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(Original Signature of Member)

117TH CONGRESS  
1ST SESSION

# H. R.

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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.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. LATTA introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# 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 and 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 providers of the  
22 same service, including by providing  
23 exclusive or preferential use of facili-  
24 ties to a particular provider or class of  
25 providers of personal wireless service;  
26 and

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

5                   “(ii) ENGINEERING STANDARDS; AES-  
6                   THETIC REQUIREMENTS.—It is not a viola-  
7                   tion of clause (i) for a State or local gov-  
8                   ernment or instrumentality thereof to es-  
9                   tablish for small personal wireless service  
10                  facilities objective, reasonable, and non-  
11                  discriminatory—

12                  “(I) structural engineering stand-  
13                  ards based on generally applicable  
14                  codes;

15                  “(II) safety requirements; or

16                  “(III) aesthetic or concealment  
17                  requirements.

18                  “(iii) TIMEFRAMES.—

19                  “(I) IN GENERAL.—A State or  
20                  local government or instrumentality  
21                  thereof shall grant or deny a complete  
22                  request for authorization to place,  
23                  construct, or modify a personal wire-  
24                  less service facility not later than—

1           “(aa) in the case of a per-  
2           sonal wireless service facility that  
3           is not a small personal wireless  
4           service facility—

5                   “(AA) if the request is  
6                   for authorization to place,  
7                   construct, or modify such fa-  
8                   cility on an eligible support  
9                   structure, including in an  
10                  area that has not previously  
11                  been zoned for personal  
12                  wireless service facilities  
13                  (other than small personal  
14                  wireless service facilities), 90  
15                  days after the date on which  
16                  the complete request is re-  
17                  ceived by the government or  
18                  instrumentality; or

19                   “(BB) if the request is  
20                   for any other action relating  
21                   to such facility, 150 days  
22                   after the date on which the  
23                   complete request is received  
24                   by the government or instru-  
25                   mentality; and

1 “(bb) in the case of a small  
2 personal wireless service facil-  
3 ity—

4 “(AA) if the request is  
5 for authorization to place,  
6 construct, or modify such fa-  
7 cility on an eligible support  
8 structure, including in an  
9 area that has not previously  
10 been zoned for personal  
11 wireless service facilities, 60  
12 days after the date on which  
13 the complete request is re-  
14 ceived by the government or  
15 instrumentality; or

16 “(BB) if the request is  
17 for any other action relating  
18 to such facility, 90 days  
19 after the date on which the  
20 complete request is received  
21 by the government or instru-  
22 mentality.

23 “(II) TREATMENT OF BATCHED  
24 REQUESTS.—In the case of complete  
25 requests described in subclause (I)

1 that are submitted as part of a single  
2 batch and received by the government  
3 or instrumentality on the same day,  
4 the applicable timeframe under such  
5 subclause for each request in the  
6 batch shall be the longest timeframe  
7 under such subclause that would be  
8 applicable to any request in the batch  
9 if such requests were submitted sepa-  
10 rately.

11 “(III) APPLICABILITY.—The ap-  
12 plicable timeframe under subclause (I)  
13 shall apply collectively to all pro-  
14 ceedings required by a State or local  
15 government or instrumentality thereof  
16 for the approval of the request.

17 “(IV) NO TOLLING.—A time-  
18 frame under subclause (I) may not be  
19 tolled by any moratorium, whether ex-  
20 press or de facto, imposed by a State  
21 or local government or instrumentality  
22 thereof on the consideration of any re-  
23 quest for authorization to place, con-  
24 struct, or modify a personal wireless  
25 service facility.

1                   “(V) TEMPORARY WAIVER.—The  
2                   Commission may temporarily waive  
3                   the applicability of subclause (I) for  
4                   not longer than a single 30-day period  
5                   for any complete request upon a dem-  
6                   onstration by a State or local govern-  
7                   ment or instrumentality thereof that  
8                   the waiver would be consistent with  
9                   the public interest, convenience, and  
10                  necessity.

11                  “(iv) DEEMED GRANTED.—

12                   “(I) IN GENERAL.—If a State or  
13                   local government or instrumentality  
14                   thereof has neither granted nor denied  
15                   a complete request within the applica-  
16                   ble timeframe under subclause (I) of  
17                   clause (iii), including any temporary  
18                   waiver granted under subclause (V) of  
19                   such clause, the request shall be  
20                   deemed granted on the date on which  
21                   the government or instrumentality re-  
22                   ceives a written notice of the failure  
23                   from the requesting party.

24                   “(II) RULE OF CONSTRUC-  
25                   TION.—In the case of a request that

1 is deemed granted under subclause  
2 (I), the placement, construction, or  
3 modification requested in the request  
4 shall be considered to be authorized,  
5 without any further action by the gov-  
6 ernment or instrumentality, beginning  
7 on the date on which the request is  
8 deemed granted under such subclause.

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

15 “(I) in writing; and

16 “(II) supported by substantial  
17 evidence contained in a written  
18 record.

19 “(vi) ENVIRONMENTAL EFFECTS OF  
20 RADIO FREQUENCY EMISSIONS.—No State  
21 or local government or instrumentality  
22 thereof may regulate the placement, con-  
23 struction, or modification of personal wire-  
24 less service facilities on the basis of the en-  
25 vironmental effects of radio frequency

1 emissions to the extent that such facilities  
2 comply with the Commission’s regulations  
3 concerning such emissions.

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

16 “(I) competitively neutral, tech-  
17 nology neutral, and nondiscrim-  
18 inatory;

19 “(II) publicly disclosed;

20 “(III) calculated—

21 “(aa) based on actual and  
22 direct costs, such as costs for—

23 “(AA) review and proc-  
24 essing of requests; and

1                   “(BB) repairs and re-  
2                   placement of components  
3                   and materials resulting from  
4                   and affected by the installa-  
5                   tion or improvement of per-  
6                   sonal wireless service facili-  
7                   ties, or repairs and replace-  
8                   ment of equipment that fa-  
9                   cilitates the installation or  
10                  improvement of such facili-  
11                  ties; and

12                  “(bb) using, for purposes of  
13                  item (aa), only costs that are ob-  
14                  jectively reasonable; and

15                  “(IV) described to a requesting  
16                  party in a manner that distinguishes  
17                  between—

18                  “(aa) nonrecurring fees and  
19                  recurring fees; and

20                  “(bb) the use of facilities on  
21                  which personal wireless service  
22                  facilities are already located and  
23                  those on which there are no per-  
24                  sonal wireless service facilities as  
25                  of the date on which the complete

1 request is received by the govern-  
2 ment or instrumentality.

3 “(C) JUDICIAL AND ADMINISTRATIVE RE-  
4 VIEW.—

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

15 “(ii) ADMINISTRATIVE REVIEW.—

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

1                   “(II) PUBLIC NOTICE AND COM-  
2                   MENT; TIMING.—Not later than 60  
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 has  
19                           not received a written notice from the  
20                           government or instrumentality within  
21                           10 business days after the date on  
22                           which the request is received by the  
23                           government or instrumentality—

24                                   “(aa) stating that all the in-  
25                                   formation (including any form or

1 other document) required by the  
2 government or instrumentality to  
3 be submitted for the request to  
4 be considered complete has not  
5 been submitted; and

6 “(bb) identifying the infor-  
7 mation required to be submitted  
8 that was not submitted.

9 “(II) DEFINITION.—In this  
10 clause, the term ‘received by the gov-  
11 ernment or instrumentality’ means—

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

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

23 “(cc) in the case of a re-  
24 quest submitted in any other  
25 manner, on the date determined

1 under regulations promulgated by  
2 the Commission for the manner  
3 in which the request is sub-  
4 mitted.

5 “(ii) WHEN COMPLETE REQUEST CON-  
6 SIDERED RECEIVED.—For the purposes of  
7 this paragraph, a complete request shall be  
8 considered received on the date on which  
9 the requesting party submits to the gov-  
10 ernment or instrumentality all information  
11 (including any form or other document) re-  
12 quired by the government or instrumen-  
13 tality to be submitted for the request to be  
14 considered complete.

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

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

23 “(ii) COMMUNICATIONS NETWORK.—  
24 The term ‘communications network’ means

1 a network used to provide a communica-  
2 tions service.

3 “(iii) COMMUNICATIONS SERVICE.—  
4 The term ‘communications service’  
5 means—

6 “(I) cable service, as defined in  
7 section 602;

8 “(II) information service;

9 “(III) telecommunications serv-  
10 ice; and

11 “(IV) personal wireless service.

12 “(iv) ELIGIBLE SUPPORT STRUC-  
13 TURE.—The term ‘eligible support struc-  
14 ture’ means a tower, base station, or other  
15 structure that supports a personal wireless  
16 service facility at the time when a complete  
17 request to a State or local government or  
18 instrumentality thereof for authorization to  
19 place, construct, or modify a personal wire-  
20 less service facility on the structure is re-  
21 ceived by the government or instrumen-  
22 tality.

23 “(v) GENERALLY APPLICABLE  
24 CODE.—The term ‘generally applicable  
25 code’ means a uniform building, fire, elec-

1 trical, plumbing, or mechanical code adopt-  
2 ed by a national code organization, or a  
3 local amendment to such a code, to the ex-  
4 tent not inconsistent with this Act.

5 “(vi) NETWORK INTERFACE DE-  
6 VICE.—The term ‘network interface device’  
7 means a telecommunications demarcation  
8 device and cross-connect point that—

9 “(I) is adjacent or proximate  
10 to—

11 “(aa) a small personal wire-  
12 less service facility; or

13 “(bb) a structure supporting  
14 a small personal wireless service  
15 facility; and

16 “(II) demarcates the boundary  
17 with any wireline backhaul facility.

18 “(vii) PERSONAL WIRELESS SERV-  
19 ICE.—The term ‘personal wireless service’  
20 means—

21 “(I) commercial mobile service;

22 “(II) commercial mobile data  
23 service (as defined in section 6001 of  
24 the Middle Class Tax Relief and Job

1 Creation Act of 2012 (47 U.S.C.  
2 1401));

3 “(III) unlicensed wireless service;  
4 and

5 “(IV) common carrier wireless  
6 exchange access service.

7 “(viii) PERSONAL WIRELESS SERVICE  
8 FACILITY.—The term ‘personal wireless  
9 service facility’ means a facility for the  
10 provision of personal wireless service.

11 “(ix) SMALL PERSONAL WIRELESS  
12 SERVICE FACILITY.—The term ‘small per-  
13 sonal wireless service facility’—

14 “(I) means a personal wireless  
15 service facility in which each antenna  
16 is not more than 3 cubic feet in vol-  
17 ume; and

18 “(II) does not include a wireline  
19 backhaul facility.

20 “(x) UNLICENSED WIRELESS SERV-  
21 ICE.—The term ‘unlicensed wireless serv-  
22 ice’—

23 “(I) means the offering of tele-  
24 communications service using a duly

1 authorized device that does not re-  
2 quire an individual license; and

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

6 “(xi) WIRELINE BACKHAUL FACIL-  
7 ITY.—The term ‘wireline backhaul facility’  
8 means an above-ground or underground  
9 wireline facility used to transport commu-  
10 nications service or other electronic com-  
11 munications from a small personal wireless  
12 service facility or the adjacent network  
13 interface device of such facility to a com-  
14 munications network.”.