

Suspend the Rules And Pass the Bill, H.R. 451, with Amendments

(The amendments strike all after the enacting clause and insert a new text and a new title)

116TH CONGRESS
1ST SESSION

H. R. 451

To repeal the section of the Middle Class Tax Relief and Job Creation Act of 2012 that requires the Federal Communications Commission to reallocate and auction the T-Band spectrum.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2019

Mr. ENGEL (for himself, Mr. ZELDIN, Mr. GREEN of Texas, and Mr. KING of New York) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To repeal the section of the Middle Class Tax Relief and Job Creation Act of 2012 that requires the Federal Communications Commission to reallocate and auction the T-Band spectrum.

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 “Don’t Break Up the
5 T-Band Act of 2020”.

1 **SEC. 2. REPEAL OF REQUIREMENT TO REALLOCATE AND**
2 **AUCTION T-BAND SPECTRUM.**

3 (a) REPEAL.—Section 6103 of the Middle Class Tax
4 Relief and Job Creation Act of 2012 (47 U.S.C. 1413)
5 is repealed.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 in section 1(b) of such Act is amended by striking the
8 item relating to section 6103.

9 **SEC. 3. CLARIFYING ACCEPTABLE 9-1-1 OBLIGATIONS OR**
10 **EXPENDITURES.**

11 Section 6 of the Wireless Communications and Public
12 Safety Act of 1999 (47 U.S.C. 615a-1) is amended—

13 (1) in subsection (f)—

14 (A) in paragraph (1), by striking “as spec-
15 ified in the provision of State or local law
16 adopting the fee or charge” and inserting “con-
17 sistent with the purposes and functions des-
18 igned in the final rules issued under para-
19 graph (3) as purposes and functions for which
20 the obligation or expenditure of such a fee or
21 charge is acceptable”;

22 (B) in paragraph (2), by striking “any
23 purpose other than the purpose for which any
24 such fees or charges are specified” and insert-
25 ing “any purpose or function other than the
26 purposes and functions designated in the final

1 rules issued under paragraph (3) as purposes
2 and functions for which the obligation or ex-
3 penditure of any such fees or charges is accept-
4 able”; and

5 (C) by adding at the end the following:

6 “(3) ACCEPTABLE OBLIGATIONS OR EXPENDI-
7 TURES.—

8 “(A) RULES REQUIRED.—In order to pre-
9 vent diversion of 9–1–1 fees or charges, the
10 Commission shall, not later than 180 days after
11 the date of the enactment of this paragraph,
12 issue final rules designating purposes and func-
13 tions for which the obligation or expenditure of
14 9–1–1 fees or charges, by any State or taxing
15 jurisdiction authorized to impose such a fee or
16 charge, is acceptable.

17 “(B) PURPOSES AND FUNCTIONS.—The
18 purposes and functions designated under sub-
19 paragraph (A) shall be limited to the support
20 and implementation of 9–1–1 services provided
21 by or in the State or taxing jurisdiction impos-
22 ing the fee or charge and operational expenses
23 of public safety answering points within such
24 State or taxing jurisdiction. In designating such
25 purposes and functions, the Commission shall

1 consider the purposes and functions that States
2 and taxing jurisdictions specify as the intended
3 purposes and functions for the 9–1–1 fees or
4 charges of such States and taxing jurisdictions,
5 and determine whether such purposes and func-
6 tions directly support providing 9–1–1 services.

7 “(C) CONSULTATION REQUIRED.—The
8 Commission shall consult with public safety or-
9 ganizations and States and taxing jurisdictions
10 as part of any proceeding under this paragraph.

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

12 “(i) 9–1–1 FEE OR CHARGE.—The
13 term ‘9–1–1 fee or charge’ means a fee or
14 charge applicable to commercial mobile
15 services or IP-enabled voice services spe-
16 cifically designated by a State or taxing ju-
17 risdiction for the support or implementa-
18 tion of 9–1–1 services.

19 “(ii) 9–1–1 SERVICES.—The term ‘9–
20 1–1 services’ has the meaning given such
21 term in section 158(e) of the National
22 Telecommunications and Information Ad-
23 ministration Organization Act (47 U.S.C.
24 942(e)).

1 “(iii) STATE OR TAXING JURISDIC-
2 TION.—The term ‘State or taxing jurisdic-
3 tion’ means a State, political subdivision
4 thereof, Indian Tribe, or village or regional
5 corporation serving a region established
6 pursuant to the Alaska Native Claims Set-
7 tlement Act (43 U.S.C. 1601 et seq.).

8 “(4) PARTICIPATION.—If a State or taxing ju-
9 risdiction (as defined in paragraph (3)(D)) receives
10 a grant under section 158 of the National Tele-
11 communications and Information Administration Or-
12 ganization Act (47 U.S.C. 942) after the date of the
13 enactment of this paragraph, such State or taxing
14 jurisdiction shall, as a condition of receiving such
15 grant, provide the information requested by the
16 Commission to prepare the report required by para-
17 graph (2).

18 “(5) PETITION REGARDING ADDITIONAL PUR-
19 POSES AND FUNCTIONS.—

20 “(A) IN GENERAL.—A State or taxing ju-
21 risdiction (as defined in paragraph (3)(D)) may
22 submit to the Commission a petition for a de-
23 termination that an obligation or expenditure of
24 a 9–1–1 fee or charge (as defined in such para-
25 graph) by such State or taxing jurisdiction for

1 a purpose or function other than a purpose or
2 function designated under paragraph (3)(A)
3 should be treated as such a purpose or function.
4 If the Commission finds that the State or tax-
5 ing jurisdiction has provided sufficient docu-
6 mentation to make the demonstration described
7 in subparagraph (B), the Commission shall
8 grant such petition.

9 “(B) DEMONSTRATION DESCRIBED.—The
10 demonstration described in this subparagraph is
11 a demonstration that the purpose or function—

12 “(i) supports public safety answering
13 point functions or operations; or

14 “(ii) has a direct impact on the ability
15 of a public safety answering point to—

16 “(I) receive or respond to 9-1-1
17 calls; or

18 “(II) dispatch emergency re-
19 sponders.”; and

20 (2) by adding at the end the following:

21 “(j) SEVERABILITY CLAUSE.—If any provision of this
22 section or the application thereof to any person or cir-
23 cumstance is held invalid, the remainder of this section
24 and the application of such provision to other persons or
25 circumstances shall not be affected thereby.”.

1 **SEC. 4. PROHIBITION ON 9-1-1 FEE OR CHARGE DIVERSION.**

2 (a) IN GENERAL.—If the Commission obtains evi-
3 dence that suggests the diversion by a State or taxing ju-
4 risdiction of 9-1-1 fees or charges, the Commission shall
5 submit such information, including any information re-
6 garding the impact of any underfunding of 9-1-1 services
7 in the State or taxing jurisdiction, to the interagency
8 strike force established under subsection (c).

9 (b) REPORT TO CONGRESS.—Beginning with the first
10 report under section 6(f)(2) of the Wireless Communica-
11 tions and Public Safety Act of 1999 (47 U.S.C. 615a-
12 1(f)(2)) that is required to be submitted after the date
13 that is 1 year after the date of the enactment of this Act,
14 the Commission shall include in each report required
15 under such section all evidence that suggests the diversion
16 by a State or taxing jurisdiction of 9-1-1 fees or charges,
17 including any information regarding the impact of any
18 underfunding of 9-1-1 services in the State or taxing ju-
19 risdiction.

20 (c) INTERAGENCY STRIKE FORCE TO END 9-1-1
21 FEE OR CHARGE DIVERSION.—

22 (1) ESTABLISHMENT.—Not later than 180 days
23 after the date of the enactment of this Act, the
24 Commission shall establish an interagency strike
25 force to study how the Federal Government can
26 most expeditiously end diversion by a State or taxing

1 jurisdiction of 9–1–1 fees or charges. Such inter-
2 agency strike force shall be known as the “Ending
3 9–1–1 Fee Diversion Now Strike Force” (in this
4 section referred to as the “Strike Force”).

5 (2) DUTIES.—In carrying out the study under
6 paragraph (1), the Strike Force shall—

7 (A) determine the effectiveness of any Fed-
8 eral laws, including regulations, policies, and
9 practices, or budgetary or jurisdictional con-
10 straints regarding how the Federal Government
11 can most expeditiously end diversion by a State
12 or taxing jurisdiction of 9–1–1 fees or charges;

13 (B) consider whether criminal penalties
14 would further prevent diversion by a State or
15 taxing jurisdiction of 9–1–1 fees or charges;
16 and

17 (C) determine the impacts of diversion by
18 a State or taxing jurisdiction of 9–1–1 fees or
19 charges.

20 (3) MEMBERS.—The Strike Force shall be com-
21 posed of such representatives of Federal depart-
22 ments and agencies as the Commission considers ap-
23 propriate, in addition to—

24 (A) State attorneys general;

1 (B) States or taxing jurisdictions found
2 not to be engaging in diversion of 9–1–1 fees
3 or charges;

4 (C) States or taxing jurisdictions trying to
5 stop the diversion of 9–1–1 fees or charges;

6 (D) State 9–1–1 administrators;

7 (E) public safety organizations;

8 (F) groups representing the public and
9 consumers; and

10 (G) groups representing public safety an-
11 swering point professionals.

12 (4) REPORT TO CONGRESS.—Not later than
13 270 days after the date of the enactment of this Act,
14 the Strike Force shall publish on the website of the
15 Commission and submit to the Committee on En-
16 ergy and Commerce of the House of Representatives
17 and the Committee on Commerce, Science, and
18 Transportation of the Senate a report on the find-
19 ings of the study under this subsection, including—

20 (A) any recommendations regarding how to
21 most expeditiously end the diversion by a State
22 or taxing jurisdiction of 9–1–1 fees or charges,
23 including actions that can be taken by Federal
24 departments and agencies and appropriate
25 changes to law or regulations; and

1 (B) a description of what progress, if any,
2 relevant Federal departments and agencies have
3 made in implementing the recommendations
4 under subparagraph (A).

5 (d) FAILURE TO COMPLY.—Notwithstanding any
6 other provision of law, any State or taxing jurisdiction
7 identified by the Commission in the report required under
8 section 6(f)(2) of the Wireless Communications and Public
9 Safety Act of 1999 (47 U.S.C. 615a–1(f)(2)) as engaging
10 in diversion of 9–1–1 fees or charges shall be ineligible
11 to participate or send a representative to serve on any
12 committee, panel, or council established under section
13 6205(a) of the Middle Class Tax Relief and Job Creation
14 Act of 2012 (47 U.S.C. 1425(a)) or any advisory com-
15 mittee established by the Commission.

16 **SEC. 5. RULE OF CONSTRUCTION.**

17 Nothing in this Act, the Wireless Communications
18 and Public Safety Act of 1999 (Public Law 106–81), or
19 the Communications Act of 1934 (47 U.S.C. 151 et seq.)
20 shall be construed to prevent a State or taxing jurisdiction
21 from requiring an annual audit of the books and records
22 of a provider of 9–1–1 services concerning the collection
23 and remittance of a 9–1–1 fee or charge.

24 **SEC. 6. DEFINITIONS.**

25 In this Act:

1 (1) 9-1-1 FEE OR CHARGE.—The term “9-1-1
2 1 fee or charge” has the meaning given such term
3 in subparagraph (D) of paragraph (3) of section 6(f)
4 of the Wireless Communications and Public Safety
5 Act of 1999, as added by this Act.

6 (2) 9-1-1 SERVICES.—The term “9-1-1 serv-
7 ices” has the meaning given such term in section
8 158(e) of the National Telecommunications and In-
9 formation Administration Organization Act (47
10 U.S.C. 942(e)).

11 (3) COMMISSION.—The term “Commission”
12 means the Federal Communications Commission.

13 (4) DIVERSION.—The term “diversion” means,
14 with respect to a 9-1-1 fee or charge, the obligation
15 or expenditure of such fee or charge for a purpose
16 or function other than the purposes and functions
17 designated in the final rules issued under paragraph
18 (3) of section 6(f) of the Wireless Communications
19 and Public Safety Act of 1999, as added by this Act,
20 as purposes and functions for which the obligation
21 or expenditure of such a fee or charge is acceptable.

22 (5) STATE OR TAXING JURISDICTION.—The
23 term “State or taxing jurisdiction” has the meaning
24 given such term in subparagraph (D) of paragraph

1 (3) of section 6(f) of the Wireless Communications
2 and Public Safety Act of 1999, as added by this Act.

3 **SEC. 7. DETERMINATION OF BUDGETARY EFFECTS.**

4 The budgetary effects of this Act, for the purpose of
5 complying with the Statutory Pay-As-You-Go Act of 2010,
6 shall be determined by reference to the latest statement
7 titled “Budgetary Effects of PAYGO Legislation” for this
8 Act, submitted for printing in the Congressional Record
9 by the Chairman of the House Budget Committee, pro-
10 vided that such statement has been submitted prior to the
11 vote on passage.

Amend the title so as to read: “A bill to repeal the requirement to reallocate and auction the T-Band spectrum, to amend the Wireless Communications and Public Safety Act of 1999 to clarify acceptable 9–1–1 obligations or expenditures, and for other purposes.”.