

106TH CONGRESS  
1ST SESSION

# S. 1547

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.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 5, 1999

Mr. BURNS (for himself, Mr. WYDEN, Mr. LOTT, and Mr. HOLLINGS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## 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.

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 that:

1           (1) Since the creation of low-power television li-  
2       censes by the Federal Communications Commission,  
3       a number of license holders have operated their sta-  
4       tions in a manner beneficial to the public good pro-  
5       viding broadcasting to their communities that would  
6       not otherwise be available.

7           (2) These low-power broadcasters have operated  
8       their stations in a manner consistent with the pro-  
9       gramming objectives and hours of operation of full-  
10      power broadcasters providing worthwhile services to  
11      their respective communities while under severe li-  
12      cense limitations compared to their full-power coun-  
13      terparts.

14          (3) License limitations, particularly the tem-  
15      porary nature of the license, have blocked many low-  
16      power broadcasters from having access to capital,  
17      and have severely hampered their ability to continue  
18      to provide quality broadcasting, programming, or  
19      improvements.

20          (4) The passage of the Telecommunications Act  
21      of 1996 has added to the uncertainty of the future  
22      status of these stations by the lack of specific provi-  
23      sions regarding the permanency of their licenses, or  
24      their treatment during the transition to high defini-  
25      tion, digital television.

1           (5) It is in the public interest to promote diver-  
 2           sity in television programming formats by encour-  
 3           aging low power television stations that serve foreign  
 4           language communities. These communities should  
 5           not lose their access to foreign language program-  
 6           ming as a result of the transition to digital tele-  
 7           vision.

8   **SEC. 3. PRESERVATION OF LOW-POWER COMMUNITY TELE-**  
 9                           **VISION BROADCASTING.**

10          (a) Section 336 of the Communications Act of 1934  
 11   (47 U.S.C. 336) is amended:

12               (1) by redesignating subsections (f) and (g) as  
 13               subsections (g) and (h), respectively; and

14               (2) by inserting after subsection (e) the fol-  
 15               lowing new subsection:

16          “(f) PRESERVATION OF LOW-POWER COMMUNITY  
 17   TELEVISION BROADCASTING.—

18               “(1) CREATION OF CLASS A LICENSES.—Within  
 19               120 days after the date of enactment of the Commu-  
 20               nity Broadcasters Protection Act of 1999, the Com-  
 21               mission shall prescribe regulations to establish a  
 22               class A television license to be available to licensees  
 23               of qualifying low-power television stations. Such li-  
 24               cense shall be subject to the same license terms, and  
 25               renewal standards as the licenses for full-power tele-

1 vision stations except as provided in this section, and  
2 each class A licensee shall be accorded primary sta-  
3 tus as a television broadcaster as long as the station  
4 continues to meet the requirements for a qualifying  
5 low-power station in paragraph (2). Within 30 days  
6 after the date of enactment of the Community  
7 Broadcasters Protection Act of 1999, the Commis-  
8 sion shall send a notice to the licensees of all low-  
9 power television licenses that describes the require-  
10 ments for Class A designation. Within 60 days after  
11 the date of enactment of the Community Broad-  
12 casters Protection Act of 1999, licensees intending  
13 to seek Class A designation shall submit to the Com-  
14 mission a certification of eligibility based on the  
15 qualification requirements of this Act. Absent a ma-  
16 terial deficiency, the Commission shall grant certifi-  
17 cation of eligibility to apply for Class A status. The  
18 Commission shall act to preserve the contours of  
19 low-power television licensees pending the final reso-  
20 lution of a Class A application. Under the require-  
21 ments set forth in paragraph (2) (A) and (B) and  
22 paragraph (6) of this subsection, a licensee may sub-  
23 mit an application for Class A designation under  
24 this paragraph only within 30 days after final regu-  
25 lations are adopted, except as provided for in para-

1 graph (6)(A). The Commission shall, within 30 days  
2 after receipt of an application that is acceptable for  
3 filing, award such a Class A television station license  
4 to any licensee of a qualifying low-power television  
5 station. If, after granting certification of eligibility  
6 or a Class A license, unforeseen technical problems  
7 arise that require an engineering solution to a sta-  
8 tion's allotted parameters or channel assignment in  
9 the digital television Table of Allotments, the Com-  
10 mission may make such modifications as are nec-  
11 essary to ensure replication of the digital television  
12 applicant's service area as provided for in section  
13 622 of the Commission's regulations (47 CFR 602).

14 “(2) QUALIFYING LOW-POWER TELEVISION STA-  
15 TIONS.—For purposes of this subsection, a station is  
16 a qualifying low-power television station if:

17 “(A) during the 90 days preceding the  
18 date of enactment of the Community Broad-  
19 casters Protection Act of 1999:

20 “(i) such station broadcast a min-  
21 imum of 18 hours per day;

22 “(ii) such station broadcast an aver-  
23 age of at least 3 hours per week of pro-  
24 gramming that was produced within the  
25 market area served by such station, or the

1 market area served by a group of com-  
2 monly controlled stations that carry com-  
3 mon local programming not otherwise  
4 available to their communities; and

5 “(iii) such station was in compliance  
6 with the Commission’s requirements appli-  
7 cable to low-power television stations; and

8 “(B) from and after the date of its appli-  
9 cation for a Class A license, the station is in  
10 compliance with the Commission’s operating  
11 rules for full power television stations; or

12 “(C) the Commission determines that the  
13 public interest, convenience, and necessity  
14 would be served by treating the station as a  
15 qualifying low-power television station for pur-  
16 poses of this section, or for other reasons deter-  
17 mined by the Commission.

18 “(3) COMMON OWNERSHIP.—No low-power tele-  
19 vision station that is authorized as of the date of en-  
20 actment of the Community Broadcasters Protection  
21 Act of 1999 shall be disqualified for a class A license  
22 based on common ownership with any medium of  
23 mass communication.

24 “(4) ISSUANCE OF LICENSES FOR ADVANCED  
25 TELEVISION SERVICES TO QUALIFYING LOW-POWER

1 TELEVISION STATIONS.—The Commission is not re-  
2 quired to issue any additional licenses for advanced  
3 television services to the licensees of the class A tele-  
4 vision stations but shall accept such license applica-  
5 tions proposing facilities that will not cause inter-  
6 ference to any other broadcast facility authorized on  
7 the date of filing of the Class A advanced television  
8 applications. Such new license or the original license  
9 of the applicant shall be forfeited at the end of the  
10 digital television transition. Low-power television  
11 station licensees may, at the option of licensee, elect  
12 to convert to the provision of advanced television  
13 services on its analog channel, but shall not be re-  
14 quired to convert to digital operation until the end  
15 of the digital television transition.

16 “(5) NO PREEMPTION OF SECTION 337.—Noth-  
17 ing in this section preempts section 337 of this Act.

18 “(6) INTERIM QUALIFICATION.—

19 “(A) STATIONS OPERATING WITHIN CER-  
20 TAIN BANDWIDTH.—The Commission may not  
21 grant a Class A license to a low power television  
22 station operating between 698 and 806 mega-  
23 hertz, but the Commission shall provide to low  
24 power television stations assigned to and tempo-  
25 rarily operating in that bandwidth the oppor-

tunity to meet the qualification requirements for a Class A license. When such a qualified applicant for a Class A license is assigned a channel within the core spectrum, the Commission shall simultaneously issue a Class A license.

“(B) CERTAIN CHANNELS OFF-LIMITS.—

The Commission may not grant a channel within the core spectrum under this subsection that includes any of the 175 additional channels referenced in paragraph 45 of its February 23, 1998, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order: MM Docket No. 87–268. Within 18 months after the date of enactment of the Community Broadcasters Protection Act of 1999, the Commission shall identify by channel, location, and applicable technical parameters those 175 channels.

“(7) NO INTERFERENCE REQUIREMENT.—The

Commission may not grant a Class A license or approve a modification of a Class A license unless the applicant or licensee shows that the Class A station for which the license or modification is sought will not cause:



1           “(A) interference within the Grade B con-  
2           tour of any television station (as of the date of  
3           enactment of the Community Broadcasters Pro-  
4           tection Act of 1999, or as proposed in a minor  
5           change application filed on or before such date)  
6           or the digital television service areas provided in  
7           the digital television Table of Allotments, or  
8           subsequently granted by the Commission prior  
9           to the filing of a Class A application;

10           “(B) interference within the protected con-  
11           tour of any low power television station or low  
12           power television translator station licensed, au-  
13           thorized by construction permit, or with a pend-  
14           ing application submitted prior to the date on  
15           which the application for a Class A license, or  
16           for the modification of such a license, was filed;  
17           or

18           “(C) interference within the protected con-  
19           tour of 80 miles from the geographic center of  
20           the areas listed in section 22.625(b)(1) or  
21           90.303 of the Commission’s regulations (47  
22           C.F.R. 22.625(b)(1) and 90.303) for fre-  
23           quencies in:

1 “(i) the 470–512 megahertz bank  
2 identified in section 22.621 or 90.303 of  
3 such regulations; or

4 “(ii) the 482–488 megahertz band in  
5 New York.”.

6 (b) Section 614 of the Communications Act of 1934  
7 (47 U.S.C. 533) is amended:

8 “(1) by inserting the following in subsection  
9 (h)(2)(F) after the first sentence: ‘A television  
10 broadcast station shall not lose its status as a quali-  
11 fied low power station because a full power television  
12 station is subsequently licensed to a community  
13 within the county or other equivalent political sub-  
14 division served by the cable system or because a full  
15 power television station subsequently begins to pro-  
16 vide local news and information to the community.’.”

17 **SEC. 4. COMPETITIVE BIDDING EXCEPTIONS.**

18 Section 309(j)(2) of the Communications Act of 1934  
19 (47 U.S.C. 309(j)(2)) is amended:

20 (1) by striking “or” at the end of subparagraph  
21 (B);

22 (2) by striking the period at the end of sub-  
23 paragraph (C) and inserting “; or”; and

24 (3) by adding at the end the following new sub-  
25 paragraph:

1 “(D) for low power television stations if at  
2 least one of the mutually exclusive applicants  
3 qualifies as a Class A licensee. Under such cir-  
4 cumstances:

5 “(i) if only one of the mutually exclu-  
6 sive applicants qualifies as a Class A li-  
7 censee, the Commission shall assign the li-  
8 cense to that applicant;

9 “(ii) if more than one of the mutually  
10 exclusive applicants qualify as Class A li-  
11 censees, the Commission shall assign the  
12 license to an applicant who serves an un-  
13 derserved area or population. An area or  
14 population is underserved if:

15 “(I) at least 25 percent of the  
16 area within the station’s primary serv-  
17 ice contour does not receive primary  
18 service from more than two commer-  
19 cial television stations licensed under  
20 part 73 of title 47 of the Code of Fed-  
21 eral Regulations; or

22 “(II) the station’s programming  
23 is broadcast in a foreign language  
24 that is spoken by a significant propor-

1                   tion of population within the station's  
2                   primary service contour;

3                   “(iii) if more than one applicant pri-  
4                   marily broadcasts programming to under-  
5                   served areas or populations, or more than  
6                   one applicant is a Class A licensee and no  
7                   applicant primarily broadcasts program-  
8                   ming to underserved areas or populations,  
9                   then the Commission shall notify affected  
10                  parties and provide them with no fewer  
11                  than 60 days to develop an engineering so-  
12                  lution so that the applications are not mu-  
13                  tually exclusive. If the applicants do not  
14                  reach an engineering solution to resolve  
15                  mutual exclusivity, the Commission shall  
16                  establish a bidding credit which encour-  
17                  ages, to the extent possible, localism, diver-  
18                  sity of programming, and programming for  
19                  underserved communities.”.

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