



California Democrats Want to Bring Back Net Neutrality

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The Federal Communications Commission's controversial measure repealing "net neutrality" rules went into effect last week. Supporters of net neutrality have virtually no chance of fighting back on the federal level, but in California, Democratic state legislators are getting creative.

Sen. Scott Wiener (D–San Fran.) introduced [Senate Bill 822](#), which provides statewide net neutrality rules identical to those repealed by the FCC, including prohibitions of any distinctions by internet service providers "on the basis of source, destination, Internet content, application, service, or device." The bill passed the Senate on party lines with Democrats voting in favor and Republicans voting against. It now heads to the California Assembly.

Speaking to the *Desert Sun*, state Sen. Patricia Bates (R–Laguna Niguel) said of the bill, "Ultimately, all this bill will succeed in doing is opening our state to legal challenges and costly litigation, which we know is coming if the bill is passed." Barnes is probably referring to potential lawsuits from the FCC, which would claim that conflict preemption clauses in the 2015 and 2017 decisions make it unlawful for states to pass their own net neutrality laws.

"An example of this becoming an issue is with Portland," Tom Struble, technology policy manager at the R Street Institute, told *Reason*. "In 2002, Portland, Oregon tried to reclassify cable as a Title II service instead of a Title I service and the FCC stepped in to prevent this because it came in direct conflict with the Telecommunications Act of 1996."

Meanwhile, Washington state imposed its own net neutrality rules when Gov. Jay Inslee (D) [signed](#) Substitute House Bill 2282 into law. That legislation went into effect on the same day as the FCC repeal measure. The fear of an FCC lawsuit seems to be of little concern to lawmakers in the Evergreen State.

On the other hand, Oregon Gov. Kate Brown (D) took a more cautious approach when she signed a bill into law that prohibits government agencies from contracting Internet broadband services from providers who participate in activities not permissible under previous FCC regulations. The goal of that legislation is to impose some degree of net neutrality while avoiding an FCC lawsuit.

This trend is not limited to states in the Pacific northwest. Net neutrality legislation is also pending in Maryland, New Jersey, Vermont, and New York.

Allowing states to write their own net neutrality laws risks creating 50 different regulatory schemes that would come in conflict with one another due to the nature of the Internet.

"Everyone can agree that the federal government needs to be the ones to provide the guidelines on this issue, not 50 different patchwork regulations for each state," says Struble. "These states are well aware of the outcome and are often complicit in wasting millions of dollars of taxpayer resources to prove the point that they're not happy with federal law on this issue."

Net neutrality advocates, such as Fight for the Future, want states to send a message to Washington. The group released the following statement:

This victory in California shows that net neutrality is here to stay. It's time for our Federal lawmakers in the House of Representatives to follow the lead of the US Senate and California State Senate, listen to their constituents, tech experts, and small business owners, and vote for the Congressional Review Act (CRA) resolution to restore open Internet protections for all.

Speaking to the Cato Institute a few days after the measure went into effect, FCC Chairman Ajit Pai did not specify whether he would pursue legal action against states that passed such legislation, but did state that he was concerned about having too many different regulatory schemes. "It's better to have a single, consistent federal regulatory scheme," he said.