

110TH CONGRESS  
1ST SESSION

# S. 1223

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to support efforts by local or regional television or radio broadcasters to provide essential public information programming in the event of a major disaster, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 25, 2007

Ms. LANDRIEU (for herself, Mr. STEVENS, Mr. CARPER, and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to support efforts by local or regional television or radio broadcasters to provide essential public information programming in the event of a major disaster, 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 “First Response Broad-  
5 casters Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) in the periods before, during, and after  
2           major disasters that occurred not long before the  
3           date of enactment of this Act (including Hurricane  
4           Katrina, Hurricane Rita, and the terrorist attacks of  
5           September 11, 2001), local media organizations (in-  
6           cluding newspapers, public and private broadcasters,  
7           and online publications) provided a valuable public  
8           service by transmitting and publishing disaster-re-  
9           lated information, guidance, and assistance;

10          (2) local broadcasters, public and private, pro-  
11          vided a particularly valuable public service by trans-  
12          mitting evacuation instructions, warnings of impend-  
13          ing threats, timely response status updates, and  
14          other essential information related to such major  
15          disasters to listeners and viewers to whom other  
16          forms of media were often unavailable or inacces-  
17          sible;

18          (3) an inability to access a disaster area may  
19          impede the ability of local media organizations to  
20          provide such public services;

21          (4) according to the report by the Committee  
22          on Homeland Security and Governmental Affairs of  
23          the Senate, titled “Hurricane Katrina: A Nation  
24          Still Unprepared”, dated May 2006, “It is essential  
25          that the news media receive accurate disaster infor-

1       mation to circulate to the public. News media can  
2       also help inform the public by reporting on rumors  
3       and soliciting evidence and comment on their plausi-  
4       bility, if any”;

5           (5) according to testimony provided on Sep-  
6       tember 22, 2005, to the Committee on Commerce,  
7       Science, and Transportation of the Senate, an esti-  
8       mated 100 Gulf Coast broadcast stations were un-  
9       able to broadcast as a result of Hurricane Katrina,  
10      with approximately 28 percent of television stations  
11      and approximately 35 percent of radio stations un-  
12      able to broadcast in the area affected by Hurricane  
13      Katrina;

14          (6) according to testimony provided on Sep-  
15      tember 7, 2005, to the Committee on Energy and  
16      Commerce of the House of Representatives, fol-  
17      lowing Hurricane Katrina only 4 of the 41 radio  
18      broadcast stations in the New Orleans metropolitan  
19      area remained on the air in the immediate aftermath  
20      of that hurricane;

21          (7) the only television station in New Orleans  
22      to continue transmitting its over-the-air signal unin-  
23      terrupted during and after Hurricane Katrina was  
24      able to do so only as a direct result of steps taken

1 to better protect its transmitter and provide redun-  
2 dant production facilities in the region;

3 (8) fuel and other supply shortages inhibit the  
4 ability of a broadcaster to stay on the air and pro-  
5 vide essential public information following a major  
6 disaster;

7 (9) according to the report by the Committee  
8 on Homeland Security and Governmental Affairs of  
9 the Senate, titled “Hurricane Katrina: A Nation  
10 Still Unprepared”, dated May 2006, there were in-  
11 stances of Federal authorities confiscating privately-  
12 purchased fuel supplies in the area affected by Hur-  
13 ricane Katrina;

14 (10) the ability of several broadcasters in Mis-  
15 sissippi to remain on the air was unduly com-  
16 promised by the confiscation of their privately-pur-  
17 chased fuel supplies;

18 (11) practices put in place following Hurricane  
19 Andrew to involve broadcasters in disaster response  
20 and expedite access by broadcast engineers to dis-  
21 aster areas for the purpose of repairing critical-to-  
22 air facilities and infrastructure has significantly in-  
23 creased the ability of broadcasters in Florida to con-  
24 tinue transmitting essential public information dur-  
25 ing subsequent major disasters;

1           (12) a June 12, 2006, report to the Federal  
2       Communications Commission from the Independent  
3       Panel Reviewing the Impact of Hurricane Katrina  
4       on Communications Networks recommends that  
5       cable and broadcasting infrastructure providers, and  
6       their contracted workers, be afforded emergency re-  
7       sponder status under the Robert T. Stafford Dis-  
8       aster Relief and Emergency Assistance Act (42  
9       U.S.C. 5121 et seq.) and that this designation would  
10      remedy many of the access and fuel sharing issues  
11      that hampered industry efforts to quickly repair in-  
12      frastructure following Hurricane Katrina;

13           (13) the partnership of competing radio broad-  
14      casters in the wake of Hurricane Katrina, casting  
15      aside commercial interests to provide uninterrupted,  
16      redundant public information programming from  
17      multiple transmission facilities, served the public  
18      well and for many hurricane victims was the only  
19      source of disaster-related information for many days;

20           (14) other similar models for regional broad-  
21      caster cooperation nationwide, such as the initiative  
22      by 3 public and private radio groups to cooperatively  
23      produce essential disaster-related programming in  
24      eastern and central Maine, will further prepare the  
25      industry to effectively respond to major disasters;

1           (15) following Hurricane Katrina, a Primary  
2       Entry Point station in Louisiana, operating only on  
3       generator power until commercial power was re-  
4       stored 2 weeks after the disaster, was instrumental  
5       in providing life-saving information to the general  
6       public throughout the area as battery-operated ra-  
7       dios were the only source of official news and infor-  
8       mation;

9           (16) as of April 18, 2007, there were 24 States  
10      with 1 Primary Entry Point station, 4 States with  
11      2 Primary Entry point stations, 2 Primary Entry  
12      Point stations located in territories of the United  
13      States, and 2 Primary Entry Point stations under  
14      development in Alabama and Mississippi;

15          (17) in the event of a man-made or natural dis-  
16      aster, it is essential to provide for Primary Entry  
17      Point stations in any State or territory where there  
18      is not a facility, meaning an additional 23 stations  
19      are required, located in—

20                   (A) Arkansas;

21                   (B) Connecticut;

22                   (C) Delaware;

23                   (D) the District of Columbia;

24                   (E) Indiana;

25                   (F) Iowa;

- 1 (G) Kentucky;
- 2 (H) Maine;
- 3 (I) Michigan;
- 4 (J) Nebraska;
- 5 (K) New Hampshire;
- 6 (L) New Jersey;
- 7 (M) Oklahoma;
- 8 (N) Oregon;
- 9 (O) Pennsylvania;
- 10 (P) Rhode Island;
- 11 (Q) South Dakota;
- 12 (R) Vermont;
- 13 (S) West Virginia;
- 14 (T) Wisconsin;
- 15 (U) American Samoa;
- 16 (V) the Northern Mariana Islands; and
- 17 (W) Guam; and
- 18 (18) in the event of a man-made or natural dis-
- 19 aster, it is essential to provide for the Primary
- 20 Entry Point stations in larger States where there is
- 21 currently a facility, but an additional station is re-
- 22 quired to ensure full sufficient geographic coverage,
- 23 meaning 2 stations are required, located in—
- 24 (A) Kansas; and
- 25 (B) Florida.

1 **SEC. 3. DEFINITIONS.**

2 In this Act—

3 (1) the term “Administrator” means the Ad-  
4 ministrator of the Federal Emergency Management  
5 Agency;

6 (2) the term “disaster area” means an area in  
7 which the President has declared a major disaster,  
8 during the period of that declaration;

9 (3) the term “first response broadcaster”  
10 means a local or regional television or radio broad-  
11 caster that provides essential disaster-related public  
12 information programming before, during, and after  
13 the occurrence of a major disaster;

14 (4) the term “major disaster” has the meaning  
15 given the term in section 102 of the Robert T. Staf-  
16 ford Disaster Relief and Emergency Assistance Act  
17 (42 U.S.C. 5122); and

18 (5) the term “Secretary” means the Secretary  
19 of Homeland Security.

20 **SEC. 4. PRIMARY ENTRY POINT STATIONS.**

21 (a) IN GENERAL.—There are authorized to be appro-  
22 priated \$6,500,000 to the Administrator of the Federal  
23 Emergency Management Agency for facility and equip-  
24 ment expenses to construct an additional 25 Primary  
25 Entry Point stations in the continental United States and  
26 territories.

1 (b) DEFINITION.—In this section, the term “Primary  
 2 Entry Point station” means a radio broadcast station des-  
 3 ignated to provide public information following national  
 4 and local emergencies where there is no commercial power.

5 **SEC. 5. BROADCAST DISASTER PREPAREDNESS GRANT**  
 6 **PROGRAM.**

7 (a) DEFINITION.—In this section, the term “pilot  
 8 program” means the Broadcast Disaster Preparedness  
 9 Grant Program established under subsection (b).

10 (b) ESTABLISHMENT.—Not later than 90 days after  
 11 the date of enactment of this Act, the Secretary shall es-  
 12 tablish a pilot program under which the Administrator  
 13 may make grants to first response broadcasters, to be  
 14 known as the “Broadcast Disaster Preparedness Grant  
 15 Program”.

16 (c) PRIORITY.—The Administrator may give priority  
 17 to an application for a grant under the pilot program  
 18 that—

19 (1) is submitted—

20 (A) on behalf of more than 1 first response  
 21 broadcaster operating in an area;

22 (B) in cooperation with State or local au-  
 23 thorities;

24 (C) on behalf of a first response broad-  
 25 caster with 50 employees or less;

1 (D) on behalf of a first response broad-  
2 caster that is principally owned and operated by  
3 individuals residing within the State, county,  
4 parish, or municipality in which the broadcaster  
5 is located; or

6 (2) provides, in writing, a statement of the in-  
7 tention of the applicant to provide disaster-related  
8 programming dedicated to essential public informa-  
9 tion purposes before, during, and after a major dis-  
10 aster.

11 (d) USE OF FUNDS.—A grant under the pilot pro-  
12 gram shall be used by a first response broadcaster to—

13 (1) protect or provide redundancy for facilities  
14 and infrastructure, including transmitters and other  
15 at-risk equipment (as determined by the Adminis-  
16 trator), critical to the ability of that first response  
17 broadcaster to continue to produce and transmit es-  
18 sential disaster-related public information program-  
19 ming; or

20 (2) upgrade or add facilities or equipment that  
21 will enhance or expand the ability of the first re-  
22 sponder broadcaster to acquire, produce, or transmit  
23 essential disaster-related public information pro-  
24 gramming.

1 (e) FEDERAL SHARE.—The Federal share of an ac-  
 2 tivity carried out with a grant under this section shall be  
 3 not more than 50 percent.

4 (f) TERMINATION.—The authority to make grants  
 5 under the pilot program shall terminate at the end of the  
 6 third full fiscal year after the date of enactment of this  
 7 Act.

8 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
 9 are authorized to be appropriated to the Secretary to carry  
 10 out the pilot program \$10,000,000 for each of fiscal years  
 11 2008 through 2010.

12 **SEC. 6. FIRST RESPONSE BROADCASTER ACCESS FOL-**  
 13 **LOWING A MAJOR DISASTER.**

14 (a) ACCESS.—Section 403 of the Robert T. Stafford  
 15 Disaster Relief and Emergency Assistance Act (42 U.S.C.  
 16 5170b) is amended—

17 (1) in subsection (a)(3)(B), by inserting “(in-  
 18 cluding providing fuel, food, water, and other sup-  
 19 plies to first response broadcasters, after providing  
 20 essential emergency services, health care, and utility  
 21 restoration services)” before the semicolon at the  
 22 end; and

23 (2) in subsection (c)(6)—

1 (A) by redesignating subparagraphs (A)  
 2 and (B) as subparagraphs (B) and (C), respec-  
 3 tively; and

4 (B) by inserting before subparagraph (B),  
 5 as so redesignated, the following:

6 “(A) FIRST RESPONSE BROADCASTER.—

7 The term ‘first response broadcaster’ has the  
 8 meaning given that term in section 707.”.

9 (b) CONFISCATION.—Title VII of the Robert T. Staf-  
 10 ford Disaster Relief and Emergency Assistance Act (42  
 11 U.S.C. 5201 et seq.) is amended by adding at the end  
 12 the following:

13 **“SEC. 707. CONFISCATION FROM FIRST RESPONSE BROAD-**  
 14 **CASTERS.**

15 “(a) DEFINITION.—In this section, the term ‘first re-  
 16 sponse broadcaster’ means a local or regional television  
 17 or radio broadcaster that provides essential disaster-re-  
 18 lated public information programming before, during, and  
 19 after a major disaster.

20 “(b) IN GENERAL.—In the event of a major disaster,  
 21 and to the extent practicable and consistent with not en-  
 22 dangering public safety, a Federal officer or employee may  
 23 not confiscate fuel, water, or food from a first response  
 24 broadcaster if that first response broadcaster adequately  
 25 documents that such supplies will be used to enable that

1 broadcast first responder to broadcast essential disaster-  
 2 related public information programming in the area af-  
 3 fected by that major disaster.”.

4 (c) RESTORATION OF SERVICES.—The Robert T.  
 5 Stafford Disaster Relief and Emergency Assistance Act  
 6 (42 U.S.C. 5121 et seq.) is amended—

7 (1) by redesignating section 425 (42 U.S.C.  
 8 5189e) (relating to essential service providers) as  
 9 section 427; and

10 (2) in section 427, as so redesignated, by add-  
 11 ing at the end the following:

12 “(d) FIRST RESPONSE BROADCASTERS.—

13 “(1) DEFINITION.—In this subsection, the term  
 14 ‘first response broadcaster’ has the meaning given  
 15 that term in section 707.

16 “(2) IN GENERAL.—In the event of a major dis-  
 17 aster, the head of a Federal agency, in consultation  
 18 with appropriate State and local government au-  
 19 thorities, and to the greatest extent practicable and  
 20 consistent with not endangering public safety or in-  
 21 hibiting recovery efforts, shall allow access to the  
 22 area affected by that major disaster for technical  
 23 personnel, broadcast engineers, and equipment need-  
 24 ed to restore, repair, or resupply any facility or  
 25 equipment critical to the ability of a first response

1 broadcaster to continue to acquire, produce, and  
 2 transmit essential disaster-related public information  
 3 programming, including the repair and maintenance  
 4 of transmitters and other facility equipment and  
 5 transporting fuel for generators.

6 “(3) NEWS GATHERING EMPLOYEES.—This  
 7 subsection shall not apply to news gathering employ-  
 8 ees or agents of a first response broadcaster.”.

9 (d) GUIDELINES FOR PRESS.—

10 (1) DEFINITIONS.—In this subsection—

11 (A) the term “credentialing authority”  
 12 means a Federal, State, or local government  
 13 agency that—

14 (i) issues press credentials; and

15 (ii) permits and coordinates access to  
 16 a designated location or area on the basis  
 17 of possessing such press credentials;

18 (B) the term “press credential” means the  
 19 identification provided to news personnel to  
 20 identify such personnel as members of the  
 21 press; and

22 (C) the term “news personnel” includes a  
 23 broadcast journalist or technician, newspaper or  
 24 periodical reporter, photojournalist, and mem-  
 25 ber of a similar professional field whose pri-

1           mary interest in entering the disaster area is to  
2           gather information related to the disaster for  
3           wider publication or broadcast.

4           (2) ACCESS TO DISASTER AREA.—For purposes  
5           of permitting and coordinating access by news per-  
6           sonnel to a disaster area—

7                   (A) any State or local government agency  
8           that serves as the primary credentialing author-  
9           ity for that disaster area before the date of the  
10          applicable major disaster shall remain the pri-  
11          mary credentialing authority during and after  
12          that major disaster, unless—

13                   (i) the State or local government  
14          agency voluntarily relinquishes the ability  
15          to serve as primary credentialing authority  
16          to another agency; or

17                   (ii) the State or local government  
18          agency, in consultation with appropriate  
19          Federal disaster response agencies, assigns  
20          certain duties, including primary  
21          credentialing authority, to the Federal  
22          Emergency Management Agency or an-  
23          other appropriate Federal, State, or local  
24          government agency; and

1 (B) the Federal Emergency Management  
2 Agency and other appropriate Federal disaster  
3 response agencies operating in a disaster area  
4 shall permit and coordinate news personnel ac-  
5 cess to the disaster area consistent with the ac-  
6 cess guidelines determined by the primary  
7 credentialing authority for that disaster area.

8 (3) CATASTROPHIC INCIDENT ACCESS.—In the  
9 event of a catastrophic incident (as that term is de-  
10 fined in section 501 of the Homeland Security Act  
11 of 2002 (6 U.S.C. 311)) that leaves a State or local  
12 primary credentialing authority unable to execute  
13 the duties of that credentialing authority described  
14 under paragraph (2) or to effectively communicate  
15 to Federal officials a determination regarding the in-  
16 tent of that credentialing authority to retain, relin-  
17 quish, or assign its status as the primary  
18 credentialing authority, the Secretary may designate  
19 the Federal Emergency Management Agency or an-  
20 other Federal agency as the interim primary  
21 credentialing authority, until such a time as the  
22 State or local credentialing authority notifies the  
23 Secretary of whether that authority intends to re-  
24 tain, relinquish, or assign its status.

○