

110TH CONGRESS
2D SESSION

S. 3740

To ensure access to basic broadcast television after the Digital Television Transition, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 11 (legislative day, DECEMBER 10), 2008

Mr. SANDERS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To ensure access to basic broadcast television after the Digital Television Transition, 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 “Digital TV Transition
5 Fairness Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions shall apply:

8 (1) ASSISTANT SECRETARY.—The term “Assist-
9 ant Secretary” means the Assistant Secretary for

1 Communications and Information of the Department
2 of Commerce.

3 (2) COMMISSION.—The term “Commission”
4 means the Federal Communications Commission.

5 (3) DIGITAL-TO-ANALOG CONVERTER BOX.—
6 The term “digital-to-analog converter box” has the
7 same meaning as in section 3005(d) of the Digital
8 Television Transition and Public Safety Act of 2005.

9 (4) LOCAL MARKET.—The term “local market”
10 has the same meaning as in section 122(j) of title
11 17, United States Code.

12 (5) MULTICHANNEL VIDEO PROGRAMMING DIS-
13 TRIBUTOR.—The term “multichannel video program-
14 ming distributor” has the same meaning as in sec-
15 tion 602(13) of the Communications Act of 1934.

16 (6) TELEVISION BROADCAST STATION.—The
17 term “television broadcast station” has the same
18 meaning as in section 325(b)(7) of the Communica-
19 tions Act of 1934.

20 **SEC. 3. DIGITAL VIEWERSHIP COUPON PROGRAM.**

21 (a) CREATION OF PROGRAM.—The Assistant Sec-
22 retary, in coordination and consultation with the Commis-
23 sion, shall implement and administer a program through
24 which households or individuals in the United States may
25 obtain coupons that can be applied toward—

1 (1) the cost to install a digital-to-analog con-
2 verter box;

3 (2) the purchase of an indoor or outdoor an-
4 tenna, or both if needed, to facilitate the reception
5 and display of signals of channels broadcast in dig-
6 ital television service;

7 (3) the cost to install any antenna described in
8 paragraph (2); and

9 (4) the cost to install, or the cost of any other
10 equipment needed to receive and display, basic
11 broadcast television service, as such service is de-
12 scribed in section 4.

13 (b) PROGRAM SPECIFICATIONS.—

14 (1) ELIGIBILITY.—

15 (A) HOUSEHOLD OR INDIVIDUAL.—Any
16 household or individual that was or is eligible
17 for a digital-to-analog converter box coupon
18 under the coupon program established under
19 section 3005 of the Digital Television Transi-
20 tion and Public Safety Act of 2005 shall be eli-
21 gible to receive a coupon under the coupon pro-
22 gram established under this section.

23 (B) PRODUCT ELIGIBILITY.—The Assist-
24 ant Secretary, in consultation with the Commis-
25 sion, shall determine minimum standards for

1 which types of antennas, installation providers,
2 and other companies are eligible to participate
3 in the coupon program established under this
4 section. Such minimum standards shall be es-
5 tablished not later than 30 days after the date
6 of enactment of this Act.

7 (C) LIMITATION.—No household or indi-
8 vidual may be eligible to participate in the cou-
9 pon program established under this section if—

10 (i) on the date of enactment of this
11 Act, the household or individual was receiv-
12 ing broadcast television that it had pur-
13 chased from a multichannel video program-
14 ming distributor; or

15 (ii) after the date of enactment of this
16 Act, the household or individual purchases
17 television broadcasts, other than basic
18 broadcast television service described in
19 section 4, from a multichannel video pro-
20 gramming distributor.

21 (2) REQUEST.—A household or individual may
22 obtain coupons under this section by making a re-
23 quest as required by the regulations implementing
24 this section.

1 (3) COUPON VALUE.—The Assistant Secretary
2 shall determine the value of any coupons issued
3 under this section, provided that the value of any
4 single coupon does not exceed \$80. In making the
5 determination of the value of any single coupon, the
6 Assistant Secretary shall consider the purpose for
7 which the requesting household or individual is re-
8 questing the coupon and the types of costs to which
9 the coupon will be applied.

10 (4) DURATION.—All coupons issued under this
11 section shall expire upon the later of the date of ter-
12 mination of the program established under this sec-
13 tion or 90 days.

14 (5) TERMINATION.—The program established
15 under this section shall terminate on the date that
16 is 18 months after the date on which the first cou-
17 pon under this section is issued.

18 (c) CONSUMER EDUCATION.—The Assistant Sec-
19 retary shall develop, in consultation with the Commission
20 and broadcast and television industry representatives, an
21 Internet website and a toll-free telephone hotline accessible
22 to consumers that have degraded or lost signals or chan-
23 nels as a result of the full power transition from analog
24 to digital television that is to occur on February 17, 2009.

1 The website and telephone hotline shall provide relevant
 2 information in order to assist consumers in determining—

3 (1) if the purchase or installation of an outdoor
 4 or indoor antenna will assist the consumer in resolv-
 5 ing or improving their digital television reception
 6 problems; and

7 (2) what options are available to them should
 8 they find that purchasing an outdoor or indoor an-
 9 tenna will not assist in resolving or improving their
 10 digital television reception.

11 (d) REPORTING REQUIREMENT.—

12 (1) IN GENERAL.—Not later than 1 month
 13 after the date of enactment of this Act, and every
 14 7 days thereafter, the National Telecommunications
 15 and Information Administration shall make publicly
 16 available on its website the—

17 (A) number of requests for coupons under
 18 this section;

19 (B) number of coupons issued under this
 20 section;

21 (C) amount of each coupon issued, includ-
 22 ing the total amount of all such issued coupons;

23 (D) types of costs to which each such
 24 issued coupon will be applied, as such costs are

1 self-reported on the application of each house-
 2 hold or individual;

3 (E) number of issued coupons that have
 4 been redeemed; and

5 (F) amount of unobligated and unexpended
 6 funds that remain from the amounts authorized
 7 under section 6.

8 (2) TERMINATION.—The requirement described
 9 under paragraph (1) shall terminate 3 months after
 10 the last coupon under this section is issued.

11 **SEC. 4. BASIC BROADCAST TELEVISION SERVICE.**

12 (a) REQUIREMENT.—

13 (1) IN GENERAL.—The Commission shall pro-
 14 mulgate rules requiring that each multichannel video
 15 programming distributor, who provides broadcast
 16 television for a local market, provide to eligible con-
 17 sumers in that local market access to basic broad-
 18 cast television service, as such service is described in
 19 subsection (b).

20 (2) SAFE HARBOR.—

21 (A) IN GENERAL.—The retransmission or
 22 secondary transmission of any television broad-
 23 cast station by a multichannel video program-
 24 ming distributor pursuant to paragraph (1)
 25 shall not be subject to any prohibitions on such

activities as described under sections 325 and 338 of the Communications Act of 1934 or under section 122 of title 17, United States Code, and any such distributor shall be immune from any civil liability related to fulfilling the requirements under paragraph (1).

(B) FEE EXEMPTION.—In promulgating rules under paragraph (1), the Commission shall require that each television broadcast station—

(i) grant consent to multichannel video programming distributors to retransmit the signal of such broadcasting station only for the purposes of fulfilling the requirements under paragraph (1); and

(ii) waive any fees or charges that are customarily or usually applied for the grant of such consent.

(b) BASIC BROADCAST TELEVISION SERVICE.—Any rule promulgated under subsection (a) relating to the definition of basic broadcast television service shall ensure that, at a minimum, such service includes the transmission, retransmission, or secondary transmission of the over-the-air signal of any nonsubscription television broadcast station located within the local market.

1 (c) ELIGIBLE CONSUMERS.—

2 (1) IN GENERAL.—For purposes of this section,
3 an “eligible consumer” is a consumer whose primary
4 residence is located in a local market where at least
5 1 television broadcast station has certified to the
6 Commission that channel signal loss has occurred as
7 a result of the transition from analog to digital tele-
8 vision that is to occur on February 17, 2009.

9 (2) LOSS OF ELIGIBILITY; PURCHASE OF ADDI-
10 TIONAL SERVICE.—If at any time after purchasing
11 basic broadcast television service pursuant to this
12 section, an eligible consumer purchases any addi-
13 tional channel service from a multichannel video pro-
14 gramming distributor, such consumer shall no longer
15 be eligible to purchase such basic broadcast tele-
16 vision service.

17 (d) ADDITIONAL COST REQUIREMENTS.—In promul-
18 gating rules under subsection (a), the Commission shall
19 ensure that—

20 (1) the cost to purchase basic broadcast tele-
21 vision service does not exceed \$10 per month, except
22 that such maximum monthly fee shall be adjusted
23 annually in accordance with the annual percentage
24 increase in the Consumer Price Index of the Bureau
25 of Labor Statistics of the Department of Labor in

1 increments of \$1 only when the percentage increase
2 in such index, when applied to the maximum month-
3 ly fee, produces dollar increases that exceed \$1; and

4 (2) a multichannel video programming dis-
5 tributor providing such basic broadcast service may
6 not charge installation costs for such service that are
7 in excess of the regular market rate charged to nor-
8 mal non-basic broadcast customers who purchase in-
9 stallation for any other services provided by the mul-
10 tichannel video programming distributor.

11 (e) REPORT TO CONGRESS.—Not later than 6
12 months after the date of enactment of this Act, and every
13 12 months thereafter, the Commission shall submit a re-
14 port to the Committee on Commerce, Science, and Trans-
15 portation of the Senate and the Committee on Energy and
16 Commerce of the House of Representatives on—

17 (1) the number of eligible consumers who have
18 purchased basic broadcast television service;

19 (2) the problems encountered by eligible con-
20 sumers and multichannel video programming dis-
21 tributors in adhering to the requirements of this sec-
22 tion; and

23 (3) any other information the Commission de-
24 termines appropriate.

1 (f) PUBLIC AVAILABILITY.—The Commission shall
2 make any report required under subsection (e) available
3 to the public on its website in a searchable and
4 downloadable manner.

5 (g) TERMINATION ONLY BY ACT OF CONGRESS.—
6 This section may be limited, canceled, terminated, or re-
7 scinded only by an Act of Congress.

8 **SEC. 5. OUTREACH CAMPAIGN.**

9 (a) IN GENERAL.—The Commission, in consultation
10 and coordination with the National Telecommunications
11 and Information Administration, the Administrator of the
12 Administration on Aging, the heads of any other relevant
13 Federal agency, State and local agencies, the broadcast,
14 cable, satellite, and other telecommunications industries,
15 and nonprofit, religious, community-based, and other simi-
16 lar organizations, shall carry out an education and out-
17 reach campaign to inform and educate consumers on the
18 availability, benefits, and advantages of the programs and
19 requirements established under this Act.

20 (b) REQUIREMENTS.—The education and outreach
21 campaign required under subsection (a) shall, at a min-
22 imum—

23 (1) begin immediately upon the date of enact-
24 ment of this Act;

1 (2) involve dissemination of information over
2 radio, television, the Internet, and other electronic
3 media, as well other traditional nonelectronic media;

4 (3) require that each agency described in sub-
5 section (a) maintain information relating to the pro-
6 grams and requirements established under this Act
7 on the website of such agency; and

8 (4) require efforts to inform and educate all rel-
9 evant consumers, in particular those consumers—

10 (A) in vulnerable populations such as—

11 (i) senior citizens;

12 (ii) consumers living in rural and trib-
13 al areas;

14 (iii) non-English speaking consumers;

15 (iv) consumers with disabilities; and

16 (v) low-income consumers; and

17 (B) located in a local market where chan-
18 nel signal loss as a result of the full power tran-
19 sition from analog to digital television that is to
20 occur on February 17, 2009, is likely or pre-
21 dicted to be likely.

22 (c) PROVISION OF FUNDS.—The Commission may
23 distribute funds to nonprofit, religious, community-based,
24 and other similar organizations to assist with the edu-
25 cation and outreach campaign required under this section.

1 (d) WEBSITE.—Each Federal agency participating in
2 the education and outreach campaign required under this
3 section shall work to ensure the existence and operation
4 of a single website accessible by the public that shall serve
5 as the clearinghouse for all information relating to this
6 Act and the programs established by this Act.

7 **SEC. 6. FUNDING.**

8 (a) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to carry out this Act
10 \$75,000,000 for each of fiscal years 2009 and 2010. Any
11 amounts appropriated to carry out this Act shall remain
12 available until expended.

13 (b) TRANSFER OF FUNDS IN THE DIGITAL TELE-
14 VISION TRANSITION AND PUBLIC SAFETY FUND.—Not-
15 withstanding any other provision of law, any funds re-
16 maining in the Digital Television Transition and Public
17 Safety Fund established under section 309(j)(8)(E) of the
18 Communications Act of 1934 (47 U.S.C. 309(j)(8)(E))
19 shall, upon the expiration of the digital-to-analog con-
20 verter box program established under section 3005 of the
21 Digital Television Transition and Public Safety Act of
22 2005, be used to carry out the provisions of this Act.

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