

HR 3570

Satellite Home Viewer Reauthorization Act of 2009

Congress: 111 (2009–2011, Ended)

Chamber: House

Policy Area: Science, Technology, Communications

Introduced: Sep 15, 2009

Current Status: Received in the Senate and Read twice and referred to the Committee on the Judiciary.

Latest Action: Received in the Senate and Read twice and referred to the Committee on the Judiciary. (Dec 3, 2009)

Official Text: <https://www.congress.gov/bill/111th-congress/house-bill/3570>

Sponsor

Name: Rep. Conyers, John, Jr. [D-MI-14]

Party: Democratic • **State:** MI • **Chamber:** House

Cosponsors (3 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Boucher, Rick [D-VA-9]	D · VA		Sep 15, 2009
Rep. Johnson, Henry C. "Hank," Jr. [D-GA-4]	D · GA		Sep 15, 2009
Rep. Wasserman Schultz, Debbie [D-FL-20]	D · FL		Sep 15, 2009

Committee Activity

Committee	Chamber	Activity	Date
Homeland Security Committee	House	Bills of Interest - Exchange of Letters	Sep 22, 2010
Judiciary Committee	House	Reported By	Oct 28, 2009
Judiciary Committee	Senate	Referred To	Dec 3, 2009

Subjects & Policy Tags

Policy Area:

Science, Technology, Communications

Related Bills

No related bills are listed.

Satellite Home Viewer Reauthorization Act of 2009 - **Title I: Statutory Licenses** - (Sec. 102) Requires a satellite carrier whose secondary transmissions are subject to statutory licensing to deposit a filing fee semiannually with the Register of Copyrights.

Declares that a secondary transmission is not an infringement in certain circumstances (such as being made to the American Red Cross or a federal governmental body designated by the Office of Emergency Communications) related to preparing for, responding to, or recovering from a major disaster, a catastrophic incident, an act of terrorism, or a transportation security incident. Requires a related annual report to Congress, including to whom and for what purposes the secondary transmissions are being provided.

Applies statutory licensing provisions to systems of three or more noncommercial educational broadcast stations licensed by a single state, public agency, or political, educational, or special purpose subdivision of a state only if the subscriber is located in a designated market area (DMA) that is not otherwise eligible to receive the secondary transmission of the primary transmission.

Revises requirements regarding the royalty fee a satellite carrier making secondary transmissions is required to make semiannually.

Applies various existing provisions to digital transmissions by removing the word "analog."

Modifies requirements regarding the setting of the statutory licensing fee.

Shifts certain tasks from the Librarian of Congress to the Copyright Royalty Judges.

Extends through December 31, 2014 the earliest date through which voluntary royalty agreements remain in effect. (Current law makes December 31, 2009, the earliest date.)

Revises requirements regarding the establishment of royalty fees for secondary transmissions of network and non-network stations.

Redesignates superstations as non-network stations.

Applies statutory licensing provisions to local-into-local satellite secondary transmission of a low power station's programming unless the station retransmits programs and signals for more than two hours each day.

Removes provisions requiring statutory licenses for secondary transmissions of significantly viewed signals.

Requires that a specified predictive model be used to determine presumptively whether a person resides in an unserved household with respect to digital signals.

Revises requirements regarding local-into-local satellite retransmissions.

Increases the maximum statutory damages for violation of territorial restrictions: (1) for willful or repeated individual violations, from \$5 to \$250 per month for each subscriber to whom the secondary transmission was inappropriately sent; and (2) for a willful or repeated pattern of violations, from \$250,000 to \$2.5 million for each 3-month period. Requires that one-half of any statutory damages for a willful or repeated pattern of violations be deposited with the Register of Copyrights for distribution to copyright owners whose works were included in the secondary transmissions that were the

subject of the damages.

Extends through December 31, 2014 the copyright liability moratorium (current law terminates the moratorium on December 31, 2009) allowing a subscriber who does not receive a signal of Grade A intensity of a local network broadcast station to receive signals of network stations affiliated with the same network, if that subscriber had satellite service terminated after July 11, 1998, and before October 31, 1999 or received such service on October 31, 1999.

(Sec. 103) Requires statutory licenses for secondary transmissions into a station's local market relating to significantly viewed stations or low power programming.

Revises requirements regarding reports satellite carriers must submit to network stations.

Increases the maximum statutory damages for violation of territorial restrictions: (1) for willful or repeated individual violations, from \$5 to \$250 per month for each subscriber to whom the secondary transmission was inappropriately sent; and (2) for of a willful or repeated pattern of violations, from \$250,000 to \$2.5 million for each 6-month period.

(Sec. 104) Declares that a secondary transmission is not an infringement if it is made by a cable system in certain circumstances (such as being made to the American Red Cross or a federal governmental body designated by the Office of Emergency Communications) related to emergency preparation, response, or recovery. Requires a related report to Congress.

Modifies requirements regarding the calculation of secondary transmission statutory license semiannual deposits cable systems must make with the Register of Copyrights.

Modifies various definitions, including defining certain terms to include references to primary streams and multicast streams.

(Sec. 105) Requires, when an injunction that was imposed on a carrier before enactment of this Act because of a willful or repeated pattern or practice of delivering a primary transmission to subscribers who are not eligible to receive the transmission, waiver of the injunction if the carrier is providing local-into-local service to all DMAs and the Federal Communications Commission (FCC) certifies that: (1) the carrier's beams are designed and predicted to provide a good quality signal to at least 90% of households; and (2) there is no material evidence that there has been a satellite or subsystem failure after the satellite's launch that precludes providing a good signal to at least that percentage.

Requires the Comptroller General to report to the court issuing the injunction, the Register of Copyrights, and Congress on the qualified carrier's compliance with the royalty payment and household eligibility requirements.

Requires an entity recognized as a qualified carrier to continue to provide local-into-local service to all DMAs. Imposes penalties for violations. Declares that an entity provides local-into-local service to all DMAs if the entity provides local service in all DMAs with a good quality satellite signal to at least 90% of the households in a DMA.

(Sec. 106) Ends, on December 31, 2014, the effectiveness of provisions relating to limitations on exclusive rights regarding secondary transmissions of distant television programming by satellite.

(Sec. 107) Requires the Copyright Royalty Judges to establish a surcharge or surcharges to be paid (in addition to royalty fees) by cable systems subject to statutory licensing and satellite carriers whose secondary transmissions are subject to statutory licensing.

Title II: Communications Provisions - (Sec. 202) Amends the Communications Act of 1934 to extend to December 31, 2014, the termination of provisions allowing satellite retransmission of network station signals (without the station's consent) to a subscriber who is located outside of the local market of the station and resides in an unserved household. (Current law terminates those provisions on December 31, 2009.)

(Sec. 203) Allows a satellite carrier to retransmit a significantly viewed signal of a station located outside of the local market in which a subscriber is located, but: (1) only for subscribers receiving local-into-local (currently, analog local-into-local) service; or (2) regarding high definition (HD) signals, only if the carrier also retransmits available HD signals of a station in the local market of the subscriber and affiliated with the same network.

(Sec. 204) Allows a carrier to retransmit HD signals to a reception antenna separate from the one for non-HD signals.

Revises the rules regarding: (1) the reception of distant signals by certain grandfathered and nongrandfathered subscribers; (2) models for predicting the reception level; and (3) on-location testing of reception levels.

Requires the FCC to study and report to Congress regarding whether, for purposes of identifying if a household is unserved by an adequate digital signal, a specified digital signal strength standard or certain testing procedures should be revised to take into account the types of antennas that are available to and used by consumers.

(Sec. 206) Establishes a process for the FCC to issue a certification for purposes of provisions relating to recognition of carriers as qualified for statutory licensing of local-into-local satellite service.

(Sec. 207) Requires each eligible satellite carrier providing any local-into-local HD secondary transmissions before enactment of this Act to carry the HD signals of qualified noncommercial educational television stations in that local market according to a specified time schedule. Defines "eligible satellite carrier" as any satellite carrier that does not have in effect at enactment of this Act a carriage contract with a qualified noncommercial educational television station.

Title III: Reports - (Sec. 302) Requires the Register of Copyrights to report to Congress on phasing out the statutory licensing requirements in specified provisions by making those provisions inapplicable to the secondary transmission of a primary transmission of a broadcast station that is authorized to license the secondary transmission.

(Sec. 303) Requires the Comptroller General to study and report to Congress on the changes to the carriage requirements currently imposed on multichannel video programming distributors under the Communications Act of 1934 and FCC regulations that would be required by or beneficial to consumers if Congress implemented such a phase-out.

(Sec. 304) Requires the FCC to report to Congress on: (1) the number of households in a state that receive local broadcast stations from a station located in a different state; (2) the extent to which consumers have access to in-state broadcast programming; and (3) whether there are alternatives to the use of DMAs to define local markets that would provide more consumers with in-state broadcast programming.

Title IV: Severability - Requires that if any portion of this Act is held unconstitutional, the remainder of this Act remain in effect.

Actions Timeline

- **Dec 3, 2009:** Considered as unfinished business. (consideration: CR H13494-13495)
- **Dec 3, 2009:** Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 394 - 11 (Roll no. 930).(text: CR 12/2/2009 H13428-13438)
- **Dec 3, 2009:** On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 394 - 11 (Roll no. 930). (text: CR 12/2/2009 H13428-13438)
- **Dec 3, 2009:** Motion to reconsider laid on the table Agreed to without objection.
- **Dec 3, 2009:** The title of the measure was amended. Agreed to without objection.
- **Dec 3, 2009:** Received in the Senate and Read twice and referred to the Committee on the Judiciary.
- **Dec 2, 2009:** Mr. Conyers moved to suspend the rules and pass the bill, as amended.
- **Dec 2, 2009:** Considered under suspension of the rules. (consideration: CR H13428-13443)
- **Dec 2, 2009:** DEBATE - The House proceeded with forty minutes of debate on H.R. 3570.
- **Dec 2, 2009:** At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 8, rule XX, the Chair announced that further proceedings on the motion would be postponed.
- **Oct 28, 2009:** Reported (Amended) by the Committee on Judiciary. H. Rept. 111-319.
- **Oct 28, 2009:** Placed on the Union Calendar, Calendar No. 182.
- **Sep 16, 2009:** Committee Consideration and Mark-up Session Held.
- **Sep 16, 2009:** Ordered to be Reported by the Yeas and Nays: 34 - 0.
- **Sep 15, 2009:** Introduced in House
- **Sep 15, 2009:** Sponsor introductory remarks on measure. (CR E2276-2277)
- **Sep 15, 2009:** Referred to the House Committee on the Judiciary.