

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 2994  
OFFERED BY M . \_\_\_\_\_**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Satellite Home Viewer  
3 Reauthorization Act of 2009”.

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

5 Section 325(b) of the Communications Act of 1934  
6 (47 U.S.C. 325(b)) is amended—

7 (1) in paragraph (2)(C), by striking “December  
8 31, 2009” and inserting “December 31, 2014”; and

9 (2) in paragraph (3)(C), by striking “January  
10 1, 2010” each place it appears in clauses (ii) and  
11 (iii) and inserting “January 1, 2015”.

**12 SEC. 3. SIGNIFICANTLY VIEWED STATIONS.**

13 (a) IN GENERAL.—Paragraphs (1) and (2) of section  
14 340(b) of such Act (47 U.S.C. 340(b)) are amended to  
15 read as follows:

16 “(1) SERVICE LIMITED TO SUBSCRIBERS TAK-  
17 ING LOCAL-INTO-LOCAL SERVICE.—This section shall  
18 apply only to retransmissions to subscribers of a sat-

1 elite carrier who receive retransmissions of a signal  
2 from that satellite carrier pursuant to section 338.

3 “(2) SERVICE LIMITATIONS.—A satellite carrier  
4 may retransmit to a subscriber in high definition  
5 format the signal of a station determined by the  
6 Commission to be significantly viewed under sub-  
7 section (a) only if such carrier also retransmits in  
8 high definition format the signal of a station located  
9 in the local market of such subscriber and affiliated  
10 with the same network whenever such format is  
11 available from such station.”

12 (b) RULEMAKING REQUIRED.—Within 180 days after  
13 the date of the enactment of this Act, the Federal Commu-  
14 nications Commission shall take all actions necessary to  
15 promulgate a rule to implement the amendments made by  
16 subsection (a).

17 **SEC. 4. CONFORMING AMENDMENTS.**

18 (a) SECTION 338.—Section 338 of the Communica-  
19 tions Act of 1934 (47 U.S.C. 338) is amended—

20 (1) in subsection (a), by striking “(3) EFFEC-  
21 TIVE DATE.—No satellite” and all that follows  
22 through “until January 1, 2002.”; and

23 (2) by amending subsection (g) to read as fol-  
24 lows:

1           “(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE  
2 RECEPTION ANTENNA.—

3           “(1) SINGLE RECEPTION ANTENNA.—Each sat-  
4 ellite carrier that retransmits the signals of local tel-  
5 evision broadcast stations in a local market shall re-  
6 transmit such stations in such market so that a sub-  
7 scriber may receive such stations by means of a sin-  
8 gle reception antenna and associated equipment.

9           “(2) ADDITIONAL RECEPTION ANTENNA.—If  
10 the carrier retransmits the signals of local television  
11 broadcast stations in a local market in high defini-  
12 tion format, the carrier shall retransmit such signals  
13 in such market so that a subscriber may receive  
14 such signals by means of a single reception antenna  
15 and associated equipment, but such antenna and as-  
16 sociated equipment may be separate from the single  
17 reception antenna and associated equipment used to  
18 comply with paragraph (1).”.

19           (b) SECTION 339.—Section 339 of such Act (47  
20 U.S.C. 339) is amended—

21           (1) in subsection (a)—

22           (A) in paragraph (1)(B), by striking “Such  
23 two network stations” and all that follows  
24 through “more than two network stations.”;  
25 and

- 1 (B) in paragraph (2)—
- 2 (i) in the heading for subparagraph
- 3 (A), by striking “TO ANALOG SIGNALS”;
- 4 (ii) in subparagraph (A)—
- 5 (I) in the heading for clause (i),
- 6 by striking “ANALOG”;
- 7 (II) in clause (i)—
- 8 (aa) by striking “analog”
- 9 each place it appears; and
- 10 (bb) by striking “October 1,
- 11 2004” and inserting “October 1,
- 12 2009”;
- 13 (III) in the heading for clause
- 14 (ii), by striking “ANALOG”; and
- 15 (IV) in clause (ii)—
- 16 (aa) by striking “analog”
- 17 each place it appears; and
- 18 (bb) by striking “2004” and
- 19 inserting “2009”;
- 20 (iii) by amending subparagraph (B) to
- 21 read as follows:
- 22 “(B) RULES FOR OTHER SUBSCRIBERS.—
- 23 “(i) IN GENERAL.—In the case of a
- 24 subscriber of a satellite carrier who is eligi-
- 25 ble to receive the signal of a network sta-

1                   tion under this section (in this clause re-  
2                   ferred to as a ‘distant signal’), other than  
3                   subscribers to whom subparagraph (A) ap-  
4                   plies, the following shall apply:

5                   “(I) In a case in which the sat-  
6                   ellite carrier makes available to that  
7                   subscriber, on January 1, 2005, the  
8                   signal of a local network station affili-  
9                   ated with the same television network  
10                  pursuant to section 338, the carrier  
11                  may only provide the secondary trans-  
12                  missions of the distant signal of a sta-  
13                  tion affiliated with the same network  
14                  to that subscriber if the subscriber’s  
15                  satellite carrier, not later than March  
16                  1, 2005, submits to that television  
17                  network the list and statement re-  
18                  quired by subparagraph (F)(i).

19                  “(II) In a case in which the sat-  
20                  ellite carrier does not make available  
21                  to that subscriber, on January 1,  
22                  2005, the signal of a local network  
23                  station pursuant to section 338, the  
24                  carrier may only provide the sec-  
25                  ondary transmissions of the distant

1 signal of a station affiliated with the  
2 same network to that subscriber if—

3 “(aa) that subscriber seeks  
4 to subscribe to such distant sig-  
5 nal before the date on which such  
6 carrier commences to carry pur-  
7 suant to section 338 the signals  
8 of stations from the local market  
9 of such local network station; and

10 “(bb) the satellite carrier,  
11 within 60 days after such date,  
12 submits to each television net-  
13 work the list and statement re-  
14 quired by subparagraph (F)(ii).

15 “(ii) SPECIAL CIRCUMSTANCES.—A  
16 subscriber of a satellite carrier who was  
17 lawfully receiving the distant signal of a  
18 network station on the day before the date  
19 of enactment of the Satellite Home Viewer  
20 Reauthorization Act of 2009 may receive  
21 both such distant signal and the local sig-  
22 nal of a network station affiliated with the  
23 same network until such subscriber chooses  
24 to no longer receive such distant signal  
25 from such carrier.”;

1 (iv) in subparagraph (C)—

2 (I) by striking “analog” each  
3 place it appears;

4 (II) in clause (i), by striking “the  
5 Satellite Home Viewer Extension and  
6 Reauthorization Act of 2004” and in-  
7 serting “the Satellite Home Viewer  
8 Reauthorization Act of 2009”; and

9 (III) by amending clause (ii) to  
10 read as follows:

11 “(ii) either—

12 “(I) at the time such person  
13 seeks to subscribe to receive such sec-  
14 ondary transmission, resides in a local  
15 market where the satellite carrier  
16 makes available to that person the  
17 signal of a local network station affili-  
18 ated with the same television network  
19 pursuant to section 338, and the re-  
20 transmission of such signal by such  
21 carrier can reach such subscriber; or

22 “(II) receives from the satellite  
23 carrier the signal of a network station  
24 affiliated with the same network that  
25 is broadcast by a local station in the

1 market where the subscriber resides,  
2 but is not the local station's primary  
3 video.”;

4 (v) in subparagraph (D)—

5 (I) by striking clauses (i), (iii)  
6 through (v), (vii) through (ix), and  
7 (xi);

8 (II) by redesignating clause (vi)  
9 as clause (i);

10 (III) by amending such clause (i)  
11 (as so redesignated) to read as fol-  
12 lows:

13 “(i) SIGNAL TESTING.—A subscriber  
14 shall be eligible to receive a distant signal  
15 of a distant network station affiliated with  
16 the same network under this section if  
17 such subscriber is determined, based on a  
18 test conducted in accordance with section  
19 73.686(d) of title 47, Code of Federal Reg-  
20 ulations, or any successor regulation, not  
21 to be able to receive a signal that exceeds  
22 the signal intensity standard in section  
23 73.622(e)(1) of title 47, Code of Federal  
24 Regulations.”;

25 (IV) in clause (ii)—

1 (aa) by striking “DIGITAL”  
2 in the heading;

3 (bb) by striking “digital”  
4 each place it appears;

5 (cc) by striking “Satellite  
6 Home Viewer Extension and Re-  
7 authorization Act of 2004” and  
8 inserting “Satellite Home Viewer  
9 Reauthorization Act of 2009”;  
10 and

11 (dd) by striking “, whether  
12 or not such subscriber elects to  
13 subscribe to local digital signals”;

14 (V) by inserting after clause (ii)  
15 the following new clause:

16 “(iv) TIME-SHIFTING PROHIBITED.—  
17 In a case in which the satellite carrier  
18 makes available to an eligible subscriber  
19 under this subparagraph the signal of a  
20 local network station pursuant to section  
21 338, the carrier may only provide the dis-  
22 tant signal of a station affiliated with the  
23 same network to that subscriber if, in the  
24 case of any local market in the 48 contig-  
25 uous States of the United States, the dis-

1           tant signal is the secondary transmission  
2           of a station whose prime time network pro-  
3           gramming is generally broadcast simulta-  
4           neously with, or later than, the prime time  
5           network programming of the affiliate of  
6           the same network in the local market.”;  
7           and

8                           (VI) by redesignating clause (x)  
9                           as clause (iv); and

10                          (vi) in subparagraph (E), by striking  
11                          “distant analog signal or” and all that fol-  
12                          lows through “(B), or (D))” and inserting  
13                          “distant signal”;

14           (2) in subsection (c)—

15                          (A) by amending paragraph (3) to read as  
16                          follows:

17                          “(3) ESTABLISHMENT OF IMPROVED PRE-  
18                          DICTIVE MODEL AND ON-LOCATION TESTING RE-  
19                          QUIRED.—

20                          “(A) PREDICTIVE MODEL.—Within 180  
21                          days after the date of the enactment of the Sat-  
22                          ellite Home Viewer Reauthorization Act of  
23                          2009, the Commission shall take all actions  
24                          necessary to develop and prescribe by rule a  
25                          point-to-point predictive model for reliably and

1           presumptively determining the ability of indi-  
2           vidual locations, through the use of a conven-  
3           tional, stationary, outdoor rooftop receiving an-  
4           tenna, to receive signals in accordance with the  
5           signal intensity standard in section  
6           73.622(e)(1) of title 47, Code of Federal Regu-  
7           lations, including to account for the continuing  
8           operation of translator stations and low power  
9           television stations. In prescribing such model,  
10          the Commission shall rely on the Individual Lo-  
11          cation Longley-Rice model set forth by the  
12          Commission in CS Docket No. 98-201, as pre-  
13          viously revised with respect to analog signals,  
14          and as recommended by the Commission with  
15          respect to digital signals in its Report to Con-  
16          gress in ET Docket No. 05-182, FCC 05-199  
17          (released December 9, 2005). The Commission  
18          shall establish procedures for the continued re-  
19          finement in the application of the model by the  
20          use of additional data as it becomes available.

21                 “(B) ON-LOCATION TESTING.—The Com-  
22          mission shall issue an order completing its rule-  
23          making proceeding in ET Docket No. 06-94  
24          within 180 days after the date of enactment of

1 the Satellite Home Viewer Reauthorization Act  
2 of 2009.

3 “(C) STUDY OF TYPES OF ANTENNAS  
4 AVAILABLE TO RECEIVE DIGITAL SIGNALS.—

5 “(i) STUDY REQUIRED.—Not later  
6 than 1 year after the date of enactment of  
7 the Satellite Home Viewer Reauthorization  
8 Act of 2009, the Commission shall com-  
9 plete a study regarding whether, for pur-  
10 poses of identifying if a household is  
11 unserved by an adequate digital signal  
12 under section 119(d)(10) of title 17,  
13 United States Code, the digital signal  
14 strength standard in section 73.622(e)(1)  
15 of title 47, Code of Federal Regulations, or  
16 the testing procedures in section 73.686 of  
17 title 47, Code of Federal Regulations, such  
18 statutes or regulations should be revised to  
19 take into account the types of antennas  
20 that are available to and used by con-  
21 sumers.

22 “(ii) STUDY CONSIDERATION.—In  
23 conducting the study under clause (i), the  
24 Commission shall consider whether to ac-  
25 count for the fact that an antenna can be

1 mounted on a roof or placed in a home and  
2 can be fixed or capable of rotating.

3 “(iii) REPORT.—Not later than 1 year  
4 after the date of enactment of the Satellite  
5 Home Viewer Reauthorization Act of 2009,  
6 the Commission shall submit to the Com-  
7 mittee on Energy and Commerce of the  
8 House of Representatives and the Com-  
9 mittee on Commerce, Science, and Trans-  
10 portation of the Senate a report con-  
11 taining—

12 “(I) the results of the study con-  
13 ducted under clause (i); and

14 “(II) recommendations, if any,  
15 regarding changes to be made to Fed-  
16 eral statutes or regulations.”;

17 (B) by amending paragraph (4)(A) to read  
18 as follows:

19 “(A) IN GENERAL.—If a subscriber’s re-  
20 quest for a waiver under paragraph (2) is re-  
21 jected and the subscriber submits to the sub-  
22 scriber’s satellite carrier a request for a test  
23 verifying the subscriber’s inability to receive a  
24 signal of the signal intensity referenced in  
25 clause (i) of subsection (a)(2)(D), the satellite

1 carrier and the network station or stations as-  
2serting that the retransmission is prohibited  
3with respect to that subscriber shall select a  
4qualified and independent person to conduct the  
5test referenced in such clause. Such test shall  
6be conducted within 30 days after the date the  
7subscriber submits a request for the test. If the  
8written findings and conclusions of a test con-  
9ducted in accordance with such clause dem-  
10onstrate that the subscriber does not receive a  
11signal that meets or exceeds the requisite signal  
12intensity standard in such clause, the subscriber  
13shall not be denied the retransmission of a sig-  
14nal of a network station under section 119 of  
15title 17, United States Code.”;

16 (C) in paragraph (4)(B), by striking “the  
17signal intensity” and all that follows through  
18“United States Code” and inserting “such req-  
19uisite signal intensity standard”; and

20 (D) in paragraph (4)(E), by striking  
21“Grade B intensity”.

22 (c) SECTION 340.—Section 340(i) of such Act (47  
23 U.S.C. 340(i)) is amended by striking paragraph (4).

1 **SEC. 5. APPLICATION PENDING COMPLETION OF**  
2 **RULEMAKINGS.**

3 (a) **IN GENERAL.**—Between the date of enactment of  
4 this Act and the adoption of rules by the Federal Commu-  
5 nications Commission pursuant to the amendments to the  
6 Communications Act of 1934 made by sections 3 and 4  
7 of this Act, the Federal Communications Commission shall  
8 follow its rules and regulations promulgated pursuant to  
9 sections 338, 339, and 340 of the Communications Act  
10 of 1934 as in effect on the day before the date of enact-  
11 ment of this Act.

12 (b) **TRANSLATOR STATIONS AND LOW POWER TELE-**  
13 **VISION STATIONS.**—Notwithstanding subsection (a), for  
14 purposes of determining whether a subscriber within the  
15 local market served by a translator station or a low power  
16 television station affiliated with a television network is eli-  
17 gible to receive distant signals under section 339 of such  
18 Act, the Federal Communications Commission shall follow  
19 its rules and regulations for determining such subscriber's  
20 eligibility as in effect on the day before the date of enact-  
21 ment of this Act until the date on which the translator  
22 station or low power television station is licensed to broad-  
23 cast a digital signal.

24 (c) **DEFINITIONS.**—As used in this Act:

25 (1) **LOCAL MARKET; LOW POWER TELEVISION**  
26 **STATION; SATELLITE CARRIER; SUBSCRIBER; TELE-**

1 VISION BROADCAST STATION.—The terms “local  
2 market”, “low power television station”, “satellite  
3 carrier”, “subscriber”, and “television broadcast sta-  
4 tion” have the meanings given such terms in section  
5 338(k) of the Communications Act of 1934.

6 (2) NETWORK STATION; TELEVISION NET-  
7 WORK.—The terms “network station” and “tele-  
8 vision network” have the meanings given such terms  
9 in section 339(d) of such Act.

10 **SEC. 6. PROCESS FOR ISSUING QUALIFIED CARRIER CER-**  
11 **TIFICATION.**

12 Part I of title III of the Communications Act of 1934  
13 is amended by adding at the end the following new section:

14 **“SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER**  
15 **CERTIFICATION.**

16 “(a) CERTIFICATION.—The Commission shall issue a  
17 certification for the purposes of section 119(g)(3)(A)(iii)  
18 of title 17, United States Code, if the Commission deter-  
19 mines that—

20 “(1) a satellite carrier is providing local service  
21 pursuant to the statutory license under section 122  
22 of such title in each designated market area; and

23 “(2) with respect to each designated market  
24 area in which such satellite carrier was not providing  
25 such local service as of the date of enactment of the

1 Satellite Home Viewer Reauthorization Act of  
2 2009—

3 “(A) the satellite carrier’s satellite beams  
4 are designed, and predicted by the satellite  
5 manufacturer’s pre-launch test data, to provide  
6 a good quality satellite signal to 90 percent of  
7 the households in each such designated market  
8 area based on the most recent census data re-  
9 leased by the United States Census Bureau;  
10 and

11 “(B) there is no material evidence that  
12 there has been a satellite or sub-system failure  
13 subsequent to the satellite’s launch that pre-  
14 cludes the ability of the satellite carrier to sat-  
15 isfy the requirements of subparagraph (A).

16 “(b) INFORMATION REQUIRED.—Any entity seeking  
17 the certification provided for in subsection (a) shall submit  
18 to the Commission the following information:

19 “(1) An affidavit stating that, to the best of the  
20 affiant’s knowledge, the satellite carrier provides  
21 local service in all designated market areas pursuant  
22 to the statutory license provided for in section 122  
23 of title 17, United States Code, and listing those  
24 designated market areas in which local service was

1 provided as of the date of enactment of the Satellite  
2 Home Viewer Reauthorization Act of 2009.

3 “(2) For each designated market area not listed  
4 in paragraph (1):

5 “(A) Identification of each such designated  
6 market area and the location of its local receive  
7 facility.

8 “(B) Data showing the number of house-  
9 holds, and maps showing the geographic dis-  
10 tribution thereof, in each such designated mar-  
11 ket area based on the most recent census data  
12 released by the United States Census Bureau.

13 “(C) Maps, with superimposed effective  
14 isotropically radiated power predictions ob-  
15 tained in the satellite manufacturer’s pre-  
16 launch tests, showing that the contours of the  
17 carrier’s satellite beams as designed and the ge-  
18 ographic area that the carrier’s satellite beams  
19 are designed to cover are predicted to provide  
20 a good quality satellite signal to 90 percent of  
21 the households in such designated market area  
22 based on the most recent census data released  
23 by the United States Census Bureau.

24 “(D) For any satellite relied upon for cer-  
25 tification under this section, an affidavit stating

1 that, to the best of the affiant's knowledge,  
2 there have been no satellite or sub-system fail-  
3 ures subsequent to the satellite's launch that  
4 would degrade the design performance to such  
5 a degree that a satellite transponder used to  
6 provide local service to any such designated  
7 market area is precluded from delivering a good  
8 quality satellite signal to 90 percent of the  
9 households in such designated market area  
10 based on the most recent census data released  
11 by the United States Census Bureau.

12 “(E) Any additional engineering, des-  
13 igned market area, or other information the  
14 Commission considers necessary to determine  
15 whether the Commission shall grant a certifi-  
16 cation under this section.

17 “(c) CERTIFICATION ISSUANCE.—

18 “(1) PUBLIC COMMENT.—The Commission shall  
19 provide 30 days for public comment on a request for  
20 certification under this section.

21 “(2) DEADLINE FOR DECISION.—The Commis-  
22 sion shall grant or deny a request for certification  
23 within 90 days after the date on which such request  
24 is filed.

1       “(d) SUBSEQUENT AFFIRMATION.—An entity grant-  
2 ed qualified carrier status pursuant to section 119(g) of  
3 title 17, United States Code, shall file an affidavit with  
4 the Commission 30 months after such status was granted  
5 stating that, to the best of the affiant’s knowledge, it is  
6 in compliance with the requirements for a qualified car-  
7 rier.

8       “(e) DEFINITIONS.—For the purposes of this section:

9           “(1) DESIGNATED MARKET AREA.—The term  
10       ‘designated market area’ has the meaning given such  
11       term in section 122(j)(2)(C) of title 17, United  
12       States Code.

13           “(2) GOOD QUALITY SATELLITE SIGNAL.—

14           “(A) IN GENERAL.—The term “good qual-  
15       ity satellite signal” means—

16           “(i) a satellite signal whose power  
17       level as designed shall achieve reception  
18       and demodulation of the signal at an avail-  
19       ability level of at least 99.7 percent using  
20       models of satellite antennas normally used  
21       by the satellite carrier’s subscribers and  
22       the same calculation methodology used by  
23       the satellite carrier to determine predicted  
24       signal availability in the top 100 des-  
25       ignated market areas; and

1                   “(ii) a video signal transmitted by sat-  
2                   ellite carrier such that, taking into account  
3                   whether a signal is in standard definition  
4                   format or high definition format, compres-  
5                   sion methodology, modulation, error cor-  
6                   rection, power level, and utilization of ad-  
7                   vances in technology that does not cir-  
8                   cumvent the intent of this section to pro-  
9                   vide for non-discriminatory treatment with  
10                  respect to any comparable television broad-  
11                  cast station signal—

12                   “(I) the satellite carrier treats all  
13                   television broadcast station’s signals  
14                   the same with respect to statistical  
15                   multiplexer prioritization; and

16                   “(II) the number of video signals  
17                   in the relevant satellite transponder is  
18                   not more than the then current great-  
19                   est number of video signals carried on  
20                   any equivalent transponder serving  
21                   the top 100 designated market areas.

22                   “(B) DETERMINATION.—For the purposes  
23                   of subparagraph (A), the top 100 designated  
24                   market areas shall be as determined by Nielsen  
25                   Media Research and published in the Nielsen

1 Station Index Directory and Nielsen Station  
2 Index United States Television Household Esti-  
3 mates or any successor publication as of the  
4 date of a satellite carrier's application for cer-  
5 tification under this section.”.

6 **SEC. 7. SAVINGS CLAUSE REGARDING DEFINITIONS.**

7 Nothing in this Act or the amendments made by this  
8 Act shall be construed to affect the definitions of “pro-  
9 gram related” and “primary video” in the Communica-  
10 tions Act of 1934 or in any regulations promulgated pur-  
11 suant to such Act by the Federal Communications Com-  
12 mission.

13 **SEC. 8. SAVINGS CLAUSE REGARDING USE OF NON-COM-**  
14 **PULSORY LICENSES; REPORT.**

15 (a) IN GENERAL.—Nothing in this Act, the Commu-  
16 nications Act of 1934, or regulations promulgated by the  
17 Federal Communications Commission under this Act or  
18 the Communications Act of 1934 shall limit the ability of  
19 a satellite carrier to retransmit a performance or display  
20 of a work pursuant to an authorization granted by the  
21 copyright owner or, if within the scope of its authorization,  
22 its licensee.

23 (b) REPORT.—Not later than 1 year after the date  
24 of enactment of this Act, the Federal Communications  
25 Commission shall submit to the Committee on Energy and

1 Commerce of the House of Representatives and the Com-  
2 mittee on Commerce, Science, and Transportation of the  
3 Senate a report containing an analysis of—

4           (1) the number of households in a State that  
5           receive local broadcast stations from a station of li-  
6           cense that is located in a different State;

7           (2) the extent to which consumers have access  
8           to in-state broadcast programming; and

9           (3) whether there are alternatives to the use of  
10          designated market areas, as defined in section 122  
11          of title 17, United States Code, to define local mar-  
12          kets that would provide more consumers with in-  
13          state broadcast programming.

