

HOUSE BILL 1397

By Rudder

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 7; Title 13 and Title 65, relative to wireless  
communications.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 13-24-402, is amended by adding the following as new subdivisions:

"School" means any public or privately operated child care agency, as defined in § 71-3-501; child care program, as defined in § 49-1-1102; preschool; nursery school; kindergarten; elementary school; or secondary school;

"Private residence" means a dwelling in which an individual resides, either temporarily or permanently;

SECTION 2. Tennessee Code Annotated, Section 13-24-405, is amended by adding the following as new subdivisions:

(10) Prohibit a local authority from preventing the installation of wireless facilities within one thousand five hundred feet (1500') of a school or private residence;

(11) Prohibit a local authority from preventing the installation of wireless facilities in a ROW that is within an area with existing internet coverage;

SECTION 3. Tennessee Code Annotated, Section 13-24-409(b)(3)(B), is amended by deleting ", and the sixty-day period for reviewing the application must be extended to seventy-five (75) days as provided in subdivision (b)(7)".

SECTION 4. Tennessee Code Annotated, Section 13-24-409(b)(5) and (b)(6), are amended by deleting "sixty (60) days" and substituting "ninety (90) days".

SECTION 5. Tennessee Code Annotated, Section 13-24-409(b)(6), is amended by deleting "sixty-day" and substituting "ninety-day".

SECTION 6. Tennessee Code Annotated, Section 13-24-409(b)(7), is amended by deleting the subdivision and substituting the following:

(7) Except as otherwise provided in this subdivision (b)(7), a local authority shall not extend the ninety-day period to provide for additional or supplemental review by additional departments or designees. The ninety-day review period may be tolled or extended only as follows:

(A) The ninety-day period is tolled if a local authority sends notice to the applicant that the application is incomplete within thirty (30) days after the initial application is filed, but this tolling ceases once additional or supplemental information is provided to the local authority. If supplemental information is not received within thirty (30) days of the date on which notice of incompleteness is sent by the authority, then the application may be denied and a new application required;

(B) The local authority and the applicant may mutually agree to toll the ninety-day period;

(C) The ninety-day review period is extended to one hundred twenty (120) days upon timely notice by the authority of the need for a conference as provided in subdivision (b)(3), but the one hundred twenty-day period must not be further extended for applications under subdivision (b)(7)(D) or (b)(7)(E);

(D) If an applicant submits applications to the same local authority seeking permission to deploy or colocate more than thirty (30), but fewer than fifty (50), small wireless facilities within any thirty-day period, then the local authority may, upon notice to the applicant, extend the ninety-day period for

reviewing the applications to one hundred twenty (120) days, but the one hundred twenty-day period shall not be further extended for a conference as provided in subdivision (b)(7)(C);

(E) If an applicant submits applications to the same local authority seeking permission to deploy or collocate fifty (50) or more small wireless facilities within any thirty-day period, then the local authority may, upon notice to the applicant, extend the period for reviewing the applications to one hundred twenty (120) days, but the one hundred twenty-day period must not be further extended for a conference as provided in subdivision (b)(7)(C);

(F) If an applicant submits applications to the same local authority seeking permission to deploy or collocate more than one hundred twenty (120) small wireless facilities within any ninety-day period, then the local authority may issue notice to the applicant that the authority requires the applicant to select from the following two (2) options for high-volume applicants:

(i) Pay a surcharge to maintain the same review time period that would be otherwise applicable. The surcharge is in addition to the ordinary application fee provided in § 13-24-407. The surcharge is one hundred dollars (\$100) for each small wireless facility that the applicant elects to have reviewed using the otherwise applicable review period, and the applicant shall submit its list identifying the specific small wireless facilities it elects to have reviewed in the ordinarily applicable period with its surcharge payment within five (5) days of receiving the local authority's notice that applications have been received, triggering the election of either a surcharge or extension of the review time period described in subdivision (b)(7)(C), (b)(7)(D), or (b)(7)(E); or

(ii) If no identifying list is provided or if payment of a surcharge is not made within the applicable time period, or, for those small wireless facilities not timely identified and for which no surcharge is timely paid, the ordinarily applicable review period shall be extended to one hundred-twenty (120) days; and

(G) If an applicant submits an application in which the proposed design will affect in any manner a regulatory sign, as defined by the Manual on Uniform Traffic Control Devices, or any sign subject to a requirement for breakaway supports, then the local authority may reject the application. If an application is rejected on that basis, however, the local authority shall permit the applicant to seek reconsideration of its design. If the applicant requests reconsideration, then the local authority shall provide the opportunity for the applicant to schedule a conference to discuss the local authority's specific concerns within thirty (30) days of the reconsideration request. The applicant must submit a revised design or otherwise respond to the local authority's concerns within thirty (30) days of the conference, and upon receipt of the revised design or response, the local authority shall approve or deny the application within ninety (90) days, and the local authority has complete discretion to approve or deny the application in a nondiscriminatory manner;

SECTION 7. Tennessee Code Annotated, Section 13-24-411(2) , is amended by deleting "shall not apply standards" and substituting "shall not, except as provided in § 13-24-405, apply standards".

SECTION 8. Tennessee Code Annotated, Title 13, Chapter 24, Part 4, is amended by adding the following as a new section:

(a) An applicant shall annually inspect its wireless facilities to ensure compliance with safety standards promulgated by the federal communications commission.

(b) An applicant shall annually report to the local authority that approved the applicant's application concerning the results of the inspection conducted pursuant to subsection (a).

SECTION 9. This act takes effect July 1, 2021, the public welfare requiring it.