutrality”  
31 Annotated Code of Maryland  
32 (2013 Replacement Volume and 2017 Supplement)

33 BY repealing and reenacting, with amendments,  
34 Article – Local Government  
35 Section 1–708  
36 Annotated Code of Maryland  
37 (2013 Volume and 2017 Supplement)

38 BY adding to  
39 Article – State Finance and Procurement  
40 Section 2–801 to be under the new subtitle “Subtitle 8. Restrictions on the Use of  
41 State Funds”  
42 Annotated Code of Maryland

1 (2015 Replacement Volume and 2017 Supplement)

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

4 **Article – Commercial Law**

5 13–301.

6 Unfair or deceptive trade practices include any:

7 (14) Violation of a provision of:

8 (xxix) Title 19, Subtitle 7 of the Business Regulation Article; [or]

9 (xxx) Section 15–311.3 of the Transportation Article; or

10 (XXXI) **TITLE 14, SUBTITLE 41 OF THIS ARTICLE; OR**

11 **SUBTITLE 41. INTERNET PRIVACY AND NET NEUTRALITY.**

12 **14–4101.**

13 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
14 **INDICATED.**

15 **(B) “AGGREGATE CUSTOMER PERSONAL INFORMATION DATASET” MEANS**  
16 **COLLECTIVE DATA THAT:**

17 **(1) RELATES TO A GROUP OR A CATEGORY OF CUSTOMERS, FROM**  
18 **WHICH INDIVIDUAL CUSTOMER IDENTITIES AND CHARACTERISTICS HAVE BEEN**  
19 **REMOVED; AND**

20 **(2) IS NOT LINKED OR ABLE TO BE LINKED THROUGH REASONABLE**  
21 **EFFORTS TO AN INDIVIDUAL, A HOUSEHOLD, OR A DEVICE.**

22 **(C) (1) “BROADBAND INTERNET ACCESS SERVICE” OR “BIAS” MEANS A**  
23 **MASS–MARKET RETAIL SERVICE BY WIRE OR RADIO THAT PROVIDES THE**  
24 **CAPABILITY TO TRANSMIT DATA TO AND RECEIVE DATA FROM ALL OR**  
25 **SUBSTANTIALLY ALL INTERNET ENDPOINTS.**

26 **(2) “BROADBAND INTERNET ACCESS SERVICE” OR “BIAS”**  
27 **INCLUDES:**

28 **(I) CAPABILITIES THAT ARE INCIDENTAL TO AND ENABLE**

1 OPERATION OF THE COMMUNICATIONS SERVICE; AND

2 (II) SERVICE THAT THE FEDERAL COMMUNICATIONS  
3 COMMISSION DETERMINES PROVIDES A FUNCTIONAL EQUIVALENT OF THE SERVICE  
4 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

5 (3) "BROADBAND INTERNET ACCESS SERVICE" OR "BIAS" DOES NOT  
6 INCLUDE DIAL-UP INTERNET ACCESS SERVICE.

7 (D) "BROADBAND INTERNET ACCESS SERVICE PROVIDER" OR "BIAS  
8 PROVIDER" MEANS AN INDIVIDUAL OR A PERSON ENGAGED IN THE PROVISION OF  
9 BROADBAND INTERNET ACCESS SERVICE.

10 (E) "CUSTOMER" MEANS AN INDIVIDUAL OR ANY OTHER PERSON WHO IS:

11 (1) AN APPLICANT FOR BROADBAND INTERNET ACCESS SERVICE; OR

12 (2) A CURRENT OR FORMER SUBSCRIBER TO BROADBAND INTERNET  
13 ACCESS SERVICE.

14 (F) (1) "CUSTOMER PERSONAL INFORMATION" MEANS INFORMATION  
15 THAT IS COLLECTED BY OR MADE AVAILABLE TO A BROADBAND INTERNET ACCESS  
16 SERVICE PROVIDER SOLELY THROUGH THE CUSTOMER-PROVIDER RELATIONSHIP.

17 (2) "CUSTOMER PERSONAL INFORMATION" INCLUDES:

18 (I) NAME AND BILLING INFORMATION;

19 (II) GOVERNMENT-ISSUED IDENTIFIERS, SUCH AS A SOCIAL  
20 SECURITY NUMBER OR A DRIVER'S LICENSE NUMBER;

21 (III) OTHER CONTACT INFORMATION, SUCH AS A PHYSICAL  
22 ADDRESS, AN E-MAIL ADDRESS, OR A TELEPHONE NUMBER;

23 (IV) DEMOGRAPHIC INFORMATION, SUCH AS DATE OF BIRTH,  
24 AGE, RACE, ETHNICITY, NATIONALITY, RELIGION, POLITICAL BELIEFS, GENDER, OR  
25 SEXUAL ORIENTATION;

26 (V) FINANCIAL INFORMATION, HEALTH INFORMATION, OR  
27 INFORMATION PERTAINING TO CHILDREN;

28 (VI) GEOLOCATION INFORMATION THAT IS SUFFICIENT TO  
29 IDENTIFY A STREET NAME AND THE NAME OF A CITY OR TOWN;

1 (VII) INFORMATION THAT RELATES TO THE QUANTITY,  
2 TECHNICAL CONFIGURATION, TYPE, DESTINATION, LOCATION, AND AMOUNT OF USE  
3 OF THE BROADBAND INTERNET ACCESS SYSTEM, INCLUDING WEB-BROWSING  
4 HISTORY, APPLICATION USAGE HISTORY, TIMING OF USE, QUANTITY OF USE, AND  
5 ORIGIN AND DESTINATION INTERNET PROTOCOL ADDRESSES OF ALL TRAFFIC;

6 (VIII) CONTENT OF COMMUNICATIONS, INCLUDING ANY PART OF  
7 THE SUBSTANCE, PURPOSE, OR MEANING OF A COMMUNICATION OR ANY OTHER  
8 PART OF A COMMUNICATION THAT IS HIGHLY SUGGESTIVE OF THE SUBSTANCE,  
9 PURPOSE, OR MEANING OF A COMMUNICATION, SUCH AS APPLICATION PAYLOAD;

10 (IX) DEVICE IDENTIFIERS, SUCH AS A MEDIA ACCESS CONTROL  
11 ADDRESS, INTERNATIONAL MOBILE EQUIPMENT IDENTITY NUMBER, AND  
12 INTERNET PROTOCOL ADDRESS;

13 (X) CUSTOMER INFORMATION THAT IS COLLECTED OR MADE  
14 AVAILABLE AND MAINTAINED IN A WAY THAT THE INFORMATION IS LINKED OR ABLE  
15 TO BE LINKED THROUGH REASONABLE EFFORTS TO A CUSTOMER OR A DEVICE; AND

16 (XI) INFORMATION THAT IS RELATED TO A CUSTOMER, DESPITE  
17 THE CUSTOMER'S IDENTITY AND CHARACTERISTICS HAVING BEEN REMOVED.

18 (G) "MATERIAL CHANGE" MEANS ANY CHANGE THAT A CUSTOMER WOULD  
19 REASONABLY CONSIDER IMPORTANT TO THE CUSTOMER'S DECISIONS REGARDING  
20 THE CUSTOMER'S PRIVACY.

21 (H) "OPT-IN CONSENT" MEANS AFFIRMATIVE, EXPRESS CUSTOMER  
22 APPROVAL FOR THE REQUESTED USE, DISCLOSURE, SALE, OR ACCESS TO CUSTOMER  
23 PERSONAL INFORMATION AFTER THE CUSTOMER HAS BEEN PROVIDED  
24 APPROPRIATE NOTIFICATION OF A BIAS PROVIDER'S PRACTICES UNDER § 14-4106  
25 OF THIS SUBTITLE.

26 14-4102.

27 THIS SUBTITLE APPLIES TO A BIAS PROVIDER OPERATING IN THE STATE  
28 WHEN THE BIAS PROVIDER IS PROVIDING BIAS TO CUSTOMERS IN THE STATE.

29 14-4103.

30 (A) A BIAS PROVIDER MAY USE, DISCLOSE, SELL, OR PROVIDE ACCESS TO  
31 CUSTOMER PERSONAL INFORMATION IF THE BIAS PROVIDER OBTAINS OPT-IN  
32 CONSENT THAT THE CUSTOMER HAS NOT REVOKED.

1 (B) EXCEPT AS PROVIDED IN § 14-4104 OF THIS SUBTITLE, A BIAS  
2 PROVIDER MAY NOT USE, DISCLOSE, SELL, OR PROVIDE ACCESS TO A CUSTOMER'S  
3 PERSONAL INFORMATION WITHOUT OPT-IN CONSENT FROM THE CUSTOMER.

4 (C) IN ORDER TO DETERMINE WHETHER A BIAS PROVIDER HAS RECEIVED  
5 OPT-IN CONSENT, THE BIAS PROVIDER SHALL DEVELOP A MECHANISM FOR  
6 CUSTOMERS TO GRANT, DENY, OR REVOKE CONSENT THAT IS:

7 (1) EASY TO USE AND UNDERSTAND;

8 (2) NOT MISLEADING;

9 (3) CONTINUOUSLY AVAILABLE THROUGH ALL METHODS THAT THE  
10 BIAS PROVIDER USES TO MANAGE ACCOUNTS;

11 (4) IN THE LANGUAGE THAT THE BIAS PROVIDER PRIMARILY USES  
12 TO CONDUCT BUSINESS WITH THE CUSTOMER; AND

13 (5) MADE AVAILABLE TO THE CUSTOMER FOR NO ADDITIONAL  
14 CHARGE.

15 (D) A CUSTOMER'S GRANT, DENIAL, OR REVOCATION OF CONSENT SHALL BE  
16 GIVEN EFFECT PROMPTLY AND REMAIN IN EFFECT UNTIL THE CUSTOMER REVOKES  
17 OR LIMITS THE GRANT, DENIAL, OR REVOCATION OF CONSENT.

18 (E) A BIAS PROVIDER MAY NOT:

19 (1) REFUSE TO SERVE A CUSTOMER WHO DOES NOT PROVIDE  
20 CONSENT UNDER THIS SECTION; OR

21 (2) CHARGE A CUSTOMER A HIGHER PRICE OR OFFER A CUSTOMER A  
22 DISCOUNTED PRICE BASED ON THE CUSTOMER'S DECISION TO PROVIDE OR NOT  
23 PROVIDE OPT-IN CONSENT.

24 14-4104.

25 (A) NOTWITHSTANDING § 14-4103 OF THIS SUBTITLE, A BIAS PROVIDER  
26 MAY USE, DISCLOSE, SELL, OR PROVIDE ACCESS TO CUSTOMER PERSONAL  
27 INFORMATION WITHOUT OPT-IN CONSENT FROM A CUSTOMER TO:

28 (1) USE THE INFORMATION WHEN IT IS DERIVED FROM OR  
29 NECESSARY FOR THE PROVISION OF BIAS;

1           **(2) COMPLY WITH LEGAL PROCESS OR OTHER LAWS, COURT ORDERS,**  
2 **OR ADMINISTRATIVE ORDERS;**

3           **(3) INITIATE, RENDER, BILL FOR, AND COLLECT PAYMENTS;**

4           **(4) PROTECT THE RIGHTS OR PROPERTY OF THE BIAS PROVIDER OR**  
5 **TO PROTECT CUSTOMERS AND OTHER BIAS PROVIDERS FROM FRAUDULENT,**  
6 **ABUSIVE, OR UNLAWFUL USE OF OR SUBSCRIPTION TO THE BIAS PROVIDER'S**  
7 **NETWORK; OR**

8           **(5) PROVIDE LOCATION INFORMATION CONCERNING THE**  
9 **CUSTOMER:**

10           **(I) IF A CUSTOMER HAS REQUESTED EMERGENCY SERVICES,**  
11 **TO A PUBLIC SAFETY ANSWERING POINT, AN EMERGENCY MEDICAL SERVICE**  
12 **PROVIDER OR AN EMERGENCY DISPATCH PROVIDER, A PUBLIC SAFETY, FIRE**  
13 **SERVICE, OR LAW ENFORCEMENT OFFICIAL, OR A HOSPITAL EMERGENCY OR**  
14 **TRAUMA CARE FACILITY;**

15           **(II) IF AN EMERGENCY SITUATION ARISES THAT INVOLVES THE**  
16 **RISK OF DEATH OR SERIOUS INJURY, TO THE CUSTOMER'S LEGAL GUARDIAN,**  
17 **MEMBERS OF THE CUSTOMER'S FAMILY, OR A PERSON REASONABLY BELIEVED BY**  
18 **THE BIAS PROVIDER TO BE A CLOSE PERSONAL FRIEND OF THE CUSTOMER; OR**

19           **(III) IF THE DELIVERY OF EMERGENCY SERVICES IS NEEDED, TO**  
20 **PROVIDERS OF INFORMATION OR DATABASE MANAGEMENT SERVICES.**

21           **(B) EXCEPT AS OTHERWISE PROVIDED IN STATE LAW, UNLESS A CUSTOMER**  
22 **HAS OPTED OUT OF RECEIVING THE COMMUNICATION, A BIAS PROVIDER MAY USE,**  
23 **DISCLOSE, SELL, OR PROVIDE ACCESS TO CUSTOMER PERSONAL INFORMATION TO**  
24 **ADVERTISE OR MARKET THE BIAS PROVIDER'S COMMUNICATIONS-RELATED**  
25 **SERVICES TO THE CUSTOMER.**

26           **(C) ON WRITTEN REQUEST BY A CUSTOMER, THE BIAS PROVIDER SHALL**  
27 **DISCLOSE CUSTOMER PERSONAL INFORMATION TO THE CUSTOMER OR TO ANY**  
28 **PERSON THAT THE CUSTOMER DESIGNATES.**

29 **14-4105.**

30           **(A) (1) A BIAS PROVIDER SHALL IMPLEMENT REASONABLE MEASURES**  
31 **TO PROTECT CUSTOMER PERSONAL INFORMATION FROM UNAUTHORIZED USE,**  
32 **DISCLOSURE, SALE, ACCESS, DESTRUCTION, OR MODIFICATION.**

1           **(2) THE REASONABLENESS OF THE BIAS PROVIDER'S SECURITY**  
2 **MEASURES SHALL BE BASED ON AN ASSESSMENT OF:**

3                   **(I) THE NATURE AND SCOPE OF THE BIAS PROVIDER'S**  
4 **ACTIVITIES;**

5                   **(II) THE SENSITIVITY OF THE DATA IT COLLECTS;**

6                   **(III) THE SIZE OF THE BIAS PROVIDER; AND**

7                   **(IV) THE TECHNICAL FEASIBILITY OF THE MEASURES.**

8           **(B) A BIAS PROVIDER MAY EMPLOY ANY LAWFUL SECURITY MEASURE TO**  
9 **COMPLY WITH THE REQUIREMENT UNDER SUBSECTION (A) OF THIS SECTION.**

10           **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**  
11 **BIAS PROVIDER MAY NOT RETAIN CUSTOMER PERSONAL INFORMATION FOR**  
12 **LONGER THAN REASONABLY NECESSARY TO ACCOMPLISH THE PURPOSES FOR**  
13 **WHICH THE INFORMATION WAS COLLECTED.**

14           **(2) A BIAS PROVIDER MAY RETAIN CUSTOMER PERSONAL**  
15 **INFORMATION FOR LONGER THAN REASONABLY NECESSARY IF:**

16                   **(I) THE RETENTION IS REQUIRED BY § 14-4104 OF THIS**  
17 **SUBTITLE; OR**

18                   **(II) THE DATA IS PART OF AN AGGREGATE CUSTOMER**  
19 **PERSONAL INFORMATION DATASET.**

20 **14-4106.**

21           **(A) A BIAS PROVIDER SHALL PROVIDE NOTICE OF THE REQUIREMENTS OF**  
22 **THIS SUBTITLE THAT IS:**

23                   **(1) IN THE LANGUAGE THAT THE BIAS PROVIDER PRIMARILY USES**  
24 **TO CONDUCT BUSINESS WITH THE CUSTOMER; AND**

25                   **(2) CONTINUOUSLY AVAILABLE THROUGH ALL METHODS THAT THE**  
26 **BIAS PROVIDER USES TO MANAGE ACCOUNTS.**

27           **(B) THE NOTICE SHALL SPECIFY AND DESCRIBE, OR LINK TO A RESOURCE**  
28 **THAT SPECIFIES AND DESCRIBES:**



1           **(1) THE TYPES OF CUSTOMER PERSONAL INFORMATION THAT THE**  
2 **BIAS PROVIDER COLLECTS, THE WAYS IN WHICH THE BIAS PROVIDER USES THE**  
3 **INFORMATION, AND THE LENGTH OF TIME THAT THE BIAS PROVIDER RETAINS THE**  
4 **INFORMATION;**

5           **(2) THE CIRCUMSTANCES UNDER WHICH THE BIAS PROVIDER**  
6 **DISCLOSES, SELLS, OR PROVIDES ACCESS TO THE INFORMATION THAT IT COLLECTS;**

7           **(3) THE CATEGORIES OF ENTITIES TO WHICH THE BIAS PROVIDER**  
8 **DISCLOSES, SELLS, OR PROVIDES ACCESS TO CUSTOMER PERSONAL INFORMATION**  
9 **AND THE PURPOSES FOR WHICH EACH CATEGORY OF ENTITY WILL USE THE**  
10 **INFORMATION; AND**

11           **(4) THE CUSTOMER'S RIGHT TO CONSENT WITH REGARD TO THE USE,**  
12 **DISCLOSURE, SALE, OR ACCESS TO CUSTOMER PERSONAL INFORMATION AND HOW**  
13 **THAT RIGHT MAY BE EXERCISED.**

14           **(C) BEFORE A BIAS PROVIDER MAY MAKE MATERIAL CHANGES TO HOW IT**  
15 **USES, DISCLOSES, SELLS, OR PROVIDES ACCESS TO CUSTOMER PERSONAL**  
16 **INFORMATION, THE BIAS PROVIDER SHALL:**

17           **(1) PROVIDE ADVANCE NOTICE OF THE CHANGE; AND**

18           **(2) REMIND CUSTOMERS OF THE ABILITY TO GRANT, DENY, OR**  
19 **REVOKE CONSENT AT ANY TIME.**

20 **14-4107.**

21           **NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO RESTRICT A BIAS**  
22 **PROVIDER FROM:**

23           **(1) GENERATING AN AGGREGATE CUSTOMER PERSONAL**  
24 **INFORMATION DATASET USING CUSTOMER PERSONAL INFORMATION; OR**

25           **(2) USING, DISCLOSING, SELLING, OR AUTHORIZING ACCESS TO AN**  
26 **AGGREGATE CUSTOMER PERSONAL INFORMATION DATASET THAT THE BIAS**  
27 **PROVIDER HAS GENERATED.**

28 **14-4108.**

29           **A TERM IN A CONTRACT THAT PURPORTS TO WAIVE THE RIGHTS UNDER THIS**  
30 **SUBTITLE IS VOID AND UNENFORCEABLE AS CONTRARY TO THE PUBLIC POLICY OF**

1 THE STATE.

2 14-4109.

3 A VIOLATION OF THIS SUBTITLE IS:

4 (1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE  
5 MEANING OF TITLE 13 OF THIS ARTICLE; AND

6 (2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS  
7 CONTAINED IN TITLE 13 OF THIS ARTICLE.

8 14-4110.

9 (A) THE CONSUMER PROTECTION DIVISION IN THE OFFICE OF THE  
10 ATTORNEY GENERAL SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

11 (B) THE REGULATIONS MAY INCLUDE:

12 (1) STANDARDS AND GUIDELINES FOR BIAS PROVIDERS TO COMPLY  
13 WITH THIS SUBTITLE; AND

14 (2) CONSUMER EDUCATION AND ASSISTANCE IN ISSUES THAT MAY  
15 ARISE WITH RESPECT TO BIAS PROVIDERS UNDER THIS SUBTITLE.

16 14-4111.

17 THE CONSUMER PROTECTION DIVISION IN THE OFFICE OF THE ATTORNEY  
18 GENERAL SHALL ENFORCE THIS SUBTITLE.

19 Article – Local Government

20 1-708.

21 (a) (1) [Unless otherwise defined by local law, in this section, “cable] IN THIS  
22 SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED, UNLESS  
23 OTHERWISE DEFINED BY LOCAL LAW.

24 (2) “BROADBAND INTERNET ACCESS SERVICE” OR “BIAS” HAS THE  
25 MEANING STATED IN § 14-4101 OF THE COMMERCIAL LAW ARTICLE.

26 (3) (1) “CABLE television system” means a nonbroadcast facility that  
27 consists of a set of transmission paths and associated signal generation, reception, and  
28 central equipment, under common ownership and control, that distributes or is designed to

1 distribute to subscribers the signals of one or more television broadcast stations **OR WIRED**  
2 **BROADBAND SERVICE.**

3           **[(2)] (II)** “Cable television system” does not include a facility that:

4                   **[(i)] 1.** serves 49 or fewer subscribers; or

5                   **[(ii)] 2.** serves only subscribers in one or more multiple dwelling  
6 units under common ownership, control, or management.

7           **(4) (I)** **“WIRED BROADBAND” MEANS A HIGH-CAPACITY**  
8 **TRANSMISSION TECHNIQUE THAT USES A CABLE TO TRANSMIT A WIDE RANGE OF**  
9 **FREQUENCIES TO A RESIDENCE OR BUSINESS.**

10                   **(II)** **“WIRED BROADBAND” INCLUDES WIRED BROADBAND**  
11 **SERVICE PROVIDED BY:**

12                           **1. DIGITAL SUBSCRIBER LINE (DSL);**

13                           **2. CABLE MODEM; OR**

14                           **3. FIBER OPTICS.**

15                   **(III)** **“WIRED BROADBAND” DOES NOT INCLUDE WIRED**  
16 **BROADBAND SERVICE PROVIDED BY:**

17                           **1. SATELLITE; OR**

18                           **2. WIRELESS TECHNOLOGY.**

19           (b) This section does not authorize the governing body of a county to enact laws  
20 or regulations for a municipality.

21           (c) The governing body of a county or municipality may:

22                   (1) grant a franchise for a cable television system **OR A BROADBAND**  
23 **INTERNET ACCESS SERVICE** that uses a public right-of-way;

24                   (2) impose franchise fees;

25                   (3) establish rates applicable to a franchise; and

26                   (4) adopt rules and regulations for the operation of a franchise.

27           **(D) (1) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:**

1 (I) BROADBAND INTERNET ACCESS SERVICE BE AVAILABLE  
2 THROUGHOUT THE STATE IN A MANNER THAT BEST PROTECTS THE PRIVACY OF  
3 CITIZENS AND MAKES ONLINE RESOURCES AVAILABLE TO CITIZENS ON A  
4 NONDISCRIMINATORY BASIS; AND

5 (II) COUNTIES AND MUNICIPALITIES MAKE USE OF ALL  
6 MECHANISMS AVAILABLE, INCLUDING FRANCHISE AGREEMENTS FOR INTERNET  
7 SERVICE PROVIDED THROUGH FRANCHISING OF CABLE TELEVISION SYSTEMS AND  
8 OTHER BROADBAND INTERNET ACCESS SERVICES, TO ENSURE THAT INTERNET  
9 ACCESS IN THEIR AREAS ARE AVAILABLE TO CITIZENS IN A MANNER THAT PROTECTS  
10 PRIVACY AND PROMOTES NET NEUTRALITY.

11 (2) A FRANCHISE AGREEMENT FOR BIAS MAY INCLUDE LOCALLY  
12 ENFORCEABLE REQUIREMENTS FOR COMPLIANCE WITH:

13 (I) TITLE 14, SUBTITLE 41 OF THE COMMERCIAL LAW  
14 ARTICLE; AND

15 (II) ANY LOCAL LAW CORRESPONDING TO THE REQUIREMENTS  
16 OF § 2-801 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

17 Article – State Finance and Procurement

18 SUBTITLE 8. RESTRICTIONS ON THE USE OF STATE FUNDS.

19 2-801.

20 (A) (1) IN THIS SECTION, “REASONABLE NETWORK MANAGEMENT”  
21 MEANS A NETWORK MANAGEMENT PRACTICE THAT HAS PRIMARILY TECHNICAL  
22 NETWORK MANAGEMENT JUSTIFICATION.

23 (2) “REASONABLE NETWORK MANAGEMENT” INCLUDES A PRACTICE  
24 THAT IS PRIMARILY USED FOR AND TAILORED TO ACHIEVING A LEGITIMATE  
25 NETWORK MANAGEMENT PURPOSE, TAKING INTO ACCOUNT THE PARTICULAR  
26 NETWORK ARCHITECTURE AND TECHNOLOGY OF THE BROADBAND INTERNET  
27 ACCESS SERVICE.

28 (3) “REASONABLE NETWORK MANAGEMENT” DOES NOT INCLUDE  
29 OTHER BUSINESS PRACTICES.

30 (B) STATE FUNDS MAY BE USED ONLY BY THE STATE, A POLITICAL  
31 SUBDIVISION, OR A UNIT, AN AGENCY, OR ANY INSTRUMENTALITY OF THE STATE OR

1 A POLITICAL SUBDIVISION OR A PERSON AWARDED A CONTRACT OR GRANT BY THE  
2 STATE, A POLITICAL SUBDIVISION, OR A UNIT, AN AGENCY, OR ANY  
3 INSTRUMENTALITY OF THE STATE OR A POLITICAL SUBDIVISION TO PROCURE  
4 SERVICES FROM AN INTERNET SERVICE PROVIDER THAT DOES NOT:

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

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

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

13 (I) IN EXCHANGE FOR CONSIDERATION FROM A THIRD PARTY;  
14 OR

15 (II) TO BENEFIT AN AFFILIATED ENTITY.

16 (C) (1) THE BOARD OF PUBLIC WORKS MAY ESTABLISH A PROCESS TO  
17 ALLOW A UNIT TO OBTAIN A WAIVER FROM COMPLYING WITH THE REQUIREMENTS  
18 OF SUBSECTION (B) OF THIS SECTION.

19 (2) THE WAIVER PROCESS SHALL:

20 (I) INCLUDE A PUBLIC HEARING BEFORE THE BOARD; AND

21 (II) REQUIRE A MAJORITY VOTE OF THE MEMBERS OF THE  
22 BOARD.

23 (3) THE BOARD SHALL PUBLISH PUBLIC NOTICE OF THE WAIVER ON  
24 ITS WEBSITE WITHIN 48 HOURS AFTER ISSUANCE OF A WAIVER UNDER THIS  
25 SUBSECTION.

26 (4) ON OR BEFORE NOVEMBER 1 EACH YEAR, THE BOARD SHALL  
27 REPORT ON ALL WAIVERS ISSUED UNDER THIS SUBSECTION TO THE GENERAL  
28 ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
30 1, 2018.