



Sen. John J. Cullerton

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1 AMENDMENT TO HOUSE BILL 5440

2 AMENDMENT NO. _____. Amend House Bill 5440 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Direct Broadcast Satellite Service Providers Fee Act.

6 Section 5. Definitions.

7 "Department" means the Department of Revenue of the State
8 of Illinois.

9 "Direct broadcast satellite service" means the
10 distribution or broadcasting of video programming or services
11 by satellite to receiving equipment located at a subscriber's
12 or customer's premises, including, but not limited to, the
13 provision of premium channels, the provision of music or other
14 audio services or channels, and any other service received in
15 connection with the provision of that video programming or
16 those services. However, "direct broadcast satellite service"

1 does not include satellite radio service or subscription radio
2 service whereby a digital radio signal is broadcast without any
3 corresponding or related video programming or services.

4 "Gross revenue" means all consideration of any kind or
5 nature received by a provider, or an affiliate of the provider,
6 in connection with the provision of direct broadcast satellite
7 service to subscribers or customers, including recurring
8 monthly charges for direct broadcast satellite service and
9 pay-per-view, video-on-demand, and other event-based charges
10 for direct broadcast satellite service; provided, however,
11 that gross revenues shall not include:

12 (1) revenue not actually received, regardless of
13 whether it is billed, including, but not limited to, bad
14 debts;

15 (2) revenue received by an affiliate or other person in
16 exchange for supplying goods and services used by a
17 provider;

18 (3) refunds, rebates, or discounts made to subscribers
19 or customers, to advertisers, or to other persons;

20 (4) revenue from any service that is subject to tax
21 under the Service Occupation Tax Act, Retailers'
22 Occupation Tax Act, Service Use Tax Act, or Use Tax Act;

23 (5) the fee imposed by this Act or any tax of general
24 applicability imposed on a provider or a purchaser of
25 direct broadcast satellite service, by a federal, State, or
26 local governmental entity and required to be collected by a

1 person and remitted to the taxing entity;

2 (6) charges, other than those charges specifically
3 described in this Act, that are aggregated or bundled with
4 such specifically-described charges on a subscriber or
5 customer's bill, if the provider can reasonably identify
6 the charges in its books and records kept in the regular
7 course of business;

8 (7) revenue from advertising services; or

9 (8) charges that may not be taxed pursuant to the
10 Internet Tax Freedom Act.

11 "Person" means any natural individual, firm, trust,
12 estate, partnership, association, joint stock company, joint
13 venture, corporation, limited liability company, or a
14 receiver, trustee, guardian, or other representative appointed
15 by order of any court, the federal government and State
16 governments, including State universities created by statute
17 or any city, town, county, or other political subdivision of
18 this State.

19 "Provider" means a person who transmits, broadcasts,
20 sells, or distributes direct broadcast satellite service to
21 subscribers or customers in the State.

22 "Subscriber" or "customer" means a member of the general
23 public who receives direct broadcast satellite service from a
24 provider and does not further distribute such service in the
25 ordinary course of business.

26 "Video programming" means programming provided by, or

1 programming comparable to programming provided by, a
2 television broadcast station or multichannel video service
3 provider, including, but not limited to, video programming
4 provided by local networks, national broadcast networks, and
5 all forms of pay-per-view video entertainment.

6 Section 10. Imposition of a service provider fee.

7 (a) A fee is imposed upon the act or privilege of providing
8 direct broadcast satellite service to a subscriber or customer
9 in this State by any provider at the rate of 5% of the
10 provider's gross revenues derived from or attributable to that
11 customer or subscriber.

12 (b) The fee imposed by subsection (a) may be passed through
13 to, and collected from, the provider's customers in Illinois.
14 To the extent allowed under federal or State law, a provider
15 may identify as a separate line item on each regular bill
16 issued to a subscriber or customer the amount of the total bill
17 assessed as a fee under this Act.

18 Section 15. Remittances.

19 (a) On or before the twentieth day of each calendar month,
20 every provider of direct broadcast satellite service to a
21 subscriber or customer in this State during the preceding
22 calendar month shall file a return with the Department, in a
23 form prescribed by the Department, stating:

24 (1) the name of the provider;

1 (2) the address of the provider's principal place of
2 business;

3 (3) total amount of gross revenues received by the
4 provider during the preceding calendar month, quarter, or
5 year, as the case may be, from the provision of direct
6 broadcast satellite service during that preceding calendar
7 month, quarter, or year and upon the basis of which the fee
8 is imposed;

9 (4) the amount of fee due;

10 (5) the signature of the provider; and

11 (6) such other reasonable information as the
12 Department may require.

13 (b) If a provider fails to sign a return within 30 days
14 after the proper notice and demand for signature by the
15 Department is received by the provider, the return shall be
16 considered valid and any amount shown to be due on the return
17 shall be deemed assessed.

18 (c) If the provider is otherwise required to file a monthly
19 return, and if the provider's average monthly fee liability to
20 the Department under this Act does not exceed \$200, the
21 Department may authorize the provider's returns to be filed on
22 a quarter annual basis, with the return for January, February,
23 and March of a given year being due by April 20 of that year;
24 with the return for April, May, and June of a given year being
25 due by July 20 of that year; with the return for July, August,
26 and September of a given year being due by October 20 of that

1 year; and with the return for October, November, and December
2 of a given year being due by January 20 of the following year.

3 (d) If the provider is otherwise required to file a monthly
4 or quarterly return, and if the provider's average monthly fee
5 liability with the Department under this Act does not exceed
6 \$50, the Department may authorize the provider's returns to be
7 filed on an annual basis, with the return for a given year
8 being due by January 20 of the following year.

9 (e) Those quarterly and annual returns shall be subject to
10 the same requirements as to form and substance as monthly
11 returns.

12 (f) A provider who has a fee liability that exceeds the
13 amount set forth in subsection (b) of Section 2505-210 of the
14 Department of Revenue Law for tax liabilities shall make all
15 payments required by rules of the Department by electronic
16 funds transfer.

17 (g) Any provider not required to make payments by
18 electronic funds transfer may make payments by electronic funds
19 transfer with the permission of the Department.

20 (h) All providers required to make payment by electronic
21 funds transfer and any providers authorized to voluntarily make
22 payments by electronic funds transfer shall make those payments
23 in the manner authorized by the Department.

24 Section 20. Records.

25 (a) A provider on whom a fee is imposed by this Act shall

1 maintain the necessary records, and any other information
2 required by the Department, to determine the amount of the fee
3 that the provider is required to remit and any credit that the
4 provider is entitled to claim under this Act.

5 (b) The records shall be open at all times to inspection by
6 the Department.

7 Section 25. Distribution of proceeds. The proceeds of the
8 fee collected shall be deposited into the Education Assistance
9 Fund in the State treasury.

10 Section 30. Department's authority to adopt rules. The
11 Department is authorized to make, promulgate, and enforce such
12 reasonable rules, and to prescribe such forms relating to the
13 administration and enforcement of this Act, as it may deem
14 appropriate.

15 Section 35. Applicability. This Act becomes operative on
16 July 1, 2012, and applies to the provision of direct broadcast
17 satellite service on or after that date.

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."