

House Passes Satellite TV Law Reauthorization Bill

The House of Representatives on July 22 voted to reauthorize a law allowing satellite providers such as Dish Network Corp and DirecTV to bring in TV signals from other markets when subscribers cannot pick up local stations.

The legislation to reauthorize the Satellite Television Extension and Localism Act, or STELA, for another five years passed by a voice vote. The Senate is expected to vote on its version of a bill, to be reconciled with the House legislation, later this year.

The Senate Commerce Committee leaders have said they plan to introduce their legislation in September. It would have to be reconciled with a "clean" reauthorization of the satellite law advanced by the Senate Judiciary Committee earlier this year.

Both Republican and Democratic leaders on the committee said reauthorizing STELA, which expires at the end of 2014, would ensure that 1.5 million U.S. satellite TV subscribers would not lose access to important broadcast programming.



The House bill, among other things, adds a provision to prohibit unaffiliated TV stations in one market from jointly negotiating retransmission fees with pay-TV providers and another to repeal the cable set-top box integration ban.

Broadcasters had pushed against limits to their joint negotiating ability. They had urged lawmakers to focus also on the pay-TV providers' own joint selling practices and use of STELA to bring in distant signals instead of strengthening local TV signals, to avoid paying higher retransmission fees. ■

Article courtesy of Reuters.

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Upcoming

September 1, 2014

VAB Best of the Best Applications Due

September 25, 2014

Richmond Regional Meeting
5:30 p.m. - 7:00 p.m.
The Westin, Richmond

October 2-3, 2014

VAB Board Retreat
Keswick Hall, Charlottesville

October 9-10, 2014

Best of the Best Leadership Session
Omni, Charlottesville

February 23-25, 2015

NAB State Leadership Conference
JW Marriott, Washington DC

June 25-27, 2015

78th Annual Summer Convention
Hilton, Virginia Beach

First PSA Available for Feeding Virginia Campaign

We are excited to have the first PSA available for the Virginia Association of Broadcasters community service campaign, "Feeding Virginia". We would ask that you play it when your inventory allows you to do so. The spots for the Feeding Virginia Campaign can be downloaded from our website at www.vabonline.com. Please let us know if you have any trouble with the files.

Thank you for all of your help in raising awareness for those less fortunate throughout the Commonwealth of Virginia. ■



Reaching more people. Touching more lives.

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Radio Stations Hold Auction to Benefit Shooting Victim's Funds

Local radio stations owned by Max Media held an online auction to benefit funds set up for shooting victims Officer Brian Jones and Mark Rodriguez.

97.3 The Eagle, Hot 100.5, 92.9 The Wave, ESPN 94.1 and Star 1310am, donated items for the auction.

When Norfolk Police Officer Jones was shot and killed in the line of duty on May 30th and Mark Rodriguez, student of Norfolk Christian, lost his life that same evening, the Max Media family was moved to take action and assist.

"We at Max Media are very blessed to be able to do something we love everyday. We live and work in this extraordinary community and if we can use the power of our platforms to help, even a little, it is both our honor and

our responsibility to do just that. The families affected have been beset with unimaginable tragedies. Our hearts go out to both the Jones and Rodriguez families" said Dave Paulus Vice President/General Manager of Max Media.

Donated items included: A pair of Gold Circle seats to see Elton John at Farm Bureau Live from 92.9 The Wave; a pair of Gold Circle tickets to see Luke Bryan from 97.3 The Eagle; a pair of Saturday/Sunday Gallery tickets to the US Open Golf Championship in Pinehurst, NC from ESPN 94.1; and a pair of tickets to go see Beyoncé & Jay-Z at M & T Stadium in Baltimore from Hot 100.5.

Net proceeds will benefit both memorial funds. ■

Article courtesy of www.wtkr.com.



cocktails & CONVERSATIONS

VAB to Hold Richmond Regional Meeting

The Virginia Association of Broadcasters would like to invite you to join us for a quick presentation and update regarding your Association and its activities as well as a social hour to get to know other broadcasters in your market.

Please join us on Thursday, September 25th from 5:30 p.m. - 7:00 p.m. at the Westin Richmond, 6631 West Broad Street, Richmond, VA 23230.

Open to all station employees, with specific content for all department heads, managers and account executives. Please RSVP to Christina Sandridge at (434) 326-9815 or christina.sandridge@easterassociates.com.

We look forward to seeing everyone! ■

President Obama to Issue Executive Order on Drone Privacy

President Barack Obama plans to issue an executive order to develop privacy guidelines for commercial drones operating in U.S. airspace, POLITICO has learned.

The order would put the National Telecommunications and Information Administration, an arm of the Commerce Department, in charge of developing the guidelines. NTIA would bring together companies and consumer groups to hammer out a series of voluntary best practices for unmanned aerial vehicles.

The FAA, which is working on a formal set of rules to allow commercial drones to operate in U.S. skies, has been criticized for not tackling issues around what kind of images and data drones can collect. Consumer groups and some lawmakers have said drones could violate people's privacy by peering into their homes and backyards.

It's not clear when the president will issue the order. White House officials declined to comment, but confirmed government-wide efforts to coordinate policy on the issue.

"We don't have any details to share at this time, but there is an inter-agency process underway," said White House spokesman Ned Price.

FAA didn't immediately respond to a request for comment.

The FAA has said it will issue a rule on small commercial drone use by the end of the year. Congress set a September 2015 deadline for the agency to safely integrate drones into the nation's airspace, though an inspector general's report earlier this year cast doubt on the agency's ability to meet that timeline.

The NTIA process will not address government use of drones, though more than a dozen states have put limits on how law enforcement can use the technology, often requiring a warrant and data deletion after a certain period of time. This year, a number of state legislatures began considering additional laws aimed at curbing private-sector drone use.

NTIA has experience with privacy issues in the tech sector. The agency convened meetings to work out industry codes of conduct for mobile apps and is now doing the same for facial recognition technology. ■

Article courtesy of Erin Mershon and Kevin Robillard with contributions from Josh Gerstein of Politico.



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NAB Small Market Television Exchange

The VAB will be offering four \$500 scholarships for station representatives to attend the NAB Small Market Television Exchange. The Exchange will be held at the Marriott Rivercenter in San Antonio, Texas from September 18-20. Program and hotel details can be found at <http://www.nab.org/2014SMTE/>.

These are co-op dollars that must be matched by the station nominating the station representative. These scholarships will be awarded on a first come, first serve basis and one per station. Once the \$2000 has been committed, we will not be able to pledge anymore for this year's conference.

If your station is interested in obtaining these scholarship dollars, contact Christina Sandridge at (434) 326-9815. ■



LEGALREVIEW

This legal review should in no way be construed as legal advice or a legal opinion on any specific set of facts or circumstances. Therefore, you should consult with legal counsel concerning any specific set of facts or circumstances.

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LUC Window for November General Elections Opens September 5

The general election in Virginia is scheduled for November 4, 2014, when Virginians will be voting for members of the United States Congress (all members of the House of Representative and one Senator) and state and local officials. Consequently, the general election's "lowest unit charge" ("LUC") window will open on September 5.

Under the LUC requirement, during the 45-day period preceding the date of a primary or primary run-off election and during the 60-day period preceding the date of a general or special election, the charges made for the "use" of a broadcast station by a "legally qualified" candidate may not exceed the LUC of the station for the *same class and amount of time for the same time period*. This does not mean that a station must sell prime or drive time at a non-prime or non-drive time rate. Nor does it mean that "fixed position" announcements must be sold at "run of schedule" or "preemptible" rates. The LUC requirement applies only to charges made for the same "class" and "amount" of time for the same "period." Thus, a candidate who purchases a fixed position announcement in drive time may be charged the same rate charged other advertisers for a fixed position announcement in drive time—except the candidate is entitled to the benefit of a frequency discount even though he or she might not have purchased enough time to have "earned" it.

When determining the LUC, stations must remember that, generally, all spots, including bonus spots, must be allocated some value in a package arrangement. To minimize any adverse impact on your station's LUC during the political windows, stations should have allocated, in good faith, some value to bonus spots included in package arrangements through a separate writing at the time the contract was signed. On the other hand, not all types of advertising must be factored into a station's LUC analysis; for example, station trade-outs, "billboards," and program sponsorships are generally not required to be factored into LUC computations.

Candidates may complain if they suspect a station has not provided them with the LUC. Such a complaint may be informal (a phone call to the station or FCC, written demand, etc.) or

it may involve a formal written complaint to the FCC. In order to avoid expending the resources and energy necessary to respond to a formal FCC complaint, stations may wish to follow these guidelines:

- ▶ If a station receives a candidate's letter demanding the rebate of alleged overcharges, the station should immediately consult with its own communications counsel and consider how best to respond. (Failure to respond promptly to such a letter may provoke the candidate into filing a formal complaint with the FCC.)
- ▶ In order to respond to a written inquiry or complaint concerning overcharges, stations should evaluate the specific allegations made by the candidate. Determine if the station actually did overcharge the candidate—if so, refund the overage immediately with an explanation of how the mistake occurred.
- ▶ An ongoing review of rates charged political advertisers should be conducted by stations throughout the election period. The FCC has suggested that a weekly review would be sufficient. Such ongoing reviews will enable the station to determine if an overcharge has occurred and refund all overcharges in a timely fashion.
- ▶ In other circumstances, usually in response to a formal complaint, a station may opt to conduct an internal audit. This should not be done without advance consultation with the station's own communications counsel. Full internal audits can be time consuming and expensive. They involve a review of all advertising sold to the particular candidate and other advertisers in the time periods, and an evaluation of whether the price charged the candidate was the "lowest unit charge."

For detailed information on the LUC and other political broadcasting requirements, please contact the Association for the latest version of the publication *Nuts 'n Bolts of Political Broadcasting*, which was previously distributed. ■

Article courtesy of Stephen Hartzell, Attorney, Brooks, Pierce, McLendon, Humphrey & Leonard LLP.

-2015-

THE VIRGINIA ASSOCIATION
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Leadership Program

Schedule

Session 1
DISC Assessment
October 9-10, 2014

Session 2
**Advocacy &
Government
Relations**
February 23-25, 2015
Washington, DC

Session 3
**Team Leadership
& Assignment of
Case Studies**
April 2015
Charlottesville, VA

Session 4
**78th Annual
Summer Convention**
*Case Study
Presentations*
June 25-27, 2015
Virginia Beach, VA

We are proud to announce the third year of the VAB's Best of the Best Leadership Program.

This eight-month program is designed to provide each participant with the maximum opportunity for professional and personal growth, while broadening their network base in an interactive environment. Candidates must have a minimum of two years experience in the broadcasting industry and be nominated by their station's general manager. Up to 15 applicants will be selected to participate in this unique program.

Why participate in the Best of the Best Leadership Program?

- ▶ Build leadership skills
- ▶ Develop a diverse business network
- ▶ Meet legislative officials and become an advocate for your industry
- ▶ Prepare for challenges facing the broadcasting industry

There is a required time commitment from both the participant and their employer. Please take a moment to review the calendar and ensure that it is compatible with your schedule. Attendance at each session—from start to finish—is mandatory!

If you are interested in expanding your leadership potential, please submit the following materials by **Monday, September 1, 2014:**

- ▶ Completed application
- ▶ Letter of recommendation from your sponsor/employer
- ▶ Electronic head-shot photograph
- ▶ Copy of your resume

The selection committee will meet in mid-September and notifications will be made by September 15th. If selected, the application fee of \$25 (small market), \$50 (medium market) or \$75 (large market) will be due on October 31, 2014.

If you have questions regarding the application or selection process, please contact Jonathan Williams at (804) 643-4433 x202 or email jonathan.williams@easterassociates.com.

HUMAN RESOURCES

New EEOC Guidance: Expanded Protections for Pregnant Employees

John G. Kruchko is a Partner with the Labor & Employment Law Firm of FordHarrison, LLP in Tysons Corner, Virginia; Kevin B. McCoy is also a Partner with the Firm. An original version of this article was prepared by Louis Britt, a Ford Harrison Partner in the Firm's Memphis office and Katie Parham, a Senior Associate in the Memphis office. For more information, please contact Mr. Kruchko or Mr. McCoy at (703) 734-0554 or by e-mail at jkruchko@fordharrison.com, or kmccoy@fordharrison.com. This article is published for general information purposes, and does not constitute legal advice.

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Title VII of the Civil Rights Act (“Title VII”) was first enacted in 1964, and provided protection from employment discrimination for individuals in a variety of categories, including sex. Early case law interpreted “sex” as male vs. female, which left “twisting in the wind” the issue of pregnancy. That’s part of the reason why in 1978 Congress amended Title VII to add the Pregnancy Discrimination Act (“PDA”), which specifically included “pregnancy, childbirth, and related medical conditions” within Title VII’s definition of sex. Interestingly, over the years most claimants alleging sex discrimination on the basis of pregnancy issues have utilized Title VII and not the PDA. Over the last couple of decades, federal courts have recognized that Title VII’s original definition of “sex” was not intended to be limited to simply “male vs. female, but can (and should) include discrimination based on more nuanced concepts such as pregnancy, physical and

mental issues surrounding pregnancy, gender stereotyping, and caregiver responsibilities. As a result, the PDA has in recent times become somewhat of an after thought. The Equal Employment Opportunity Commission (“EEOC”) has taken it upon itself to try and revitalize the PDA by issuing new interpretive guidance. Not surprisingly, the agency has taken a very expansive view of the protections to be afforded pregnant employees.

The EEOC’s New Guidance

In its July 14, 2014 Enforcement Guidance on Pregnancy Discrimination and Related Issues, the agency takes the position that denying a pregnant employee light duty work pursuant to a policy limiting light duty to employees injured on the job violates the PDA. Specifically, the new guidance states:

“The Commission rejects the position that the PDA does not require an em-

ployer to provide light duty for a pregnant worker if the employer has a policy or practice limiting light duty to workers injured on the job and/or to employees with disabilities under the ADA.”

The EEOC noted that this position has not been accepted by some courts, but stated that such decisions are “flawed” because the analysis is too restrictive. The EEOC’s expansive view was not unanimous, as Commissioner Constance S. Barker, one of two dissenting Commissioners, stated: “I believe the courts will not only find those concepts unpersuasive and decline to follow them, but will also hold that they are arbitrary and capricious and an abuse of Commission discretion.” Whether a majority of courts follow the EEOC’s new guidance, remains to be seen. Interestingly though, the Sixth Circuit recently took the position that denying a pregnant employee light duty pursuant to a facially neutral policy limiting light duty to employees injured on the job violates the PDA, suggesting a potential shift in courts’ analysis of this issue.

The EEOC also reaffirmed its position that the definition of disability under the Americans with Disabilities Act (ADA) may apply to workers with impairments related to pregnancy. It stated that, “[a]lthough pregnancy itself is not an impairment within the meaning of the ADA, and thus is never on its own a disability, some pregnant workers may have impairments related to their pregnancies that qualify as disabilities. . . even though they are only temporary.” The guidance listed examples of pregnancy-related impairments that could potentially constitute disabilities, including, but not limited to, disorders of the uterus and cervix which may require bed rest during pregnancy; gestational diabetes; and nausea causing severe dehydration.

The EEOC, however, went one step further, indicating that an employee who is pregnant but not suffering from an impairment may still be entitled to an ADA-type reasonable accommodation under the PDA. Indeed, the guidance cited lifting restrictions as an example of an accommodation that a pregnant employee may be entitled to receive even if she is not otherwise deemed

disabled under the ADA. Again, the EEOC relied upon its analysis that the PDA’s non-discrimination provision would require that the pregnant employee be treated the same as an employee covered under the ADA. The EEOC provided the following example:

An employer has a policy or practice of providing light duty, subject to availability, for any employee who cannot perform one or more job duties for up to 90 days due to injury, illness, or a condition that would be a disability under the ADA. An employee requests a light duty assignment for a 20-pound lifting restriction related to her pregnancy. The employer denies the light duty request, claiming that pregnancy itself does not constitute an injury, illness, or disability, and that the employee has not provided any evidence that the restriction is the result of a pregnancy-related impairment that constitutes a disability under the ADA. The employer has violated the PDA because the employer’s policy treats pregnant employees differently from other employees similar in their ability or inability to work.

What This All Means for Employers

The “long and short” of the EEOC’s guidance is really two-fold: (1) While employers have traditionally been permitted to limit light duty work to those employees injured on the job, employers are now cautioned not to rely on facially neutral policies when denying light duty to a pregnant employee, and (2) pregnancy is not a disability, but will nonetheless be subject to an ADA-type “reasonable accommodation” analysis in determining whether a pregnant employee can perform her job duties during her pregnancy. This guidance represents a fairly significant departure from the previously understood scope of the PDA and pregnancy, in general. Employers are advised to review their policies on leave and light duty assignments to make sure they are consistent with the EEOC’s new guidance and to carefully evaluate work accommodations for pregnant employee. ■

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Article courtesy of John G. Kruchko, and Kevin B. McCoy of FordHarrison LLP.

How to Submit to the VAB Job Bank

Jobs that are printed in the newsletter are pulled directly from the online Job Bank. To include your listing:

- ▶ Go to **www.vabonline.com**. Login with your user name and password.
- ▶ Be sure to include your station ID or company name, information on how the applicant can apply and where to send the applications materials.

Position	Locations	Type	Department	Organization
Local Promotions Director	Arlington, VA	Full Time	Promotion	Salem Media of Virginia
Part-Time Promotions Assistant / Board Operator	Harrisonburg, VA	Part Time	Production	Clear Channel Communications (Harrisonburg)
News Director	Roanoke, VA	Full Time	News	Media General
Production Technician I	Roanoke, VA	Part Time	Production	Media General
Weekend Sports Anchor/Sports Reporter	Harrisonburg, VA	Full Time	News	WHSV-TV
Anchor/Reporter/Producer	Harrisonburg, VA	Full Time	News	WHSV-TV
5pm Anchor/Producer	WHSV	Full Time	News	WHSV-TV
Sales Account Executive	Tri-Cities, TN	Full Time	Sales	WEMB, Inc.
Account Executive	Fredericksburg, VA	Full Time	Sales	Centennial Broadcasting II, LLC
Production Assistant PT - p.m. hours	Lynchburg, VA	Part Time	Production	WSET, Incorporated
Web Producer FT	Lynchburg, VA	Full Time	News	WSET, Incorporated
News Producer FT	Lynchburg, VA	Full Time	News	WSET, Incorporated
Meteorologist FT - Weekends	Lynchburg, VA	Full Time	News	WSET, Incorporated
Morning Co-Host	Harrisonburg, VA	Part Time	On Air	VerStandig Broadcasting
Newscast Producer/ Media Producer (AVY108)	Portsmouth/Norfolk/Virginia Beach, VA	Full Time	News	LIN Television-WAVY
Digital Media Manager	Norfolk/Portsmouth/Virginia Beach, VA	Full Time	(Other)	LIN Television-WAVY
Digital Content Producer	Norfolk/Portsmouth/Virginia Beach, VA	Full Time	(Other)	LIN Television-WAVY
Part Time Board Operator	Arlington, VA	Part Time	Production	Salem Media of Virginia
Producer	Richmond, VA`	Full Time	News	WWBT, Inc.
Account Executive	Harrisonburg/Staunton, VA	Full Time	Sales	Gamma Broadcasting LLC

To learn more about these jobs and to see new postings, please visit

www.vabonline.com/careers

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TagStation can deliver enhanced content to the NextRadio smartphone app, HD Radio™ devices, and future connected car dashboards. A supported automation system and/or middleware is required, but in its absence, we can provide the **TagStation Slingshot** middleware product free with license purchase.

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Free logo upload: www.TagStation.com/free

Blog: www.TagStation.com/news/insights

NextRadio website: www.NextRadioApp.com

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