

HR 4518

W. J. (Billy) Tauzin Satellite Television Act of 2004

Congress: 108 (2003–2005, Ended)

Chamber: House

Policy Area: Science, Technology, Communications

Introduced: Jun 4, 2004

Current Status: Received in the Senate.

Latest Action: Received in the Senate. (Oct 7, 2004)

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Sponsor

Name: Rep. Smith, Lamar [R-TX-21]

Party: Republican • State: TX • Chamber: House

Cosponsors (2 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Berman, Howard L. [D-CA-28]	D · CA		Jun 4, 2004
Rep. Conyers, John, Jr. [D-MI-14]	D · MI		Jun 4, 2004

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	House	Discharged from	Jul 1, 2004

Subjects & Policy Tags

Policy Area:

Science, Technology, Communications

Related Bills

Bill	Relationship	Last Action
108 HR 4501	Related bill	Jul 22, 2004: Placed on the Union Calendar, Calendar No. 379.
108 S 2013	Related bill	Jun 17, 2004: Placed on Senate Legislative Calendar under General Orders. Calendar No. 584.

Satellite Home Viewer Extension and Reauthorization Act of 2004 or W. J. (Billy) Tauzin Satellite Television Act of 2004 - **Title I: Statutory License for Satellite Carriers** - (Sec. 101) Amends the Satellite Home Viewer Act of 1994 to extend the sunset date by an additional five years for statutory licensing provisions for the secondary transmission of a primary transmission of a broadcast station in compliance with Federal Communications Commission (FCC) regulations.

Amends Federal copyright law to extend for five years the existing grandfather clause permitting otherwise ineligible subscribers (grandfathered subscribers) to receive secondary transmissions of the signal of a network station outside of the subscribers local market (distant signal) if such subscribers do not receive a signal of a certain strength from the local network station affiliated with the same network.

(Sec. 102) Extends such statutory license to the secondary transmission by a satellite carrier in a State in which there is a single full-power network station of the primary transmission of that station to any subscriber in a community within the State, but not within the first 50 major television markets as listed by FCC regulations.

Applies such statutory license to the secondary transmission by a satellite carrier in a State in which all network stations and superstations are assigned to one local market of the primary transmission of any station located in the State capital to any subscriber located in a community within that State and within the first 50 major television markets.

Applies such statutory license to the retransmission by a satellite carrier of the primary transmission of any network station in the capital of a State to subscribers in two adjacent counties within the State if such counties are in a local market comprised principally of counties located in another State, the two counties are located in a local market that is in the top 100 markets for 2003, and the total number of television households in the two counties combined did not exceed 10,000 for 2003.

Requires a satellite carrier to submit to the network that owns or is affiliated with a network station: (1) an initial list of unserved households receiving secondary transmissions of primary transmissions of that station; (2) monthly lists of subscribers in such households who have been added or dropped by the satellite carrier; and (3) additional initial and monthly lists of subscribers in households receiving such retransmission because the network station is significantly viewed in that community.

Extends such statutory license to the secondary transmission by a satellite carrier of the primary transmission of a network station or superstation to a subscriber who: (1) is receiving the secondary transmission of a primary transmission of local stations (local signal); and (2) resides outside the local market of the station but within a community in which that station is determined by the FCC to be significantly viewed according to the regulations in effect on April 15, 1976.

Allows a subscriber to request a waiver from a network station in the local market affiliated with the same network if the satellite carrier refuses to retransmit the distant signal of a significantly viewed network station because the subscriber is not receiving any local signal. Deems the network station to have agreed to the request if the station does not act within 30 days. Specifies that waivers provided under the unserved household provisions of the Communications Act of 1934 to subscribers who are not eligible to receive retransmissions of local signals from network stations are not considered waivers under this Act. Terminates the authority to grant waivers, and any waivers in effect, on December 31, 2008.

(Sec. 103) Applies such statutory license to the retransmission by a satellite carrier of the distant signal of a network station to a grandfathered subscriber where a local signal of that station is available if such subscriber is receiving the distant signal as of October 1, 2004, but only until the subscriber elects to receive the local signal. Requires the satellite

carrier to provide notice to the subscriber of the availability of the local signal and requires the subscriber to elect to retain such distant signal. Directs the satellite carrier to submit to the network station a list aggregated by designated market area that identifies the subscriber, specifies the distant signal received, and states that the subscriber is eligible to receive such distant signals (required list and statement). Provides that such statutory license does not apply to secondary transmissions to grandfathered subscribers that are not receiving distant signals as of October 1, 2004.

Applies such statutory license to the retransmission by a satellite carrier of the distant signal to a subscriber in an unserved household if as of January 1, 2005: (1) a local signal affiliated with the same network is available, and the satellite carrier submits a list to the television network by March 1, 2005, that identifies the subscriber and specifies the distant signals received by the subscriber; or (2) a local signal is not available at the time the subscriber requests retransmission of the distant signal and the satellite carrier submits a list to each television network within 60 days of offering such a local signal that identifies each subscriber in the local market and specifies the distant signals received by the subscriber.

Provides that such statutory license does not apply to retransmissions of the distant signal to a subscriber who is not lawfully receiving distant signals on the date of enactment of this Act and who is in a community in which the satellite carrier makes available the local signal affiliated with the same network before the subscriber seeks to receive such distant signals.

Allows a subscriber who has been denied a distant signal due to the availability of a local signal affiliated with the same network to request a waiver from a network station. Provides that a waiver granted before enactment of this Act under the unserved household provisions of the Communications Act of 1934 does not constitute such a waiver.

Provides that a local signal shall be considered to be made available to a subscriber if the satellite carrier offers that local signal to any subscriber within the same zip code.

Allows a subscriber who has been denied the distant signal of a network station under the unserved household provisions to request a waiver from the network station that is asserting that the secondary transmission is prohibited. Deems the station to have agreed with such waiver request if it fails to act within 30 days. Provides that a waiver granted before enactment of this Act under the unserved household provisions of the Communications Act of 1934 does constitute such a waiver.

Requires the royalty fee due from a satellite carrier for retransmissions of a network station to be computed by multiplying the total number of subscribers receiving each retransmission of each superstation or network station during each calendar month by the appropriate rate in effect under this Act.

Provides that a satellite carrier shall have no royalty obligation for secondary transmissions of the distant signal of a significantly viewed station to a subscriber under this Act.

Requires the Librarian of Congress to publish in the Federal Register on or before January 2, 2005, notice of the initiation of voluntary negotiation proceedings to determine a reasonable royalty fee to be paid by satellite carriers for retransmissions of network stations or superstations.

Allows parties who have reached a voluntary agreement on royalty fees to request that such fees be applied to all satellite carriers, distributors, and copyright owners without arbitration. Requires the Librarian of Congress to: (1) adopt such royalty fees unless a party with an intent to participate in arbitration proceedings and a significant interest in the outcome objects; or (2) publish on or before May 1, 2005, notice of the initiation of arbitration proceedings to determine a

reasonable royalty fee for retransmissions by satellite carriers and distributors.

Requires the copyright arbitration royalty panel, absent a voluntary agreement applicable to all satellite carrier, distributors and copyright owners, to establish royalty fees that most clearly represent the fair market value of such transmissions, except that the Librarian of Congress and the panel must adjust those fees to account for the obligations of the parties under any voluntary agreement filed with the Copyright Office.

(Sec. 104) Extends such statutory license to retransmissions by a satellite carrier of the signals of a low power television station to a subscriber who resides within the same local market. Sets forth geographic limitations for such secondary transmissions. Excludes from such statutory licensing retransmissions from low power television stations that retransmit the programs and signals of another television station for more than two hours each day. Prescribes when royalty fees are due for such secondary transmissions of low power television stations. Limits such secondary transmissions of low power television stations to only those subscribers also receiving retransmissions of local signals.

(Sec. 106) Provides that nothing in this Act shall modify any remedy imposed on a party by a judgment of a court in any action brought before May 1, 2004, for a violation of law regarding statutory licensing for retransmissions of superstations and network stations.

(Sec. 107) Extends such statutory license to the secondary transmissions by a satellite carrier of a superstation for viewing in a commercial establishment, including bars, restaurants, fitness clubs or any other establishment with a common business area.

(Sec. 108) Requires the Department of Justice to respond within 90 days to a request by two or more satellite carriers for a business review letter to assess the legality under antitrust laws of proposed business conduct to make or carry out an agreement to provide retransmissions of local signals to subscribers in a market in which there is currently no satellite carrier offering such retransmissions.

(Sec. 109) Requires the Register of Copyright to submit a report to the relevant congressional committees by June 30, 2008, on the operation and revision of the statutory licenses for secondary transmissions of distant and local signals, including: (1) a comparison of the royalties paid by licensees; (2) an analysis of the differences in the terms and conditions of the various licenses, whether these differences are justified by historical, technological, or regulatory differences that affect the satellite and cable industries, and whether either the cable or satellite industry is placed in a competitive disadvantage due to these terms and conditions; (3) an analysis of whether the licenses are still justified by the bases upon which they were originally created; (4) an analysis of whether savings on royalties and fees are passed on to cable and satellite subscribers; and (5) an analysis of the issues that may arise with respect to the applicability of the licenses to digital signals.

Title II: Federal Communications Commission Operations - (Sec. 201) Amends the Communications Act of 1934 to extend until December 31, 2009, the exemption that allows a cable system or multichannel video programing distributor to retransmit signals of network stations directly to a home satellite antenna without the express authority of the originating station if the subscriber receiving the signal is outside the local market of such stations, and resides in an unserved household.

(Sec. 202) Allows a satellite carrier to retransmit to subscribers located in a community, in addition to the local and distant broadcast signals that subscribers may otherwise receive, distant signals of a station determined by the FCC to be significantly viewed in that community.

Limits retransmissions of the analog signal of a significantly viewed television broadcast station to those subscribers who also receive retransmissions of local analog signals.

Limits retransmissions of the digital signal of a significantly viewed network station to subscribers who also receive retransmissions of local digital signals, but only if: (1) the retransmission of the local network station occupies at least the equivalent bandwidth as the distant digital signal; or (2) the retransmission of the local network station carries the entire bandwidth of the local digital signal.

Provides that these limitations do not apply to a subscriber in a local market in which there are no local stations affiliated with the same television network as the significantly viewed station whose signal is being transmitted.

Allows a satellite carrier to retransmit a significantly viewed network station if and to the extent that the local affiliate of the same network has waived the requirements that a subscriber must also be receiving the local signal.

Requires the FCC to: (1) publish a list of stations and communities eligible for retransmissions under the significantly viewed provisions of this Act; (2) adopt rules to implement such provisions; (3) publish and update such list on the FCC website; and (4) permit a satellite carrier to petition for decisions and orders by which stations and communities may be added to those that are eligible for retransmissions of the signals of significantly viewed stations, and by which network nonduplication or syndicated exclusivity regulations are applied to such retransmissions.

Provides that carriage of a signal of a significantly viewed station is not mandatory and has no effect on the right of a station to be carried into the local market.

Provides that FCC rules concerning network nonduplication and syndicated exclusivity do not apply to significantly viewed signals under this Act unless the FCC determines otherwise. Prohibits the application of network nonduplication or syndicated exclusivity regulations to the retransmission of distant signals of network stations to unserved households.

Sets forth provisions regarding violations of this Act by satellite carriers, including enforcement through cease-and-desist orders and damage awards.

Directs a satellite carrier to provide written notice to the affiliated local station 60 days in advance of commencing retransmission of a significantly viewed station and to designate on the carrier's website all significantly viewed stations retransmitted and the communities receiving such signals.

Requires the FCC to allow a television broadcast station that is being retransmitted into the local market by a satellite carrier, which is also planning to retransmit or is transmitting the signals of a significantly viewed station affiliated with the same network, to elect between retransmission consent and mandatory carriage for each county within such station's local market. Directs: (1) the FCC to require any such station to conduct a unified negotiation for the entire portion of its local market for which retransmission pursuant to consent is elected; and (2) the satellite carrier to provide notice to the station of which significantly viewed signals it reserves the right to retransmit during the next year.

(Sec. 203) Requires a satellite carrier to transmit all local analog signals retransmitted by that carrier within a local market by means of a single reception antenna and associated equipment within one year of enactment of this Act. Allows the satellite carrier to transmit digital signals by means of a separate antenna, but requires all local digital signals to be transmitted by means of a single reception antenna. Requires such satellite carrier to provide notice to subscribers and licensees for local stations of: (1) any reallocation of signals between different antennas that the carrier intends to make; (2) the need for subscribers to obtain an additional antenna; and (3) any cessation of carriage or other material change in

the carriage of signals as a consequence of these requirements.

Provides that: (1) a low power television station is not entitled to mandatory carriage under the Communications Act of 1934 regardless of whether the satellite carrier transmits the signal of other local stations; and (2) such low power stations will not be considered in the application of nonduplication provisions.

(Sec. 204) Allows a grandfathered subscriber to receive secondary transmissions of the distant signal of a network station where a local signal affiliated with the same network is available if such subscriber elects to retain the distant signal within 60 days of receiving notice of the availability of the local signal, but only until such time as the subscriber elects to receive the local signal. Requires the satellite carrier to submit to the television network the required list and statement.

Prohibits a satellite carrier from retransmitting a distant signal of a network station to a grandfathered subscriber who was not receiving such a signal from a station affiliated with the same network as of October 1, 2004.

Allows a subscriber in an unserved household where a local signal is available by January 1, 2005, to receive a distant signal from a station affiliated with the same network if the satellite carrier submits to the television network the required list and statement.

Allows a subscriber in an unserved household where a local signal is not available by January 1, 2005, to receive a distant signal affiliated with the same network if the subscriber seeks to subscribe to such distant signal before the carrier offers the local signal and the carrier submits the required list and statement.

Prohibits a satellite carrier from providing a distant signal to a subscriber: (1) not lawfully receiving the distant signal as of the date of enactment of this Act; and (2) residing in a community where the local signal of the affiliated station is available by the time the person seeks to receive the distant signal.

Allows a satellite carrier to provide a distant signal of a television station if the local station affiliated with the same network has granted a waiver to the satellite carrier with respect to the retransmission of such distant signal to the subscriber.

Requires a satellite carrier that provides a distant digital signal to grandfathered subscribers or unserved households to submit to each network within 60 days the following required list and statement: (1) a list, aggregated by designated market area, identifying each subscriber provided such a signal; and (2) a statement that the subscriber is qualified to receive the distant network signal.

Requires a satellite carrier who is transmitting a distant signal and who begins retransmission of the local signal affiliated with the same network to submit the required list and statement to the network within 60 days.

(Sec. 205) Requires a satellite carrier that offers a distant signal to a grandfathered subscriber to: (1) notify such subscribers within the later of 60 days after the local signal affiliated with the same network is available or 60 days after enactment of this Act that a local signal is available; (2) offer to substitute the local signal for the distant signal; (3) inform the subscriber that failure to respond within 60 days will result in the loss of the distant signal; and (4) switch the subscriber to the local signal if such subscriber elects a switch or fails to respond.

Requires the FCC to revise the regulations relating to notice to television broadcast stations of a satellite carrier's intention to commence carriage of signals of that station to the local market. Requires a satellite carriers that proposes to commence the retransmission of the signal of a significantly viewed station to give any local television broadcast station

60 days notice.

(Sec. 206) Requires a satellite carrier to notify a subscriber at the time of entering an agreement, and annually thereafter, in a separate written statement which clearly and conspicuously informs the subscriber of: (1) the nature of personally identifiable to be collected and its use; (2) the nature, frequency and purpose of any disclosure which may be made of such information; (3) the period such information will be maintained by the satellite carrier; (4) the time and place at which the subscriber may have access to such information; and (5) the limitations provided by this Act and the subscribers right to enforce such limitations.

Prohibits a satellite carrier from using any of its facilities to collect a subscriber's personally identifiable information without the prior consent of the subscriber, but allows the satellite carrier to collect such information to: (1) render a service to the subscriber; or (2) detect unauthorized reception of satellite communications.

Prohibits the unauthorized disclosure of personally identifiable subscriber information. Requires a satellite carrier to prevent unauthorized access to such information. Allows a satellite carrier to disclose such information: (1) if necessary to render or conduct a legitimate business activity related to a service provided; (2) pursuant to a court order if the subscriber is notified; (3) to any satellite or other service, with specified limitations ; or (4) to an authorized government entity, except that such information may not include records revealing satellite subscriber selection of video programming.

Requires the satellite carrier to: (1) provide a subscriber access to all personally identifiable information about the subscriber collected and maintained by the carrier; (2) give such subscriber an opportunity to correct such information; and (3) destroy such information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to it.

Sets forth penalties for violations of this section, including punitive damages and attorney's fees.

(Sec. 207) Prohibits a multichannel video programming distributor from failing to negotiate in good faith for retransmission consent. Provides that it is not a failure to negotiate in good faith if the distributor enters into retransmission consent agreements containing different terms and conditions with different broadcast stations based on competitive marketplace considerations.

(Sec. 208) Directs the FCC to initiate an inquiry and report to relevant congressional committees by December 31, 2005, on the appropriate methodologies for determining which consumers are in locations where they will be unable, after analog television services are discontinued, to receive broadcast digital television signals from a station's permanent digital television channel of sufficient intensity using receiving terrestrial outdoor antennas of reasonable cost and ease of installation.

(Sec. 209) Requires the FCC to exempt requests for a signal intensity test from the requirement to verify the signal by means of an independent test if such request was made by a subscriber: (1) to whom the retransmission of the local signal is available from such carrier; or (2) for whom the model predicts a signal intensity that exceeds the standard by such number of decibels as the FCC specifies. Allows a subscriber who is predicted to receive a signal that meets or exceeds such signal intensity standard and who resides in a local market in which the satellite carrier does not offer local signals to conduct a signal intensity test by an approved tester at the subscriber's own expense for the purpose of determining the subscriber's eligibility for distant signals.

Actions Timeline

- **Oct 7, 2004:** Received in the Senate.
- **Oct 6, 2004:** Mr. DeLay moved to suspend the rules and pass the bill, as amended.
- **Oct 6, 2004:** Considered under suspension of the rules. (consideration: CR H8210-8224)
- **Oct 6, 2004:** DEBATE - The House proceeded with forty minutes of debate on H.R. 4518.
- **Oct 6, 2004:** Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote.(text: CR H8210-8217)
- **Oct 6, 2004:** On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. (text: CR H8210-8217)
- **Oct 6, 2004:** Motion to reconsider laid on the table Agreed to without objection.
- **Oct 6, 2004:** The title of the measure was amended. Agreed to without objection.
- **Sep 7, 2004:** Reported (Amended) by the Committee on Judiciary. H. Rept. 108-660.
- **Sep 7, 2004:** Reported (Amended) by the Committee on Judiciary. H. Rept. 108-660.
- **Sep 7, 2004:** Placed on the Union Calendar, Calendar No. 402.
- **Jul 7, 2004:** Committee Consideration and Mark-up Session Held.
- **Jul 7, 2004:** Ordered to be Reported (Amended) by Voice Vote.
- **Jul 1, 2004:** Subcommittee on Courts, the Internet, and Intellectual Property Discharged.
- **Jun 28, 2004:** Referred to the Subcommittee on Courts, the Internet, and Intellectual Property.
- **Jun 4, 2004:** Introduced in House
- **Jun 4, 2004:** Introduced in House
- **Jun 4, 2004:** Referred to the House Committee on the Judiciary.