

HOUSE BILL No. 5667

January 24, 2008, Introduced by Reps. Rocca, Bieda, Wojno, Marleau, Gaffney, Corriveau, McDowell, Lahti, Polidori, Meltzer, Moss, Pavlov, Garfield, Pearce, Nitz, Vagnozzi, Palmer, David Law, LaJoy, Robertson, Amos, Walker, Caul, Moore, Sheltroun, Ball, Hune, Lindberg, Donigan, Dean, Warren, Virgil Smith, Farrah, Meekhof, Green, Casperson, Brown, Clack, Condino, Mayes, Bauer, Hammon, Gonzales, Spade, Gillard, Byrnes, Lemmons, Espinoza, LeBlanc, Leland, Miller, Melton, Young, Alma Smith, Pastor, Scott, Bennett, Meadows, Brandenburg and Jackson and referred to the Committee on Energy and Technology.

A bill to amend 2006 PA 480, entitled
"Uniform video services local franchise act,"
by amending section 4 (MCL 484.3304).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A video service provider shall designate a
2 sufficient amount of capacity on its network to provide for the
3 same number of public, education, and government access channels
4 that are in actual use on the incumbent video provider system on
5 the effective date of this act or as provided under subsection
6 (14). A VIDEO SERVICE PROVIDER SHALL ENSURE THAT, UNTIL FEBRUARY
7 17, 2009, ANY PUBLIC, EDUCATION, AND GOVERNMENT CHANNEL IS
8 AVAILABLE TO ALL OF ITS SUBSCRIBERS IN THE APPLICABLE FRANCHISE
9 AREA WITHOUT THE NEED FOR ANY EQUIPMENT OTHER THAN THAT NECESSARY
10 TO RECEIVE THE LOWEST TIER OF SERVICE.

1 (2) Any public, education, or government channel provided
2 under this section that is not utilized by the franchising entity
3 for at least 8 hours per day for 3 consecutive months may no longer
4 be made available to the franchising entity and may be programmed
5 at the provider's discretion. At such time as the franchising
6 entity can certify a schedule for at least 8 hours of daily
7 programming for a period of 3 consecutive months, the provider
8 shall restore the previously reallocated channel.

9 (3) The franchising entity shall ensure that all
10 transmissions, content, or programming to be retransmitted by a
11 video service provider is provided in a manner or form that is
12 capable of being accepted and retransmitted by a provider, without
13 requirement for additional alteration or change in the content by
14 the provider, over the particular network of the provider, which is
15 compatible with the technology or protocol utilized by the provider
16 to deliver services.

17 (4) A video service provider may request that an incumbent
18 video provider interconnect with its video system for the sole
19 purpose of providing access to video programming that is being
20 provided over public, education, and government channels for a
21 franchising entity that is served by both providers. Where
22 technically feasible, interconnection shall be allowed under an
23 agreement of the parties. The video service provider and incumbent
24 video provider shall negotiate in good faith and may not
25 unreasonably withhold interconnection. Interconnection may be
26 accomplished by any reasonable method as agreed to by the
27 providers. The requesting video service provider shall pay the

1 construction, operation, maintenance, and other costs arising out
2 of the interconnection, including the reasonable costs incurred by
3 the incumbent provider.

4 (5) The person producing the broadcasts is solely responsible
5 for all content provided over designated public, education, or
6 government channels. A video service provider shall not exercise
7 any editorial control over any programming on any channel designed
8 for public, education, or government use.

9 (6) A video service provider is not subject to any civil or
10 criminal liability for any program carried on any channel
11 designated for public, education, or government use.

12 (7) Except as otherwise provided in subsection (8), a provider
13 shall provide subscribers access to the signals of the local
14 broadcast television station licensed by the federal communications
15 commission to serve those subscribers over the air. This section
16 does not apply to a low-power station unless the station is a
17 qualified low-power station as defined under 47 USC 534(h)(2). A
18 provider is required to only carry digital broadcast signals to the
19 extent that a broadcast television station has the right under
20 federal law or regulation to demand carriage of the digital
21 broadcast signals by a cable operator on a cable system.

22 (8) To facilitate access by subscribers of a video service
23 provider to the signals of local broadcast stations under this
24 section, a station either shall be granted mandatory carriage or
25 may request retransmission consent with the provider.

26 (9) A provider shall transmit, without degradation, the
27 signals a local broadcast station delivers to the provider. A

1 provider is not required to provide a television station valuable
2 consideration in exchange for carriage.

3 (10) A provider shall not do either of the following:

4 (a) Discriminate among or between broadcast stations and
5 programming providers with respect to transmission of their
6 signals, taking into account any consideration afforded the
7 provider by the programming provider or broadcast station. In no
8 event shall the signal quality as retransmitted by the provider be
9 required to be superior to the signal quality of the broadcast
10 stations as received by the provider from the broadcast television
11 station.

12 (b) Delete, change, or alter a copyright identification
13 transmitted as part of a broadcast station's signal.

14 (11) A provider shall not be required to utilize the same or
15 similar reception technology as the broadcast stations or
16 programming providers.

17 (12) A public, education, or government channel shall only be
18 used for noncommercial purposes.

19 (13) Subsections (7) to (11) apply only to a video service
20 provider that delivers video programming in a video service area
21 where the provider is not regulated as a cable operator under
22 federal law.

23 (14) If a franchising entity seeks to utilize capacity
24 designated under subsection (1) or an agreement under section 13 to
25 provide access to video programming over 1 or more public,
26 ~~governmental, and~~ education, **AND GOVERNMENT** channels, the
27 franchising entity shall give the provider a written request

1 specifying the number of channels in actual use on the incumbent
2 video provider's system or specified in the agreement entered into
3 under section 13. The video service provider shall have 90 days to
4 begin providing access as requested by the franchising entity.