

116TH CONGRESS
2^D SESSION

H. R. 7362

To amend the Communications Act of 1934 to streamline siting processes for personal wireless service facilities, including small personal wireless service facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2020

Mr. LATTA introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to streamline siting processes for personal wireless service facilities, including small personal wireless service facilities, 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 “Winning the Inter-
5 national Race for Economic Leadership and Expanding
6 Service to Support Leadership Act” or the “WIRELESS
7 Leadership Act”.

1 **SEC. 2. PRESERVATION OF LOCAL ZONING AUTHORITY.**

2 Section 332(c) of the Communications Act of 1934
3 (47 U.S.C. 332(c)) is amended by striking paragraph (7)
4 and inserting the following:

5 “(7) PRESERVATION OF LOCAL ZONING AU-
6 THORITY.—

7 “(A) GENERAL AUTHORITY.—Except as
8 provided in this paragraph, nothing in this Act
9 shall limit or affect the authority of a State or
10 local government or instrumentality thereof over
11 decisions regarding the placement, construction,
12 and modification of personal wireless service fa-
13 cilities.

14 “(B) LIMITATIONS.—

15 “(i) IN GENERAL.—The regulation of
16 the placement, construction, or modifica-
17 tion of a personal wireless service facility
18 by any State or local government or instru-
19 mentality thereof—

20 “(I) shall not unreasonably dis-
21 criminate among providers of the
22 same service using comparable equip-
23 ment, including by providing exclusive
24 or preferential use of facilities to a
25 particular provider or class of pro-
26 viders of personal wireless service; and

1 “(II) shall not prohibit or have
2 the effect of prohibiting the provision
3 of personal wireless service, including
4 by materially limiting or inhibiting the
5 ability of any provider or potential
6 provider of such service to compete in
7 a fair and balanced legal and regu-
8 latory environment, including by lim-
9 iting the ability of any such provider
10 or potential provider to—

11 “(aa) fill gaps in coverage of
12 personal wireless service;

13 “(bb) densify a personal
14 wireless service network;

15 “(cc) introduce new personal
16 wireless service; or

17 “(dd) otherwise improve per-
18 sonal wireless service capabilities.

19 “(ii) ENGINEERING STANDARDS; AES-
20 THETIC REQUIREMENTS.—It is not a viola-
21 tion of clause (i) for a State or local gov-
22 ernment or instrumentality thereof to es-
23 tablish for small personal wireless service
24 facilities objective, reasonable, and non-
25 discriminatory—

1 “(I) structural engineering stand-
2 ards based on generally applicable
3 codes;

4 “(II) safety requirements; or

5 “(III) aesthetic or concealment
6 requirements.

7 “(iii) TIMEFRAMES.—

8 “(I) IN GENERAL.—A State or
9 local government or instrumentality
10 thereof shall grant or deny a complete
11 request for authorization to place,
12 construct, or modify a personal wire-
13 less service facility not later than—

14 “(aa) in the case of a per-
15 sonal wireless service facility that
16 is not a small personal wireless
17 service facility—

18 “(AA) if the request is
19 for authorization to place,
20 construct, or modify such fa-
21 cility on an eligible support
22 structure, including in an
23 area that has not previously
24 been zoned for personal
25 wireless service facilities

1 (other than small personal
2 wireless service facilities), 90
3 days after the date on which
4 the complete request is re-
5 ceived by the government or
6 instrumentality; or

7 “(BB) if the request is
8 for any other action relating
9 to such facility, 150 days
10 after the date on which the
11 complete request is received
12 by the government or instru-
13 mentality; and

14 “(bb) in the case of a small
15 personal wireless service facil-
16 ity—

17 “(AA) if the request is
18 for authorization to place,
19 construct, or modify such fa-
20 cility on an eligible support
21 structure, including in an
22 area that has not previously
23 been zoned for personal
24 wireless service facilities, 60
25 days after the date on which

1 the complete request is re-
2 ceived by the government or
3 instrumentality; or

4 “(BB) if the request is
5 for any other action relating
6 to such facility, 90 days
7 after the date on which the
8 complete request is received
9 by the government or instru-
10 mentality.

11 “(II) TREATMENT OF BATCHED
12 REQUESTS.—In the case of complete
13 requests described in subclause (I)
14 that are submitted as part of a single
15 batch and received by the government
16 or instrumentality on the same day,
17 the applicable timeframe under such
18 subclause for each request in the
19 batch shall be the longest timeframe
20 under such subclause that would be
21 applicable to any request in the batch
22 if such requests were submitted sepa-
23 rately.

24 “(III) APPLICABILITY.—The ap-
25 plicable timeframe under subclause (I)

1 shall apply collectively to all pro-
2 ceedings required by a State or local
3 government or instrumentality thereof
4 for the approval of the request.

5 “(IV) NO TOLLING.—A time-
6 frame under subclause (I) may not be
7 tolled by any moratorium, whether ex-
8 press or de facto, imposed by a State
9 or local government or instrumentality
10 thereof on the consideration of any re-
11 quest for authorization to place, con-
12 struct, or modify a personal wireless
13 service facility.

14 “(V) TEMPORARY WAIVER.—The
15 Commission may temporarily waive
16 the applicability of subclause (I) for
17 not longer than a single 30-day period
18 for any complete request upon a dem-
19 onstration by a State or local govern-
20 ment or instrumentality thereof that
21 the waiver would be consistent with
22 the public interest, convenience, and
23 necessity.

24 “(iv) DEEMED GRANTED.—

1 “(I) IN GENERAL.—If a State or
2 local government or instrumentality
3 thereof has neither granted nor denied
4 a complete request within the applica-
5 ble timeframe under subclause (I) of
6 clause (iii), including any temporary
7 waiver granted under subclause (V) of
8 such clause, the request shall be
9 deemed granted on the date on which
10 the government or instrumentality re-
11 ceives a written notice of the failure
12 from the requesting party.

13 “(II) RULE OF CONSTRUC-
14 TION.—In the case of a request that
15 is deemed granted under subclause
16 (I), the placement, construction, or
17 modification requested in the request
18 shall be considered to be authorized,
19 without any further action by the gov-
20 ernment or instrumentality, beginning
21 on the date on which the request is
22 deemed granted under such subclause.

23 “(v) WRITTEN DECISION AND
24 RECORD.—Any decision by a State or local
25 government or instrumentality thereof to

1 deny a request for authorization to place,
2 construct, or modify a personal wireless
3 service facility shall be—

4 “(I) in writing; and

5 “(II) supported by substantial
6 evidence contained in a written
7 record.

8 “(vi) ENVIRONMENTAL EFFECTS OF
9 RADIO FREQUENCY EMISSIONS.—No State
10 or local government or instrumentality
11 thereof may regulate the placement, con-
12 struction, or modification of personal wire-
13 less service facilities on the basis of the en-
14 vironmental effects of radio frequency
15 emissions to the extent that such facilities
16 comply with the Commission’s regulations
17 concerning such emissions.

18 “(vii) FEES.—Notwithstanding any
19 other provision of law, a State or local gov-
20 ernment or instrumentality thereof may
21 charge a fee to consider a request for au-
22 thorization to place, construct, or modify a
23 personal wireless service facility, or a fee
24 for use of a right-of-way or a facility in a
25 right-of-way owned or managed by the gov-

1 ernment or instrumentality for the place-
2 ment, construction, or modification of a
3 personal wireless service facility, if the fee
4 is—

5 “(I) competitively neutral, tech-
6 nology neutral, and nondiscrim-
7 inatory;

8 “(II) publicly disclosed;

9 “(III) calculated—

10 “(aa) based on actual and
11 direct costs, such as costs for—

12 “(AA) review and proc-
13 essing of requests; and

14 “(BB) repairs and re-
15 placement of components
16 and materials resulting from
17 and affected by the installa-
18 tion or improvement of per-
19 sonal wireless service facili-
20 ties, or repairs and replace-
21 ment of equipment that fa-
22 cilitates the installation or
23 improvement of such facili-
24 ties; and

1 “(bb) using, for purposes of
2 item (aa), only costs that are ob-
3 jectively reasonable; and

4 “(IV) described to a requesting
5 party in a manner that distinguishes
6 between—

7 “(aa) nonrecurring fees and
8 recurring fees; and

9 “(bb) the use of facilities on
10 which personal wireless service
11 facilities are already located and
12 those on which there are no per-
13 sonal wireless service facilities as
14 of the date on which the complete
15 request is received by the govern-
16 ment or instrumentality.

17 “(C) RULE OF CONSTRUCTION.—Except as
18 provided in subparagraph (B)(iv), nothing in
19 this paragraph shall be construed to prevent
20 any State or local government or instrumen-
21 tality thereof from imposing any additional limi-
22 tation or requirement relating to consideration
23 by the government or instrumentality of a re-
24 quest for authorization to place, construct, or
25 modify a personal wireless service facility.

1 “(D) APPLICABILITY.—This paragraph
2 shall apply to any request to a State or local
3 government or instrumentality thereof for au-
4 thorization to place, construct, or modify any
5 personal wireless service facility, including a re-
6 quest for authorization to place, construct, or
7 modify a personal wireless service facility on an
8 eligible support structure.

9 “(E) JUDICIAL AND ADMINISTRATIVE RE-
10 VIEW.—

11 “(i) JUDICIAL REVIEW.—Any person
12 adversely affected by any final action or
13 failure to act by a State or local govern-
14 ment or any instrumentality thereof that is
15 inconsistent with this paragraph may,
16 within 30 days after the action or failure
17 to act, commence an action in any court of
18 competent jurisdiction, which shall hear
19 and decide the action on an expedited
20 basis.

21 “(ii) ADMINISTRATIVE REVIEW.—Any
22 person adversely affected by an act or fail-
23 ure to act by a State or local government
24 or any instrumentality thereof that is in-

1 consistent with subparagraph (B)(vi) may
2 petition the Commission for relief.

3 “(F) WHEN REQUEST CONSIDERED COM-
4 PLETE; RECEIVED.—

5 “(i) IN GENERAL.—For purposes of
6 this paragraph, a request to a State or
7 local government or instrumentality thereof
8 shall be considered—

9 “(I) complete if—

10 “(aa) the requesting party
11 makes the request by submitting
12 to the government or instrumen-
13 tality the form required to be
14 used for making the request;

15 “(bb) the form submitted
16 contains all of the information
17 specified by the form as being re-
18 quired to be included in the form;
19 and

20 “(cc) the requesting party
21 has not received a written notice
22 from the government or instru-
23 mentality within 10 business
24 days after the date on which the

1 request is received by the govern-
2 ment or instrumentality—

3 “(AA) stating that the
4 form does not contain all of
5 the information required to
6 be included in the form; and

7 “(BB) identifying the
8 information required to be
9 included in the form that
10 was not included; and

11 “(II) received by the government
12 or instrumentality—

13 “(aa) in the case of a re-
14 quest submitted electronically, on
15 the date on which the form re-
16 quired to be used for making the
17 request is transmitted;

18 “(bb) in the case of a re-
19 quest submitted in person, on the
20 date on which the form required
21 to be used for making the re-
22 quest is delivered to the indi-
23 vidual or at the location specified
24 in the form for in-person submis-
25 sion; and

1 “(cc) in the case of a re-
2 quest submitted in any other
3 manner, on the date determined
4 under regulations promulgated by
5 the Commission for the manner
6 in which the request is sub-
7 mitted.

8 “(ii) TREATMENT OF MULTIPLE
9 FORMS.—If a State or local government or
10 instrumentality thereof requires the use of
11 multiple forms for making a request, such
12 forms shall be treated as a single form for
13 purposes of clause (i).

14 “(G) DEFINITIONS.—In this paragraph:

15 “(i) ANTENNA.—The term ‘antenna’
16 means an apparatus designed for the pur-
17 pose of emitting radiofrequency radiation,
18 to be operated or operating from a fixed
19 location for the transmission of writing,
20 signs, signals, data, images, pictures, and
21 sounds of all kinds.

22 “(ii) COMMUNICATIONS NETWORK.—
23 The term ‘communications network’ means
24 a network used to provide a communica-
25 tions service.

1 “(iii) COMMUNICATIONS SERVICE.—

2 The term ‘communications service’
3 means—

4 “(I) cable service, as defined in
5 section 602;

6 “(II) information service;

7 “(III) telecommunications serv-
8 ice; and

9 “(IV) personal wireless service.

10 “(iv) ELIGIBLE SUPPORT STRUC-
11 TURE.—The term ‘eligible support struc-
12 ture’ means a tower, base station, or other
13 structure that supports a personal wireless
14 service facility at the time when a complete
15 request to a State or local government or
16 instrumentality thereof for authorization to
17 place, construct, or modify a personal wire-
18 less service facility on the structure is re-
19 ceived by the government or instrumen-
20 tality.

21 “(v) GENERALLY APPLICABLE
22 CODE.—The term ‘generally applicable
23 code’ means a uniform building, fire, elec-
24 trical, plumbing, or mechanical code adopt-
25 ed by a national code organization, or a

1 local amendment to such a code, to the ex-
2 tent not inconsistent with this Act.

3 “(vi) NETWORK INTERFACE DE-
4 VICE.—The term ‘network interface device’
5 means a telecommunications demarcation
6 device and cross-connect point that—

7 “(I) is adjacent or proximate
8 to—

9 “(aa) a small personal wire-
10 less service facility; or

11 “(bb) a structure supporting
12 a small personal wireless service
13 facility; and

14 “(II) demarcates the boundary
15 with any wireline backhaul facility.

16 “(vii) PERSONAL WIRELESS SERV-
17 ICE.—The term ‘personal wireless service’
18 means—

19 “(I) commercial mobile service;

20 “(II) commercial mobile data
21 service (as defined in section 6001 of
22 the Middle Class Tax Relief and Job
23 Creation Act of 2012 (47 U.S.C.
24 1401));

1 “(III) unlicensed wireless service;
2 and

3 “(IV) common carrier wireless
4 exchange access service.

5 “(viii) PERSONAL WIRELESS SERVICE
6 FACILITY.—The term ‘personal wireless
7 service facility’ means a facility for the
8 provision of personal wireless service.

9 “(ix) SMALL PERSONAL WIRELESS
10 SERVICE FACILITY.—The term ‘small per-
11 sonal wireless service facility’—

12 “(I) means a personal wireless
13 service facility in which each antenna
14 is not more than 3 cubic feet in vol-
15 ume; and

16 “(II) does not include a wireline
17 backhaul facility.

18 “(x) UNLICENSED WIRELESS SERV-
19 ICE.—The term ‘unlicensed wireless serv-
20 ice’—

21 “(I) means the offering of tele-
22 communications service using a duly
23 authorized device that does not re-
24 quire an individual license; and

1 “(II) does not include the provi-
2 sion of direct-to-home satellite service,
3 as defined in section 303(v).

4 “(xi) WIRELINE BACKHAUL FACIL-
5 ITY.—The term ‘wireline backhaul facility’
6 means an above-ground or underground
7 wireline facility used to transport commu-
8 nications service or other electronic com-
9 munications from a small personal wireless
10 service facility or the adjacent network
11 interface device of such facility to a com-
12 munications network.”.

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