

Bill No. CS for CS for CS for SB 998

Barcode 872694

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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 04/25/2007 04:53 PM

11 Senator Fasano moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 36, lines 1 and 2, delete those lines

15 and insert:

16 Section 14. Section 501.2079, Florida Statutes, is

17 created to read:

18 501.2079 Violations involving discrimination in the

19 provision of video services.--

20 (1) As used in this section, the term:

21 (a) "Cable service" has the same meaning as in s.

22 610.103(1).

23 (b) "Video service" has the same meaning as in s.

24 610.103(11).

25 (c) "Resident" means a resident residing within a

26 service area as set out in ss. 610.104(2)(e)5. and 610.104(6).

27 (d) "Provider" means a cable or video service provider

28 that has been issued and holds a statutory certificate of

29 franchise authority from the Department of State.

30 (e) "Discrimination" means the denial of access to

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1 cable or video service to any individual or group of residents
 2 because of the race or income of the residents in the local
 3 area in which such individual or group resides. Such
 4 discrimination shall be prohibited as to residents throughout
 5 the service area of the municipality or county within which
 6 service is provided.

7 (2) Discrimination among residents by a provider of
 8 cable or video services is declared unlawful and constitutes a
 9 violation of this section.

10 (3) For purposes of determining whether a provider has
 11 violated subsection (2), a cable or video service provider may
 12 satisfy the nondiscrimination requirements of this section
 13 through the use of alternative technology that offers service,
 14 functionality, and content that is demonstrably similar to
 15 that provided through the provider's system and may include a
 16 technology that does not require the use of any public
 17 right-of-way. The technology used to comply with the
 18 requirements of this section is subject to all the
 19 requirements of chapter 610. If a provider makes cable or
 20 video service available within a reasonable period of time
 21 from the initiation of service to residents in its service
 22 area, the provider shall be presumed to be in compliance with
 23 subsection (2). A provider is not required to offer or provide
 24 service to end users residing in an area having a density of
 25 fewer than 30 homes per linear cable mile from the provider's
 26 nearest activated video distribution plant. This section does
 27 not impose a buildout requirement.

28 (4) For purposes of determining whether a provider has
 29 violated subsection (2), cost, density, distance, and
 30 technological or commercial limitations shall be taken into
 31 account. The inability to provide access to cable or video

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1 service because a provider is prohibited from placing its own
2 facilities in a building or property or due to natural
3 disasters is not a violation of subsection (2).

4 (5) The Department of Legal Affairs shall be the sole
5 enforcing authority to bring an action pursuant to subsection
6 (2) and may initiate such action on its own, or on behalf of
7 a resident or an applicable local government. A private right
8 of action is not created by subsection (2).

9 (6) In addition to all other remedies in this section,
10 only the enforcing authority may bring an action to enjoin
11 discrimination in the delivery of cable or video services and
12 to compel compliance with this section.

13 (7) Upon a finding by a court of competent
14 jurisdiction that a provider has engaged in unlawful
15 discrimination, the provider shall have a reasonable period of
16 time as specified by the court to cure such noncompliance. If
17 the provider fails to cure within a specified time, any
18 provider who is found to have violated subsection (2) is
19 liable for a civil penalty of not more than \$15,000 for each
20 such violation and attorney's fees to the Department of Legal
21 Affairs. For purposes of this section, discrimination against
22 each individual member of a group constitutes a separate
23 violation and is subject to a separate penalty as set forth in
24 this section; however, the total penalty may not exceed more
25 than \$50,000 per month.

26
27 (Redesignate subsequent sections.)

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29
30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 On page 5, line 5, after the semicolon,

2

3 insert:

4 creating s. 501.2079, F.S.; providing for

5 violations involving discrimination in delivery

6 of video service; providing definitions;

7 prohibiting discrimination; providing a time to

8 cure; providing criteria; designating

9 Department of Legal Affairs as the sole

10 enforcing authority; providing remedies;

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