

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE
OFFERED BY _____**

At the end of subtitle D, add the following:

- 1 **CHAPTER 4—OTHER MATTER**
- 2 **SEC. 3331. PRESERVATION OF LOCAL ZONING AUTHORITY.**
- 3 Section 332(c) of the Communications Act of 1934
- 4 (47 U.S.C. 332(c)) is amended by striking paragraph (7)
- 5 and inserting the following:
- 6 “(7) PRESERVATION OF LOCAL ZONING AU-
- 7 THORITY.—
- 8 “(A) GENERAL AUTHORITY.—Except as
- 9 provided in this paragraph, nothing in this Act
- 10 shall limit or affect the authority of a State or
- 11 local government or instrumentality thereof over
- 12 decisions regarding the placement, construction,
- 13 and modification of personal wireless service fa-
- 14 cilities.
- 15 “(B) LIMITATIONS.—
- 16 “(i) IN GENERAL.—The regulation of
- 17 the placement, construction, or modifica-
- 18 tion of a personal wireless service facility

1 by any State or local government or instru-
2 mentality thereof—

3 “(I) shall not unreasonably dis-
4 criminate among providers of the
5 same service, including by providing
6 exclusive or preferential use of facili-
7 ties to a particular provider or class of
8 providers of personal wireless service;
9 and

10 “(II) shall not prohibit or have
11 the effect of prohibiting the provision
12 or enhancement of personal wireless
13 service.

14 “(ii) ENGINEERING STANDARDS; AES-
15 THETIC REQUIREMENTS.—It is not a viola-
16 tion of clause (i) for a State or local gov-
17 ernment or instrumentality thereof to es-
18 tablish for small personal wireless service
19 facilities objective, reasonable, and non-
20 discriminatory—

21 “(I) structural engineering stand-
22 ards based on generally applicable
23 codes;

24 “(II) safety requirements; or

1 “(III) aesthetic or concealment
2 requirements.

3 “(iii) TIMEFRAMES.—

4 “(I) IN GENERAL.—A State or
5 local government or instrumentality
6 thereof shall grant or deny a complete
7 request for authorization to place,
8 construct, or modify a personal wire-
9 less service facility not later than—

10 “(aa) in the case of a per-
11 sonal wireless service facility that
12 is not a small personal wireless
13 service facility—

14 “(AA) if the request is
15 for authorization to place,
16 construct, or modify such fa-
17 cility on an eligible support
18 structure, including in an
19 area that has not previously
20 been zoned for personal
21 wireless service facilities
22 (other than small personal
23 wireless service facilities), 90
24 days after the date on which
25 the complete request is re-

1 ceived by the government or
2 instrumentality; or

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

10 “(bb) in the case of a small
11 personal wireless service facil-
12 ity—

13 “(AA) if the request is
14 for authorization to place,
15 construct, or modify such fa-
16 cility on an eligible support
17 structure, including in an
18 area that has not previously
19 been zoned for personal
20 wireless service facilities, 60
21 days after the date on which
22 the complete request is re-
23 ceived by the government or
24 instrumentality; or

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

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

21 “(III) APPLICABILITY.—The ap-
22 plicable timeframe under subclause (I)
23 shall apply collectively to all pro-
24 ceedings required by a State or local

1 government or instrumentality thereof
2 for the approval of the request.

3 “(IV) NO TOLLING.—A time-
4 frame under subclause (I) may not be
5 tolled by any moratorium, whether ex-
6 press or de facto, imposed by a State
7 or local government or instrumentality
8 thereof on the consideration of any re-
9 quest for authorization to place, con-
10 struct, or modify a personal wireless
11 service facility.

12 “(V) TEMPORARY WAIVER.—The
13 Commission may temporarily waive
14 the applicability of subclause (I) for
15 not longer than a single 30-day period
16 for any complete request upon a dem-
17 onstration by a State or local govern-
18 ment or instrumentality thereof that
19 the waiver would be consistent with
20 the public interest, convenience, and
21 necessity.

22 “(iv) DEEMED GRANTED.—

23 “(I) IN GENERAL.—If a State or
24 local government or instrumentality
25 thereof has neither granted nor denied

1 a complete request within the applica-
2 ble timeframe under subclause (I) of
3 clause (iii), including any temporary
4 waiver granted under subclause (V) of
5 such clause, the request shall be
6 deemed granted on the date on which
7 the government or instrumentality re-
8 ceives a written notice of the failure
9 from the requesting party.

10 “(II) RULE OF CONSTRUC-
11 TION.—In the case of a request that
12 is deemed granted under subclause
13 (I), the placement, construction, or
14 modification requested in the request
15 shall be considered to be authorized,
16 without any further action by the gov-
17 ernment or instrumentality, beginning
18 on the date on which the request is
19 deemed granted under such subclause.

20 “(v) WRITTEN DECISION AND
21 RECORD.—Any decision by a State or local
22 government or instrumentality thereof to
23 deny a request for authorization to place,
24 construct, or modify a personal wireless
25 service facility shall be—

1 “(I) in writing; and

2 “(II) supported by substantial
3 evidence contained in a written
4 record.

5 “(vi) ENVIRONMENTAL EFFECTS OF
6 RADIO FREQUENCY EMISSIONS.—No State
7 or local government or instrumentality
8 thereof may regulate the placement, con-
9 struction, or modification of personal wire-
10 less service facilities on the basis of the en-
11 vironmental effects of radio frequency
12 emissions to the extent that such facilities
13 comply with the Commission’s regulations
14 concerning such emissions.

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

1 personal wireless service facility, if the fee
2 is—

3 “(I) competitively neutral, tech-
4 nology neutral, and nondiscrim-
5 inatory;

6 “(II) publicly disclosed;

7 “(III) calculated—

8 “(aa) based on actual and
9 direct costs, such as costs for—

10 “(AA) review and proc-
11 essing of requests; and

12 “(BB) repairs and re-
13 placement of components
14 and materials resulting from
15 and affected by the installa-
16 tion or improvement of per-
17 sonal wireless service facili-
18 ties, or repairs and replace-
19 ment of equipment that fa-
20 cilitates 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—

4 “(aa) nonrecurring fees and
5 recurring fees; and

6 “(bb) the use of facilities on
7 which personal wireless service
8 facilities are already located and
9 those on which there are no per-
10 sonal wireless service facilities as
11 of the date on which the complete
12 request is received by the govern-
13 ment or instrumentality.

14 “(C) JUDICIAL AND ADMINISTRATIVE RE-
15 VIEW.—

16 “(i) JUDICIAL REVIEW.—Any person
17 adversely affected by any final action or
18 failure to act by a State or local govern-
19 ment or any instrumentality thereof that is
20 inconsistent with this paragraph may,
21 within 30 days after the action or failure
22 to act, commence an action in any court of
23 competent jurisdiction, which shall hear
24 and decide the action on an expedited
25 basis.

1 “(ii) ADMINISTRATIVE REVIEW.—

2 “(I) IN GENERAL.—Any person
3 adversely affected by any final action
4 or failure to act by a State or local
5 government or any instrumentality
6 thereof that is inconsistent with this
7 paragraph may petition the Commis-
8 sion to order the government or in-
9 strumentality to reconsider the action
10 or failure to act.

11 “(II) PUBLIC NOTICE AND COM-
12 MENT; TIMING.—Not later than 60
13 days after receiving a petition under
14 subclause (I), the Commission shall—

15 “(aa) provide public notice
16 of, and an opportunity for public
17 comment on, such petition; and

18 “(bb) grant or deny such pe-
19 tition.

20 “(D) WHEN REQUEST CONSIDERED COM-
21 PLETE; RECEIVED.—

22 “(i) WHEN REQUEST CONSIDERED
23 COMPLETE.—

24 “(I) IN GENERAL.—For the pur-
25 poses of this paragraph, a request to

1 a State or local government or instru-
2 mentality thereof shall be considered
3 complete if the requesting party has
4 not received a written notice from the
5 government or instrumentality within
6 10 business days after the date on
7 which the request is received by the
8 government or instrumentality—

9 “(aa) stating that all the in-
10 formation (including any form or
11 other document) required by the
12 government or instrumentality to
13 be submitted for the request to
14 be considered complete has not
15 been submitted; and

16 “(bb) identifying the infor-
17 mation required to be submitted
18 that was not submitted.

19 “(II) DEFINITION.—In this
20 clause, the term ‘received by the gov-
21 ernment or instrumentality’ means—

22 “(aa) in the case of a re-
23 quest submitted electronically, on
24 the date on which the request is
25 transmitted;

1 “(bb) in the case of a re-
2 quest submitted in person, on the
3 date on which the request is de-
4 livered to the individual or at the
5 location specified by the govern-
6 ment or instrumentality for in-
7 person submission; and

8 “(cc) in the case of a re-
9 quest submitted in any other
10 manner, on the date determined
11 under regulations promulgated by
12 the Commission for the manner
13 in which the request is sub-
14 mitted.

15 “(ii) WHEN COMPLETE REQUEST CON-
16 SIDERED RECEIVED.—For the purposes of
17 this paragraph, a complete request shall be
18 considered received on the date on which
19 the requesting party submits to the gov-
20 ernment or instrumentality all information
21 (including any form or other document) re-
22 quired by the government or instrumen-
23 tality to be submitted for the request to be
24 considered complete.

25 “(E) DEFINITIONS.—In this paragraph:

1 “(i) ANTENNA.—The term ‘antenna’
2 means an apparatus designed for the pur-
3 pose of emitting radiofrequency radiation,
4 to be operated or operating from a fixed
5 location for the transmission of writing,
6 signs, signals, data, images, pictures, and
7 sounds of all kinds.

8 “(ii) COMMUNICATIONS NETWORK.—
9 The term ‘communications network’ means
10 a network used to provide a communica-
11 tions service.

12 “(iii) COMMUNICATIONS SERVICE.—
13 The term ‘communications service’
14 means—

15 “(I) cable service, as defined in
16 section 602;

17 “(II) information service;

18 “(III) telecommunications serv-
19 ice; and

20 “(IV) personal wireless service.

21 “(iv) ELIGIBLE SUPPORT STRUC-
22 TURE.—The term ‘eligible support struc-
23 ture’ means a tower, base station, or other
24 structure that supports a personal wireless
25 service facility at the time when a complete

1 request to a State or local government or
2 instrumentality thereof for authorization to
3 place, construct, or modify a personal wire-
4 less service facility on the structure is re-
5 ceived by the government or instrumen-
6 tality.

7 “(v) 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 “(vi) NETWORK INTERFACE DE-
15 VICE.—The term ‘network interface device’
16 means a telecommunications demarcation
17 device 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 “(vii) 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 “(viii) PERSONAL WIRELESS SERVICE
17 FACILITY.—The term ‘personal wireless
18 service facility’ means a facility for the
19 provision of personal wireless service.

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

23 “(I) means a personal wireless
24 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.

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

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

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

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

