

Senate Bill 120

By: Senators Seabaugh of the 28th, Balfour of the 9th, Stoner of the 6th, Chance of the 16th, Hill of the 32nd and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to  
2 telephone and telegraph service, so as to provide legislative findings and intent; to provide  
3 definitions; to provide that no state agency shall impose any requirement on broadband  
4 service, voice over Internet protocol, or wireless service; to provide that existing  
5 requirements are void; to provide for exceptions and construction; to provide an effective  
6 date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone and  
10 telegraph service, is amended by inserting a new article to read as follows:

11 "ARTICLE 6

12 46-5-200.

13 (a) The General Assembly finds:

14 (1) Consumers in Georgia have many communications choices because competition  
15 between various technologies such as those offered by traditional telecommunications  
16 carriers, cable television providers, Internet service providers, and other wireless  
17 providers has become commonplace; and

18 (2) It is in the public interest to promote competition to ensure the continued  
19 development and availability of multiple providers of broadband service, voice over  
20 Internet protocol service, and wireless service throughout the State of Georgia.

21 (b) It is the intent of this article to promote market based competition for broadband  
22 service, voice over Internet protocol service, and wireless service.

23 46-5-201.

24 As used in this article, the term:

1 (1) 'Broadband service' means any service that offers the capability to transmit at a rate  
 2 that is not less than 200 kilobits per second in at least one direction and offers the  
 3 capability to transmit at a rate that is not less than 128 kilobits per second in the other  
 4 direction and either:

5 (A) Is used to provide access to the Internet; or

6 (B) Provides computer processing, information storage, or information content or  
 7 protocol conversion in combination with such service.

8 (2) 'Telecommunications company' is as defined in paragraph (18) of Code Section  
 9 46-5-162.

10 (3) 'VoIP' means voice over Internet protocol.

11 (4) 'Wireless service' means commercial mobile service as defined under Section 332(D)  
 12 of the Federal Telecommunications Act of 1996 (47 U.S.C. Section 157 et seq.),  
 13 regulations of the Federal Communications Commission, and the Omnibus Budget  
 14 Reconciliation Act of 1993 (P.L. 103-66).

15 46-5-202.

16 (a) Notwithstanding any other provision of law to the contrary, no agency of the state,  
 17 including but not limited to the commission, shall impose or implement any requirement,  
 18 whether direct or indirect, upon broadband service, VoIP, or wireless service; provided,  
 19 however, that the commission, upon delegation by the Federal Communications  
 20 Commission, may implement any regulation of VoIP necessary to meet public safety  
 21 requirements such as access to '911' service or compliance with the Federal  
 22 Communications Assistance for Law Enforcement Act, 47 U.S.C. Section 1001 et seq. The  
 23 provision of broadband service, VoIP, and wireless service shall be market based and not  
 24 subject to direct or indirect state or local regulation, including, but not limited to:

25 (1) The deployment of facilities or equipment used to provide broadband service, VoIP,  
 26 and wireless service; or

27 (2) The rates, terms, conditions, or availability of broadband service, VoIP, and wireless  
 28 service.

29 (b)(1) Any requirement, whether direct or indirect, imposed upon broadband service,  
 30 VoIP, and wireless service in existence at the time of enactment of this article is hereby  
 31 voided. Notwithstanding the foregoing, the commission's orders in Docket Nos. 11901-U  
 32 and 16583-U regarding BellSouth's provision of DSL over UNE-P lines (the 'DSL over  
 33 UNE-P orders') shall be void on November 18, 2006. If the DSL over UNE-P orders are  
 34 preempted, voided, or overturned by a decision of a court or the Federal Communications  
 35 Commission on an earlier date, such decision shall be given effect, but in no case shall  
 36 the effectiveness of the DSL over UNE-P orders extend past November 18, 2006.

1 Moreover, the DSL over UNE-P orders are effective only to the extent UNE-P is required  
2 under 47 U.S.C. Section 251.

3 (2) This Code section shall not be construed to limit the commission's authority to  
4 arbitrate or enforce interconnection agreements as required under 47 U.S.C. Sections 251  
5 and 252, and this Code section shall not be construed to limit the duties of a  
6 telecommunications carrier to provide unbundled access to network elements or  
7 interconnection, including, but not limited to, loops, subloops, transmission facilities, and  
8 collocation space, to the extent required under federal law, including regulations and  
9 orders prescribed by the Federal Communications Commission.

10 (3) Nothing in this Code section shall be construed to preclude the application of  
11 otherwise lawful access charges or applicable taxes to broadband service providers, VoIP  
12 providers, and wireless service providers to the extent required by federal or state law.

13 (4) Nothing in this Code section shall be construed to affect franchising obligations, if  
14 any, that exist under state or federal law.

15 (5) Nothing in this Code section shall affect the commission's duties set forth in Article  
16 5 of this chapter, the "Telecommunications Marketing Act of 1998."

17 **SECTION 2.**

18 This Act shall become effective on July 1, 2005.

19 **SECTION 3.**

20 All laws and parts of laws in conflict with this Act are repealed.