

[118H3279]

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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

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

Mr. LATTA introduced the following bill; which was referred to the Committee
on _____

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 or 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 discriminate among
21 personal wireless service facilities or
22 providers of communications service,
23 including by providing exclusive or
24 preferential use of facilities to a par-
25 ticular provider or class of providers
26 of personal wireless service; and

1 “(II) shall not prohibit or have
2 the effect of prohibiting the provision,
3 improvement, or enhancement of per-
4 sonal wireless service.

5 “(ii) ENGINEERING STANDARDS; AES-
6 THETIC REQUIREMENTS.—It is not a viola-
7 tion of clause (i) for a State or local gov-
8 ernment or instrumentality thereof to es-
9 tablish for personal wireless service facili-
10 ties, or structures that support such facili-
11 ties, objective, reasonable, and nondiscrim-
12 inatory—

13 “(I) structural engineering stand-
14 ards based on generally applicable
15 codes;

16 “(II) safety requirements; or

17 “(III) aesthetic or concealment
18 requirements (unless such require-
19 ments prohibit or have the effect of
20 prohibiting the installation or modi-
21 fication of such facilities or struc-
22 tures).

23 “(iii) TIMEFRAMES.—

24 “(I) IN GENERAL.—Except in the
25 case of an eligible facilities request to

1 which section 6409(a) of the Middle
2 Class Tax Relief and Job Creation
3 Act of 2012 (47 U.S.C. 1455(a)) ap-
4 plies, a State or local government or
5 instrumentality thereof shall grant or
6 deny a complete request for authoriza-
7 tion to place, construct, or modify a
8 personal wireless service facility not
9 later than—

10 “(aa) in the case of a re-
11 quest for authorization to place,
12 construct, or modify a personal
13 wireless service facility that is
14 not a small personal wireless
15 service facility—

16 “(AA) if the request is
17 for authorization to place,
18 construct, or modify such fa-
19 cility using an existing
20 structure, including with re-
21 spect to an area that has
22 not previously been zoned
23 for personal wireless service
24 facilities (other than small
25 personal wireless service fa-

1 cilities), 90 days after the
2 date on which the complete
3 request is received by the
4 government or instrumen-
5 tality; or

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

13 “(bb) in the case of a re-
14 quest for authorization to place,
15 construct, or modify a small per-
16 sonal wireless service facility—

17 “(AA) if the request is
18 for authorization to place,
19 construct, or modify such fa-
20 cility using an existing
21 structure, 60 days after the
22 date on which the complete
23 request is received by the
24 government or instrumen-
25 tality; or

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

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

21 “(III) APPLICABILITY.—The ap-
22 plicable timeframe under subclause (I)
23 shall apply collectively to all pro-
24 ceedings required by a State or local

1 government or instrumentality thereof
2 for the approval of the request.

3 “(IV) NO TOLLING.—A time-
4 frame under subclause (I) may not be
5 tolled by any moratorium, whether ex-
6 press or de facto, imposed by a State
7 or local government or instrumentality
8 thereof on the submission, acceptance,
9 or consideration of any request for au-
10 thorization to place, construct, or
11 modify a personal wireless service fa-
12 cility.

13 “(iv) DEEMED GRANTED.—

14 “(I) IN GENERAL.—If a State or
15 local government or instrumentality
16 thereof fails to take final action to
17 grant or deny a complete request
18 within the applicable timeframe under
19 subclause (I) of clause (iii), the re-
20 quest shall be deemed granted on the
21 date on which the government or in-
22 strumentality receives a written notice
23 of the failure from the requesting
24 party.

1 “(II) RULE OF CONSTRUC-
2 TION.—In the case of a request that
3 is deemed granted under subclause
4 (I), the placement, construction, or
5 modification requested in the request
6 shall be considered to be authorized,
7 without any further action by the gov-
8 ernment or instrumentality, beginning
9 on the date on which the request is
10 deemed granted under such subclause.

11 “(v) WRITTEN DECISION AND
12 RECORD.—Any decision by a State or local
13 government or instrumentality thereof to
14 deny a request for authorization to place,
15 construct, or modify a personal wireless
16 service facility shall be—

17 “(I) in writing;

18 “(II) supported by substantial
19 evidence contained in a written
20 record; and

21 “(III) publicly released, and pro-
22 vided to the requesting party, on the
23 same day such decision is made.

24 “(vi) ENVIRONMENTAL EFFECTS OF
25 RADIO FREQUENCY EMISSIONS.—No State

1 or local government or instrumentality
2 thereof may regulate the operation, place-
3 ment, construction, or modification of per-
4 sonal wireless service facilities on the basis
5 of the environmental effects of radio fre-
6 quency emissions to the extent that such
7 facilities or structures comply with the
8 Commission's regulations concerning such
9 emissions.

10 “(vii) FEES.—To the extent permitted
11 by law, a State or local government or in-
12 strumentality thereof may charge a fee to
13 consider a request for authorization to
14 place, construct, or modify a personal wire-
15 less service facility or a fee for use of a
16 right-of-way or a facility in a right-of-way
17 owned or managed by the government or
18 instrumentality for the placement, con-
19 struction, or modification of a personal
20 wireless service facility, if the fee is—

21 “(I) competitively neutral, tech-
22 nology neutral, and nondiscrim-
23 inatory;

24 “(II) established in advance and
25 publicly disclosed;

1 “(III) calculated—

2 “(aa) based on actual and
3 direct costs for—

4 “(AA) review and proc-
5 essing of requests; and

6 “(BB) repairs and re-
7 placement of components
8 and materials resulting from
9 and affected by the place-
10 ment, construction, or modi-
11 fication (including the in-
12 stallation or improvement)
13 of personal wireless service
14 facilities or repairs and re-
15 placement of equipment that
16 facilitates the placement,
17 construction, or modification
18 (including the installation or
19 improvement) of such facili-
20 ties; and

21 “(bb) using, for purposes of
22 item (aa), only costs that are ob-
23 jectively reasonable; and

1 “(IV) described to a requesting
2 party in a manner that distinguishes
3 between—

4 “(aa) nonrecurring fees and
5 recurring fees; and

6 “(bb) the use of facilities on
7 which personal wireless service
8 facilities are already located and
9 facilities on which there are no
10 personal wireless service facilities
11 as of the date on which the com-
12 plete request is received by the
13 government or instrumentality.

14 “(C) JUDICIAL OR ADMINISTRATIVE RE-
15 VIEW.—

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

1 “(ii) ADMINISTRATIVE REVIEW.—

2 “(I) IN GENERAL.—Any person
3 adversely affected by any final action
4 or failure to act by a State or local
5 government or any instrumentality
6 thereof that is inconsistent with this
7 paragraph may petition the Commis-
8 sion to review such action or failure to
9 act.

10 “(II) TIMING.—Not later than
11 120 days after receiving a petition
12 under subclause (I), the Commission
13 shall grant or deny such petition.

14 “(D) WHEN REQUEST CONSIDERED COM-
15 PLETE; RECEIVED.—

16 “(i) WHEN REQUEST CONSIDERED
17 COMPLETE.—

18 “(I) IN GENERAL.—For the pur-
19 poses of this paragraph, a request to
20 a State or local government or instru-
21 mentality thereof shall be considered
22 complete if the requesting party—

23 “(aa) has taken the first
24 procedural step within the control
25 of the requesting party—

1 “(AA) to submit such
2 request in accordance with
3 the procedures established
4 by the government or instru-
5 mentality for the review and
6 approval of such request; or

7 “(BB) in the case of a
8 government or instrumen-
9 tality that has not estab-
10 lished specific procedures for
11 the review and approval of
12 such request, to submit to
13 the government or instru-
14 mentality the type of filing
15 that is typically required to
16 initiate a standard review
17 for a similar facility or
18 structure; and

19 “(bb) has not received a
20 written notice from the govern-
21 ment or instrumentality within
22 10 days after the date on which
23 the request is received by the
24 government or instrumentality, if
25 the request is with respect to a

1 small personal wireless service fa-
2 cility, or 30 days after such date,
3 if the request is with respect to
4 any other personal wireless serv-
5 ice facility—

6 “(AA) stating that all
7 the information (including
8 any form or other docu-
9 ment) required by the gov-
10 ernment or instrumentality
11 to be submitted for the re-
12 quest to be considered com-
13 plete has not been sub-
14 mitted;

15 “(BB) identifying the
16 information required to be
17 submitted that was not sub-
18 mitted; and

19 “(CC) citing a specific
20 provision of a publicly avail-
21 able rule, regulation, or
22 standard of the government
23 or instrumentality that re-
24 quires the information iden-

1 tified under subitem (BB) to
2 be submitted.

3 “(II) DEFINITION.—In this
4 clause, the term ‘the date on which
5 the request is received by the govern-
6 ment or instrumentality’ means—

7 “(aa) in the case of a re-
8 quest submitted electronically,
9 the date on which the request is
10 transmitted;

11 “(bb) in the case of a re-
12 quest submitted in person, the
13 date on which the request is de-
14 livered to the individual or at the
15 location specified by the govern-
16 ment or instrumentality for in-
17 person submission; and

18 “(cc) in the case of a re-
19 quest submitted in any other
20 manner, the date determined
21 under regulations promulgated by
22 the Commission for the manner
23 in which the request is sub-
24 mitted.

1 “(ii) WHEN COMPLETE REQUEST CON-
2 SIDERED RECEIVED.—For the purposes of
3 this paragraph, a complete request shall be
4 considered received—

5 “(I) except as provided in sub-
6 clause (II), on the date on which the
7 requesting party submits to the gov-
8 ernment or instrumentality all infor-
9 mation (including any form or other
10 document) required by the govern-
11 ment or instrumentality to be sub-
12 mitted for the request to be consid-
13 ered complete; or

14 “(II) in the case of a request
15 with respect to which all such infor-
16 mation is not submitted and that is
17 considered complete under clause
18 (i)(I) because the requesting party has
19 not received a written notice from the
20 government or instrumentality within
21 the period described in such clause, on
22 the day after the last day of such pe-
23 riod.

24 “(E) RULE OF CONSTRUCTION.—Nothing
25 in this paragraph may be construed to affect

1 section 6409(a) of the Middle Class Tax Relief
2 and Job Creation Act of 2012 (47 U.S.C.
3 1455(a)).

4 “(F) DEFINITIONS.—In this paragraph:

5 “(i) ANTENNA.—The term ‘antenna’
6 means an apparatus designed for the pur-
7 pose of emitting radiofrequency radiation,
8 to be operated or operating from a fixed
9 location for the transmission of writing,
10 signs, signals, data, images, pictures, and
11 sounds of all kinds.

12 “(ii) COMMUNICATIONS NETWORK.—
13 The term ‘communications network’ means
14 a network used to provide a communica-
15 tions service.

16 “(iii) COMMUNICATIONS SERVICE.—
17 The term ‘communications service’ means
18 each of—

19 “(I) cable service, as defined in
20 section 602;

21 “(II) information service;

22 “(III) telecommunications serv-
23 ice; and

24 “(IV) personal wireless service.

1 “(iv) GENERALLY APPLICABLE
2 CODE.—The term ‘generally applicable
3 code’ means a uniform building, fire, elec-
4 trical, plumbing, or mechanical code adopt-
5 ed by a national code organization, or a
6 local amendment to such a code, to the ex-
7 tent not inconsistent with this Act.

8 “(v) NETWORK INTERFACE DEVICE.—
9 The term ‘network interface device’ means
10 a telecommunications demarcation device
11 and cross-connect point that—

12 “(I) is adjacent or proximate
13 to—

14 “(aa) a small personal wire-
15 less service facility; or

16 “(bb) a structure supporting
17 a small personal wireless service
18 facility; and

19 “(II) demarcates the boundary
20 with any wireline backhaul facility.

21 “(vi) PERSONAL WIRELESS SERV-
22 ICE.—The term ‘personal wireless service’
23 means any fixed or mobile service (other
24 than a broadcasting service) provided via

1 licensed or unlicensed frequencies, includ-
2 ing—

3 “(I) commercial mobile service;

4 “(II) commercial mobile data
5 service (as defined in section 6001 of
6 the Middle Class Tax Relief and Job
7 Creation Act of 2012 (47 U.S.C.
8 1401));

9 “(III) unlicensed wireless service;
10 and

11 “(IV) common carrier wireless
12 exchange access service.

13 “(vii) PERSONAL WIRELESS SERVICE
14 FACILITY.—The term ‘personal wireless
15 service facility’ means a facility used to
16 provide or support the provision of per-
17 sonal wireless service.

18 “(viii) SMALL PERSONAL WIRELESS
19 SERVICE FACILITY.—The term ‘small per-
20 sonal wireless service facility’ means a per-
21 sonal wireless service facility in which each
22 antenna is not more than 3 cubic feet in
23 volume (excluding a wireline backhaul fa-
24 cility connected to such personal wireless
25 service facility).

1 “(ix) UNLICENSED WIRELESS SERV-
2 ICE.—The term ‘unlicensed wireless serv-
3 ice’—

4 “(I) means the offering of tele-
5 communications service using a duly
6 authorized device that does not re-
7 quire an individual license; and

8 “(II) does not include the provi-
9 sion of direct-to-home satellite serv-
10 ices, as defined in section 303(v).

11 “(x) WIRELINE BACKHAUL FACIL-
12 ITY.—The term ‘wireline backhaul facility’
13 means an above-ground or underground
14 wireline facility used to transport commu-
15 nications service or other electronic com-
16 munications from a small personal wireless
17 service facility or the adjacent network
18 interface device of such facility to a com-
19 munications network.”.