

HOUSE BILL 1136

By Boyd

AN ACT to amend Tennessee Code Annotated, Title 7 and Title 65, relative to broadband enabled services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 65-5-202(a), is amended by deleting the subsection and substituting:

(a) As used in this part:

(1) "Broadband internet access service":

(A) Has the same meaning as defined in 47 CFR 8.1, or a successor federal rule; and

(B) Does not include intrastate service that was tariffed with the public utility commission and in effect as of May 15, 2006; furthermore, the intrastate service shall not be reclassified, bundled, de-tariffed, declared obsolete, or otherwise recharacterized to avoid the imposition of inspection fees by the public utility commission; and

(2) "Interconnected VoIP service" has the same meaning as provided in the federal Telecommunications Act of 1996 (47 U.S.C. § 151, et seq.), or a successor federal law.

SECTION 2. Tennessee Code Annotated, Section 65-5-202(b), is amended by deleting the subsection and substituting:

(b) This part does not:

(1) Restrict any authority delegated to the public utility commission or another state agency to administer a federal grant program under federal statute, rule, or order;

(2) Restrict the application to broadband internet access service, or providers thereof, of any law that applies generally to the conduct of business in this state related to consumer protection and fair competition;

(3) Modify or affect the rights or obligations of any carrier under the federal Telecommunications Act of 1996 (47 U.S.C. § 151, et seq.); or

(4) Restrict the assessment of nondiscriminatory fees against interconnected VoIP service associated with enhanced 911 service, telecommunications relay services, or universal service assessments under § 65-5-107.

SECTION 3. Tennessee Code Annotated, Section 65-5-203, is amended by deleting the section and substituting:

Except as provided in § 65-5-202, a government entity within this state, including the public utility commission and any agency or subdivision of this state, shall not enact, adopt, or enforce any law, rule, regulation, ordinance, standard, order, or other provision with the force of law that has the effect of regulating the entry, rates, terms, or conditions of any broadband internet access service or interconnected VoIP service, or otherwise treating a provider of either broadband internet access service or interconnected VoIP service as a carrier.

SECTION 4. Tennessee Code Annotated, Section 65-5-109(q), is amended by deleting the subsection.

SECTION 5. This act takes effect upon becoming a law, the public welfare requiring it.

Amendment No. 1 to HB1136

Vaughan
Signature of Sponsor

AMEND Senate Bill No. 556*

House Bill No. 1136

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 65-5-202, is amended by deleting subsections (a) and (b) and substituting:

(a) As used in this part:

(1) "Broadband internet access service":

(A) Has the same meaning as defined in 47 CFR 8.1, or a successor federal rule; and

(B) Does not include intrastate service that was tariffed with the public utility commission and in effect as of May 15, 2006; furthermore, the intrastate service shall not be reclassified, bundled, de-tariffed, declared obsolete, or otherwise recharacterized to avoid the imposition of inspection fees by the public utility commission; and

(2) "Interconnected VoIP service" has the same meaning as provided in 47 U.S.C. § 153, or a successor federal law.

(b)

(1) Broadband internet access services are not telecommunications services under the laws of this state.

(2) This part does not:

(A) Restrict any authority delegated to the public utility commission or another state agency to administer a federal grant program under federal statute, rule, or order;

(B) Restrict the application to broadband internet access service, or providers thereof, of any law that applies generally to the conduct of business in this state related to consumer protection and fair competition;

(C) Modify or affect the rights or obligations of any carrier under the federal Telecommunications Act of 1996 (47 U.S.C. § 151, et seq.); or

(D) Restrict the assessment of nondiscriminatory fees against interconnected VoIP service associated with enhanced 911 service, telecommunications relay services, or universal service assessments under § 65-5-107.

SECTION 2. Tennessee Code Annotated, Section 65-5-203, is amended by deleting the section and substituting:

Except as provided in § 65-5-202, a government entity within this state, including the public utility commission and any agency or subdivision of this state, shall not enact, adopt, or enforce any law, rule, regulation, ordinance, standard, order, or other provision with the force of law that has the effect of regulating the entry, rates, terms, or conditions of any broadband internet access service or interconnected VoIP service, or otherwise treating a provider of either broadband internet access service or interconnected VoIP service as a carrier.

SECTION 3. Tennessee Code Annotated, Section 65-5-109(q), is amended by deleting the subsection.

SECTION 4. Tennessee Code Annotated, Section 65-4-101(6), is amended by adding the following as a new subdivision:

() "Public utility" does not include a provider, owner, operator, or manager of broadband internet access services, as defined in § 65-5-202;

SECTION 5. Tennessee Code Annotated, Section 65-4-101, is amended by deleting subdivision (7) and substituting:

(7) "Telecommunications service provider":

(A) Means any incumbent local exchange telephone company or certificated individual or entity, or individual or entity operating pursuant to the approval by the former public service commission of a franchise within § 65-4-207(b), authorized by law to provide, and offering or providing for hire, any telecommunications service, telephone service, telegraph service, paging service, or communications service similar to such services unless otherwise exempted from this definition by state or federal law; and

(B) Does not include an individual or entity that constructs, owns, operates, manages, offers, or maintains broadband internet access services, as defined in § 65-5-202.

SECTION 6. Tennessee Code Annotated, Section 65-25-102(13), is amended by inserting "broadband internet access service, as defined in § 65-5-202, or" between "does not include" and "the furnishing of telephone service".

SECTION 7. This act takes effect upon becoming a law, the public welfare requiring it.