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## **An Act To Ensure Non-Discriminatory Treatment of Public, Educational and Governmental Access Channels by the Cable Operator**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 30-A MRSA §3008, Paragraph 5** is hereby amended as follows: The State specifically authorizes municipal officers pursuant to ordinances to contract on such terms and conditions and impose such fees as are in the best interests of the municipality, including the grant of ~~exclusive or~~ nonexclusive franchises for a period not to exceed 15 years, etc.

**Sec. 2. 30-A MRSA §3008, Paragraph 5(B)** is hereby amended as follows: A line extension policy, which must specify a minimum density of no more than 15 residences per linear strand mile of aerial cable for areas in which the franchisee will make cable service available to every residence meeting the minimum density;

**Sec. 3. 30-A MRSA §3008, Paragraph 5(C)** is hereby amended as follows: A provision for renewal, the term of which may not exceed 15 years, with no provisions for automatic renewal or other provisions for extending the initial term.

**Sec. 4. 30-A MRSA §3008, Paragraph 5** is amended to insert Paragraph F as follows: A provision for the use and support of PEG channels, such channels shall be carried in the same manner and numerical location sequence as the local broadcast channels originating from the State of Maine, and carried on the cable system.

**Sec. 5. 30-A MRSA §3008, Paragraph 7** is amended as follows: Model franchise agreement. The Department of Administrative and Financial Services, Office of Information Technology, or any subsequent designated department referred to in this subsection as "the office," ~~shall develop a~~ may update and amend the model franchise agreement for use by any municipality and any cable system operator that mutually choose to adopt the model franchise agreement or any of its provisions. The cable operator shall not further modify or amend this model without the consent of the municipality. The office shall make the model franchise agreement available on its publicly accessible website. In the development of the model franchise agreement, the office shall, at a minimum, consider the following issues:

**Sec. 6. 30-A MRSA §3010** is hereby amended to insert Paragraph 5A after Paragraph 5 as follows:

**"For the purposes of this section, a cable television operator shall include multichannel video programming distributors as defined by federal law in 47 USC section 522(7) and the "local unit of government or the entity to which the local unit of government has assigned responsibility for managing PEG access channels" shall hereinafter be designated as the "PEG Originator".**

**Public, Educational, and Governmental channels hereinafter referred to as "PEG" channels shall be carried on the cable operators' basic cable or video service offerings or tiers. To ensure continuity of service to the subscriber, the PEG channels shall not be separated numerically from other local broadcast channels carried on the cable operators' basic cable or video service offerings or tiers and the channel numbers for the PEG channels shall be the same channel numbers used by the incumbent cable operator, unless prohibited by federal law. After the initial designation of PEG channel numbers, the channel numbers shall not be changed without the agreement of the PEG Originator, unless the change is required by federal law. This law shall be retroactive such that any PEG channels that have been moved within the past 24 months and without the consent of the PEG Originator will be restored within 60 days to their original location and number."**

**Sec. 7. 30-A MRSA §3010** is further amended to insert Paragraph 5B after paragraph 5A as follows:

**"PEG signals shall be retransmitted in the same standard (format) as received from the PEG Originator, and afforded the same signal quality provided to all subscribers on the cable system in comparison to local broadcast channels. That is, if a high definition or current technology signal is sent to the cable operator by the PEG Originator, the cable operator shall not diminish, down convert or otherwise tamper with the signal quality or format provided to them. Said channel signals as delivered to the subscriber shall be of equivalent quality and format to local broadcast channel signals carried on the system if provided as such by the PEG Originator. All cable television operators shall simultaneously carry each PEG access channel in both a high definition format and a standard digital format in the same manner as the local broadcast channels are provided, unless prohibited by federal law."**

**"Further, all cable television operators, when requested, shall not prohibit and shall assist in providing the PEG Originator with access to the entity that controls the Electronic Program Guide (EPG) so that subscribers may view, select and record PEG access channels in the same manner as local broadcast channels. In addition, PEG channels on the EPG will be identified in the same manner as local broadcast channels. This provision does not obligate cable operators to list PEG programming content on said channel cards and channel listings. If Channels are selected by a viewer through a menu system, the cable operator shall display the Town's PEG Access Channels designation in a similar manner as local broadcast channels."**

**Sec. 8. 30-A MRSA §3010** is further amended to insert Paragraph 5C after paragraph 5B as follows:

**“Franchise Renewals:**

1. **The Franchise renewal process shall be conducted in compliance with 47 U.S.C. § 546.**
2. **Cable Operators shall maintain adequate personnel and resources to respond to municipal requests for renewal information in a timely manner. Failure to respond within 60 days shall be considered a violation of Title 5, Chapter 10, The Maine Unfair Trade Practices Act.**
3. **In the event of automatic renewal provisions in current franchises, the cable operator shall notify the Franchising Authority of such automatic renewal no later than 36 months in advance of the expiration of the franchise.**
4. **Maps, diagrams, annual reports and franchise fee statements may be required by the municipality at renewal and shall be made available upon reasonable notice. If said information is proprietary, a non-disclosure agreement may be executed with the municipality.**

## SUMMARY

This bill first corrects §3008, the Ordinance Chapter 141 of Title 30-A Paragraph 5 to bring it into compliance with 47 U.S.C. §541 (1) (a) which states that “ a franchising authority may not grant an exclusive franchise”.

Second, this bill amends §3008, the Ordinance Chapter 141 of Title 30-A to require all new cable franchises to provide line extensions with a minimum homes per mile requirement not to exceed 15 HPM. This will have the effect of extending service to far more rural areas than can be accomplished in any other manner.

Third, this bill prevents “automatic franchise renewals” beyond the initial term of the franchise renewal period. Existing franchises with automatic renewals will be grandfathered but will now require a 36 month advance notification of expiration from the cable operator to the municipality.

Fourth, this bill includes a provision for “use and support” of PEG channels and requires that they be placed in the same numerical sequence location as the local commercial network broadcast channels.

Fifth, this bill updates the Maine Model Franchise paragraph and prevents the cable operator from amending this model without the consent of the municipality as arrived at during negotiations.

Sixth, this bill amends §3010, the Ordinance Chapter 141 of Title 30-A regarding Consumer Rights and Protection as follows:

This bill requires all cable operators in Maine to carry Public, Educational and Governmental (PEG) channels on the basic cable or video service offerings or tiers and such channels shall not be separated or moved numerically from other channels carried on the basic cable or video service offerings or tiers without the agreement of the local unit of government or the entity to which the local unit of government has assigned responsibility for managing PEG access channels (the PEG Originator), unless the change is required by federal law. In the event of transfer of the franchise license, the same channel numbers used by the incumbent cable operator shall be retained. This law

shall be retroactive such that any PEG channels that have been moved in the past 24 months without the consent of the PEG Originator will be restored to their original location and number.

Secondly, this bill requires all cable operators in Maine to work with the PEG Originator to insure that the signal sent from the point of origination to the cable operator and delivered to the cable subscriber is of the same quality and format as originally created, without exception.

Third, this bill requires all cable operators to provide PEG operators access to the entity that controls the electronic programming guides in the same manner as the local broadcast channels if requested by the PEG Originator. Also, PEG channel designations will be displayed in a similar manner as other channels on the program guide.

Fourth, this bill requires all cable operators to comply with Franchise Renewal procedures in a timely manner without “automatic extensions”. Further, the cable operator cannot refuse to provide the municipality with requested information to complete the renewal process.

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