

103^D CONGRESS
2^D SESSION

S. 1485

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 1994

Referred to the Committee on the Judiciary

AN ACT

To extend certain satellite carrier compulsory licenses, 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 Compulsory
5 License Extension Act of 1994”.

1 **SEC. 2. STATUTORY LICENSE FOR SATELLITE CARRIERS.**

2 Section 119 of title 17, United States Code, is
3 amended—

4 (1) in subsection (a)(2)(C)—

5 (A) by striking out “90 days after the ef-
6 fective date of the Satellite Home Viewer Act of
7 1988, or”;

8 (B) by striking out “whichever is later,”;

9 (C) by inserting “name and” after “identi-
10 fying (by” each place it appears; and

11 (D) by striking out “, on or after the effec-
12 tive date of the Satellite Home Viewer Act of
13 1988,”;

14 (2) in subsection (a)(5)—

15 (A) in subparagraph (C) by striking out
16 “the Satellite Home Viewer Act of 1988” and
17 inserting in lieu thereof “this section”; and

18 (B) by adding at the end thereof the fol-
19 lowing new subparagraphs:

20 “(D) BURDEN OF PROOF.—In any action
21 brought under this subsection, the satellite car-
22 rier shall have the burden of proof (in the case
23 of a primary transmission by a network station)
24 that a subscriber is an unserved household.

25 “(E) SIGNAL INTENSITY MEASUREMENT;
26 LOSER PAYS.—

1 “(i) GRADE B CONTOUR.—(I) Within
2 the Grade B Contour, upon a challenge by
3 a network affiliate regarding whether a
4 subscriber is an unserved household, the
5 satellite carrier shall—

6 “(aa) deauthorize service to that
7 household; or

8 “(bb) conduct a measurement of
9 the signal intensity of the subscriber’s
10 household to determine whether the
11 household is unserved.

12 “(II) If the carrier conducts a signal
13 intensity measurement under subclause (I)
14 and the measurement indicates that—

15 “(aa) the household is not an
16 unserved household, the carrier shall
17 immediately deauthorize the service to
18 that household; or

19 “(bb) the household is an
20 unserved household, the affiliate chal-
21 lenging the service shall reimburse the
22 carrier for the costs of the signal
23 measurement, within 45 days after re-
24 ceipt of the measurement results and
25 a statement of the costs.

1 “(III)(aa) Notwithstanding subclause
2 (II), a carrier may not be required to test
3 in excess of 5 percent of the subscribers
4 that have subscribed to service before the
5 effective date of the Satellite Compulsory
6 License Extension Act of 1994, within any
7 market during a calendar year.

8 “(bb) If a network affiliate challenges
9 whether a subscriber is an unserved house-
10 hold in excess of the 5 percent of the sub-
11 scribers within any market, the affiliate
12 may conduct its own signal intensity meas-
13 urement. If such measurement indicates
14 that the household is not an unserved
15 household, the carrier shall immediately
16 deauthorize service to that household and
17 reimburse the affiliate, within 45 days
18 after receipt of the measurement and a
19 statement of costs.

20 “(ii) OUTSIDE THE GRADE B CON-
21 TOUR.—(I) Outside the Grade B Contour,
22 if a network affiliate challenges whether a
23 subscriber is an unserved household the af-
24 filiate shall conduct a signal intensity
25 measurement of the subscriber’s household

1 to determine whether the household is
2 unserved.

3 “(II) If the affiliate conducts a signal
4 intensity measurement under subclause (I)
5 and the measurement indicates that—

6 “(aa) the household is not an
7 unserved household, the affiliate shall
8 forward the results to the carrier who
9 shall immediately deauthorize service
10 to the household, and reimburse the
11 affiliate within 45 days after receipt
12 of the results and a statement of the
13 costs; or

14 “(bb) the household is an
15 unserved household, the affiliate shall
16 pay the costs of the measurement.

17 “(iii) RECOVERY OF MEASUREMENT
18 COSTS IN A CIVIL ACTION.—In any civil ac-
19 tion filed relating to the eligibility of sub-
20 scribing households, a challenging affiliate
21 shall reimburse a carrier for any signal in-
22 tensity measurement that indicates the
23 household is an unserved household.”;

24 (3) in subsection (b)(1)(B)—

1 (A) in clause (i) by striking out “12 cents”
2 and inserting in lieu thereof “17.5 cents per
3 subscriber in the case of superstations not sub-
4 ject to syndicated exclusivity under the regula-
5 tions of the Federal Communications Commis-
6 sion, and 14 cents per subscriber in the case of
7 superstations subject to such syndicated exclu-
8 sivity”; and

9 (B) in clause (ii) by striking out “3” and
10 inserting in lieu thereof “6”;

11 (4) in subsection (c)—

12 (A) in the heading for paragraph (1) by
13 striking out “DETERMINATION” and inserting
14 in lieu thereof “ADJUSTMENT”;

15 (B) in paragraph (1)—

16 (i) by striking out “December 31,
17 1992, unless”; and

18 (ii) by striking out “After that date,”
19 and inserting in lieu thereof “All adjust-
20 ments of”;

21 (C) in paragraph (2)—

22 (i) in subparagraph (A) by striking
23 out “July 1, 1991,” and inserting in lieu
24 thereof “January 1, 1996,”; and

1 (ii) in subparagraph (D) by striking
2 out “until December 31, 1994” and insert-
3 ing in lieu thereof “in accordance with the
4 terms of the agreement”; and

5 (D) in paragraph (3)(A) by striking out
6 “December 31, 1991,” and inserting in lieu
7 thereof “July 1, 1996,”; and

8 (5) in subsection (d)—

9 (A) by amending paragraph (2) to read as
10 follows:

11 “(2) NETWORK STATION.—The term ‘network
12 station’ means—

13 “(A) a television broadcast station, includ-
14 ing any translator station or terrestrial satellite
15 station that rebroadcasts all or substantially all
16 of the programming broadcast by a network
17 station, that is owned or operated by, or affili-
18 ated with, one or more of the television net-
19 works in the United States which offer an inter-
20 connected program service on a regular basis
21 for 15 or more hours per week to at least 25
22 of its affiliated television licensees in 10 or
23 more States; or

24 “(B) any noncommercial educational sta-
25 tion, as defined in section 111(f) of this title,

1 that is a member of the public broadcasting
2 service.”; and

3 (B) in paragraph (6) by inserting “and op-
4 erates in the Fixed Satellite Service under part
5 25 of title 47 of the Code of Federal Regula-
6 tions or the Direct Broadcast Satellite Service
7 under part 100 of title 47 of the Code of Fed-
8 eral Regulations,” after “Commission,”.

9 **SEC. 3. CABLE COMPULSORY LICENSE.**

10 Section 111(f) of title 17, United States Code, is
11 amended—

12 (1) in the paragraph relating to the definition
13 of “cable system” by striking out “wires, cables”
14 and inserting in lieu thereof “wires, microwave, ca-
15 bles”; and

16 (2) in the paragraph relating to the definition
17 of “local service area of a primary transmitter”—

18 (A) by striking out “comprises the area”
19 and inserting in lieu thereof “comprises either
20 the area”; and

21 (B) by inserting after “April 15, 1976,”
22 the following: “or such station’s television mar-
23 ket as defined in section 76.55(e) of title 47,
24 Code of Federal Regulations (as in effect on
25 September 18, 1993), or any subsequent modi-

1 fications to such television market made pursu-
2 ant to section 76.55(e) or 76.59 of title 47 of
3 the Code of Federal Regulations,”.

4 **SEC. 4. TERMINATION.**

5 (a) EXPIRATION OF AMENDMENTS.—Section 119 of
6 title 17, United States Code, as amended by section 2 of
7 this Act, ceases to be effective on December 31, 1999.

8 (b) TECHNICAL AND CONFORMING AMENDMENT.—
9 Section 207 of the Satellite Home Viewer Act of 1988 (17
10 U.S.C. 119 note) is repealed.

11 **SEC. 5. EFFECTIVE DATE.**

12 (a) IN GENERAL.—Except as provided under sub-
13 section (b), the provisions of this Act and amendments
14 made by this Act shall take effect on the date of the enact-
15 ment of this Act.

16 (b) BURDEN OF PROOF PROVISIONS.—The provi-
17 sions of section 119(a)(5)(D) of title 17, United States
18 Code, (as added by section 2(2)(B) of this Act) relating
19 to the burden of proof of satellite carriers, shall take effect
20 on January 1, 1997, with respect to civil actions relating
21 to the eligibility of subscribers who subscribed to service

1 as an unserved household before the date of the enactment
2 of this Act.

Passed the Senate May 18 (legislative day, May 16),
1994.

Attest:

MARTHA S. POPE,
Secretary.