

Senate Bill 542

By: Senators Strickland of the 17th, Robertson of the 29th, Payne of the 54th, Mullis of the 53rd, Anderson of the 43rd and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 46 of the Official Code of Georgia Annotated, relating to public utilities and
2 public transportation, so as to limit the "Competitive Emerging Communications
3 Technologies Act of 2006" to wireless service; to provide the Public Service Commission
4 with the authority and duty to regulate broadband services and VoIP in this state; to enact the
5 "Broadband Resiliency, Public Safety, and Quality Act"; to provide a short title; to provide
6 for definitions; to require the promulgation of rules and regulations; to provide for
7 evaluations and assessments; to require an annual report; to amend Titles 38, 39, and 46 of
8 the Official Code of Georgia Annotated, relating to military, emergency management, and
9 veterans affairs, minors, and public utilities and public transportation, respectively, so as to
10 include cross-references to the definitions provided for in the "Broadband Resiliency, Public
11 Safety, and Quality Act" and to provide for conforming changes; to provide for related
12 matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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PART I
SECTION 1-1.

16 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
17 transportation, is amended by revising Article 7 of Chapter 5, relating to competitive
18 emerging communications technologies, as follows:

19

"ARTICLE 7

20 46-5-220.

21 This article shall be known and may be cited as the 'Competitive Emerging
22 Communications Technologies Act of 2006.'

23 46-5-221.

24 As used in this article, the term:

25 ~~(1) 'Broadband service' means a service that consists of the capability to transmit at a rate~~
26 ~~not less than 200 kilobits per second in either the upstream or downstream direction and~~
27 ~~in combination with such service provide either:~~

28 ~~(A) Access to the Internet; or~~

29 ~~(B) Computer processing, information storage, or protocol conversion.~~

30 ~~For the purposes of this article, broadband service does not include any information~~
31 ~~content or service applications provided over such access service nor any intrastate~~
32 ~~service that was subject to a tariff in effect as of September 1, 2005.~~

33 ~~(2) 'VoIP' means Voice over Internet Protocol services offering real-time multidirectional~~
34 ~~voice functionality utilizing any Internet protocol.~~

35 (3) ~~Wireless~~ wireless service' means commercial mobile radio service carried on
36 between mobile stations or receivers and land stations and by mobile stations
37 communicating among themselves.

38 46-5-222.

39 (a) The ~~Public Service Commission~~ commission shall not have any jurisdiction, right,
40 power, authority, or duty to impose any requirement or regulation relating to the setting of
41 rates or terms and conditions for the offering of ~~broadband service, VoIP, or wireless~~
42 services service.

43 (b) This Code section shall not be construed to affect:

44 (1) State laws of general applicability to all businesses, including, without limitation,
45 consumer protection laws and laws relating to restraint of trade;

46 (2) Any authority of the ~~Public Service Commission~~ commission with regard to
47 consumer complaints; or

48 (3) Any authority of the ~~Public Service Commission~~ commission to act in accordance
49 with federal laws or regulations of the Federal Communications Commission, including,
50 without limitation, jurisdiction granted to set rates, terms, and conditions for access to
51 unbundled network elements and to arbitrate and enforce interconnection agreements.

52 (c) Except as otherwise expressly provided in this Code section, nothing in this Code
53 section shall be construed to restrict or expand any other authority or jurisdiction of the
54 ~~Public Service Commission~~ commission."

55 **SECTION 2-2.**

56 Said title is further amended by adding a new chapter to read as follows:

57

"CHAPTER 5A58 46-5A-1.

59 This chapter shall be known and may be cited as the 'Broadband Resiliency, Public Safety,
60 and Quality Act.'

61 46-5A-2.62 As used in this chapter, the term:

63 (1) 'Broadband services' means a service that provides the capability to transmit data to
64 and receive data from all or substantially all internet endpoints, including any capabilities
65 that are incidental to and enable the operation of the communication service. Such term
66 shall not include dial-up service.

67 (2) 'Internet service provider' means any person qualified to do business in this state that
68 provides the ability to connect to the internet with broadband services.

69 (3) 'VoIP' means Voice over Internet Protocol services that:70 (A) Enable real-time, two-way voice communications;71 (B) Require a broadband services connection from the user's location;72 (C) Require internet protocol-compatible customer premises equipment; and73 (D) Permit users generally to receive calls that originate on the public switched
74 telephone network and to terminate calls to the public switched telephone network.75 46-5A-3.

76 Notwithstanding any other provision of law, the commission shall have the jurisdiction,
77 right, power, authority, and duty to exercise oversight over broadband services and VoIP
78 in this state.

79 46-5A-4.

80 The commission shall implement effective oversight of broadband services and VoIP in
81 this state by adopting rules and regulations that:

82 (1) Ensure the resiliency and reliability of broadband infrastructure by requiring internet
83 service providers to submit information related to network reliability, including, but not
84 limited to, outage reporting;

85 (2) Promote public safety and adequacy of networks by reviewing and monitoring the
86 emergency preparedness and plans of the internet service providers for post-emergency
87 network restoration. Such preparedness and plans shall include, but shall not be limited
88 to, minimum power back-up requirements and provisions requiring all internet service
89 providers to maintain networks sufficiently to ensure reliable and safe communications
90 services;

91 (3) Require internet service providers to report data on the deployment, availability,
92 pricing, and adoption of broadband services and VoIP; and

93 (4) Impose any other requirements the commission deems necessary to implement such
94 oversight and fulfill its duties under this chapter.

95 46-5A-5.

96 The commission shall conduct evaluations and audits of the facilities and infrastructure
97 used to provide broadband services and VoIP in this state. Such evaluations and audits
98 shall assess any aspect of such facilities and infrastructure that the commission deems
99 relevant toward achieving resiliency, quality, and acceptable public safety levels in the
100 provision of broadband services and VoIP. Such evaluations and audits shall also assess
101 progress toward achieving universal access and affordability of broadband services and
102 VoIP in this state.

103 46-5A-6.

104 On June 30 of each year, the commission shall submit a report to the Lieutenant Governor,
105 the Speaker of the House of Representatives, and the Governor on the progress in achieving
106 the purposes of this chapter. Such report shall be published on the website of the
107 commission."

108

PART II

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SECTION 2-1.

110 Title 38 of the Official Code of Georgia Annotated, relating to military, emergency
111 management, and veterans affairs, is amended by revising subsection (k) of Code Section
112 38-3-182, relating to establishment of Georgia Emergency Communications Authority,
113 purpose, duties and responsibilities, board of directors, perpetual existence, power and
114 authority, operation, and regulation, as follows:

115 "(k) Notwithstanding any provision of this Code section to the contrary, the authority shall
116 have no jurisdiction concerning the setting of rates, terms, and conditions for the offering
117 of telecommunications services, as defined in Code Section 46-5-162, ~~or~~ for the offering
118 of broadband ~~service~~, services or VoIP, as defined in Code Section 46-5A-2, or wireless
119 service, as ~~such terms are~~ defined in Code Section 46-5-221."

120

SECTION 2-2.

121 Title 39 of the Official Code of Georgia Annotated, relating to minors, is amended by
122 revising paragraph (5) of Code Section 39-5-1, relating to definitions relative to online
123 internet safety, as follows:

124 "(5) 'Wireless service' shall have the same meaning as set forth in ~~paragraph (3) of Code~~
125 Section 46-5-221."

126

SECTION 2-3.

127 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
128 transportation, is amended by revising paragraph (2) of subsection (a) of Code Section
129 46-3-200.4, relating to rates, terms, and conditions for pole attachments between
130 communications service providers and electric membership corporations and their broadband
131 affiliates, as follows:

132 "(2) 'Broadband services' ~~shall have the same meaning as provided for the term~~
133 ~~'broadband service' in Code Section 46-5-221~~ means a service that consists of the
134 capability to transmit at a rate not less than 200 kilobits per second in either the upstream
135 or downstream direction and in combination with such service provides either:

136 (A) Access to the internet; or

137 (B) Computer processing, information storage, or protocol conversion.

138 For the purposes of this paragraph, broadband service does not include any information
139 content or service applications provided over such access service nor any intrastate
140 service that was subject to a tariff in effect as of September 1, 2005."

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SECTION 2-4.

142 Said Title 46 is further amended by revising paragraph (3) of subsection (a) of Code Section
143 46-5-1, relating to exercise of power of eminent domain by telephone companies, placement
144 of posts and other fixtures, regulation of construction of fixtures, posts, and wires near
145 railroad tracks, liability of telephone companies for damages, required information, and due
146 compensation, as follows:

147 "(3) A county or municipal authority shall not impose any occupational license, tax, fee,
148 regulation, obligation, or requirement upon the provision of the services described in
149 paragraphs (1) and ~~(2)~~ (3) of Code Section ~~46-5-221~~ 46-5A-2, including any occupational
150 license, tax, fee, regulation, obligation, or requirement specifically set forth in any part
151 of this chapter other than Part 4."

152 **SECTION 2-5.**

153 Said Title 46 is further amended by revising paragraph (1) of Code Section 46-5-221, relating
154 to definitions relative to competitive emerging communications technologies, as follows:

155 "(1) 'Broadband service' means a service that consists of the capability to transmit at a
156 rate not less than 200 kilobits per second in either the upstream or downstream direction
157 and in combination with such service ~~provide~~ provides either:

158 (A) Access to the ~~Internet~~ internet; or

159 (B) Computer processing, information storage, or protocol conversion.

160 For the purposes of this article, broadband service does not include any information
161 content or service applications provided over such access service nor any intrastate
162 service that was subject to a tariff in effect as of September 1, 2005."

163 **SECTION 2-6.**

164 Said Title 46 is further amended by revising Code Section 46-5-250, relating to retail
165 telecommunications service defined, as follows:

166 "46-5-250.

167 As used in this article, the term 'retail telecommunications service' means the offering of
168 two-way interactive communications for a fee directly to end users. Such term does not
169 include wireless service as defined in ~~paragraph (3)~~ of Code Section 46-5-221 nor does it
170 include the obligations of an incumbent local exchange carrier, as defined by 47 U.S.C.
171 Section 251, pursuant to 47 U.S.C. Sections 251, 252, and 271 and the Federal
172 Communications Commission's rules and regulations implementing such sections."

173 **PART III**

174 **SECTION 3-3.**

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