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SENATE BILL NO. 949

Offered January 19, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 2.2-4303.3, relating to the Virginia Public Procurement Act; Internet access service contracting; limitations; Internet neutrality and privacy.*

Patron—Wexton

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 2.2-4303.3 as follows:
§ 2.2-4303.3. Internet access service contracting; limitations.

A. As used in this section

"Edge provider" means a person that provides any Internet content or Internet device.

"Internet access services" means services that enable users to access Internet content, and may also include access to proprietary content, applications, and other services as part of a package of services offered to users. "Internet access service" does not include telecommunications services, except to the extent that telecommunications services are purchased, used, or sold by a provider of Internet access to provide Internet access.

"Internet content" means any lawful information, content, applications, or services available over the Internet.

"Internet device" means any nonharmful device used to access or use Internet content.

"Personally identifiable information" means information that identifies (i) a user by name, physical or electronic address, or telephone number; (ii) a user as having requested or obtained specific materials or services from an Internet access service provider; (iii) Internet sites visited by a user; or (iv) any of the contents of a user's data-storage device.

"User" means any person or entity who uses Internet access services and is duly authorized by the provider of such service to engage in such use.

B. No contract for Internet access services may be awarded by a public body to any Internet access service provider that:

1. Blocks user access to and use of Internet content or Internet devices, subject to reasonable network management;

2. Impairs or degrades Internet traffic on the basis of Internet content or use of an Internet device, subject to reasonable network management;

3. Engages in the optimization of data transfer rates for edge providers in exchange for payment;

4. Unreasonably interferes with or unreasonably disadvantages (i) a user's ability to select, access, and use Internet access services, Internet content, or Internet devices of his choice; or (ii) an edge provider's ability to make Internet content or Internet devices available to users; or

5. Except as provided in subsection C, knowingly discloses personally identifiable information concerning a user.

C. An Internet access service provider that has contracted with a public body for the provision of Internet access services shall disclose any personally identifiable information that it maintains concerning a user:

1. Pursuant to a grand jury subpoena;

2. To an investigative or law-enforcement officer while acting as authorized by law;

3. Pursuant to a court order in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by other means;

4. To a court in a civil action for conversion commenced by the Internet access service provider or in a civil action to enforce collection of unpaid subscription fees or purchase amounts, and then only to the extent necessary to establish the fact of the subscription delinquency or purchase agreement, and with appropriate safeguards against unauthorized disclosure;

5. To the user who is the subject of the information, upon written or electronic request and upon payment of a fee not to exceed the actual cost of retrieving the information;

6. Pursuant to subpoena, including an administrative subpoena, issued under authority of law of the Commonwealth or another state of the United States; or

7. Pursuant to a warrant or court order.

INTRODUCED

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