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# A BILL FOR AN ACT

RELATING TO BROADBAND SERVICE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                               **"CHAPTER**

5                               **BROADBAND INTERNET ACCESS SERVICE**

6       §   -1 **Definitions.** As used in this chapter, unless the  
7 context otherwise requires:

8       "Application-agnostic" means not differentiating on the  
9 basis of source, destination, internet content, application,  
10 service, or device, or class of internet content, application,  
11 service, or device.

12       "Application-specific differential pricing" means charging  
13 different prices for internet traffic to customers on the basis  
14 of internet content, application, service, or device, or class  
15 of internet content, application, service, or device.

16       "Application-specific differential pricing" does not include  
17 zero-rating.



1 "Broadband internet access service" means a mass-market  
2 retail service, including any service that the Federal  
3 Communications Commission finds to be functionally equivalent,  
4 by wire or radio that provides the capability to transmit data  
5 to and receive data from all or substantially all internet  
6 endpoints, including any capabilities that are incidental to and  
7 enable the operation of the communications service, but  
8 excluding dial-up internet access service. "Broadband internet  
9 access service" includes any service provided to customers in  
10 the State that provides a functional equivalent of that service  
11 or that is used to evade the protections set forth in this  
12 chapter.

13 "Class of internet content, application, service, or  
14 device" means internet content, or a group of internet  
15 applications, services, or devices sharing a common  
16 characteristic, including but not limited to sharing the same  
17 source or destination; belonging to the same type of content,  
18 application, service, or device; using the same application- or  
19 transport-layer protocol; or having similar technical  
20 characteristics, including but not limited to the size,  
21 sequencing, or timing of packets, or sensitivity to delay.



1 "Content, applications, or services" means all internet  
2 traffic transmitted to or from end users of a broadband internet  
3 access service, including traffic that may not fit into any of  
4 these categories.

5 "Edge provider" means any individual or entity that  
6 provides any content, application, or service over the Internet,  
7 and any individual or entity that provides a device used for  
8 accessing any content, application, or service over the  
9 Internet.

10 "End user" means any individual or entity that uses a  
11 broadband internet access service.

12 "Internet service provider" means a business that provides  
13 broadband internet access service to an individual, corporation,  
14 government, or other customer in the State.

15 "ISP traffic exchange" means the exchange of internet  
16 traffic destined for, or originating from, an internet service  
17 provider's end users between the internet service provider's  
18 network and another individual or entity, including but not  
19 limited to an edge provider, content delivery network, or other  
20 network operator.



1 "Mass market" means a service marketed and sold on a  
2 standardized basis to residential customers, small business, and  
3 other end-use customers, including but not limited to schools,  
4 institutions of higher learning, and libraries. "Mass market"  
5 includes broadband internet access services purchased with  
6 support of the e-rate and rural health care program and similar  
7 programs at the federal and state level, regardless of whether  
8 they are customized or individually negotiated, as well as any  
9 broadband internet access service offered using networks support  
10 by the connect America fund or similar programs at the federal  
11 and state level.

12 "Mobile broadband internet access service" means a  
13 broadband internet access service that serves end users  
14 primarily using mobile stations.

15 "Network management practice" means a practice that has a  
16 primarily technical network management justification, but does  
17 not include other business practices.

18 "Paid prioritization" means the management of a broadband  
19 provider's network to directly or indirectly favor some traffic  
20 over other traffic, including through the use of techniques such



1 as traffic shaping, prioritization, resource reservation, or  
2 other forms of preferential traffic management, either:

3 (1) In exchange for consideration, monetary or otherwise,  
4 from a third party; or

5 (2) To benefit an affiliated entity.

6 "Reasonable network management" means a practice that has a  
7 primarily technical network management justification, but does  
8 not include other business practices. A network management  
9 practice is reasonable if it is primarily used for and tailored  
10 to achieving a legitimate network management purpose, taking  
11 into account the particular network architecture and technology  
12 of the broadband internet access service.

13 "Zero-rating" means exempting some internet traffic from a  
14 customer's data limitation.

15 **§ -2 Broadband internet access service; disclosure;**  
16 **protections.** (a) A person engaged in the provision of  
17 broadband internet access service in the State shall publicly  
18 disclose accurate information regarding the network management  
19 practices, performance, and commercial terms of its broadband  
20 internet access services sufficient for consumers to make  
21 informed choices regarding use of such services and for content,



1 application, service, and device providers to develop, market,  
2 and maintain internet offerings.

3 (b) A person engaged in the provision of broadband  
4 internet access service in the State, insofar as such a person  
5 is so engaged, shall not:

6 (1) Block lawful content, applications, services, or  
7 nonharmful devices, subject to reasonable network  
8 management;

9 (2) Speed up, slow down, alter, restrict, interfere with,  
10 or otherwise directly or indirectly favor,  
11 disadvantage, or discriminate between lawful internet  
12 traffic on the basis of source, destination, internet  
13 content, application, or service, or use of a  
14 nonharmful device, or a class of internet content,  
15 application, service, or nonharmful device subject to  
16 reasonable network management practices;

17 (3) Engage in paid prioritization or application-specific  
18 differential pricing;

19 (4) Engage in application-specific differential pricing or  
20 zero-rating in exchange for consideration, monetary or  
21 otherwise, by third parties;



(5) Zero-rate some internet content, applications, services, or devices in a category of internet content, applications, services, or devices, but not the entire category;

(6) Unreasonably interfere with or unreasonably disadvantage:

(A) End users' ability to select, access, and use broadband internet access service or the lawful internet content, applications, services, or devices of their choice; or

(B) Edge providers' ability to make lawful content, applications, services, or devices available to end users;

(7) Engage in practices with respect to, related to, or in connection with ISP traffic exchange that have the purpose or effect of circumventing or undermining the effectiveness of this chapter;

(8) Engage in deceptive or misleading marketing practices that misrepresent the treatment of internet traffic, content, applications, services, or devices by the internet service provider, or that misrepresent the



1 performance characteristics or commercial terms of the  
2 broadband internet access service to its customers; or  
3 (9) Offer or provide services other than broadband  
4 internet access services that are delivered over the  
5 same last-mile connection as the broadband internet  
6 access services if those services:  
7 (A) Are marketed, provided, or can be used as a  
8 functional equivalent of broadband internet  
9 access service;  
10 (B) Have the purpose or effect of circumventing or  
11 undermining the effectiveness of this chapter; or  
12 (C) Negatively affect the performance of broadband  
13 internet access service;  
14 provided that the prohibition on paid prioritization pursuant to  
15 paragraph (3) may be permitted if a petitioner demonstrates that  
16 the practice would provide some significant public interest  
17 benefit and would not harm the open nature of the Internet in  
18 the State.

19 § -3 **Technical treatments.** (a) It shall not be a  
20 violation of this chapter for an internet service provider to





1 offer different types of technical treatment to end users are  
2 part of its broadband internet access service if:

3 (1) The different types of technical treatment are equally  
4 available to all internet content, applications,  
5 services, and devices, and all classes of internet  
6 content, applications, services, devices, and the  
7 internet service provider does not discriminate in the  
8 provision of the different types of technical  
9 treatment on the basis of internet content,  
10 application, service, or device, or class of internet  
11 content, application, service, or device;

12 (2) The internet service provider's end users are able to  
13 choose whether, when, and for which internet content,  
14 applications, services, or devices, or classes of  
15 internet content, applications, services, or devices  
16 to use each type of technical treatment; and

17 (3) The internet service provider charges only its own  
18 broadband internet access service customers for the  
19 use of the different types of technical treatment.

20 (b) Any internet service provider offering different types  
21 of technical treatments pursuant to this section shall notify



1 the public utilities commission and provide the commission with  
2 a specimen of any service contract that it offers to customers  
3 in the State.

4 (c) If an internet service provider offers different types  
5 of technical treatment pursuant to this section, the public  
6 utilities commission shall monitor the quality of the basic  
7 default service and establish minimum quality requirements if  
8 the offering of the different types of technical treatment  
9 degrades the quality of the basic default service.

10 § -4 **Zero-rate; permissible.** It shall not be a  
11 violation of this chapter for an internet service provider to  
12 zero-rate internet traffic in application-agnostic ways;  
13 provided that no consideration, monetary or otherwise, shall be  
14 provided by a third party in exchange for the provider's  
15 decision to zero-rate or to not zero-rate traffic.

16 § -5 **Public entities.** No public entity shall purchase,  
17 or provide funding for the purchase of, any fixed or mobile  
18 broadband internet service from an internet service provider  
19 that is in violation of this chapter.

20 § -6 **Exemptions.** Nothing in this chapter shall be  
21 construed to supersede or limit any obligation, authorization,



1 or ability of an internet service provider to address the needs  
2 of emergency communications or law enforcement, public safety,  
3 or national security authorities."

4 SECTION 2. Section 27-45, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[~~§~~27-45~~§~~] **Broadband-related permits; automatic**  
7 **approval.** (a) The State shall approve, approve with  
8 modification, or disapprove all applications for broadband-  
9 related permits within sixty days of submission of a complete  
10 permit application and full payment of any applicable fee;  
11 provided that this subsection shall not apply to a conservation  
12 district use application for broadband facilities. If, on the  
13 sixty-first day, an application is not approved, approved with  
14 modification, or disapproved by the State, the application shall  
15 be deemed approved by the State.

16 (b) The State shall approve, approve with modification, or  
17 disapprove use applications for broadband facilities within the  
18 conservation district within one hundred forty-five days of  
19 submission of a complete application and full payment of any  
20 applicable fee. If, on the one hundred forty-sixth day, an  
21 application is not approved, approved with modification, or



1 disapproved by the State, the application shall be deemed  
2 approved by the State.

3 (c) Permits issued pursuant to this section shall contain  
4 the following language: "This is a broadband-related permit  
5 issued pursuant to section 27-45, Hawaii Revised Statutes."

6 (d) An applicant and a public utility shall comply with  
7 all applicable safety and engineering requirements relating to  
8 the installation, improvement, construction, or development of  
9 infrastructure relating to broadband service or broadband  
10 technology.

11 (e) No action shall be prosecuted or maintained against  
12 the State, its officials, or employees on account of actions  
13 taken in reviewing, approving, modifying, or disapproving a  
14 permit application pursuant to this section, or against public  
15 utilities resulting from such actions.

16 (f) The sixty day time period established by subsection  
17 (a) shall be extended in the event of a natural disaster, state  
18 emergency, or union strike that prevents the applicant, agency,  
19 or department from fulfilling application review requirements.

20 (g) If an application is incomplete, the State shall  
21 notify the applicant in writing within ten business days of



1   submittal of the application. The notice shall inform the  
2   applicant of the specific requirements necessary to complete the  
3   application. The sixty-first day automatic approval provisions  
4   under subsection (a) shall continue to apply to the application  
5   only if the applicant satisfies the specific requirements of the  
6   notice and submits a complete application within five business  
7   days of receipt of the notice.

8           (h) Nothing in this section shall affect the provisions of  
9   section 3 of Act 151, Session Laws of Hawaii 2011.

10          (i) Notwithstanding any law to the contrary, all  
11   broadband-related permits approved pursuant to this section that  
12   allow an applicant a state-granted right to attach small cell or  
13   other broadband wireless communication devices to utility poles  
14   shall be contingent upon the applicant complying with the  
15   practices set forth pursuant to chapter       .

16          ~~[(i)]~~ (j) For the purposes of this section, "broadband-  
17   related permits" means all state permits required to commence  
18   actions with respect to the installation, improvement,  
19   construction, or development of infrastructure relating to  
20   broadband service or broadband technology, including the  
21   interconnection of telecommunications cables, cable



1 installation, tower construction, placement of broadband  
2 equipment in the road rights-of-way, and undersea boring, or the  
3 landing of an undersea communications cable. The term does not  
4 include any state permit for which the approval of a federal  
5 agency is explicitly required pursuant to federal law, rule, or  
6 regulation, prior to granting final permit approval by the  
7 State."

8 SECTION 3. Section 46-89, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§46-89 Broadband-related permits; automatic approval.**

11 (a) A county shall approve, approve with modification, or  
12 disapprove all applications for broadband-related permits within  
13 sixty days of submission of a complete permit application and  
14 full payment of any applicable fee. If, on the sixty-first day,  
15 an application is not approved, approved with modification, or  
16 disapproved by the county, the application shall be deemed  
17 approved by the county.

18 (b) Permits issued pursuant to this section shall contain  
19 the following language: "This is a broadband-related permit  
20 issued pursuant to section 46-89, Hawaii Revised Statutes."



1 (c) An applicant and a public utility shall comply with  
2 all applicable safety and engineering requirements relating to  
3 the installation, improvement, construction, or development of  
4 infrastructure relating to broadband service or broadband  
5 technology.

6 (d) No action shall be prosecuted or maintained against  
7 any county, its officials, or employees on account of actions  
8 taken in reviewing, approving, modifying, or disapproving a  
9 permit application pursuant to this section, or against public  
10 utilities resulting from such actions.

11 (e) The sixty day time period established by subsection  
12 (a) shall be extended in the event of a natural disaster, state  
13 emergency, or union strike that prevents the applicant, agency,  
14 or department from fulfilling application review requirements.

15 (f) If an application is incomplete, the county agency  
16 shall notify the applicant in writing within ten business days  
17 of submittal of the application. The notice shall inform the  
18 applicant of the specific requirements necessary to complete the  
19 application. The sixty-first day automatic approval provisions  
20 under subsection (a) shall continue to apply to the application  
21 only if the applicant satisfies the specific requirements of the



1 notice and submits a complete application within five business  
2 days of receipt of the notice.

3 (g) Nothing in this section shall affect the provisions of  
4 section 3 of Act 151, Session Laws of Hawaii 2011.

5 (h) Notwithstanding any law to the contrary, all  
6 broadband-related permits approved pursuant to this section that  
7 allow an applicant a county-granted right to attach small cell  
8 or other broadband wireless communication devices to utility  
9 poles shall be contingent upon the applicant complying with the  
10 practices set forth pursuant to chapter .

11 [~~(h)~~] (i) For the purposes of this section, "broadband-  
12 related permits" means all county permits required to commence  
13 actions with respect to the installation, improvement,  
14 construction, or development of infrastructure relating to  
15 broadband service or broadband technology, including the  
16 interconnection of telecommunications cables, cable  
17 installation, tower construction, placement of broadband  
18 equipment in the road rights-of-way, and undersea boring, or the  
19 landing of an undersea communications cable. The term does not  
20 include any county permit for which the approval of a federal  
21 agency is explicitly required pursuant to federal law, rule, or





1 regulation, prior to granting final permit approval by the  
2 county."

3 SECTION 4. If any provision of this Act, or the  
4 application thereof to any person or circumstance, is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of the Act that can be given effect without the  
7 invalid provision or application, and to this end the provisions  
8 of this Act are severable.

9 SECTION 5. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect upon its approval.

12

INTRODUCED BY:



JAN 23 2025



# H.B. NO. 1472

**Report Title:**

Broadband Internet Access Service; Protections; Net Neutrality

**Description:**

Requires a provider of broadband internet access services to be transparent with network management practices, performance, and commercial terms of its broadband internet access services. Prohibits a provider of broadband internet access services from blocking lawful websites, impairing or degrading lawful internet traffic, engaging in paid prioritization or application-specific differential pricing, or interfering with or disadvantaging users of broadband internet access services. Requires an applicant of a broadband-related permit seeking a state-granted or county-granted right to attach small cell or other broadband wireless communication devices to utility poles to comply with certain practices.

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