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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To amend the Communications Act of 1934 to streamline siting processes for personal wireless service facilities, including small personal wireless service facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Communications Act of 1934 to streamline siting processes for personal wireless service facilities, including small personal wireless service facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Winning the Inter-
5 national Race for Economic Leadership and Expanding
6 Service to Support Leadership Act” or the “WIRELESS
7 Leadership Act”.

1 **SEC. 2. PRESERVATION OF LOCAL ZONING AUTHORITY.**

2 Section 332(c) of the Communications Act of 1934
3 (47 U.S.C. 332(c)) is amended by striking paragraph (7)
4 and inserting the following:

5 “(7) PRESERVATION OF LOCAL ZONING AU-
6 THORITY.—

7 “(A) GENERAL AUTHORITY.—Except as
8 provided in this paragraph, nothing in this Act
9 shall limit or affect the authority of a State or
10 local government or instrumentality thereof over
11 decisions regarding the placement, construction,
12 or modification of personal wireless service fa-
13 cilities.

14 “(B) LIMITATIONS.—

15 “(i) IN GENERAL.—The regulation of
16 the placement, construction, or modifica-
17 tion of a personal wireless service facility
18 by any State or local government or instru-
19 mentality thereof—

20 “(I) shall not unreasonably dis-
21 criminate among personal wireless
22 service facilities or providers of the
23 same service, including by providing
24 exclusive or preferential use of facili-
25 ties to a particular provider or class of

1 providers of personal wireless service;
2 and

3 “(II) shall not prohibit or have
4 the effect of prohibiting the provision
5 or enhancement of personal wireless
6 service.

7 “(ii) ENGINEERING STANDARDS; AES-
8 THETIC REQUIREMENTS.—It is not a viola-
9 tion of clause (i) for a State or local gov-
10 ernment or instrumentality thereof to es-
11 tablish for personal wireless service facili-
12 ties, or structures that support such facili-
13 ties, objective, reasonable, and nondiscrim-
14 inatory—

15 “(I) structural engineering stand-
16 ards based on generally applicable
17 codes;

18 “(II) safety requirements; or

19 “(III) aesthetic or concealment
20 requirements (unless such require-
21 ments prohibit or have the effect of
22 prohibiting such facilities or struc-
23 tures).

24 “(iii) TIMEFRAMES.—

1 “(I) IN GENERAL.—Except in the
2 case of an eligible facilities request to
3 which section 6409(a) of the Middle
4 Class Tax Relief and Job Creation
5 Act of 2012 (47 U.S.C. 1455(a)) ap-
6 plies, a State or local government or
7 instrumentality thereof shall grant or
8 deny a complete request for authoriza-
9 tion to place, construct, or modify a
10 personal wireless service facility not
11 later than—

12 “(aa) in the case of a re-
13 quest for authorization to place,
14 construct, or modify a personal
15 wireless service facility that is
16 not a small personal wireless
17 service facility, including with re-
18 spect to an area that has not pre-
19 viously been zoned for personal
20 wireless service facilities (other
21 than small personal wireless serv-
22 ice facilities)—

23 “(AA) if the request is
24 for authorization to place,
25 construct, or modify such fa-

1 cility using an existing
2 structure, 90 days after the
3 date on which the complete
4 request is received by the
5 government or instrumen-
6 tality; or

7 “(BB) if the request is
8 for any other action relating
9 to such facility, 150 days
10 after the date on which the
11 complete request is received
12 by the government or instru-
13 mentality; and

14 “(bb) in the case of a re-
15 quest for authorization to place,
16 construct, or modify a small per-
17 sonal wireless service facility—

18 “(AA) if the request is
19 for authorization to place,
20 construct, or modify such fa-
21 cility using an existing
22 structure, 60 days after the
23 date on which the complete
24 request is received by the

1 government or instrumen-
2 tality; or

3 “(BB) if the request is
4 for any other action relating
5 to such facility, 90 days
6 after the date on which the
7 complete request is received
8 by the government or instru-
9 mentality.

10 “(II) TREATMENT OF BATCHED
11 REQUESTS.—In the case of complete
12 requests described in subclause (I)
13 that are submitted as part of a single
14 batch and received by the government
15 or instrumentality on the same day,
16 the applicable timeframe under such
17 subclause for each request in the
18 batch shall be the longest timeframe
19 under such subclause that would be
20 applicable to any request in the batch
21 if such requests were submitted sepa-
22 rately.

23 “(III) APPLICABILITY.—The ap-
24 plicable timeframe under subclause (I)
25 shall apply collectively to all pro-

1 proceedings required by a State or local
2 government or instrumentality thereof
3 for the approval of the request.

4 “(IV) NO TOLLING.—A time-
5 frame under subclause (I) may not be
6 tolled by any moratorium, whether ex-
7 press or de facto, imposed by a State
8 or local government or instrumentality
9 thereof on the submission, acceptance,
10 or consideration of any request for au-
11 thorization to place, construct, or
12 modify a personal wireless service fa-
13 cility.

14 “(iv) DEEMED GRANTED.—

15 “(I) IN GENERAL.—If a State or
16 local government or instrumentality
17 thereof fails to take final action to
18 grant or deny a complete request
19 within the applicable timeframe under
20 subclause (I) of clause (iii), the re-
21 quest shall be deemed granted on the
22 date on which the government or in-
23 strumentality receives a written notice
24 of the failure from the requesting
25 party.

1 “(II) RULE OF CONSTRU-
2 TION.—In the case of a request that
3 is deemed granted under subclause
4 (I), the placement, construction, or
5 modification requested in the request
6 shall be considered to be authorized,
7 without any further action by the gov-
8 ernment or instrumentality, beginning
9 on the date on which the request is
10 deemed granted under such subclause.

11 “(v) WRITTEN DECISION AND
12 RECORD.—Any decision by a State or local
13 government or instrumentality thereof to
14 deny a request for authorization to place,
15 construct, or modify a personal wireless
16 service facility shall be—

17 “(I) in writing;

18 “(II) supported by substantial
19 evidence contained in a written
20 record; and

21 “(III) published or otherwise
22 made publicly available in a location
23 accessible to the requesting party.

24 “(vi) ENVIRONMENTAL EFFECTS OF
25 RADIO FREQUENCY EMISSIONS.—No State

1 or local government or instrumentality
2 thereof may regulate the operation, place-
3 ment, construction, or modification of per-
4 sonal wireless service facilities on the basis
5 of the environmental effects of radio fre-
6 quency emissions to the extent that such
7 facilities or structures comply with the
8 Commission’s regulations concerning such
9 emissions.

10 “(vii) FEES.—Notwithstanding any
11 other provision of law, a State or local gov-
12 ernment or instrumentality thereof may
13 charge a fee to consider a request for au-
14 thorization to place, construct, or modify a
15 personal wireless service facility or a fee
16 for use of a right-of-way or a facility in a
17 right-of-way owned or managed by the gov-
18 ernment or instrumentality for the place-
19 ment, construction, or modification of a
20 personal wireless service facility, if the fee
21 is—

22 “(I) competitively neutral, tech-
23 nology neutral, and nondiscrim-
24 inatory;

1 “(II) established in advance and
2 publicly disclosed;

3 “(III) calculated—

4 “(aa) based on actual and
5 direct costs for—

6 “(AA) review and proc-
7 essing of requests; and

8 “(BB) repairs and re-
9 placement of components
10 and materials resulting from
11 and affected by the place-
12 ment, construction, or modi-
13 fication (including the in-
14 stallation or improvement)
15 of personal wireless service
16 facilities or repairs and re-
17 placement of equipment that
18 facilitates the placement,
19 construction, or modification
20 (including the installation or
21 improvement) of such facili-
22 ties; and

23 “(bb) using, for purposes of
24 item (aa), only costs that are ob-
25 jectively reasonable; and

1 “(IV) described to a requesting
2 party in a manner that distinguishes
3 between nonrecurring fees and recur-
4 ring fees.

5 “(C) JUDICIAL AND ADMINISTRATIVE RE-
6 VIEW.—

7 “(i) JUDICIAL REVIEW.—Any person
8 adversely affected by any final action or
9 failure to act by a State or local govern-
10 ment or any instrumentality thereof that is
11 inconsistent with this paragraph may,
12 within 30 days after the action or failure
13 to act, commence an action in any court of
14 competent jurisdiction, which shall hear
15 and decide the action on an expedited
16 basis.

17 “(ii) ADMINISTRATIVE REVIEW.—

18 “(I) IN GENERAL.—Any person
19 adversely affected by any final action
20 or failure to act by a State or local
21 government or any instrumentality
22 thereof that is inconsistent with this
23 paragraph may petition the Commis-
24 sion to review such action or failure to
25 act.

1 “(II) PUBLIC NOTICE AND COM-
2 MENT; TIMING.—Not later than 120
3 days after receiving a petition under
4 subclause (I), the Commission shall—

5 “(aa) provide public notice
6 of, and an opportunity for public
7 comment on, such petition; and

8 “(bb) grant or deny such pe-
9 tition.

10 “(D) WHEN REQUEST CONSIDERED COM-
11 plete; RECEIVED.—

12 “(i) WHEN REQUEST CONSIDERED
13 complete.—

14 “(I) IN GENERAL.—For the pur-
15 poses of this paragraph, a request to
16 a State or local government or instru-
17 mentality thereof shall be considered
18 complete if the requesting party—

19 “(aa) has taken the first
20 procedural step within the control
21 of the requesting party—

22 “(AA) to submit such
23 request in accordance with
24 the procedures established
25 by the government or instru-

1 mentality for the review and
2 approval of such request; or
3 “(BB) in the case of a
4 government or instrumen-
5 tality that has not estab-
6 lished specific procedures for
7 the review and approval of
8 such request, to submit to
9 the government or instru-
10 mentality the type of filing
11 that is typically required to
12 initiate a standard zoning or
13 siting review for a similar
14 facility or structure; and
15 “(bb) has not received a
16 written notice from the govern-
17 ment or instrumentality within
18 10 business days after the date
19 on which the request is received
20 by the government or instrumen-
21 tality—
22 “(AA) stating that all
23 the information (including
24 any form or other docu-
25 ment) required by the gov-

1 ernment or instrumentality
2 to be submitted for the re-
3 quest to be considered com-
4 plete has not been sub-
5 mitted; and

6 “(BB) identifying the
7 information required to be
8 submitted that was not sub-
9 mitted.

10 “(II) DEFINITION.—In this
11 clause, the term ‘the date on which
12 the request is received by the govern-
13 ment or instrumentality’ means—

14 “(aa) in the case of a re-
15 quest submitted electronically,
16 the date on which the request is
17 transmitted;

18 “(bb) in the case of a re-
19 quest submitted in person, the
20 date on which the request is de-
21 livered to the individual or at the
22 location specified by the govern-
23 ment or instrumentality for in-
24 person submission; and

1 “(cc) in the case of a re-
2 quest submitted in any other
3 manner, the date determined
4 under regulations promulgated by
5 the Commission for the manner
6 in which the request is sub-
7 mitted.

8 “(ii) WHEN COMPLETE REQUEST CON-
9 SIDERED RECEIVED.—For the purposes of
10 this paragraph, a complete request shall be
11 considered received—

12 “(I) except as provided in sub-
13 clause (II), on the date on which the
14 requesting party submits to the gov-
15 ernment or instrumentality all infor-
16 mation (including any form or other
17 document) required by the govern-
18 ment or instrumentality to be sub-
19 mitted for the request to be consid-
20 ered complete; or

21 “(II) in the case of a request
22 with respect to which all such infor-
23 mation is not submitted and that is
24 considered complete under clause
25 (i)(I) because the requesting party has

1 not received a written notice from the
2 government or instrumentality within
3 the period described in such clause, on
4 the day after the last day of such pe-
5 riod.

6 “(E) RULE OF CONSTRUCTION.—Nothing
7 in this paragraph may be construed to affect
8 section 6409(a) of the Middle Class Tax Relief
9 and Job Creation Act of 2012 (47 U.S.C.
10 1455(a)) or section 224 of this Act.

11 “(F) DEFINITIONS.—In this paragraph:

12 “(i) ANTENNA.—The term ‘antenna’
13 means an apparatus designed for the pur-
14 pose of emitting radiofrequency radiation,
15 to be operated or operating from a fixed
16 location for the transmission of writing,
17 signs, signals, data, images, pictures, and
18 sounds of all kinds.

19 “(ii) COMMUNICATIONS NETWORK.—
20 The term ‘communications network’ means
21 a network used to provide a communica-
22 tions service.

23 “(iii) COMMUNICATIONS SERVICE.—
24 The term ‘communications service’ means
25 each of—

1 “(I) cable service, as defined in
2 section 602;

3 “(II) information service;

4 “(III) telecommunications serv-
5 ice; and

6 “(IV) personal wireless service.

7 “(iv) GENERALLY APPLICABLE
8 CODE.—The term ‘generally applicable
9 code’ means a uniform building, fire, elec-
10 trical, plumbing, or mechanical code adopt-
11 ed by a national code organization, or a
12 local amendment to such a code, to the ex-
13 tent not inconsistent with this Act.

14 “(v) NETWORK INTERFACE DEVICE.—
15 The term ‘network interface device’ means
16 a telecommunications demarcation device
17 and cross-connect point that—

18 “(I) is adjacent or proximate
19 to—

20 “(aa) a small personal wire-
21 less service facility; or

22 “(bb) a structure supporting
23 a small personal wireless service
24 facility; and

1 “(II) demarcates the boundary
2 with any wireline backhaul facility.

3 “(vi) PERSONAL WIRELESS SERV-
4 ICE.—The term ‘personal wireless service’
5 means—

6 “(I) commercial mobile service;

7 “(II) commercial mobile data
8 service (as defined in section 6001 of
9 the Middle Class Tax Relief and Job
10 Creation Act of 2012 (47 U.S.C.
11 1401));

12 “(III) unlicensed wireless service;
13 and

14 “(IV) common carrier wireless
15 exchange access service.

16 “(vii) PERSONAL WIRELESS SERVICE
17 FACILITY.—The term ‘personal wireless
18 service facility’ means a facility used to
19 provide or support the provision of per-
20 sonal wireless service.

21 “(viii) SMALL PERSONAL WIRELESS
22 SERVICE FACILITY.—The term ‘small per-
23 sonal wireless service facility’—

24 “(I) means a personal wireless
25 service facility in which each antenna

1 is not more than 3 cubic feet in vol-
2 ume; and

3 “(II) does not include a wireline
4 backhaul facility connected to such
5 personal wireless service facility.

6 “(ix) UNLICENSED WIRELESS SERV-
7 ICE.—The term ‘unlicensed wireless serv-
8 ice’—

9 “(I) means the offering of tele-
10 communications service using a duly
11 authorized device that does not re-
12 quire an individual license; and

13 “(II) does not include the provi-
14 sion of direct-to-home satellite serv-
15 ices, as defined in section 303(v).

16 “(x) WIRELINE BACKHAUL FACIL-
17 ITY.—The term ‘wireline backhaul facility’
18 means an above-ground or underground
19 wireline facility used to transport commu-
20 nications service or other electronic com-
21 munications from a small personal wireless
22 service facility or the adjacent network
23 interface device of such facility to a com-
24 munications network.”.