

111TH CONGRESS
1ST SESSION

S. 2764

To reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 2009

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

A BILL

To reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004, 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 “Satellite Television Ex-
5 tension and Localism Act of 2009”.

6 **SEC. 2. EXTENSION OF AUTHORITY.**

7 Section 325(b) of the Communications Act of 1934
8 (47 U.S.C. 325(b)) is amended—

9 (1) in paragraph (2)(C), by striking “December
10 31, 2009” and inserting “December 31, 2014”; and

1 (2) in paragraph (3)(C), by striking “January
2 1, 2010” each place it appears in clauses (ii) and
3 (iii) and inserting “January 1, 2015”.

4 **SEC. 3. SIGNIFICANTLY VIEWED STATIONS.**

5 (a) IN GENERAL.—Paragraphs (1) and (2) of section
6 340(b) of such Act (47 U.S.C. 340(b)) are amended to
7 read as follows:

8 “(1) SERVICE LIMITED TO SUBSCRIBERS TAK-
9 ING LOCAL-INTO-LOCAL SERVICE.—This section shall
10 apply only to retransmissions to subscribers of a sat-
11 ellite carrier who receive retransmissions of a signal
12 from that satellite carrier pursuant to section 338.

13 “(2) SERVICE LIMITATIONS.—A satellite carrier
14 may retransmit to a subscriber in high definition
15 format the signal of a station determined by the
16 Commission to be significantly viewed under sub-
17 section (a) only if such carrier also retransmits in
18 high definition format the signal of a station located
19 in the local market of such subscriber and affiliated
20 with the same network whenever such format is
21 available from such station.”.

22 (b) RULEMAKING REQUIRED.—Within 180 days after
23 the date of the enactment of this Act, the Federal Commu-
24 nications Commission shall take all actions necessary to

1 promulgate a rule to implement the amendments made by
 2 subsection (a).

3 **SEC. 4. CONFORMING AMENDMENTS.**

4 (a) SECTION 338.—Section 338 of the Communica-
 5 tions Act of 1934 (47 U.S.C. 338) is amended—

6 (1) by striking “119(a)(14)” in the first para-
 7 graph (3) of subsection (a) and inserting
 8 “119(a)(15)”;

9 (2) by striking the second paragraph (3) of sub-
 10 section (a); and

11 (3) by striking subsection (g) and inserting the
 12 following:

13 “(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE
 14 RECEPTION ANTENNA.—

15 “(1) SINGLE RECEPTION ANTENNA.—Each sat-
 16 ellite carrier that retransmits the signals of local tel-
 17 evision broadcast stations in a local market shall re-
 18 transmit such stations in such market so that a sub-
 19 scriber may receive such stations by means of a sin-
 20 gle reception antenna and associated equipment.

21 “(2) ADDITIONAL RECEPTION ANTENNA.—If
 22 the carrier retransmits the signals of local television
 23 broadcast stations in a local market in high defini-
 24 tion format, the carrier shall retransmit such signals
 25 in such market so that a subscriber may receive

1 such signals by means of a single reception antenna
2 and associated equipment, but such antenna and as-
3 sociated equipment may be separate from the single
4 reception antenna and associated equipment used to
5 comply with paragraph (1).”.

6 (b) SECTION 339.—Section 339 of such Act (47
7 U.S.C. 339) is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (1)(B), by striking “Such
10 two network stations” and all that follows
11 through “more than two network stations.”;
12 and

13 (B) in paragraph (2)—

14 (i) in the heading for subparagraph
15 (A), by striking “GRANDFATHERED SUB-
16 SCRIBERS TO ANALOG SIGNALS.— and in-
17 sserting “CERTAIN GRANDFATHERED SUB-
18 SCRIBERS.—”;

19 (ii) by striking “Satellite Home View-
20 er Extension and Reauthorization Act of
21 2004:” and inserting “Satellite Television
22 Extension and Localism Act of 2009:”;

23 (iii) in subparagraph (A)—

24 (I) in the heading for clause (i),
25 by striking “ANALOG”;

- 1 (II) in clause (i)—
2 (aa) by striking “analog”
3 each place it appears; and
4 (bb) by striking “October 1,
5 2004,” and inserting “October 1,
6 2009,”;
7 (III) in the heading for clause
8 (ii), by striking “ANALOG”; and
9 (IV) in clause (ii)—
10 (aa) by striking “analog”
11 each place it appears; and
12 (bb) by striking “2004,”
13 and inserting “2009,”;
14 (iv) by amending subparagraph (B) to
15 read as follows:

16 “(B) RULES FOR OTHER SUBSCRIBERS.—
17 A subscriber of a satellite carrier, other than a
18 subscriber to whom subparagraph (A) applies,
19 who was lawfully receiving the distant signal of
20 a network station on the day before the date of
21 enactment of the Satellite Television Extension
22 and Localism Act of 2009 may continue to re-
23 ceive such distant signal until such subscriber
24 chooses to no longer receive such distant signal

1 from such carrier, whether or not such sub-
2 scriber elects to subscribe to local signals.”;

3 (v) in subparagraph (C)—

4 (I) by striking “analog”;

5 (II) in clause (i), by striking “the
6 Satellite Home Viewer Extension and
7 Reauthorization Act of 2004;” and in-
8 serting “the Satellite Television Ex-
9 tension and Localism Act of 2009;”;
10 and

11 (III) by amending clause (ii) to
12 read as follows:

13 “(ii) either—

14 “(I) at the time such person
15 seeks to subscribe to receive such sec-
16 ondary transmission, resides in a local
17 market where the satellite carrier
18 makes available to that person the
19 signal of a local network station affili-
20 ated with the same television network
21 pursuant to section 338, and the re-
22 transmission of such signal by such
23 carrier can reach such subscriber; or

24 “(II) receives from the satellite
25 carrier the signal of a network station

1 affiliated with the same network that
2 is broadcast by a local station in the
3 market where the subscriber resides,
4 but is not the local station's primary
5 video.”;

6 (vi) by striking subparagraph (D) and
7 inserting the following:

8 “(D) SPECIAL RULES FOR DISTANT SIG-
9 NALS.—

10 “(i) IN GENERAL.—In the case of a
11 subscriber of a satellite carrier who, with
12 respect to a local network station—

13 “(I) is a subscriber whose house-
14 hold is not predicted by the model
15 specified in subsection (c)(3) of this
16 section to receive the signal intensity
17 required under section 73.622(e)(1) or
18 73.683(a) of 47 of the Code of Fed-
19 eral Regulations, or a successor regu-
20 lation, or

21 “(II) is in an unserved house-
22 hold, as determined under section
23 119(d)(10)(A) of title 17, United
24 States Code,

1 such subscriber is eligible to receive the
2 signal of a distant network station affili-
3 ated with the same network under this sec-
4 tion, subject to the provisions of this sub-
5 paragraph.

6 “(ii) SIGNAL TESTING.—A subscriber
7 shall be eligible to receive a distant signal
8 of a distant network station affiliated with
9 the same network under this section if
10 such subscriber is determined, based on a
11 test conducted in accordance with section
12 73.686(d) of title 47, Code of Federal Reg-
13 ulations, or any successor regulation, not
14 to be able to receive a signal that exceeds
15 the signal intensity standard in section
16 73.622(e)(1) or 73.683(a) of title 47, Code
17 of Federal Regulations.”;

18 “(iii) TIME-SHIFTING PROHIBITED.—
19 In a case in which the satellite carrier
20 makes available to an eligible subscriber
21 under this subparagraph the signal of a
22 local network station pursuant to section
23 338, the carrier may only provide the dis-
24 tant signal of a station affiliated with the
25 same network to that subscriber if, in the

1 case of any local market in the 48 contig-
 2 uous States of the United States, the dis-
 3 tant signal is the secondary transmission
 4 of a station whose prime time network pro-
 5 gramming is generally broadcast simulta-
 6 neously with, or later than, the prime time
 7 network programming of the affiliate of
 8 the same network in the local market.

9 “(iv) SAVINGS PROVISION.—Nothing
 10 in this subparagraph shall be construed to
 11 affect a satellite carrier’s obligations under
 12 section 338.”; and

13 (vii) in subparagraph (E), by striking
 14 “distant analog signal or” and all that fol-
 15 lows through “(B), or (D))” and inserting
 16 “distant signal”; and

17 (2) in subsection (c)—

18 (A) by striking paragraph (3) and insert-
 19 ing the following:

20 “(3) ESTABLISHMENT OF IMPROVED PRE-
 21 DICTIVE MODEL AND ON-LOCATION TESTING RE-
 22 QUIRED.—

23 “(A) PREDICTIVE MODEL.—Within 180
 24 days after the date of the enactment of the Sat-
 25 ellite Television Extension and Localism Act of

1 2009, the Commission shall take all actions
2 necessary to develop and prescribe by rule a
3 point-to-point predictive model for reliably and
4 presumptively determining the ability of indi-
5 vidual locations, through the use of an antenna,
6 to receive signals in accordance with the signal
7 intensity standard in section 73.622(e)(1) of
8 title 47, Code of Federal Regulations, including
9 to account for the continuing operation of
10 translator stations and low power television sta-
11 tions. In prescribing such model, the Commis-
12 sion shall rely on the Individual Location
13 Longley-Rice model set forth by the Commis-
14 sion in CS Docket No. 98–201, as previously
15 revised with respect to analog signals, and as
16 recommended by the Commission with respect
17 to digital signals in its Report to Congress in
18 ET Docket No. 05–182, FCC 05–199 (released
19 December 9, 2005). The Commission shall es-
20 tablish procedures for the continued refinement
21 in the application of the model by the use of ad-
22 ditional data as it becomes available.

23 “(B) ON-LOCATION TESTING.—The Com-
24 mission shall issue an order completing its rule-
25 making proceeding in ET Docket No. 06–94

1 within 180 days after the date of enactment of
2 the Satellite Television Extension and Localism
3 Act of 2009. In conducting such rulemaking,
4 the Commission shall seek ways to minimize
5 consumer burdens associated with on-location
6 testing.”;

7 (B) by striking paragraph (4)(A) and in-
8 serting the following:

9 “(A) IN GENERAL.—If a subscriber’s re-
10 quest for a waiver under paragraph (2) is re-
11 jected and the subscriber submits to the sub-
12 scriber’s satellite carrier a request for a test
13 verifying the subscriber’s inability to receive a
14 signal of the signal intensity referenced in
15 clause (i) of subsection (a)(2)(D), the satellite
16 carrier and the network station or stations as-
17 serting that the retransmission is prohibited
18 with respect to that subscriber shall select a
19 qualified and independent person to conduct the
20 test referenced in such clause. Such test shall
21 be conducted within 30 days after the date the
22 subscriber submits a request for the test. If the
23 written findings and conclusions of a test con-
24 ducted in accordance with such clause dem-
25 onstrate that the subscriber does not receive a

1 signal that meets or exceeds the requisite signal
2 intensity standard in such clause, the subscriber
3 shall not be denied the retransmission of a sig-
4 nal of a network station under section 119 of
5 title 17, United States Code.”;

6 (C) in paragraph (4)(B), by striking “the
7 signal intensity” and all that follows through
8 “United States Code” and inserting “such req-
9 uisite signal intensity standard”; and

10 (D) in paragraph (4)(E), by striking
11 “Grade B intensity”.

12 (c) SECTION 340.—Section 340(i) of such Act (47
13 U.S.C. 340(i)) is amended by striking paragraph (4).

14 **SEC. 5. APPLICATION PENDING COMPLETION OF**
15 **RULEMAKINGS.**

16 (a) IN GENERAL.—Between the date of enactment of
17 this Act and the adoption of rules by the Federal Commu-
18 nications Commission pursuant to the amendments to the
19 Communications Act of 1934 made by sections 3 and 4
20 of this Act, the Federal Communications Commission shall
21 follow its rules and regulations promulgated pursuant to
22 sections 338, 339, and 340 of the Communications Act
23 of 1934 as in effect on the day before the date of enact-
24 ment of this Act.

1 (b) TRANSLATOR STATIONS AND LOW POWER TELE-
2 VISION STATIONS.—Notwithstanding subsection (a), for
3 purposes of determining whether a subscriber within the
4 local market served by a translator station or a low power
5 television station affiliated with a television network is eli-
6 gible to receive distant signals under section 339 of such
7 Act, the Federal Communications Commission shall follow
8 its rules and regulations for determining such subscriber’s
9 eligibility as in effect on the day before the date of enact-
10 ment of this Act until the date on which the translator
11 station or low power television station is licensed to broad-
12 cast a digital signal.

13 (c) DEFINITIONS.—As used in this Act:

14 (1) LOCAL MARKET; LOW POWER TELEVISION
15 STATION; SATELLITE CARRIER; SUBSCRIBER; TELE-
16 VISION BROADCAST STATION.—The terms “local
17 market”, “low power television station”, “satellite
18 carrier”, “subscriber”, and “television broadcast sta-
19 tion” have the meanings given such terms in section
20 338(k) of the Communications Act of 1934.

21 (2) NETWORK STATION; TELEVISION NET-
22 WORK.—The terms “network station” and “tele-
23 vision network” have the meanings given such terms
24 in section 339(d) of such Act.

1 **SEC. 6. SAVINGS CLAUSE REGARDING DEFINITIONS.**

2 Nothing in this Act or the amendments made by this
 3 Act shall be construed to affect the definitions of “pro-
 4 gram related” and “primary video” in the Communica-
 5 tions Act of 1934 or in any regulations promulgated pur-
 6 suant to such Act by the Federal Communications Com-
 7 mission.

8 **SEC. 7. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINI-**
 9 **NITION DIGITAL SIGNALS OF NONCOMMER-**
 10 **CIAL EDUCATIONAL TELEVISION STATIONS.**

11 (a) IN GENERAL.—Section 338(a) of the Commu-
 12 nications Act of 1934 (47 U.S.C. 338(a)) is amended by
 13 adding at the end the following new paragraph:

14 “(5) NONDISCRIMINATION IN CARRIAGE OF
 15 HIGH DEFINITION SIGNALS OF NONCOMMERCIAL
 16 EDUCATIONAL TELEVISION STATIONS.—

17 “(A) EXISTING CARRIAGE OF HIGH DEFINI-
 18 NITION SIGNALS.—Each eligible satellite carrier
 19 providing, under section 122 of title 17, United
 20 States Code, any secondary transmissions in
 21 high definition to subscribers located within the
 22 local market of a television broadcast station of
 23 a primary transmission made by that station
 24 prior to the date of enactment of the Satellite
 25 Television Extension and Localism Act of 2009
 26 shall carry the high definition signals of quali-

1 fied noncommercial educational television sta-
2 tions located within that local market in accord-
3 ance with the following schedule:

4 “(i) By December 31, 2010, in at
5 least 50 percent of the markets in which
6 such satellite carrier provides such sec-
7 ondary transmissions in high definition.

8 “(ii) By December 31, 2011, in every
9 market in which such satellite carrier pro-
10 vides such secondary transmissions in high
11 definition.

12 “(B) NEW INITIATION OF SERVICE.—Each
13 eligible satellite carrier that initiates the provi-
14 sion, under section 122 of title 17, United
15 States Code, of any secondary transmissions in
16 high definition to subscribers located within the
17 local market of a television broadcast station of
18 a primary transmission made by that station
19 after the date of enactment of the Satellite Tel-
20 evision Extension and Localism Act of 2009
21 shall carry the high definition signals of all
22 qualified noncommercial educational television
23 stations located within that local market.”.

24 (b) DEFINITIONS.—Section 338(k) of such Act (47
25 U.S.C. 338(k)) is amended—

1 (1) by redesignating paragraphs (2) through
2 (8) as paragraphs (3) through (9), respectively;

3 (2) by inserting after paragraph (1) the fol-
4 lowing new paragraph:

5 “(2) ELIGIBLE SATELLITE CARRIER.—The term
6 ‘eligible satellite carrier’ means any satellite carrier
7 that is not a party to a carriage contract with a
8 qualified noncommercial educational television sta-
9 tion or its representative that—

10 “(A) governs carriage of more than 30
11 such stations; and

12 “(B) is in force and effect as of the date
13 of enactment of the Satellite Television Exten-
14 sion and Localism Act of 2009.”;

15 (3) by redesignating paragraphs (6) through
16 (9) (as previously redesignated) as paragraphs (7)
17 through (10), respectively; and

18 (4) by inserting after paragraph (5) (as so re-
19 designated) the following new paragraph:

20 “(6) QUALIFIED NONCOMMERCIAL EDU-
21 CATIONAL TELEVISION STATION.—The term ‘quali-
22 fied noncommercial educational television station’
23 has the meaning given such term in section
24 615(l)(1) of this Act.”.

1 **SEC. 8. REPORT ON COMMUNICATIONS IMPLICATIONS OF**
2 **STATUTORY LICENSING MODIFICATIONS.**

3 (a) **STUDY.**—The Comptroller General shall conduct
4 a study that analyzes and evaluates the changes to the
5 carriage requirements currently imposed on multichannel
6 video programming distributors under the Communica-
7 tions Act of 1934 (47 U.S.C. 151 et seq.) and the regula-
8 tions promulgated by the Federal Communications Com-
9 mission that would be required or beneficial to consumers,
10 and such other matters as the Comptroller General deems
11 appropriate, if Congress implemented a phase-out of the
12 current statutory licensing requirements set forth under
13 sections 111, 119, and 122 of title 17, United States
14 Code. Among other things, the study shall consider the
15 impact such a phase-out and related changes to carriage
16 requirements would have on consumer prices and access
17 to programming.

18 (b) **REPORT.**—Not later than 12 months after the
19 date of enactment of this Act, the Comptroller General
20 shall report to the Senate Committee on Commerce,
21 Science, and Transportation and the House of Represent-
22 atives Committee on Energy and Commerce the results of
23 the study, including any recommendations for legislative
24 or administrative actions.

1 **SEC. 9. SEVERABILITY.**

2 If any provision of this Act, an amendment made by
3 this Act, or the application of such provision or amend-
4 ment to any person or circumstance is held to be unconsti-
5 tutional, the remainder of this Act, the amendments made
6 by this Act, and the application of such provisions to any
7 person or circumstance shall not be affected thereby.

○