

Union Calendar No. 219

106TH CONGRESS
1ST SESSION

H. R. 486

[Report No. 106-384]

A BILL

To amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes.

OCTOBER 14, 1999

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1999

Mr. NORWOOD (for himself, Mr. KLINK, Mr. DEAL of Georgia, Mr. OXLEY, Mr. BURR of North Carolina, Mr. CUNNINGHAM, Mr. BISHOP, Mr. CONDIT, and Mr. WEYGAND) introduced the following bill; which was referred to the Committee on Commerce

OCTOBER 14, 1999

Additional sponsors: Mr. WAMP, Mr. WHITFIELD, Mr. WOLF, Mr. ADERHOLT, Mr. KENNEDY of Rhode Island, Mr. FORBES, Mr. CLEMENT, Mr. PETERSON of Minnesota, Mr. HOLT, Mr. SMITH of New Jersey, Mr. OBERSTAR, Mr. DUNCAN, Mr. MURTHA, Ms. CARSON, Mr. FOLEY, Mr. SABO, Mr. GILLMOR, Mr. BOUCHER, Mr. JENKINS, Mr. BUYER, Mrs. CUBIN, Mr. CRAMER, Mr. LUTHER, Mr. WEXLER, Mr. PETERSON of Pennsylvania, Mr. MINGE, Mr. MORAN of Kansas, Mr. MASCARA, Mr. LARGENT, Mr. HOUGHTON, Mr. WICKER, Mr. KUCINICH, Mr. CONYERS, Mr. HUTCHINSON, Mr. FILNER, Mr. ISAKSON, Mr. RYUN of Kansas, Mr. LUCAS of Oklahoma, Ms. ESHOO, Mr. HOEFFEL, Mr. HASTINGS of Washington, Ms. ROYBAL-ALLARD, Mr. BLAGOJEVICH, Mr. KIND, Mr. DICKEY, Mr. GORDON, Mr. THORNBERRY, Mr. RUSH, Mr. RILEY, Mr. RADANOVICH, Mr. THOMPSON of Mississippi, Ms. SLAUGHTER, Mr. GONZALEZ, Mr. BAKER, Mr. COBURN, Mr. COYNE, Mr. BOEHLERT, Mrs. BONO, Mr. THUNE, Mr. TIAHRT, Mr. DAVIS of Florida, Mr. SWEENEY, Mr. COOKSEY, Mr. MOORE, Mr. ETHERIDGE, Ms. KAPTUR, Mr. GRAHAM, Mr. DOOLEY of California, Mr. SCARBOROUGH, Mr. TURNER, Mr. BILBRAY, Mr. DAVIS of Illinois, Mr. Wynn, Mr. HILLIARD, Mr. LOBIONDO, Mr. KANJORSKI, Mr. DEMINT, Mr. LINDER, Mr. CHAMBLISS, Mr. KINGSTON, Mr. GUTIERREZ, Mr. FORD, Mr. HERGER, Mr. PICKERING, Ms. BROWN

of Florida, Mr. JOHN, Mr. POMEROY, Mrs. JONES of Ohio, Mr. REGULA,
Mrs. WILSON, and Mr. SAWYER

OCTOBER 14, 1999

Reported with an amendment, committed to the Committee of the Whole
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[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on February 2, 1999]

A BILL

To amend the Communications Act of 1934 to require the
Federal Communications Commission to preserve low-
power television stations that provide community broad-
casting, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Community Broad-*
5 *casters Protection Act of 1999”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds the following:*

8 *(1) Since the creation of low-power television li-*
9 *censes by the Federal Communications Commission, a*
10 *small number of license holders have operated their*
11 *stations in a manner beneficial to the public good*
12 *providing broadcasting to their communities that*
13 *would not otherwise be available.*

1 (2) *These low-power broadcasters have operated*
2 *their stations in a manner consistent with the pro-*
3 *gramming objectives and hours of operation of full-*
4 *power broadcasters providing worthwhile services to*
5 *their respective communities while under severe li-*
6 *cence limitations compared to their full-power coun-*
7 *terparts.*

8 (3) *License limitations, particularly the tem-*
9 *porary nature of the license, have blocked many low-*
10 *power broadcasters from having access to capital, and*
11 *have severely hampered their ability to continue to*
12 *provide quality broadcasting, programming, or im-*
13 *provements.*

14 (4) *The passage of the Telecommunications Act*
15 *of 1996 has added to the uncertainty of the future sta-*
16 *tus of these stations by the lack of specific provisions*
17 *regarding the permanency of their licenses, or their*
18 *treatment during the transition to high definition,*
19 *digital television.*

20 (5) *It is in the public interest to promote diver-*
21 *sity in television programming such as that currently*
22 *provided by low-power television stations to foreign-*
23 *language communities.*

1 **SEC. 3. PRESERVATION OF LOW-POWER COMMUNITY TELE-**
 2 **VISION BROADCASTING.**

3 *Section 336 of the Communications Act of 1934 (47*
 4 *U.S.C. 336) is amended—*

5 *(1) by redesignating subsections (f) and (g) as*
 6 *subsections (g) and (h), respectively; and*

7 *(2) by inserting after subsection (e) the following*
 8 *new subsection:*

9 *“(f) PRESERVATION OF LOW-POWER COMMUNITY TEL-*
 10 *EVISION BROADCASTING.—*

11 *“(1) CREATION OF CLASS A LICENSES.—*

12 *“(A) RULEMAKING REQUIRED.—Within 120*
 13 *days after the date of enactment of the Commu-*
 14 *nity Broadcasters Protection Act of 1999, the*
 15 *Commission shall prescribe regulations to estab-*
 16 *lish a class A television license to be available to*
 17 *licensees of qualifying low-power television sta-*
 18 *tions. Such regulations shall provide that—*

19 *“(i) the license shall be subject to the*
 20 *same license terms and renewal standards*
 21 *as the licenses for full-power television sta-*
 22 *tions except as provided in this subsection;*
 23 *and*

24 *“(ii) each such class A licensee shall be*
 25 *accorded primary status as a television*
 26 *broadcaster as long as the station continues*

1 to meet the requirements for a qualifying
2 low-power station in paragraph (2).

3 “(B) NOTICE TO AND CERTIFICATION BY LI-
4 CENSEES.—Within 30 days after the enactment
5 of the Community Broadcasters Protection Act of
6 1999, the Commission shall send a notice to the
7 licensees of all low-power televisions licenses that
8 describes the requirements for class A designa-
9 tion. Within 60 days after such date of enact-
10 ment, licensees intending to seek class A designa-
11 tion shall submit to the Commission a certifi-
12 cation of eligibility based on the qualification re-
13 quirements of this subsection. Absent a material
14 deficiency, the Commission shall grant certifi-
15 cation of eligibility to apply for class A status.

16 “(C) APPLICATION FOR AND AWARD OF LI-
17 CENSES.—Consistent with the requirements set
18 forth in paragraph (2)(A) of this subsection, a li-
19 censee may submit an application for class A
20 designation under this paragraph within 30
21 days after final regulations are adopted pursu-
22 ant to subparagraph (A) of this paragraph. Ex-
23 cept as provided in paragraphs (6) and (7), the
24 Commission shall, within 30 days after receipt of
25 an application of a licensee of a qualifying low-

1 *power television station that is acceptable for fil-*
2 *ing, award such a class A television station li-*
3 *cence to such licensee.*

4 “(D) *RESOLUTION OF TECHNICAL PROB-*
5 *LEMS.—The Commission shall act to preserve the*
6 *service area of each low-power television licensee*
7 *pending the final resolution of the class A appli-*
8 *cation of such licensee. If, after granting certifi-*
9 *cation of eligibility for a class A license, tech-*
10 *nical problems arise requiring an engineering so-*
11 *lution to a full-power station’s allotted param-*
12 *eters or channel assignment in the digital tele-*
13 *vision Table of Allotments, the Commission shall*
14 *make such modifications, as necessary, to ensure*
15 *replication of the full-power digital television ap-*
16 *plicant’s service area, as provided for in section*
17 *73.622 of the Commission’s regulations (47 CFR*
18 *73.622).*

19 “(2) *QUALIFYING LOW-POWER TELEVISION STA-*
20 *TIONS.—For purposes of this subsection, a station is*
21 *a qualifying low-power television station if—*

22 “(A)(i) *during the 90 days preceding the*
23 *date of enactment of the Community Broad-*
24 *casters Protection Act of 1999—*

1 “(I) such station broadcast a min-
2 imum of 18 hours per day;

3 “(II) such station broadcast an average
4 of at least 3 hours per week of programming
5 that was produced within the market area
6 served by such station, or the market area
7 served by a group of commonly controlled
8 low-power stations that carry common local
9 programming produced within the market
10 area served by such group; and

11 “(III) such station was in compliance
12 with the Commission’s requirements appli-
13 cable to low-power television stations; and

14 “(ii) from and after the date of its applica-
15 tion for a class A license, the station is in com-
16 pliance with the Commission’s operating rules
17 for full-power television stations; or

18 “(B) the Commission determines that the
19 public interest, convenience, and necessity would
20 be served by treating the station as a qualifying
21 low-power television station for purposes of this
22 section, or for other reasons determined by the
23 Commission.

24 “(3) COMMON OWNERSHIP.—No low-power tele-
25 vision station authorized as of the date of enactment

1 *of the Community Broadcasters Protection Act of*
2 *1999 shall be disqualified for a class A license based*
3 *on common ownership with any other medium of*
4 *mass communication.*

5 “(4) *ISSUANCE OF LICENSES FOR ADVANCED*
6 *TELEVISION SERVICES TO TELEVISION TRANSLATOR*
7 *STATIONS AND QUALIFYING LOW-POWER TELEVISION*
8 *STATIONS.—The Commission is not required to issue*
9 *any additional license for advanced television services*
10 *to the licensee of a class A television station under*
11 *this subsection, or to any licensee of any television*
12 *translator station, but shall accept a license applica-*
13 *tion for such services proposing facilities that will not*
14 *cause interference to the service area of any other*
15 *broadcast facility applied for, protected, permitted, or*
16 *authorized on the date of filing of the advanced tele-*
17 *vision application. Such new license or the original*
18 *license of the applicant shall be forfeited after the end*
19 *of the digital television service transition period, as*
20 *determined by the Commission. A licensee of a low-*
21 *power television station or television translator sta-*
22 *tion may, at the option of licensee, elect to convert to*
23 *the provision of advanced television services on its*
24 *analog channel, but shall not be required to convert*

1 to digital operation until the end of such transition
2 period.

3 “(5) NO PREEMPTION OF SECTION 337.—Nothing
4 in this subsection preempts or otherwise affects section
5 337 of this Act.

6 “(6) INTERIM QUALIFICATION.—

7 “(A) STATIONS OPERATING WITHIN CERTAIN
8 BANDWIDTH.—The Commission may not grant a
9 class A license to a low-power television station
10 for operation between 698 and 806 megahertz,
11 but the Commission shall provide to low-power
12 television stations assigned to and temporarily
13 operating in that bandwidth the opportunity to
14 meet the qualification requirements for a class A
15 license. If such a qualified applicant for a class
16 A license is assigned a channel within the core
17 spectrum (as such term is defined in MM Docket
18 87–286, February 17, 1998), the Commission
19 shall issue a class A license simultaneously with
20 the assignment of such channel.

21 “(B) CERTAIN CHANNELS OFF-LIMITS.—The
22 Commission may not grant under this subsection
23 a class A license to a low-power television station
24 operating on a channel within the core spectrum
25 that includes any of the 175 additional channels

1 *referenced in paragraph 45 of its February 23,*
2 *1998, Memorandum Opinion and Order on Re-*
3 *consideration of the Sixth Report and Order*
4 *(MM Docket No. 87–268). Within 18 months*
5 *after the date of enactment of the Community*
6 *Broadcasters Protection Act of 1999, the Com-*
7 *mission shall identify by channel, location, and*
8 *applicable technical parameters those 175 chan-*
9 *nels.*

10 “(7) *NO INTERFERENCE REQUIREMENT.—The*
11 *Commission may not grant a class A license, nor ap-*
12 *prove a modification of a class A license, unless the*
13 *applicant or licensee shows that the class A station*
14 *for which the license or modification is sought will*
15 *not cause—*

16 “(A) *interference within—*

17 “(i) *the predicted Grade B contour (as*
18 *of the date of enactment of the Community*
19 *Broadcasters Protection Act of 1999, or No-*
20 *vember 1, 1999, whichever is later, or as*
21 *proposed in a change application filed on*
22 *or before such date) of any television station*
23 *transmitting in analog format; or*

24 “(ii)(I) *the digital television service*
25 *areas provided in the DTV Table of Allot-*

1 ments, (II) the areas protected in the Com-
2 mission’s digital television regulations (47
3 CFR 73.622 (e) and (f)), or (III) the digital
4 television service areas of stations subse-
5 quently granted by the Commission prior to
6 the filing of a class A application;

7 “(B) interference within the protected con-
8 tour of any low-power television station or low-
9 power television translator station that—

10 “(i) was licensed prior to the date on
11 which the application for a class A license,
12 or for the modification of such a license,
13 was filed;

14 “(ii) was authorized by construction
15 permit prior to such date; or

16 “(iii) had a pending application that
17 was submitted prior to such date; or

18 “(C) interference within the protected con-
19 tour of 80 miles from the geographic center of the
20 areas listed in section 22.625(b)(1) or 90.303 of
21 the Commission’s regulations (47 CFR
22 22.625(b)(1) and 90.303) for frequencies in—

23 “(i) the 470–512 megahertz band iden-
24 tified in section 22.621 or 90.303 of such
25 regulations; or

- 1 “(ii) *the 482–488 megahertz band in*
- 2 *New York.*”.