

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Tasha Boerner, Chair

AB 1271 (Bonta) – As Amended March 28, 2025

SUBJECT: Communications: broadband internet service providers

SUMMARY: This bill would require a broadband internet service provider (ISP) to annually submit to the Department of Consumer Affairs (DCA) a report containing broadband pricing and speed data, as specified. This bill would also require DCA to annually publish broadband affordability and speed report aggregating and analyzing the submitted data.

Specifically, **this bill:**

- 1) Defines “broadband internet service provider” to mean any business that provides broadband internet access service to an individual, corporation, government, or other customer in the state.
- 2) Defines “broadband pricing and speed data” to mean information related to broadband service rates, fees, and speed performance, including specified factors.
- 3) Requires a broadband internet service provider operating in the state to, on or before January 1, 2027, and then annually, submit to the department a report containing broadband pricing and speed data at the census tract or address level in a machine-readable format, as specified.
- 4) Requires that a broadband internet service provider to certify the accuracy and completeness of the reported data under penalty of perjury.
- 5) Requires DCA to publish an annual broadband affordability and speed report aggregating and analyzing the data submitted pursuant to this bill.
- 6) Requires DCA to make broadband pricing and speed data collected pursuant to this chapter available to the public in an open-data format, except as necessary to protect proprietary business information, protected personal information, and personally identifiable information, as determined by DCA.
- 7) Specifies that a broadband internet service provider that fails to comply with this chapter shall be subject to an administrative penalty not to exceed one thousand dollars (\$1,000), per violation per day until compliance is achieved.
- 8) Authorizes the department to adopt rules and regulations necessary to implement and enforce this bill.
- 9) Finds and declares that this bill would impose a limitation on the public’s right to access public information within the meaning of the California Constitution. Declares that the interest protected by this limitation and the need for protecting that interest is in order to protect the confidentiality of consumers and the proprietary information of businesses subject to this act, it is necessary that this act limit the public’s right of access to proprietary business information, protected personal information, and personally identifiable information.

EXISTING LAW:

- 1) Establishes the Department of Consumer Affairs within the Business, Consumer Services, and Housing Agency. (Business and Professions Code § 101)
- 2) Defines “broadband internet access service” to mean a mass-market retail service by wire or radio provided to customers in California that provides the capability to transmit data to, and receive data from, all or substantially all Internet endpoints, including, but not limited to, any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. (Civil Code § 3100)
- 3) Establishes the Office of Broadband and Digital Literacy within the Department of Technology, to oversee the development and construction of a statewide open-access middle-mile broadband network, and for the maintenance and operation of the statewide open-access middle-mile broadband network to provide an opportunity for last-mile providers, anchor institutions, and tribal entities to connect to the statewide open-access middle-mile broadband network to facilitate high-speed broadband service. (Government Code § Section 11549.51)
- 4) Requires the California Public Utilities Commission (CPUC) to maintain and update a state broadband map which identifies, for each address in the state, each provider of broadband services that offers service at the address and the maximum speed of broadband services offered by each provider of broadband services at the address. (Public Utilities Code § 281.6)
- 5) Establishes that all people are by nature free and independent and have inalienable rights, among which are privacy. (California Constitution § 1)
- 6) Provides that the people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny. (California Constitution Article I § 3)
- 7) Establishes the principle of the state, to ensure digital equity for all its residents, and that residents shall have access broadband that is sufficient and reliable. (Civil Code § 3122)
- 8) Establishes the California Public Records Act, to ensure transparency and accountability in government by establishing the public's right to access records held by state and local agencies, with some exceptions to protect privacy and other public interests. (Government Code § 7920 et. seq.)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) *Intent of this bill.* The intent of this bill is to provide transparency and quality assurance for the broadband internet services purchased by consumers in California. This bill aims to accomplish this objective by requiring broadband internet service providers (ISPs) to disclose certain speed and pricing data to the state. According to the author: “Reliable, high-speed internet is essential for participating in education, employment, healthcare, and civic life. Yet many Californians experience a disconnect between what providers advertise and what they actually deliver. Without clear reporting requirements, consumers and policymakers lack the tools to ensure accountability and affordability. This bill addresses that

gap by requiring providers to submit annual reports to the Department of Consumer Affairs detailing real-world broadband performance and true service costs. The Department will publish these findings to support transparency and inform future broadband equity efforts.

AB 1271 empowers consumers and strengthens California's broadband infrastructure through greater access to accurate information."

- 2) *State and federal agencies already collect some of the data covered by this bill.* This bill would require broadband internet service providers (ISPs) to report to the Department of Consumer Affairs (DCA) with broadband price and speed data. Under existing law and regulations, ISPs already report to the California Public Utilities Commission (CPUC) and the Federal Communications Commission (FCC) with some of the price and speed data that is intended to be covered by this bill, but not to the extent envisioned by this bill. In particular, California law requires the CPUC to maintain a broadband map with price and speed information. To implement this section, the CPUC annually requests address-level data from each provider of broadband services in the state pertaining the maximum speed of broadband services offered at an address. This broadband availability information collected by the CPUC is then shared with the public on California's interactive broadband map¹. At the federal level, pursuant to both federal law and regulations, ISPs also report to the FCC with price and speed data. Nonetheless, this bill does intend to cover a wider array of data than is currently being collected. The scope of the data collection intended by this bill is discussed in more details in Section 4 below.

Lastly and importantly, it is worth noting that this bill gives new work to an agency – the Department of Consumer Affairs - which historically has not been directly involved with the state's broadband initiatives. As such, it would be at least the third government entity regularly collecting broadband availability and pricing data aside from the CPUC and FCC. Therefore, it is potentially duplicative if the CPUC's data collection responsibilities are not correspondingly changed to account for DCA's new role. Given that this bill will be double referred to the Assembly Committee on Business and Professions, should it pass this committee, this analysis will not discuss whether the DCA is equipped or could reasonably be equipped to implement this bill. However, it is worth noting that the recent history of this committee and the Legislature has been to look beyond the CPUC when it comes to broadband initiatives. For example, in SB 156 the Legislature established the Office of Broadband and Digital Literacy at the California Department of Technology. Later this session, this committee is due to consider legislation to establish a Department of Broadband and Digital Equity (AB 693, Boerner), an agency which might be better equipped to implement this bill if both should pass.

- 3) *Federal regulations require ISPs to display broadband consumer labels, with price and speed information.* In addition to reporting data directly to the FCC, data which is then shared with the public, ISPs also share price and speed information directly with consumers. For example, in November 2021, Congress passed the Bipartisan Infrastructure Law, which directed the FCC to require consumer-friendly labels with information about broadband services. In 2022, the FCC adopted rules requiring broadband providers to display, at the point of sale, labels displaying key information consumers want: prices, speeds, fees, data allowances, and other critical information.

¹ California's Interactive Broadband map is maintained by the California Public Utilities Commission pursuant to Public Utilities Code § 281.6. <https://www.broadbandmap.ca.gov/>

Similarly to the intent of this bill, broadband labels are designed to provide clear, easy-to-understand, and accurate information about the cost and performance of broadband internet services. The labels are modeled after the FDA nutrition labels and are intended to help consumers comparison shop for the internet service plan that will best meet their needs and budget. Internet service providers that offer home, or fixed, internet services, or mobile broadband plans are required to have a label for each standalone broadband service plan they offer. The labels must disclose important information about broadband prices, introductory rates, data allowances, and broadband speeds. They also include links to information about network management practices and privacy policies. See Attachment 1 for an example of the FCC's broadband consumer labels. Where this bill differs, or goes beyond, the upfront pricing and speed transparency required by federal regulations, is that it would also seem to require reporting on individual user and community-level performance. For example, this bill explicitly requires reporting on average speeds experienced by consumers, which neither federal or state regulations require.

- 4) *This bill would require ISPs to also report on speed performance and actual costs paid by customers.* In addition to the marketed price and speeds, meaning those prices and speeds for plans marketed to and purchased by the customer, this bill is additionally intended to require ISPs to report on speed performance data and actual costs paid by customers. In other words, this bill would require comprehensive reporting on broadband marketing, sales, and performance data. The underlying issue the author of this bill posits as a problem is that marketed price and speed may differ from the total price and speeds performance at the customer premises. In turn, customers may be paying for plans for which they may never receive the full value of. There is both anecdotal data and small studies that support this conclusion. For example, #OaklandUndivided, an entity associated with the City of Oakland, published a study based on thousands of speed tests conducted within the City². According to their data, connections in Oakland's highest income zip code with the largest population of white residents were nearly ten times faster than the city's poorest, which house the city's largest communities of color. However, studies like this are very limited, so it is difficult to make sweeping assumptions about how frequently this happens or what the underlying causes are.

Even when speed performance data is collected, the data alone has limited value to establish a causal inference about the underlying factors that influence performance. Take the #OaklandUndivided study into consideration again, which measured speed performance at customer locations thousands of times across the city. According to the report summary, the data was collected every time a student tried to get online. While the data trend overall showed that actual speeds were below marketed speeds, the slower speeds could have been the result of various factors attributable to the ISP or even the customer. For example, the study did not appear to control for the type of device being used by the user, their distance from their home WiFi modem, or how many devices were being used concurrently. All these factors will likely influence speed performance, and perhaps not consistently across time and location. While a lack of a standardization in speed performance testing does not render such a study useless, at the very least it demonstrates that further inquiry and data collection would

² #OaklandUndivided. "DIGITAL EXCLUSION IN OAKLAND" <https://www.oaklandundivided.org/internet-performance-summary>

be necessary to establish a conclusion about the causes. In relation to this bill, it demonstrates that obtaining consistent, standardized, and accurate speed performance data may be a complex undertaking. Moving forward the author may wish to consider whether establishing a standard methodology or approach to measuring speed performance is appropriate for this bill. This is of particular importance because, as currently drafted, an ISP would be required to certify the accuracy and completeness of the reported data under penalty of perjury.

- 9) *This bill utilizes unclear and vague terminology.* This bill establishes an open-ended definition of the term “broadband pricing and speed data” that would include information such as promotional speeds, average speeds experienced by customers, and total aggregated pricing. However, the language within the definition itself is what is unclear or vague. For example, it is unclear what is considered a promotional speed. This bill also does not establish any methodology or guidance as to how an ISP should measure average speeds across areas. For data collection purposes it is imperative to ensure accuracy and consistency, particularly when consumers may subscribe to different speeds within a particular census block. While this bill does authorize DCA to adopt rules and regulations necessary to implement and enforce this chapter, the committee may wish to consider an amendment requiring DCA to adopt a standard data reporting template would be reasonable.
- 10) *Considerations for disclosure of customer and ISP data.* While the California Constitution protects the inalienable right to privacy, it also enshrines the right of right of access to information concerning the conduct of the people’s business. This bill would require the DCA to publicly disclose the customer and ISP data in an open-data format, except as necessary to protect proprietary business information, protected personal information, and personally identifiable information. While this bill does attempt to strike a balance between the competing public interests of transparency and privacy, the standard it sets would be interpreted at the discretion of the DCA. This raises potential concerns about privacy for individuals and businesses. In particular, without firm guidance, this bill may lead to the disclosure of individual customer performance data down to the address-level, or pricing and sales data that could be used by ISP competitors to impact the nature of the broadband marketplace. In order to ensure a consistent balance between transparency and privacy, as required by the Constitution, the committee may wish to amend this bill to ensure the DCA discloses the information consistent with established law, the California Public Records Act.
- 11) *Similar/related legislation.*
 - a. AB 693 (Boerner) of this session would establish the Department of Broadband and Digital Equity within the Government Operations Agency, to serve as the central state agency for the state’s broadband and digital equity initiatives.
 - b. AB 414 (Reyes, 2023) established the principle of the state, to ensure digital equity for all its residents, and that residents shall have access broadband that is sufficient and reliable.
 - c. AB 286 (Wood, 2023) expanded the fields of data included on the California Interactive Broadband Map maintained by the California Public Utilities Commission's (CPUC). Specifically, the bill authorized customers to submit self-reported data and requires the CPUC to validate self-reported data before using that data as evidence in a proceeding.

- d. SB 156 (Committee on Budget and Fiscal Review, 2021), among other things, established the Office of Broadband and Digital Literacy within the California Department of Technology to oversee the development of a statewide middle-mile open-access broadband network.

12) *Double referral.* This bill will be referred to the Committee on Business and Professions should it pass this committee.

13) *Committee amendments.*

- a. Establish findings and declarations pertaining to the underlying issue addressed by this bill, and establishing the public interest in collecting the data.
- b. Include a reference to the existing definition of “broadband internet access service” established in the Civil Code.
- c. Revise the definition of “broadband pricing and speed data” by striking vague and unclear terminology, and narrowing the scope of information to an explicit list of information.
- d. Define “speed performance” to mean the speed delivered to a customer.
- e. Revise the broadband pricing and speed data that is required to be reported to DCA to provide more clarity.
- f. Strike the requirement for an ISP to the accuracy and completeness of the reported data under penalty of perjury.
- g. Revise provisions relating to public disclosure of ISP and customer data by making reference to the California Public Records Act.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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Attachment 1: FCC Broadband Consumer Label

Broadband Facts

Provider Name**Service Plan Name and/or Speed Tier**

[Fixed or Mobile] Broadband Consumer Disclosure

Monthly Price **\$00.00**

This monthly price is an introductory rate Yes / No
Time the introductory rate applies YY months
Monthly price after the introductory rate \$00.00
Length of contract YY months
Link to Terms of Contract
<https://www.example.com/terms-of-contract>

Additional Charges & Terms

Provider Monthly Fees

Fee description	\$00.00
Fee description	\$00.00
Fee description	\$00.00
Fee description	\$00.00

One-Time Purchase Fees

Fee description	\$00.00
Fee description	\$00.00

Early Termination Fee \$00.00
Government Taxes Included/Varies by Location/\$00.00

Discounts & Bundles

Visit the link below for available billing discounts and pricing options for broadband service bundled with other services like video, phone, and wireless service, and use of your own equipment.

<https://www.example.com/discounts>**Speeds Provided with Plan**

Typical Download Speed	000 Mbps
Typical Upload Speed	000 Mbps
Typical Latency	00 ms

Data Included with Monthly Price **000 GB**

Charges for Additional Data Usage \$/GB

<https://www.example.com/data-usage>**Network Management Policy**<https://www.example.com/network-management>**Privacy Policy**<https://www.example.com/privacy>**Customer Support**

Phone: (555) 555-5555
Website: <https://www.example.com>

Learn about the terms used on this label. Visit the Federal Communications Commission's Consumer Resource Center.

fcc.gov/consumer

Unique Plan Identifier: F0005937974123ABC456EMC789