



# State of Tennessee

## PUBLIC CHAPTER NO. 799

HOUSE BILL NO. 170

By Representative Zachary

Substituted for: Senate Bill No. 149

By Senators Briggs, Bowling, Jackson, Massey

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 12; Title 13; Title 65; Title 66 and Title 67, relative to telecommunications.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 13-24-402(1), is amended by deleting the subdivision and substituting:

(1) "Aesthetic plan" means a publicly available written resolution, regulation, policy, site plan, or approved plat that:

(A) Establishes generally applicable aesthetic requirements within the authority or designated area within the authority; and

(B) Does not unreasonably discriminate among providers of functionally equivalent services;

SECTION 2. Tennessee Code Annotated, Section 13-24-402(19)(A), is amended by deleting the subdivision and substituting:

(A) "Small wireless facility" means a wireless facility with:

(i) Each antenna being able to fit within an enclosure of no more than three (3) cubic feet in volume; and

(ii) Other wireless equipment in addition to the antenna that is cumulatively no more than twenty-eight (28) cubic feet in volume, regardless of whether the facility is ground-mounted or pole-mounted. For purposes of this subdivision (19)(A)(ii), "other wireless equipment" does not include concealment elements in the volume calculation; and

SECTION 3. Tennessee Code Annotated, Section 13-24-406, is amended by deleting the section and substituting:

(a) An authority shall not:

(1) Enter into an exclusive arrangement with a person for use of a ROW for the construction, operation, marketing, or maintenance of small wireless facilities;

(2) Discriminate by prohibiting an applicant from making an installation that is generally permitted when performed by other entities entitled to deploy infrastructure in a ROW or by imposing maintenance or repair obligations not generally applicable to all entities entitled to deploy infrastructure in a ROW;

(3) Impose discriminatory prohibitions against deploying a new PSS for small wireless facilities in a ROW. Only requirements imposed generally to other entities entitled to deploy infrastructure in a ROW may be applied to prohibit an applicant's deployment of a new PSS in a ROW; or

(4) Except as provided in this part or otherwise specifically authorized by state law, adopt or enforce regulations or requirements on the placement or

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operation of communications facilities in a ROW by a communications service provider authorized by state or local law to operate in a ROW; regulate communications services; or impose or collect a tax, fee, or charge for the provision of communications service over the communications service provider's communications facilities in a ROW.

(b) With respect to aesthetic plans, this section does not prohibit an authority from reasonably differentiating among providers of functionally equivalent services.

SECTION 4. Tennessee Code Annotated, Section 13-24-407(a), is amended by deleting the subsection and substituting:

(a) The following are the maximum fees and rates that may be charged to an applicant by a local authority for deployment of a small wireless facility:

(1) For small wireless facility colocations on existing or replacement PSSs, the maximum application fee is five hundred dollars (\$500) for a single application of up to five (5) small wireless facilities and one hundred dollars (\$100) each for additional small wireless facilities included in a single application. For a new PSS, other than a replacement PSS, together with the colocation of an associated small wireless facility, the maximum application fee is one thousand dollars (\$1,000); and

(2) The maximum annual rate for colocation of a small wireless facility on a local authority-owned PSS is two hundred seventy dollars (\$270).

SECTION 5. Tennessee Code Annotated, Section 13-24-408(a)(1), is amended by deleting the subdivision and substituting:

(1) A local authority shall not restrict the size, height, or otherwise regulate the appearance or placement of small wireless facilities, or prohibit colocation on PSSs, except a local authority shall require that:

(A) A new PSS installed, or an existing PSS replaced, after the effective date of this act in the ROW not exceed the greater of:

(i) Ten percent (10%) taller than the tallest existing PSS in place as of the effective date of this act that is located within five hundred feet (500') of the new PSS in the ROW and, in residential neighborhoods, the tallest existing PSS that is located within five hundred feet (500') of the new PSS and is also located within the same residential neighborhood as the new PSS in the ROW;

(ii) Fifty feet (50') above ground level; or

(iii) For a PSS installed in a residential neighborhood, forty feet (40') above ground level; and

(B) Small wireless facilities deployed or replaced in the ROW after the effective date of this act must not extend:

(i) More than ten percent (10%) taller than an existing PSS in place as of the effective date of this act; or

(ii) On a new PSS, ten percent (10%) taller than the height permitted for a new PSS under this section.

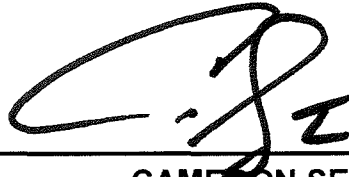
SECTION 6.

(a) This act takes effect upon becoming a law, the public welfare requiring it.

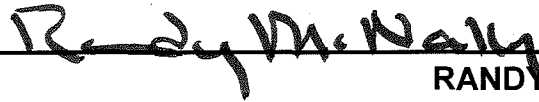
(b) Sections 1, 2, 3, and 5 do not apply to a small cell installed prior to the effective date of this act, unless and until the small cell is physically modified, the public welfare requiring it.

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PASSED: March 17, 2022



CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES



RANDY MCNALLY  
SPEAKER OF THE SENATE

APPROVED this 8<sup>th</sup> day of April 2022



BILL LEE, GOVERNOR