

Union Calendar No. 466

103^D CONGRESS
2^D SESSION

H. R. 4522

[Report No. 103-844]

A BILL

To amend the Communications Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, and for other purposes.

OCTOBER 6, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MAY 26, 1994

Mr. MARKEY (for himself and Mr. FIELDS of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce

OCTOBER 6, 1994

Additional sponsor: Mr. BOUCHER

OCTOBER 6, 1994

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[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Communications Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Communica-
3 tions Commission Authorization Act of 1994”.

4 **SEC. 2. EXTENSION OF AUTHORITY.**

5 Section 6 of the Communications Act of 1934 (47
6 U.S.C. 156) is amended to read as follows:

7 **“SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

8 “There are authorized to be appropriated for the ad-
9 ministration of this Act by the Commission \$188,400,000
10 for fiscal year 1995, together with such sums as may be
11 necessary for increases resulting from adjustments in sal-
12 ary, pay, retirement, other employee benefits required by
13 law, and other nondiscretionary costs, for fiscal year 1995.
14 Of the sum appropriated in each fiscal year under this
15 section, a portion, in an amount determined under section
16 9(b), shall be derived from fees authorized by section 9.”.

17 **SECTION 1. SHORT TITLE.**

18 *This Act may be cited as the “Federal Communica-*
19 *tions Commission Authorization Act of 1994”.*

20 **SEC. 2. EXTENSION OF AUTHORITY.**

21 *(a) AUTHORIZATION OF APPROPRIATIONS.—Section 6*
22 *of the Communications Act of 1934 (47 U.S.C. 156) is*
23 *amended to read as follows:*

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26 *ministration of this Act by the Commission \$188,400,000*

1 *for fiscal year 1995, together with such sums as may be*
2 *necessary for increases resulting from adjustments in sal-*
3 *ary, pay, retirement, other employee benefits required by*
4 *law, and other nondiscretionary costs, for fiscal year 1995.*
5 *Of the sum appropriated in each fiscal year under this sec-*
6 *tion, a portion, in an amount determined under sections*
7 *8(b) and 9(b), shall be derived from fees authorized by sec-*
8 *tions 8 and 9.”.*

9 **(b) TRAVEL AND REIMBURSEMENT PROGRAM.**—Sec-
10 *tion 4(g)(2) of the Communications Act of 1934 (47 U.S.C.*
11 *154(g)(2)) is amended to read as follows:*

12 “(2) *The Commission shall submit to the appropriate*
13 *committees of Congress, and publish in the Federal Register,*
14 *semiannual reports specifying the reimbursements which*
15 *the Commission has accepted under section 1353 of title 31,*
16 *United States Code.”.*

17 **(c) COMMUNICATIONS SUPPORT FROM OLDER AMERI-**
18 **CANS.**—Section 6(a) of the Federal Communications Com-
19 *mission Authorization Act of 1988 (47 U.S.C. 154 note) is*
20 *amended by striking “fiscal years 1992 and 1993” and in-*
21 *serting “fiscal year 1995”.*

22 **SEC. 3. APPLICATION FEES.**

23 **(a) ADJUSTMENT OF APPLICATION FEE SCHEDULE.**—
24 *Section 8(b) of the Communications Act of 1934 (47 U.S.C.*
25 *158(b)) is amended to read as follows:*

1 “(b)(1) For fiscal year 1995 and each fiscal year there-
2 after, the Commission shall, by regulation, modify the ap-
3 plication fees by proportionate increases or decreases so as
4 to result in estimated total collections for the fiscal year
5 equal to—

6 “(A) \$40,000,000; plus

7 “(B) an additional amount, specified in an ap-
8 propriation Act for the Commission for that fiscal
9 year to be collected and credited to such appropria-
10 tion, not to exceed the amount by which the necessary
11 expenses for the costs described in paragraph (5) ex-
12 ceeds \$40,000,000.

13 “(2) In making adjustments pursuant to this para-
14 graph the Commission may round such fees to the nearest
15 \$5.00 in the case of fees under \$100, or to the nearest \$20
16 in the case of fees of \$100 or more. The Commission shall
17 transmit to the Congress notification of any adjustment
18 made pursuant to this paragraph immediately upon the
19 adoption of such adjustment.

20 “(3) The Commission is authorized to continue to col-
21 lect fees at the prior year’s rate until the effective date of
22 fee adjustments or amendments made pursuant to para-
23 graphs (1) and (4).

24 “(4) The Commission shall, by regulation, add, delete,
25 or reclassify services, categories, applications, or other fil-

1 *ings subject to application fees to reflect additions, dele-*
2 *tions, or changes in the nature of its services or authoriza-*
3 *tion of service processes as a consequence of Commission*
4 *rulemaking proceedings or changes in law.*

5 “(5) Any modified fees established under paragraph
6 (4) shall be derived by determining the full-time equivalent
7 number of employees performing application activities, ad-
8 justed to take into account other expenses that are reason-
9 ably related to the cost of processing the application or fil-
10 ing, including all executive and legal costs incurred by the
11 Commission in the discharge of these functions, and other
12 factors that the Commission determines are necessary in the
13 public interest. The Commission shall—

14 “(A) transmit to the Congress notification of any
15 proposed modification made pursuant to this para-
16 graph immediately upon adoption of such proposal;
17 and

18 “(B) transmit to the Congress notification of any
19 modification made pursuant to this paragraph imme-
20 diately upon adoption of such modification.

21 “(6) Increases or decreases in application fees made
22 pursuant to this subsection shall not be subject to judicial
23 review.”.

24 (b) TREATMENT OF ADDITIONAL COLLECTIONS.—Sec-
25 tion 8(e) of such Act is amended to read as follows:

1 “(e) Of the moneys received from fees authorized under
2 this section—

3 “(1) \$40,000,000 shall be deposited in the gen-
4 eral fund of the Treasury to reimburse the United
5 States for amounts appropriated for use by the Com-
6 mission in carrying out its functions under this Act;
7 and

8 “(2) the remainder shall be deposited as an off-
9 setting collection in, and credited to, the account pro-
10 viding appropriations to carry out the functions of
11 the Commission.”.

12 (c) *SCHEDULE OF APPLICATION FEES FOR PCS.*—The
13 schedule of application fees in section 8(g) of such Act is
14 amended by adding, at the end of the portion under the
15 heading “COMMON CARRIER SERVICES”, the following new
16 item:

“23. Personal communications services	
“a. Initial or new application	230
“b. Amendment to pending application	35
“c. Application for assignment or transfer of control	230
“d. Application for renewal of license	35
“e. Request for special temporary authority	200
“f. Notification of completion of construction	35
“g. Request to combine service areas	50”.

17 (d) *VANITY CALL SIGNS.*—

18 (1) *LIFETIME LICENSE FEES.*—

19 (A) *AMENDMENT.*—The schedule of applica-
20 tion fees in section 8(g) of such Act is further
21 amended by adding, at the end of the portion

1 under the heading “PRIVATE RADIO SERVICES”,
2 the following new item:

“11. Amateur vanity call signs 150.00”.

3 (B) TREATMENT OF RECEIPTS.—Moneys re-
4 ceived from fees established under the amendment
5 made by this subsection shall be deposited as an
6 offsetting collection in, and credited to, the ac-
7 count providing appropriations to carry out the
8 functions of the Commission.

9 (2) TERMINATION OF ANNUAL REGULATORY
10 FEES.—The schedule of regulatory fees in section 9(g)
11 of such Act (47 U.S.C. 159(g)) is amended by striking
12 the following item from the fees applicable to the Pri-
13 vate Radio Bureau:

“Amateur vanity call-signs 7”.

14 **SEC. 4. REGULATORY FEES.**

15 (a) EXECUTIVE AND LEGAL COSTS.—Section 9(a)(1)
16 of the Communications Act of 1934 (47 U.S.C. 159(a)(1))
17 is amended by inserting before the period at the end the
18 following: “, and all executive and legal costs incurred by
19 the Commission in the discharge of these functions”.

20 (b) ESTABLISHMENT AND ADJUSTMENT.—Section 9(b)
21 of such Act is amended—

22 (1) in paragraph (4)(B), by striking “90 days”
23 and inserting “45 days”; and

1 (2) by adding at the end the following new para-
2 graph:

3 “(5) *EFFECTIVE DATE OF ADJUSTMENTS.*—The
4 Commission is authorized to continue to collect fees at
5 the prior year’s rate until the effective date of fee ad-
6 justments or amendments made pursuant to para-
7 graph (2) or (3).”.

8 (c) *REGULATORY FEES FOR SATELLITE TV OPER-*
9 *ATIONS.*—The schedule of regulatory fees in section 9(g) of
10 such Act is amended, in the fees applicable to the Mass
11 Media Bureau, by inserting after each of the items pertain-
12 ing to construction permits in the fees applicable to VHF
13 commercial and UHF commercial TV the following new
14 item:

“Terrestrial television satellite operations 500”.

15 (d) *GOVERNMENTAL ENTITIES USE FOR COMMON CAR-*
16 *RIER PURPOSES.*—Section 9(h) of such Act is amended by
17 adding at the end the following new sentence: “The excep-
18 tions provided by this subsection for governmental entities
19 shall not be applicable to any services that are provided
20 on a commercial basis in competition with another car-
21 rier.”.

22 (e) *INFORMATION REQUIRED IN CONNECTION WITH*
23 *ADJUSTMENT OF REGULATORY FEES.*—Title I of such Act
24 is amended—

1 (1) in section 9, by striking subsection (i); and
2 (2) by inserting after section 9 the following new
3 section:

4 **“SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFOR-**
5 **MATION.**

6 “(a) *ACCOUNTING SYSTEM REQUIRED.*—The Commis-
7 sion shall develop accounting systems for the purposes of
8 making the adjustments authorized by sections 8 and 9. The
9 Commission shall annually prepare and submit to the Con-
10 gress an analysis of such systems and shall annually afford
11 interested persons the opportunity to submit comments con-
12 cerning the allocation of the costs of performing the func-
13 tions described in section 8(a)(5) and 9(a)(1) in making
14 such adjustments in the schedules required by sections 8 and
15 9.

16 “(b) *INFORMATION REQUIRED IN CONNECTION WITH*
17 *ADJUSTMENT OF APPLICATION AND REGULATORY FEES.*—

18 “(1) *SCHEDULE OF REQUESTED AMOUNTS.*—No
19 later than May 1 of each calendar year, the Commis-
20 sion shall prepare and transmit to the Committees of
21 Congress responsible for the Commission’s authoriza-
22 tion and appropriations a detailed schedule of the
23 amounts requested by the President’s budget to be ap-
24 propriated for the ensuing fiscal year for the activi-
25 ties described in sections 8(a)(5) and 9(a)(1), allo-

1 *cated by bureaus, divisions, and offices of the Com-*
2 *mission.*

3 “(2) *EXPLANATORY STATEMENT.*—*If the Com-*
4 *mission anticipates increases in the application fees*
5 *or regulatory fees applicable to any applicant, li-*
6 *icensee, or unit subject to payment of fees, the Com-*
7 *mission shall submit to the Congress by May 1 of such*
8 *calendar year a statement explaining the relationship*
9 *between any such increases and either (A) increases*
10 *in the amounts requested to be appropriated for Com-*
11 *mission activities in connection with such applicants,*
12 *licensees, or units subject to payment of fees, or (B)*
13 *additional activities to be performed with respect to*
14 *such applicants, licensees, or units.*

15 “(3) *DEFINITION.*—*For purposes of this sub-*
16 *section, the term ‘amount requested by the President’s*
17 *budget’ shall include any adjustments to such requests*
18 *that are made by May 1 of such calendar year. If any*
19 *such adjustment is made after May 1, the Commis-*
20 *sion shall provide such Committees with updated*
21 *schedules and statements containing the information*
22 *required by this subsection within 10 days after the*
23 *date of any such adjustment.”.*

1 **SEC. 5. INSPECTION OF SHIP RADIO STATIONS.**

2 (a) *AUTHORITY TO DESIGNATE ENTITIES TO IN-*
3 *SPECT.*—Section 4(f)(3) of the Communications Act of 1934
4 (47 U.S.C. 154(f)(3)) is amended by adding at the end the
5 following: “And provided further, That, in the alternative,
6 an entity designated by the Commission may make the in-
7 spections referred to in this paragraph.”.

8 (b) *CONDUCT OF INSPECTIONS.*—Section 362(b) of
9 such Act (47 U.S.C. 362(b)) is amended to read as follows:
10 “(b) Every ship of the United States that is subject
11 to this part shall have the equipment and apparatus pre-
12 scribed therein inspected at least once each year by the Com-
13 mission or an entity designated by the Commission. If, after
14 such inspection, the Commission is satisfied that all rel-
15 evant provisions of this Act and the station license have
16 been complied with, the fact shall be certified to on the sta-
17 tion license by the Commission. The Commission shall make
18 such additional inspections at frequent intervals as the
19 Commission determines may be necessary to ensure compli-
20 ance with the requirements of this Act. The Commission
21 may, upon a finding that the public interest could be served
22 thereby—

23 “(1) waive the annual inspection required under
24 this section for a period of up to 90 days for the sole
25 purpose of enabling a vessel to complete its voyage

1 *and proceed to a port in the United States where an*
2 *inspection can be held; or*

3 “(2) waive the annual inspection required under
4 *this section for a vessel that is in compliance with the*
5 *radio provisions of the Safety Convention and that is*
6 *operating solely in waters beyond the jurisdiction of*
7 *the United States, provided that such inspection shall*
8 *be performed within 30 days of such vessel’s return to*
9 *the United States.”.*

10 (c) *INSPECTION BY OTHER ENTITIES.*—Section 385 of
11 *such Act (47 U.S.C. 385) is amended by inserting “or an*
12 *entity designated by the Commission” after “The Commis-*
13 *sion”.*

14 **SEC. 6. EXPEDITED ITFS PROCESSING.**

15 Section 5(c)(1) of the Communications Act of 1934 (47
16 U.S.C. 155(c)(1)) is amended by striking the last sentence
17 and inserting the following: “Except for cases involving the
18 authorization of service in the Instructional Television
19 Fixed Service, or as otherwise provided in this Act, nothing
20 in this paragraph shall authorize the Commission to pro-
21 vide for the conduct, by any person or persons other than
22 persons referred to in paragraph (2) or (3) of section 556(b)
23 of title 5, United States Code, of any hearing to which such
24 section applies.”.

1 **SEC. 7. TARIFF REJECTION AUTHORITY.**

2 *Section 203(d) of the Communications Act of 1934 (47*
3 *U.S.C. 203(d)) is amended by inserting after the first sen-*
4 *tence the following new sentences: “The Commission may,*
5 *after affording interested parties an opportunity to com-*
6 *ment, reject a proposed tariff filing in whole or in part,*
7 *if the filing or any part thereof is patently unlawful. In*
8 *evaluating whether a proposed tariff filing is patently un-*
9 *lawful, the Commission may consider additional informa-*
10 *tion filed by the carrier or any interested party and shall*
11 *presume the facts alleged by the carrier to be true.”.*

12 **SEC. 8. REFUND AUTHORITY.**

13 *Section 220(d) of the Communications Act of 1934 (47*
14 *U.S.C. 220(d)) is amended—*

15 *(1) by inserting “(1)” after “(d)”;* and

16 *(2) by adding at the end the following new para-*
17 *graph:*

18 *“(2) The Commission may require by order the refund*
19 *of such portion of any charge or expenditure by any carrier*
20 *or carriers as results from a violation of paragraph (1) of*
21 *this subsection or of any of the rules promulgated pursuant*
22 *to such paragraph. Such refunds shall be paid, with inter-*
23 *est, to such persons or classes of persons as the Commission*
24 *determines reasonably represent the persons from whom*
25 *amounts were improperly received by reason of such viola-*

1 *tion. No refunds shall be required under this paragraph un-*
2 *less—*

3 “(A) *the Commission issues an order advising*
4 *the carrier of its potential refund liability and pro-*
5 *vides the carrier with an opportunity to file written*
6 *comments as to why refunds should not be required;*
7 *and*

8 “(B) *such order is issued not later than 5 years*
9 *after the date the violation occurred.*

10 *In the case of a continuing violation, a violation shall be*
11 *considered to occur on each date that the violation is re-*
12 *peated. Nothing in this subsection shall be construed to re-*
13 *quire a carrier to retain for such 5 year period records with*
14 *respect to amounts paid by or on behalf of such persons.”.*

15 **SEC. 9. LICENSING OF AVIATION, MARITIME, AND PER-**
16 **SONAL RADIO SERVICES BY RULE.**

17 *Section 307(e) of the Communications Act of 1934 (47*
18 *U.S.C. 307(e)) is amended to read as follows:*

19 “(e)(1) *Notwithstanding any license requirement es-*
20 *tablished in this Act, if the Commission determines that*
21 *such authorization serves the public interest, convenience,*
22 *and necessity, the Commission may by rule authorize the*
23 *operation of radio stations without individual licenses in*
24 *the following radio services: (A) the personal radio services;*
25 *(B) the aviation radio service for aircraft stations operated*

1 *on domestic flights when such aircraft are not otherwise re-*
2 *quired to carry a radio station; and (C) the maritime radio*
3 *service for ship stations navigated on domestic voyages*
4 *when such ships are not otherwise required to carry a radio*
5 *station.*

6 “(2) Any radio station operator who is authorized by
7 the Commission to operate without an individual license
8 shall comply with all other provisions of this Act and with
9 rules prescribed by the Commission under this Act.

10 “(3) For purposes of this subsection, the terms ‘per-
11 sonal radio services’, ‘aircraft station’, and ‘ship station’
12 shall have the meanings given them by the Commission by
13 rule, except that the term ‘personal radio services’ shall not
14 include the amateur service.”

15 **SEC. 10. AUCTION TECHNICAL AMENDMENTS.**

16 (a) *FUNDING AVAILABILITY.*—Section 309(j)(8)(B) of
17 the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B))
18 is amended by adding at the end the following new sentence:
19 “Such offsetting collections are authorized to remain avail-
20 able until expended.”

21 (b) *ESCROW OF DEPOSITS.*—Section 309(j)(8) of such
22 Act is further amended by adding at the end the following
23 new subparagraph:

24 “(C) *ESCROW OF DEPOSIT.*—The Commis-
25 sion is authorized, based on the competitive bid-

1 *tate and encourage amateur radio operation as a*
2 *public benefit.*

3 **SEC. 13. STATUTE OF LIMITATIONS FOR FORFEITURE PRO-**
4 **CEEDINGS AGAINST COMMON CARRIERS.**

5 *Section 503(b)(6) of the Communications Act of 1934*
6 *(47 U.S.C. 503(b)(6)) is amended—*

7 *(1) by striking “or” at the end of subparagraph*
8 *(A);*

9 *(2) by inserting “and is not a common carrier”*
10 *after “title III of this Act” in subparagraph (B);*

11 *(3) by redesignating subparagraph (B) as sub-*
12 *paragraph (C); and*

13 *(4) by inserting after subparagraph (A) the fol-*
14 *lowing new subparagraph:*

15 *“(B) such person is a common carrier and the*
16 *required notice of apparent liability is issued more*
17 *than 5 years after the date the violation charged oc-*
18 *curred; or”.*

19 **SEC. 14. UTILIZATION OF FM BAND FOR ASSISTIVE DEVICES**
20 **FOR HEARING IMPAIRED INDIVIDUALS.**

21 *Within 6 months after the date of enactment of this*
22 *Act, the Federal Communications Commission shall report*
23 *to the Congress on the existing and future use of the FM*
24 *band to facilitate the use of auditory assistive devices for*

1 *individuals with hearing impairments. In preparing such*
2 *report, the Commission shall consider—*

3 *(1) the potential for utilizing FM band auditory*
4 *assistive devices to comply with the Americans with*
5 *Disabilities Act;*

6 *(2) the impact on such compliance of the vulner-*
7 *ability of such devices to harmful interference from*
8 *radio licensees; and*

9 *(3) alternative frequency allocations that could*
10 *facilitate such compliance.*

11 **SEC. 15. TECHNICAL AMENDMENT.**

12 *Section 302(d)(1) of the Communications Act of 1934*
13 *(47 U.S.C. 309(d)(1)) is amended—*

14 *(1) in subparagraph (A), by striking “allocated*
15 *to the domestic cellular radio telecommunications*
16 *service” and inserting “utilized to provide commercial*
17 *mobile service (as defined in section 332(d))”; and*

18 *(2) in subparagraph (C), by striking “cellular”*
19 *and inserting “commercial mobile service”.*

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