

soon as possible and shall be retained by the licensee for a period of not less than 2 years. (June 19, 1934, ch. 652, title III, §315, 48 Stat. 1088; July 16, 1952, ch. 879, §11, 66 Stat. 717; Pub. L. 86-274, §1, Sept. 14, 1959, 73 Stat. 557; Pub. L. 92-225, title I, §§103(a)(1), (2)(B), 104(c), Feb. 7, 1972, 86 Stat. 4, 7; Pub. L. 93-443, title IV, §402, Oct. 15, 1974, 88 Stat. 1291; Pub. L. 107-155, title III, §305(a), (b), title V, §504, Mar. 27, 2002, 116 Stat. 100, 101, 115.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2)(A), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107-155, §305(a), (b), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), inserted "subject to paragraph (2)," before "during the forty-five days" in par. (1)(A), and added par. (2).

Subsec. (e). Pub. L. 107-155, §504, which directed addition of subsec. (e) and redesignation of former subsecs. (e) and (f) as (f) and (g), respectively, was executed by adding subsec. (e) to reflect the probable intent of Congress. Section did not contain subsecs. (e) and (f).

1974—Subsec. (c). Pub. L. 93-443, §402, struck out provisions respecting station use charges upon certification of nonviolation of Federal limitations of expenditures for use of communications media; redesignated former subsec. (f) as (c); incorporated former par. (1)(A) and (B) provisions in clauses designated (1) and (2) and struck out subpar. (C) definition of "Federal elective office" and par. (2) definition of "legally qualified candidate".

Subsec. (d). Pub. L. 93-443, §402(a), struck out provisions respecting station use charges upon certification of nonviolation of State limitations of expenditures for use of communications media and conditions for application of State limitations and redesignated former subsec. (g) as (d).

Subsecs. (e) to (g). Pub. L. 93-443, §402(a), struck out subsec. (e) provisions respecting penalties for violations and inapplicability of sections 501 through 503 of this title and redesignated former subsecs. (f) and (g) as (c) and (d).

1972—Subsec. (a). Pub. L. 92-225, §103(a)(2)(B), inserted "under this subsection" after "No obligation is imposed".

Subsec. (b). Pub. L. 92-225, §103(a)(1), substituted in introductory text "by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office", for "for any of the purposes set forth in this section", added par. (1), designated existing provisions as par. (2), inserted therein the opening words "at any other time," and substituted "by other users thereof" for "for other purposes".

Subsecs. (c) to (g). Pub. L. 92-225, §104(c), added subsecs. (c) to (f) and redesignated former subsec. (c) as (g).

1959—Subsec. (a). Pub. L. 86-274 provided that appearances by legally qualified candidates on bona fide newscasts, interviews and documentaries and on on-the-spot coverage of bona fide news events shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

1952—Act July 16, 1952, designated existing provisions as subsecs. (a) and (c) and added subsec. (b).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-155, title III, §305(c), Mar. 27, 2002, 116 Stat. 102, provided that: "The amendments made by

this section [amending this section] shall apply to broadcasts made after the effective date of this Act [Nov. 6, 2002]."

Amendment by Pub. L. 107-155 effective Nov. 6, 2002 (notwithstanding section 305(c) of Pub. L. 107-155, set out above), but not applicable with respect to runoff elections, recounts, or election contests resulting from elections held prior to Nov. 6, 2002, see section 402 of Pub. L. 107-155, set out as an Effective Date of 2002 Amendment; Regulations note under section 30101 of Title 52, Voting and Elections.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 30101 of Title 52, Voting and Elections.

REPEALS

Repeal of title I of Pub. L. 92-225, cited as a credit to this section, by Pub. L. 93-443, title II, §205(b), Oct. 15, 1974, 88 Stat. 1278, has been construed as not repealing the amendments to this section made by sections 103(a)(1), (2)(B), and 104(c) of such title I.

REEXAMINATION OF 1959 AMENDMENT; DECLARATION OF CONGRESSIONAL INTENT

Pub. L. 86-274, §2, Sept. 14, 1959, 73 Stat. 557, provided that:

"(a) The Congress declares its intention to reexamine from time to time the amendment to section 315(a) of the Communications Act of 1934 [subsec. (a) of this section] made by the first section of this Act, to ascertain whether such amendment has proved to be effective and practicable.

"(b) To assist the Congress in making its reexaminations of such amendment, the Federal Communications Commission shall include in each annual report it makes to Congress a statement setting forth (1) the information and data used by it in determining questions arising from or connected with such amendment, and (2) such recommendations as it deems necessary in the public interest."

SUSPENSION OF EQUAL TIME PROVISIONS FOR 1960 CAMPAIGN

Pub. L. 86-677, Aug. 24, 1960, 74 Stat. 554, suspended that part of subsec. (a) of this section, which requires any licensee of a broadcast station who permits any person who is a legally qualified candidate for any public office to use a broadcasting station to afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, for the period of the 1960 presidential and vice presidential campaigns with respect to nominees for the offices of President and Vice President of the United States. The Federal Communications Commission was directed to make a report to the Congress, not later than March 1, 1961, with respect to the effect of the provisions of Pub. L. 86-677 and any recommendations the Commission might have for amendments to this chapter as a result of experience under the provisions of Pub. L. 86-677.

§316. Modification by Commission of station licenses or construction permits; burden of proof

(a)(1) Any station license or construction permit may be modified by the Commission either for a limited time or for the duration of the term thereof, if in the judgment of the Commission such action will promote the public interest, convenience, and necessity, or the provisions of this chapter or of any treaty ratified by the United States will be more fully complied with. No such order of modification shall become final until the holder of the license or permit shall have been notified in writing of the proposed action and the grounds and reasons

therefor, and shall be given reasonable opportunity, of at least thirty days, to protest such proposed order of modification; except that, where safety of life or property is involved, the Commission may by order provide, for a shorter period of notice.

(2) Any other licensee or permittee who believes its license or permit would be modified by the proposed action may also protest the proposed action before its effective date.

(3) A protest filed pursuant to this subsection shall be subject to the requirements of section 309 of this title for petitions to deny.

(b) In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission; except that, with respect to any issue that addresses the question of whether the proposed action would modify the license or permit of a person described in subsection (a)(2), such burdens shall be as determined by the Commission.

(June 19, 1934, ch. 652, title III, §316, as added July 16, 1952, ch. 879, §12, 66 Stat. 717; amended Pub. L. 98-214, §4(a), Dec. 8, 1983, 97 Stat. 1467.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

PRIOR PROVISIONS

A prior section 316 of act June 19, 1934, related to lotteries and similar devices, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948. See section 1304 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1983—Subsec. (a). Pub. L. 98-214, §4(a)(1), (2), designated existing provisions as par. (1), substituted "and shall be given reasonable opportunity, of at least thirty days, to protest such proposed order of modification; except that, where safety of life or property is involved, the Commission may by order provide, for a shorter period of notice" for "and shall have been given reasonable opportunity, in no event less than thirty days, to show cause by public hearing, if requested, why such order of modification should not issue: *Provided*, That where safety of life or property is involved, the Commission may by order provide for a shorter period of notice", and added pars. (2) and (3).

Subsec. (b). Pub. L. 98-214, §4(a)(3), inserted " ; except that, with respect to any issue that addresses the question of whether the proposed action would modify the license or permit of a person described in subsection (a)(2), such burdens shall be as determined by the Commission".

§ 317. Announcement of payment for broadcast

(a) Disclosure of person furnishing

(1) All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person: *Provided*, That "service or other valuable consideration" shall not include any

service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification in a broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast.

(2) Nothing in this section shall preclude the Commission from requiring that an appropriate announcement shall be made at the time of the broadcast in the case of any political program or any program involving the discussion of any controversial issue for which any films, records, transcriptions, talent, scripts, or other material or service of any kind have been furnished, without charge or at a nominal charge, directly or indirectly, as an inducement to the broadcast of such program.

(b) Disclosure to station of payments

In any case where a report has been made to a radio station, as required by section 508 of this title, of circumstances which would have required an announcement under this section had the consideration been received by such radio station, an appropriate announcement shall be made by such radio station.

(c) Acquiring information from station employees

The licensee of each radio station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program or program matter for broadcast, information to enable such licensee to make the announcement required by this section.

(d) Waiver of announcement

The Commission may waive the requirement of an announcement as provided in this section in any case or class of cases with respect to which it determines that the public interest, convenience, or necessity does not require the broadcasting of such announcement.

(e) Rules and regulations

The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(June 19, 1934, ch. 652, title III, §317, 48 Stat. 1089; Pub. L. 86-752, §8(a), Sept. 13, 1960, 74 Stat. 895; Pub. L. 96-507, §2(a), Dec. 8, 1980, 94 Stat. 2747.)

AMENDMENTS

1980—Subsec. (b). Pub. L. 96-507 conformed the reference to section 508 of this title to reflect the renumbering of that section by Pub. L. 96-507.

1960—Pub. L. 86-752 designated existing provisions as subsec. (a), inserting proviso clause, and added subsecs. (b) to (e).

§ 318. Transmitting apparatus; operator's license

The actual operation of all transmitting apparatus in any radio station for which a station license is required by this chapter shall be carried on only by a person holding an operator's license issued hereunder, and no person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission: *Provided*, how-