

108TH CONGRESS
2D SESSION

S. 2540

To protect educational FM radio stations providing public service broadcasting from commercial encroachment.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2004

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

A BILL

To protect educational FM radio stations providing public service broadcasting from commercial encroachment.

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 “Educational Radio
5 Protection Act”.

6 **SEC. 2. ENTITLEMENT OF CERTAIN CLASS D FM STATIONS**
7 **TO CLASS A LICENSES.**

8 Notwithstanding any provision of the Communica-
9 tions Act of 1934 (47 U.S.C. 151 et seq.) or of the regula-
10 tions, rules, or procedures of the Federal Communication

1 Commission to the contrary, a qualifying educational FM
2 radio station is entitled, upon application by the licensee
3 of that station—

4 (1) to have the license granted to such a station
5 be subject to the same license terms and renewal
6 standards (other than fees) as a license for a full-
7 power class A FM radio station under title III of the
8 Communications Act of 1934 (47 U.S.C. 301 et
9 seq.); and

10 (2) to have the licensee of such a station ac-
11 corded primary status as a radio broadcaster with
12 respect to that station as long as the station con-
13 tinues to be a qualifying educational FM radio sta-
14 tion.

15 **SEC. 3. NOTIFICATION, APPLICATION, AND DECISION.**

16 (a) NOTIFICATION.—Within 30 days after the date
17 of enactment of this Act, the Commission shall provide
18 notice in writing of the provisions of this Act to each li-
19 censee of a Class D FM radio station that, as of May 1,
20 2004—

21 (1) was licensed to an educational institution;

22 (2) had a 60dBu service contour that equaled
23 or exceeded 6 kilometers; and

24 (3) had effective radiated power power in excess
25 of 10 watts.

1 (b) APPLICATION.—If the licensee of a qualifying
2 educational FM radio station seeks to have the provisions
3 of section 2 apply with respect to that station, the licensee
4 shall submit an application to the Commission within 1
5 year after the date of enactment of this Act in such form
6 and containing such information as the Commission may
7 require. The Commission may not consider an application
8 received more than 1 year after the date of enactment of
9 this Act.

10 (c) 30-DAY DECISION REQUIRED.—The Commission
11 shall approve an application under this Act within 30 days
12 after receipt of the completed application.

13 **SEC. 4. PROTECTION OF EXISTING STATIONS' SPECTRUM.**

14 (a) IN GENERAL.—Notwithstanding any provision of
15 the Communications Act of 1934 (47 U.S.C. 151 et seq.)
16 to the contrary, the Commission may not award or assign
17 any portion of the radio spectrum assigned to a qualifying
18 educational FM radio station for which an application is
19 submitted under section 3 except as provided in this sec-
20 tion.

21 (b) APPROVED APPLICATIONS.—If the licensee of a
22 qualifying educational FM radio station submits an appli-
23 cation under this Act within 1 year after the date of enact-
24 ment of this Act and the Commission approves the appli-
25 cation, then the Commission may not award or reassign

1 any portion of the radio spectrum assigned to that station
2 to a commercial FM radio station.

3 (c) RESTORATION OF CERTAIN SPECTRUM.—If the
4 Commission awarded or reassigned any portion of a quali-
5 fying educational FM radio station’s spectrum to a com-
6 mercial FM radio station after April 30, 2004, and before
7 the date on which the Commission approves the qualifying
8 educational FM radio station’s application under section
9 3, the Commission shall revoke the award or reassignment
10 of spectrum to the commercial FM radio station and re-
11 store it to the qualifying educational FM radio station no
12 later than 30 days after the date on which the Commission
13 issues an approval of the application that is not subject
14 to appeal under chapter 5 of title 5, United States Code,
15 or under the Commission’s rules.

16 **SEC. 5. DEFINITIONS.**

17 In this Act:

18 (1) COMMISSION.—The term “Commission”
19 means the Federal Communications Commission.

20 (2) QUALIFYING EDUCATIONAL FM RADIO STA-
21 TION.—The term “qualifying educational FM radio
22 station” means a Class D FM radio station that, as
23 of May 1, 2004, and at all times thereafter—

24 (A) is licensed to an educational institu-
25 tion;

1 (B) a 60dBu service contour that equals or
2 exceeds 6 kilometers;

3 (C) has effective radiated power exceeding
4 10 watts; and

5 (D) meets all requirements for operation
6 and licensing as a class D FM radio station
7 under title III of the Communications Act of
8 1934 (47 U.S.C. 301 et seq.) and the Commis-
9 sion's rules and regulations promulgated under
10 that Act.

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