

House Bill 1066

By: Representatives Wallace of the 119th, Park of the 101st, Nguyen of the 89th, Dreyer of the 59th, Jackson of the 64th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,
2 relating to state purchasing, so as to prohibit the state from contracting with companies that
3 do not provide a certification as to net neutrality; to provide for legislative findings and
4 declarations; to provide for definitions; to provide the elements of net neutrality; to provide
5 for exceptions; to provide for applicability; to provide for certain certifications; to provide
6 penalties for false certifications; to provide for related matters; to repeal conflicting laws; and
7 for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 The General Assembly finds and declares that:

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

19 (2) The Internet is one of the most important components of commerce in the state.
20 Internet access and commerce not only provide for online access to business customers, but
21 also provide a viable means for new businesses to compete against other established
22 businesses. The open Internet guarantees that new and innovative businesses can and will
23 provide products or services without interference or restriction from competitors that are
24 affiliated or contract with Internet service providers. The Internet has provided small
25 businesses the ability to market products or services to customers or consumers in a true
26 global market and has created a means by which to reach international audiences at

27 minimal costs. Net neutrality promotes innovation by preventing large companies from
 28 leveraging their market power to restrict competition from smaller, dynamic, web-based
 29 innovator companies;

30 (3) Net neutrality is the principle by which Internet service providers handle online data
 31 equally, by not discriminating against users or content and by not limiting or restricting
 32 access to certain web content, applications, or services. Net neutrality has always worked
 33 for the majority of Internet users in Georgia; and

34 (4) The State of Georgia is a significant purchaser of Internet services, and the uniform
 35 application of Internet neutrality in Georgia is closely related to the delivery of predictable,
 36 stable, high-quality Internet service for the state. Paid prioritization and throttling could
 37 fundamentally impact state employees' ability to conduct business, limit the ability for
 38 Georgia's citizens to receive government services, and dramatically deepen the "digital
 39 divide," as well as exacerbate challenges the poorest citizens face in accessing government
 40 services. It is, therefore, important that recipients of state contracts adhere to the principle
 41 of net neutrality.

42 **SECTION 2.**

43 Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to state
 44 purchasing, is amended by adding a new Code section to read as follows:

45 "50-5-86.

46 (a) As used in this Code section, the term:

47 (1) 'Broadband Internet access service' means a mass-market retail service by wire or
 48 radio that provides the capability to transmit data to and receive data from all or
 49 substantially all Internet endpoints, including any capabilities that are incidental to and
 50 enable the operation of the communications service, but excluding dial-up Internet access
 51 service.

52 (2) 'Company' means any sole proprietorship, organization, association, corporation,
 53 partnership, joint venture, limited partnership, limited liability partnership, limited
 54 liability company, or other entity or business association, including all wholly owned
 55 subsidiaries, majority owned subsidiaries, parent companies, or affiliates of such entities
 56 or business associations, that exist for the purpose of making a profit.

57 (3) 'Content, applications, and services' means all traffic transmitted to or from end users
 58 of a broadband Internet access service.

59 (4) 'Edge provider' means any individual or entity that provides any content, application,
 60 or service over the Internet and any individual or entity that provides a device used for
 61 accessing any content, applications, and services over the Internet.

- 62 (5) 'End user' means any individual or entity that uses a broadband Internet access
63 service;
- 64 (6) 'Paid prioritization' means managing the network of a broadband Internet access
65 service provider to directly or indirectly favor some traffic over other traffic, using such
66 techniques as traffic shaping, prioritization, resource reservation, or other forms of
67 preferential traffic management, either in exchange for monetary or other
68 consideration from a third party or to benefit an affiliated entity.
- 69 (7) 'Reasonable network management' means a technical network management practice
70 that is primarily used for and tailored to achieving a legitimate network management
71 purpose, taking into account the particular network architecture and technology of the
72 broadband Internet access service.
- 73 (b) The state shall not enter into a contract with any individual or company if the contract
74 is related to construction or the provision of services, supplies, or information technology
75 unless the contract includes a written certification that such individual or company is
76 currently engaged in, and agrees for the duration of the contract to engage in, net neutrality.
- 77 (c) Subsection (b) of this Code section shall not apply to contracts with a total value of less
78 than \$1,000.00.
- 79 (d) For purposes of this Code section, net neutrality shall consist of all of the following:
- 80 (1) Publicly disclosing accurate information regarding the network management
81 practices, performance, and commercial terms of broadband Internet access service
82 sufficient for users of such services to be able to fully and accurately determine if the
83 services are in compliance with this Code section;
- 84 (2) Not blocking lawful content, applications, or services or use of nonharmful devices,
85 subject to reasonable network management;
- 86 (3) Not impairing or degrading lawful Internet traffic on the basis of content,
87 applications, or services or use of a nonharmful device, subject to reasonable network
88 management;
- 89 (4) Not engaging in paid prioritization, unless it is demonstrated that the practice as to
90 a particular broadband Internet access service would provide some significant public
91 interest benefit and would not harm the open nature of such service; and
- 92 (5) Not unreasonably interfering with or unreasonably limiting the ability of:
- 93 (A) Users of broadband Internet access services to select, access, or use broadband
94 Internet access services; lawful content, applications, or services; or lawful devices of
95 their choice; and
- 96 (B) Edge providers to make lawful content, applications, or services or devices
97 available to users of broadband Internet access services.

- 98 (e)(1) If the Department of Administrative Services determines that an individual or
99 company has submitted a false certification under subsection (b) of this Code section:
- 100 (A) The individual or company shall be liable for a civil penalty in an amount that is
101 equal to the greater of \$250,000.00 or twice the amount of the contract for which a bid
102 or proposal for a contract was submitted;
- 103 (B) The state agency or the Department of Administrative Services may terminate the
104 contract with the company; and
- 105 (C) The individual or company shall be ineligible to, and shall not, bid on a state
106 contract for a period of not less than three years from the date the state agency
107 determines that such individual or company submitted the false certification.
- 108 (2) The Department of Administrative Services shall report to the Attorney General the
109 name of the individual or company that the department has determined to have submitted
110 a false certification under subsection (b) of this Code section, together with its
111 information as to the false certification; the Attorney General shall determine whether to
112 bring a civil action against such individual or company. Any such individual or
113 company that is found to have submitted a false certification shall be ordered to pay all
114 costs and fees incurred by the state in the civil action, including all costs incurred by the
115 state agency and the department for investigations that led to the finding of the false
116 certification, as well as all costs and fees incurred by the Attorney General.
- 117 (f) Nothing in this Code section shall:
- 118 (1) Supersede any obligation or authorization or shall limit the ability of a company to
119 address the needs of emergency communications or law enforcement, public safety, or
120 national security authorities consistent with, or as permitted by, applicable law; or
- 121 (2) Prohibit reasonable efforts by a company to address copyright infringement or other
122 unlawful activity."

123 **SECTION 3.**

124 All laws and parts of laws in conflict with this Act are repealed.