

SENATE BILL No. 1235

March 26, 2008, Introduced by Senators OLSHOVE, ANDERSON, CHERRY, SANBORN, PAPPAGEORGE, GLEASON, SCOTT, BASHAM and GEORGE and referred to the Committee on Energy Policy and Public Utilities.

A bill to amend 2006 PA 480, entitled "Uniform video services local franchise act," by amending section 4 (MCL 484.3304).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A video service provider shall designate a
2 sufficient amount of capacity on its network to provide for the
3 same number of public, education, and government access channels
4 that are in actual use on the incumbent video provider system on
5 ~~the effective date of this act~~ **JANUARY 1, 2007** or as provided under
6 subsection (14). **A VIDEO SERVICE PROVIDER, INCLUDING A PROVIDER**
7 **OPERATING UNDER AN EXISTING FRANCHISE AGREEMENT, SHALL PROVIDE**
8 **PUBLIC, EDUCATION, AND GOVERNMENT CHANNELS TO SUBSCRIBERS AT**
9 **EQUIVALENT VISUAL AND AUDIO QUALITY AND EQUIVALENT FUNCTIONALITY**
10 **AND ACCESSIBILITY, FROM THE VIEWING PERSPECTIVE OF THE SUBSCRIBER,**

1 TO THAT OF COMMERCIAL CHANNELS CARRIED ON THE PROVIDER'S LOWEST
2 TIER OF SERVICE AND WITHOUT THE NEED FOR ANY EQUIPMENT OTHER THAN
3 THE EQUIPMENT NECESSARY TO RECEIVE ANY COMMERCIAL CHANNEL CARRIED
4 ON THE LOWEST TIER OF SERVICE. A VIDEO SERVICE PROVIDER SHALL
5 PROVIDE PUBLIC, EDUCATION, AND GOVERNMENT CHANNELS AT NO CHARGE.

6 (2) Any public, education, or government channel provided
7 under this section that is not utilized by the franchising entity
8 for at least 8 hours per day for 3 consecutive months may no longer
9 be made available to the franchising entity and may be programmed
10 at the provider's discretion. At such time as the franchising
11 entity can certify a schedule for at least 8 hours of daily
12 programming for a period of 3 consecutive months, the provider
13 shall restore the previously reallocated channel.

14 (3) The franchising entity shall ensure that all
15 transmissions, content, or programming to be retransmitted by a
16 video service provider is provided in a manner or form that is
17 capable of being accepted and retransmitted by a provider, without
18 requirement for additional alteration or change in the content by
19 the provider, over the particular network of the provider, which is
20 compatible with the technology or protocol utilized by the provider
21 to deliver services.

22 (4) A video service provider may request that an incumbent
23 video provider interconnect with its video system for the sole
24 purpose of providing access to video programming that is being
25 provided over public, education, and government channels for a
26 franchising entity that is served by both providers. Where
27 technically feasible, interconnection shall be allowed under an

1 agreement of the parties. The video service provider and incumbent
2 video provider shall negotiate in good faith and may not
3 unreasonably withhold interconnection. Interconnection may be
4 accomplished by any reasonable method as agreed to by the
5 providers. The requesting video service provider shall pay the
6 construction, operation, maintenance, and other costs arising out
7 of the interconnection, including the reasonable costs incurred by
8 the incumbent provider.

9 (5) The person producing the broadcasts is solely responsible
10 for all content provided over designated public, education, or
11 government channels. A video service provider shall not exercise
12 any editorial control over any programming on any channel designed
13 for public, education, or government use.

14 (6) A video service provider is not subject to any civil or
15 criminal liability for any program carried on any channel
16 designated for public, education, or government use.

17 (7) Except as otherwise provided in subsection (8), a provider
18 shall provide subscribers access to the signals of the local
19 broadcast television station licensed by the federal communications
20 commission to serve those subscribers over the air. This section
21 does not apply to a low-power station unless the station is a
22 qualified low-power station as defined under 47 USC 534(h)(2). A
23 provider is required to only carry digital broadcast signals to the
24 extent that a broadcast television station has the right under
25 federal law or regulation to demand carriage of the digital
26 broadcast signals by a cable operator on a cable system.

27 (8) To facilitate access by subscribers of a video service

1 provider to the signals of local broadcast stations under this
2 section, a station either shall be granted mandatory carriage or
3 may request retransmission consent with the provider.

4 (9) A provider shall transmit, without degradation, the
5 signals a local broadcast station delivers to the provider. A
6 provider is not required to provide a television station valuable
7 consideration in exchange for carriage.

8 (10) A provider shall not do either of the following:

9 (a) Discriminate among or between broadcast stations and
10 programming providers with respect to transmission of their
11 signals, taking into account any consideration afforded the
12 provider by the programming provider or broadcast station. In no
13 event shall the signal quality as retransmitted by the provider be
14 required to be superior to the signal quality of the broadcast
15 stations as received by the provider from the broadcast television
16 station.

17 (b) Delete, change, or alter a copyright identification
18 transmitted as part of a broadcast station's signal.

19 (11) A provider shall not be required to utilize the same or
20 similar reception technology as the broadcast stations or
21 programming providers.

22 (12) A public, education, or government channel shall only be
23 used for noncommercial purposes.

24 (13) Subsections (7) to (11) apply only to a video service
25 provider that delivers video programming in a video service area
26 where the provider is not regulated as a cable operator under
27 federal law.

1 (14) If a franchising entity seeks to utilize capacity
2 designated under subsection (1) or an agreement under section 13 to
3 provide access to video programming over 1 or more public,
4 ~~governmental, and education,~~ **AND GOVERNMENT** channels, the
5 franchising entity shall give the provider a written request
6 specifying the number of channels in actual use on the incumbent
7 video provider's system or specified in the agreement entered into
8 under section 13. The video service provider shall have 90 days to
9 begin providing access as requested by the franchising entity.