

117TH CONGRESS
1ST SESSION

H. R. 1060

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

FEBRUARY 15, 2021

Mr. LATTA introduced the following bill; which was referred to the Committee on Energy and Commerce

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 and 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 unreasonably dis-
21 criminate among providers of the
22 same service, including by providing
23 exclusive or preferential use of facili-
24 ties to a particular provider or class of
25 providers of personal wireless service;
26 and

1 “(II) shall not prohibit or have
2 the effect of prohibiting the provision
3 or enhancement of personal wireless
4 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 small personal wireless service
10 facilities objective, reasonable, and non-
11 discriminatory—

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

15 “(II) safety requirements; or

16 “(III) aesthetic or concealment
17 requirements.

18 “(iii) TIMEFRAMES.—

19 “(I) IN GENERAL.—A State or
20 local government or instrumentality
21 thereof shall grant or deny a complete
22 request for authorization to place,
23 construct, or modify a personal wire-
24 less service facility not later than—

1 “(aa) in the case of a per-
2 sonal wireless service facility that
3 is not a small personal wireless
4 service facility—

5 “(AA) if the request is
6 for authorization to place,
7 construct, or modify such fa-
8 cility on an eligible support
9 structure, including in an
10 area that has not previously
11 been zoned for personal
12 wireless service facilities
13 (other than small personal
14 wireless service facilities), 90
15 days after the date on which
16 the complete request is re-
17 ceived by the government or
18 instrumentality; or

19 “(BB) if the request is
20 for any other action relating
21 to such facility, 150 days
22 after the date on which the
23 complete request is received
24 by the government or instru-
25 mentality; and

1 “(bb) in the case of a small
2 personal wireless service facil-
3 ity—

4 “(AA) if the request is
5 for authorization to place,
6 construct, or modify such fa-
7 cility on an eligible support
8 structure, including in an
9 area that has not previously
10 been zoned for personal
11 wireless service facilities, 60
12 days after the date on which
13 the complete request is re-
14 ceived by the government or
15 instrumentality; or

16 “(BB) if the request is
17 for any other action relating
18 to such facility, 90 days
19 after the date on which the
20 complete request is received
21 by the government or instru-
22 mentality.

23 “(II) TREATMENT OF BATCHED
24 REQUESTS.—In the case of complete
25 requests described in subclause (I)

1 that are submitted as part of a single
2 batch and received by the government
3 or instrumentality on the same day,
4 the applicable timeframe under such
5 subclause for each request in the
6 batch shall be the longest timeframe
7 under such subclause that would be
8 applicable to any request in the batch
9 if such requests were submitted sepa-
10 rately.

11 “(III) APPLICABILITY.—The ap-
12 plicable timeframe under subclause (I)
13 shall apply collectively to all pro-
14 ceedings required by a State or local
15 government or instrumentality thereof
16 for the approval of the request.

17 “(IV) NO TOLLING.—A time-
18 frame under subclause (I) may not be
19 tolled by any moratorium, whether ex-
20 press or de facto, imposed by a State
21 or local government or instrumentality
22 thereof on the consideration of any re-
23 quest for authorization to place, con-
24 struct, or modify a personal wireless
25 service facility.

1 “(V) TEMPORARY WAIVER.—The
2 Commission may temporarily waive
3 the applicability of subclause (I) for
4 not longer than a single 30-day period
5 for any complete request upon a dem-
6 onstration by a State or local govern-
7 ment or instrumentality thereof that
8 the waiver would be consistent with
9 the public interest, convenience, and
10 necessity.

11 “(iv) DEEMED GRANTED.—

12 “(I) IN GENERAL.—If a State or
13 local government or instrumentality
14 thereof has neither granted nor denied
15 a complete request within the applica-
16 ble timeframe under subclause (I) of
17 clause (iii), including any temporary
18 waiver granted under subclause (V) of
19 such clause, the request shall be
20 deemed granted on the date on which
21 the government or instrumentality re-
22 ceives a written notice of the failure
23 from the requesting party.

24 “(II) RULE OF CONSTRUC-
25 TION.—In the case of a request that

1 is deemed granted under subclause
2 (I), the placement, construction, or
3 modification requested in the request
4 shall be considered to be authorized,
5 without any further action by the gov-
6 ernment or instrumentality, beginning
7 on the date on which the request is
8 deemed granted under such subclause.

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

15 “(I) in writing; and

16 “(II) supported by substantial
17 evidence contained in a written
18 record.

19 “(vi) ENVIRONMENTAL EFFECTS OF
20 RADIO FREQUENCY EMISSIONS.—No State
21 or local government or instrumentality
22 thereof may regulate the placement, con-
23 struction, or modification of personal wire-
24 less service facilities on the basis of the en-
25 vironmental effects of radio frequency

1 emissions to the extent that such facilities
2 comply with the Commission’s regulations
3 concerning such emissions.

4 “(vii) FEES.—Notwithstanding any
5 other provision of law, a State or local gov-
6 ernment or instrumentality thereof may
7 charge a fee to consider a request for au-
8 thorization to place, construct, or modify a
9 personal wireless service facility, or a fee
10 for use of a right-of-way or a facility in a
11 right-of-way owned or managed by the gov-
12 ernment or instrumentality for the place-
13 ment, construction, or modification of a
14 personal wireless service facility, if the fee
15 is—

16 “(I) competitively neutral, tech-
17 nology neutral, and nondiscrim-
18 inatory;

19 “(II) publicly disclosed;

20 “(III) calculated—

21 “(aa) based on actual and
22 direct costs, such as costs for—

23 “(AA) review and proc-
24 essing of requests; and

1 “(BB) repairs and re-
2 placement of components
3 and materials resulting from
4 and affected by the installa-
5 tion or improvement of per-
6 sonal wireless service facili-
7 ties, or repairs and replace-
8 ment of equipment that fa-
9 cilitates the installation or
10 improvement of such facili-
11 ties; and

12 “(bb) using, for purposes of
13 item (aa), only costs that are ob-
14 jectively reasonable; and

15 “(IV) described to a requesting
16 party in a manner that distinguishes
17 between—

18 “(aa) nonrecurring fees and
19 recurring fees; and

20 “(bb) the use of facilities on
21 which personal wireless service
22 facilities are already located and
23 those on which there are no per-
24 sonal wireless service facilities as
25 of the date on which the complete

1 request is received by the govern-
2 ment or instrumentality.

3 “(C) JUDICIAL AND ADMINISTRATIVE RE-
4 VIEW.—

5 “(i) JUDICIAL REVIEW.—Any person
6 adversely affected by any final action or
7 failure to act by a State or local govern-
8 ment or any instrumentality thereof that is
9 inconsistent with this paragraph may,
10 within 30 days after the action or failure
11 to act, commence an action in any court of
12 competent jurisdiction, which shall hear
13 and decide the action on an expedited
14 basis.

15 “(ii) ADMINISTRATIVE REVIEW.—

16 “(I) IN GENERAL.—Any person
17 adversely affected by any final action
18 or failure to act by a State or local
19 government or any instrumentality
20 thereof that is inconsistent with this
21 paragraph may petition the Commis-
22 sion to order the government or in-
23 strumentality to reconsider the action
24 or failure to act.

1 “(II) PUBLIC NOTICE AND COM-
2 MENT; TIMING.—Not later than 60
3 days after receiving a petition under
4 subclause (I), the Commission shall—

5 “(aa) provide public notice
6 of, and an opportunity for public
7 comment on, such petition; and

8 “(bb) grant or deny such pe-
9 tition.

10 “(D) WHEN REQUEST CONSIDERED COM-
11 plete; RECEIVED.—

12 “(i) WHEN REQUEST CONSIDERED
13 COMPLETE.—

14 “(I) IN GENERAL.—For the pur-
15 poses of this paragraph, a request to
16 a State or local government or instru-
17 mentality thereof shall be considered
18 complete if the requesting party has
19 not received a written notice from the
20 government or instrumentality within
21 10 business days after the date on
22 which the request is received by the
23 government or instrumentality—

24 “(aa) stating that all the in-
25 formation (including any form or

1 other document) required by the
2 government or instrumentality to
3 be submitted for the request to
4 be considered complete has not
5 been submitted; and

6 “(bb) identifying the infor-
7 mation required to be submitted
8 that was not submitted.

9 “(II) DEFINITION.—In this
10 clause, the term ‘received by the gov-
11 ernment or instrumentality’ means—

12 “(aa) in the case of a re-
13 quest submitted electronically, on
14 the date on which the request is
15 transmitted;

16 “(bb) in the case of a re-
17 quest submitted in person, on the
18 date on which the request is de-
19 livered to the individual or at the
20 location specified by the govern-
21 ment or instrumentality for in-
22 person submission; and

23 “(cc) in the case of a re-
24 quest submitted in any other
25 manner, on the date determined

1 under regulations promulgated by
2 the Commission for the manner
3 in which the request is sub-
4 mitted.

5 “(ii) WHEN COMPLETE REQUEST CON-
6 SIDERED RECEIVED.—For the purposes of
7 this paragraph, a complete request shall be
8 considered received on the date on which
9 the requesting party submits to the gov-
10 ernment or instrumentality all information
11 (including any form or other document) re-
12 quired by the government or instrumen-
13 tality to be submitted for the request to be
14 considered complete.

15 “(E) DEFINITIONS.—In this paragraph:

16 “(i) ANTENNA.—The term ‘antenna’
17 means an apparatus designed for the pur-
18 pose of emitting radiofrequency radiation,
19 to be operated or operating from a fixed
20 location for the transmission of writing,
21 signs, signals, data, images, pictures, and
22 sounds of all kinds.

23 “(ii) COMMUNICATIONS NETWORK.—
24 The term ‘communications network’ means

1 a network used to provide a communica-
2 tions service.

3 “(iii) COMMUNICATIONS SERVICE.—

4 The term ‘communications service’
5 means—

6 “(I) cable service, as defined in
7 section 602;

8 “(II) information service;

9 “(III) telecommunications serv-
10 ice; and

11 “(IV) personal wireless service.

12 “(iv) ELIGIBLE SUPPORT STRUC-
13 TURE.—The term ‘eligible support struc-
14 ture’ means a tower, base station, or other
15 structure that supports a personal wireless
16 service facility at the time when a complete
17 request to a State or local government or
18 instrumentality thereof for authorization to
19 place, construct, or modify a personal wire-
20 less service facility on the structure is re-
21 ceived by the government or instrumen-
22 tality.

23 “(v) GENERALLY APPLICABLE

24 CODE.—The term ‘generally applicable
25 code’ means a uniform building, fire, elec-

1 trical, plumbing, or mechanical code adopt-
2 ed by a national code organization, or a
3 local amendment to such a code, to the ex-
4 tent not inconsistent with this Act.

5 “(vi) NETWORK INTERFACE DE-
6 VICE.—The term ‘network interface device’
7 means a telecommunications demarcation
8 device and cross-connect point that—

9 “(I) is adjacent or proximate
10 to—

11 “(aa) a small personal wire-
12 less service facility; or

13 “(bb) a structure supporting
14 a small personal wireless service
15 facility; and

16 “(II) demarcates the boundary
17 with any wireline backhaul facility.

18 “(vii) PERSONAL WIRELESS SERV-
19 ICE.—The term ‘personal wireless service’
20 means—

21 “(I) commercial mobile service;

22 “(II) commercial mobile data
23 service (as defined in section 6001 of
24 the Middle Class Tax Relief and Job

1 Creation Act of 2012 (47 U.S.C.
2 1401));

3 “(III) unlicensed wireless service;
4 and

5 “(IV) common carrier wireless
6 exchange access service.

7 “(viii) PERSONAL WIRELESS SERVICE
8 FACILITY.—The term ‘personal wireless
9 service facility’ means a facility for the
10 provision of personal wireless service.

11 “(ix) SMALL PERSONAL WIRELESS
12 SERVICE FACILITY.—The term ‘small per-
13 sonal wireless service facility’—

14 “(I) means a personal wireless
15 service facility in which each antenna
16 is not more than 3 cubic feet in vol-
17 ume; and

18 “(II) does not include a wireline
19 backhaul facility.

20 “(x) UNLICENSED WIRELESS SERV-
21 ICE.—The term ‘unlicensed wireless serv-
22 ice’—

23 “(I) means the offering of tele-
24 communications service using a duly

1 authorized device that does not re-
2 quire an individual license; and

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

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

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