

Union Calendar No. 368

106TH CONGRESS
2^D SESSION

H. R. 4201

[Report No. 106-662]

To amend the Communications Act of 1934 to clarify the service obligations of noncommercial educational broadcast stations.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2000

Mr. PICKERING (for himself, Mr. OXLEY, Mr. TAUZIN, Mr. LARGENT, and Mr. STEARNS) introduced the following bill; which was referred to the Committee on Commerce

JUNE 9, 2000

Additional sponsors: Mr. SHIMKUS, Mr. GILLMOR, Mr. ARMEY, Mr. EHRLICH, Mrs. CUBIN, Mr. DELAY, Mr. FOSSELLA, Mr. DEAL of Georgia, Mr. COX, Mr. BAKER, Mr. JONES of North Carolina, Mr. CALLAHAN, Mr. RAMSTAD, Mr. WHITFIELD, Mr. BURR of North Carolina, Mr. DICKEY, Mr. TANCREDO, Mr. GOODLATTE, Mr. ROGAN, Mr. BILIRAKIS, Mrs. WILSON, Mr. COBURN, Mr. BLUNT, Mr. MANZULLO, Mr. HALL of Texas, Mrs. EMERSON, Mr. TERRY, Mr. SHOWS, and Mr. GREEN of Wisconsin

JUNE 9, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 6, 2000]

A BILL

To amend the Communications Act of 1934 to clarify the

service obligations of noncommercial educational broadcast stations.

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 “Noncommercial Broad-*
5 *casting Freedom of Expression Act of 2000”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds the following:*

8 (1) *In the additional guidance contained in the*
9 *Federal Communication Commission’s memorandum*
10 *opinion and order in WQED Pittsburgh (FCC 99–*
11 *393), adopted December 15, 1999, and released De-*
12 *cember 29, 1999, the Commission attempted to impose*
13 *content-based programming requirements on non-*
14 *commercial educational television broadcasters with-*
15 *out the benefit of notice and comment in a rule-*
16 *making proceeding.*

17 (2) *In doing so, the Commission did not ade-*
18 *quately consider the implications of its proposed*
19 *guidelines on the rights of such broadcasters under*
20 *First Amendment and the Religious Freedom Restora-*
21 *tion Act.*

22 (3) *Noncommercial educational broadcasters*
23 *should be responsible for using the station to pri-*
24 *marily serve an educational, instructional, cultural,*

1 *or religious purpose in its community of license, and*
2 *for making judgments about the types of program-*
3 *ming that serve those purposes.*

4 *(4) Religious programming contributes to serv-*
5 *ing the educational and cultural needs of the public,*
6 *and should be treated by the Commission on a par-*
7 *with other educational and cultural programming.*

8 *(5) Because noncommercial broadcasters are not*
9 *permitted to sell air time, they should not be required*
10 *to provide free air time to commercial entities or po-*
11 *litical candidates.*

12 *(6) The Commission should not engage in regu-*
13 *lating the content of speech broadcast by noncommer-*
14 *cial educational stations.*

15 **SEC. 3. CLARIFICATION OF SERVICE OBLIGATIONS OF NON-**
16 **COMMERCIAL EDUCATIONAL OR PUBLIC**
17 **BROADCAST STATIONS.**

18 *(a) SERVICE CONDITIONS.—Section 309 of the Com-*
19 *munications Act of 1934 (47 U.S.C. 309) is amended by*
20 *adding at the end the following new subsection:*

21 *“(m) SERVICE CONDITIONS ON NONCOMMERCIAL EDU-*
22 *CATIONAL AND PUBLIC BROADCAST STATIONS.—*

23 *“(1) IN GENERAL.—A nonprofit organization*
24 *shall be eligible to hold a noncommercial educational*
25 *radio or television license if the station is used pri-*

1 *marily to broadcast material that the organization*
2 *determines serves an educational, instructional, cul-*
3 *tural, or religious purpose (or any combination of*
4 *such purposes) in the station’s community of license,*
5 *unless that determination is arbitrary or unreason-*
6 *able.*

7 “(2) *ADDITIONAL CONTENT-BASED REQUIRE-*
8 *MENTS PROHIBITED.—The Commission shall not—*

9 “(A) *impose or enforce any quantitative re-*
10 *quirement on noncommercial educational radio*
11 *or television licenses based on the number of*
12 *hours of programming that serve educational, in-*
13 *structional, cultural, or religious purposes; or*

14 “(B) *impose or enforce any other require-*
15 *ment on the content of the programming broad-*
16 *cast by a licensee, permittee, or applicant for a*
17 *noncommercial educational radio or television li-*
18 *cence that is not imposed and enforced on a li-*
19 *cence, permittee, or applicant for a commercial*
20 *radio or television license, respectively.*

21 “(3) *RULES OF CONSTRUCTION.—Nothing in this*
22 *subsection shall be construed as affecting—*

23 “(A) *any obligation of noncommercial edu-*
24 *cational television broadcast stations under the*

1 *Children’s Television Act of 1990 (47 U.S.C.*
2 *303a, 303b); or*

3 *“(B) the requirements of section 396, 399,*
4 *399A, and 399B of this Act.”.*

5 ***(b) POLITICAL BROADCASTING EXEMPTION.***—*Section*
6 *312(a)(7) of the Communications Act of 1934 (47 U.S.C.*
7 *312(a)(7)) is amended by inserting “, other than a non-*
8 *commercial educational broadcast station,” after “use of a*
9 *broadcasting station”.*

10 ***(c) AUDIT OF COMPLIANCE WITH DONOR PRIVACY***
11 ***PROTECTION REQUIREMENTS.***—*Section 396(l)(3)(B)(i) of*
12 *the Communications Act of 1934 (47 U.S.C.*
13 *396(l)(3)(B)(i)) is amended—*

14 ***(1) in subclause (I), by inserting before the semi-***
15 ***colon the following: “, and shall include a determina-***
16 ***tion of the compliance of the entity with the require-***
17 ***ments of subsection (k)(12)”;*** *and*

18 ***(2) in subclause (II), by inserting before the***
19 ***semicolon the following: “, except that such statement***
20 ***shall include a statement regarding the extent of the***
21 ***compliance of the entity with the requirements of sub-***
22 ***section (k)(12)”.***

23 ***(d) IMPLEMENTATION.***—*Consistent with the require-*
24 *ments of section 4 of this Act, the Federal Communications*
25 *Commission shall amend sections 73.1930 through 73.1944*

1 of its rules (47 C.F.R. 73.1930–73.1944) to provide that
2 those sections do not apply to noncommercial educational
3 broadcast stations.

4 **SEC. 4. RULEMAKING.**

5 (a) *LIMITATION.*—After the date of enactment of this
6 Act, the Federal Communications Commission shall not es-
7 tablish, expand, or otherwise modify requirements relating
8 to the service obligations of noncommercial educational
9 radio or television stations except by means of agency rule-
10 making conducted in accordance with chapter 5 of title 5,
11 United States Code, and other applicable law (including
12 the amendments made by section 3).

13 (b) *RULEMAKING DEADLINE.*—The Federal Commu-
14 nications Commission shall prescribe such revisions to its
15 regulations as may be necessary to comply with the amend-
16 ment made by section 3 within 270 days after the date of
17 enactment of this Act.

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