

S 3304

Twenty-First Century Communications and Video Accessibility Act of 2010

Congress: 111 (2009–2011, Ended)

Chamber: Senate

Policy Area: Science, Technology, Communications

Introduced: May 4, 2010

Current Status: By Senator Rockefeller from Committee on Commerce, Science, and Transportation filed written report.

Latest Action: By Senator Rockefeller from Committee on Commerce, Science, and Transportation filed written report.

Report No. 111-386. (Dec 22, 2010)

Law: 111-260 (Enacted Dec 22, 2010)

Official Text: <https://www.congress.gov/bill/111th-congress/senate-bill/3304>

Sponsor

Name: Sen. Pryor, Mark L. [D-AR]

Party: Democratic • **State:** AR • **Chamber:** Senate

Cosponsors (5 total)

| Cosponsor | Party / State | Role | Date Joined |
|---------------------------------|---------------|------|--------------|
| Sen. Conrad, Kent [D-ND] | D · ND | | May 4, 2010 |
| Sen. Dorgan, Byron L. [D-ND] | D · ND | | May 4, 2010 |
| Sen. Kerry, John F. [D-MA] | D · MA | | May 4, 2010 |
| Sen. Schumer, Charles E. [D-NY] | D · NY | | Aug 4, 2010 |
| Sen. Ensign, John [R-NV] | R · NV | | Sep 14, 2010 |

Committee Activity

| Committee | Chamber | Activity | Date |
|---|---------|----------------------------|--------------|
| Commerce, Science, and Transportation Committee | Senate | Hearings By (subcommittee) | May 26, 2010 |

Subjects & Policy Tags

Policy Area:

Science, Technology, Communications

Related Bills

| Bill | Relationship | Last Action |
|-------------|--------------|--|
| 111 S 3828 | Related bill | Oct 8, 2010: Became Public Law No: 111-265. |
| 111 HR 3101 | Related bill | Aug 5, 2010: Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 513. |

Twenty-First Century Communications and Video Accessibility Act of 2010 - **Title I: Communications Access** - (Sec. 102) Amends the Communications Act of 1934 (the Act) to require the Federal Communications Commission (FCC) to require that customer premises equipment provide internal means for effective use with hearing aids that are designed to be compatible with telephones which meet established technical standards for hearing aid compatibility. Describes "customer premises equipment" as: (1) all essential telephones (coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids); (2) all U.S telephones (other than for export) manufactured more than one year after the date of enactment of the Hearing Aid Compatibility Act of 1988 or imported for use in the United States more than one year after such date; and (3) all customer premises equipment used with advanced communications services that is designed to provide two-way voice communication via a built-in speaker intended to be held to the ear in a manner functionally equivalent to a telephone.

(Sec. 103) Defines the term "telecommunications relay services" to mean telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.

Requires, within one year after the date of enactment of this Act, each interconnected Voice over Internet Protocol (VoIP) service provider and each provider of non-interconnected VoIP service to participate in and contribute to the Telecommunications Relay Services Fund.

(Sec. 104) Requires, with respect to equipment manufactured after the effective date of the regulations required under this section: (1) a manufacturer of equipment used for advanced communications services, including end user equipment, network equipment, and software, to ensure that the equipment and software that such manufacturer offers for sale or otherwise distributes in interstate commerce will be accessible to and usable by individuals with disabilities, unless such requirements are not achievable; and (2) a provider of advanced communications services to ensure that such services offered by such provider in or affecting interstate commerce are accessible to and usable by individuals with disabilities, unless such requirements of this subsection are not achievable. Requires, whenever the preceding requirements are not achievable, a manufacturer or provider to ensure that its equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, unless such requirement is not achievable.

Requires, within one year after the enactment of this Act, the FCC to promulgate specified implementing regulations.

Defines the term "achievable" to mean with reasonable effort or expense, as determined by the FCC and requires, in determining whether the requirements are achievable, the FCC to consider specified factors.

Authorizes the FCC to waive the requirements of this section for: (1) any feature or function of equipment used to provide or access advanced communications services, or for any class of such equipment, for any provider of advanced communications services, or for any class of such services, that is capable of accessing an advanced communications service and is designed for multiple purposes, but is designed primarily for purposes other than using advanced communications services; or (2) small entities.

Makes the requirements of this section inapplicable to customized equipment or services that are not offered directly to

the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Prohibits construing this section so as to require a manufacturer of equipment used for advanced communications or a provider of advanced communications services to make every feature and function of every device or service accessible for every disability.

Requires, within one year after the date of enactment of this Act, the FCC to establish regulations that facilitate the filing of formal and informal complaints that allege a violation of the Act concerning access by persons with disabilities or other provisions of this section, establish procedures for FCC enforcement actions with respect to such violations, and implement specified recordkeeping obligations for manufacturers and providers.

Requires the FCC to report to Congress every two years concerning compliance, accessibility barriers, the number and nature of complaints, and an assessment of the requirements of this section on the development and deployment of new communications technologies.

Requires the Comptroller General (CG) to report on the FCC's compliance with the deadlines of this section, the appropriateness of the FCC's enforcement actions, and whether, and to what extent (if any), the requirements of this section have an effect on the development and deployment of new communications technologies.

Requires the FCC to establish a clearinghouse of information on the availability of accessible products and services and accessibility solutions required for persons with disabilities under this section. Requires the FCC, upon the establishment of the clearinghouse, to conduct an informational and educational program designed to inform the public about the availability of the clearinghouse and the protections and remedies available under this section.

Requires that when a manufacturer of a telephone used with public mobile services includes an Internet browser in such telephone or when the provider of mobile service arranges for the inclusion of a browser in telephones to sell to customers, the manufacturer or provider must ensure that the functions of the included browser (including the ability to launch the browser) are accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable, subject to exception. Makes the provisions of the preceding sentence effective three years following the enactment of this Act.

Subjects a manufacturer or service provider determined by the FCC to have violated any of this section's requirements, to a forfeiture penalty of not more than \$100,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$1 million for any single act or failure to act.

(Sec. 105) Requires the FCC, within six months after the date of enactment of this Act, to establish rules that define as eligible for relay service support those programs that are FCC approved for the distribution of specialized customer premises equipment designed to make telecommunications service, Internet access service, and advanced communications, including interexchange services and advanced telecommunications and information services, accessible by individuals who are deaf-blind. Authorizes the FCC to provide up to \$10 million support annually from its interstate relay fund.

(Sec. 106) Requires the FCC to establish the Emergency Access Advisory Committee for the purpose of achieving equal access to emergency services by individuals with disabilities, as a part of the migration to a national Internet protocol-enabled emergency network.

Requires the Committee to conduct a national survey of individuals with disabilities to determine the most effective and

efficient technologies and methods by which to enable access to emergency services by individuals with disabilities and to develop and submit to the FCC recommendations to implement such technologies and methods.

Title II: Video Programming - (Sec. 201) Requires the FCC to establish the Video Programming and Emergency Access Advisory Committee to: (1) recommend a schedule of deadlines for the provision of closed captioning service; (2) identify the performance requirement for protocols, technical capabilities, and technical procedures needed to permit content providers, content distributors, Internet service providers, software developers, and device manufacturers to reliably encode, transport, receive, and render closed captions of video programming, except for consumer generated media, delivered using Internet protocol; (3) identify additional protocols, technical capabilities, and technical procedures beyond those available as of the date of enactment of the this Act of for the delivery of closed captions of video programming, except for consumer generated media, delivered using Internet protocol that are necessary to meet such performance objectives; (4) recommend technical standards to address the performance objectives; and (5) recommend any regulations that may be necessary to ensure compatibility between video programming, except for consumer generated media, delivered using Internet protocol and devices capable of receiving and displaying such programming in order to facilitate access to closed captions. Sets forth reporting requirements.

(Sec. 202) Requires the FCC, one year after the date of enactment of this Act, to reinstate (modified, as specified) the video description regulations contained in the Implementation of Video Description of Video Programming Report and Order. Requires the FCC to commence specified inquiries after the phase-in of the reinstated regulations. Prohibits the FCC from issuing additional regulations unless it determines, at least two years after completing the inquiries, that the need for and benefits of providing video description for video programming, insofar as such programming is transmitted for display on television, are greater than the technical and economic costs of providing such additional programming. Sets a schedule for the phase-in of video description regulations. Requires the FCC to submit a specified report assessing video programming. Defines: (1) "video description" as the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue; and (2) "video programming" as programming by, or generally considered comparable to programming provided by a television broadcast station, but not including consumer-generated media.

Requires the FCC to identify methods to convey accessible emergency information to blind or visually impaired individuals and promulgate regulations that require video programming providers and video programming distributors and program owners to convey such emergency information in a manner accessible to individuals who are blind or visually impaired.

Sets a deadline for the FCC to revise regulations requiring the provision of closed captioning on video programming delivered using Internet protocol.

(Sec. 203) Revises provisions concerning closed caption decoder circuitry and video description capability. Requires, generally, that, if technically feasible, apparatus designed to receive or play back video programming transmitted simultaneously with sound, if such apparatus is manufactured in the United States or imported for use in the United States and uses a picture screen of any size: (1) be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming; (2) have the capability to decode and make available the transmission and delivery of video description services as required by the reinstated regulations; and (3) have the capability to decode and make available emergency information in a manner that is accessible to individuals who are blind or visually impaired. Sets forth provisions concerning picture screens less than 13 inches and waivers and exemptions from the preceding requirements.

Requires the FCC to require that: (1) if achievable, apparatus designed to record video programming transmitted simultaneously with sound, if such apparatus is manufactured in the United States or imported for use in the United States, enable the rendering or the pass through of closed captions, video description signals, and emergency information such that viewers are able to activate and de-activate the closed captions and video description as the video programming is played back on a picture screen of any size; and (2) interconnection mechanisms and standards for digital video source devices are available to carry from the source device to the consumer equipment the information necessary to permit or render the display of closed captions and to make encoded video description and emergency information audible.

(Sec. 204) Requires the FCC to require that: (1) if achievable, digital apparatus designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, be designed, developed, and fabricated so that control of appropriate built-in apparatus functions are accessible to and usable by individuals who are blind or visually impaired, except that the Commission may not specify the technical standards, protocols, procedures, and other technical requirements for meeting this requirement; (2) if on-screen text menus or other visual indicators built in to the digital apparatus are used to access the functions of the apparatus described in clause (1), such functions shall be accompanied by audio output that is either integrated or peripheral to the apparatus, so that such menus or indicators are accessible to and usable by individuals who are blind or visually impaired in real-time; (3) for such apparatus equipped with the functions described in clauses (1) and (2), built in access to those closed captioning and video description features through a mechanism be reasonably comparable to a button, key, or icon designated by activating the closed captioning or accessibility features; and (4) in applying this section the term "apparatus" does not include a navigation device.

(Sec. 205) Requires the FCC to require that: (1) if achievable, the on-screen text menus and guides provided by navigation devices for the display or selection of multichannel video programming are audibly accessible in real-time upon request by individuals who are blind or visually impaired, except that the FCC may not specify the technical standards, protocols, procedures, and other technical requirements for meeting this requirement; and (2) for navigation devices with built-in closed captioning capability, access to that capability through a mechanism is reasonably comparable to a button, key, or icon designated for activating the closed captioning, or accessibility features.

Actions Timeline

- **Dec 22, 2010:** By Senator Rockefeller from Committee on Commerce, Science, and Transportation filed written report. Report No. 111-386.
- **Oct 8, 2010:** Signed by President.
- **Oct 8, 2010:** Became Public Law No: 111-260.
- **Sep 30, 2010:** Presented to President.
- **Sep 28, 2010:** Mr. Markey (MA) moved to suspend the rules and pass the bill.
- **Sep 28, 2010:** Considered under suspension of the rules. (consideration: CR H7168-7176)
- **Sep 28, 2010:** DEBATE - The House proceeded with forty minutes of debate on S. 3304.
- **Sep 28, 2010:** Passed/agreed to in House: On motion to suspend the rules and pass the bill Agreed to by voice vote.(text: CR H7168-7175)
- **Sep 28, 2010:** On motion to suspend the rules and pass the bill Agreed to by voice vote. (text: CR H7168-7175)
- **Sep 28, 2010:** Motion to reconsider laid on the table Agreed to without objection.
- **Sep 28, 2010:** Cleared for White House.
- **Aug 9, 2010:** Received in the House.
- **Aug 9, 2010:** Held at the desk.
- **Aug 6, 2010:** Message on Senate action sent to the House.
- **Aug 5, 2010:** Measure laid before Senate by unanimous consent. (consideration: CR S6983-6989; text of measure as reported in Senate: CR S6983-6989)
- **Aug 5, 2010:** Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent.
- **Aug 5, 2010:** Passed Senate with an amendment by Unanimous Consent.
- **Aug 3, 2010:** Committee on Commerce, Science, and Transportation. Reported by Senator Rockefeller with an amendment in the nature of a substitute. Without written report.
- **Aug 3, 2010:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 509.
- **Jul 15, 2010:** Committee on Commerce, Science, and Transportation. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **May 26, 2010:** Committee on Commerce, Science, and Transportation Subcommittee on Communications and Technology. Hearings held.
- **May 4, 2010:** Introduced in Senate
- **May 4, 2010:** Read twice and referred to the Committee on Commerce, Science, and Transportation.