

Amendment No. 197

Senate Amendment to Senate Bill No. 112 (BDR 58-636)

Proposed by: Senate Committee on Commerce, Labor and Energy**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

RAE/JRS



Date: 4/2/2015

S.B. No. 112—Revises provisions relating to telecommunications. (BDR 58-636)



SENATE BILL NO. 112—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

PREFILED FEBRUARY 1, 2015

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to telecommunications. (BDR 58-636)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to telecommunications; ~~repealing provisions which require~~
authorizing, rather than requiring, the Public Utilities Commission
of Nevada to establish certain standards of performance for and the
imposition of penalties against a telecommunication provider; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Public Utilities Commission of Nevada to adopt regulations which establish: (1) standards of performance and reporting requirements regarding the provision of interconnection, unbundled network elements and resold services to encourage competition and discourage discriminatory conduct in the provision of local telecommunication services; and (2) penalties and expedited procedures for imposing those penalties upon a telecommunication provider for actions that are inconsistent with the standards of performance. (NRS 704.6881) Pursuant to that requirement, the Commission has adopted regulations setting forth the standards of performance and penalties for nonrural incumbent local exchange carriers. (NAC 704.6803-704.680315) ~~Section 7 of this bill repeals the provisions of existing law which require the Commission to adopt those regulations, and section 6 of this bill declares those regulations to be void.~~ ***Section 2.5 of this bill amends existing law to make the adoption of those regulations discretionary rather than mandatory.***

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~NRS 704.640 is hereby amended to read as follows:~~

~~704.640 Except as otherwise provided in NRS [704.6881 to] 704.6882, 704.6883 and 704.6884, [inclusive,] any person who:~~
~~1. Operates any public utility to which NRS 704.005 to 704.754, inclusive, 704.9901 and 704.992 to 704.999, inclusive, apply without first obtaining a certificate of public convenience and necessity or in violation of its terms;~~
~~2. Fails to make any return or report required by NRS 704.005 to 704.754, inclusive, 704.9901 and 704.992 to 704.999, inclusive, or by the Commission~~

1 pursuant to NRS 704.005 to 704.754, inclusive, 704.9901 and 704.993 to 704.999,
2 inclusive;

3 ~~2. Violates, or procures, aids or abets the violating of any provision of NRS~~
4 ~~704.005 to 704.754, inclusive, 704.9901 and 704.993 to 704.999, inclusive;~~

5 ~~4. Fails to obey any order, decision or regulation of the Commission;~~

6 ~~5. Procures, aids or abets any person in the failure to obey the order, decision~~
7 ~~or regulation; or~~

8 ~~6. Advertises, solicits, proffers bids or otherwise holds himself, herself or~~
9 ~~itself out to perform as a public utility in violation of any of the provisions of NRS~~
10 ~~704.005 to 704.754, inclusive, 704.9901 and 704.993 to 704.999, inclusive;~~

11 ~~shall be fined not more than \$500.~~ **(Deleted by amendment.)**

12 **Sec. 2. [NRS 704.684 is hereby amended to read as follows:**

13 ~~704.684 1. Except as otherwise provided in this section, the Commission~~
14 ~~shall not regulate any broadband service, including imposing any requirements~~
15 ~~relating to the terms, conditions, rates or availability of broadband service.~~

16 ~~2. The provisions of subsection 1 do not limit or modify the authority of the~~
17 ~~Commission to:~~

18 ~~(a) Consider any revenues, costs and expenses that a small scale provider of~~
19 ~~last resort derives from providing a broadband service, if the Commission is~~
20 ~~determining the rates of the provider under a general rate application that is filed~~
21 ~~pursuant to subsection 3 of NRS 704.110;~~

22 ~~(b) Act on a complaint filed pursuant to NRS 703.310, if the complaint relates~~
23 ~~to a broadband service that is provided by a public utility;~~

24 ~~(c) Include any appropriate gross operating revenue that a public utility derives~~
25 ~~from providing broadband service when the Commission calculates the gross~~
26 ~~operating revenue of the public utility for the purposes of levying and collecting the~~
27 ~~annual assessment in accordance with the provisions of NRS 704.032; or~~

28 ~~(d) Determine the rates, pricing, terms and conditions of intrastate switched or~~
29 ~~special access services provided by a telecommunication provider.~~

30 ~~3. The provisions of subsection 1 do not:~~

31 ~~(a) Apply to the Commission in connection with any actions or decisions~~
32 ~~required or permitted by the Telecommunications Act of 1996, Public Law 104-~~
33 ~~104, 110 Stat. 56-161;~~

34 ~~(b) Prevent the Commission from exercising its authority pursuant to 47 U.S.C.~~
35 ~~§ 214(e) or § 254(f) relating to the implementation of the federal universal service~~
36 ~~program, including, without limitation, taking any action within the scope of that~~
37 ~~authority because of a regulation or order of the Federal Communications~~
38 ~~Commission; or~~

39 ~~(c) Limit or modify:~~

40 ~~(1) The duties of a telecommunication provider regarding the provision of~~
41 ~~network interconnection, unbundled network elements and resold services under the~~
42 ~~provisions of the Telecommunications Act of 1996, Public Law 104-104, 110 Stat.~~
43 ~~56-161; or~~

44 ~~(2) The authority of the Commission to act pursuant to NRS [704.6881~~
45 ~~and] 704.6882.~~

46 ~~4. As used in this section, "broadband service" means any two way service~~
47 ~~that transmits information at a rate that is generally not less than 200 kilobits per~~
48 ~~second in at least one direction.~~ **(Deleted by amendment.)**

49 **Sec. 2.5. NRS 704.6881 is hereby amended to read as follows:**

50 704.6881 The Commission ~~shall,~~ **may,** by regulation:

51 1. Establish standards of performance and reporting regarding the provision
52 of interconnection, unbundled network elements and resold services, which

encourage competition and discourage discriminatory conduct in the provision of local telecommunication services; and

2. Notwithstanding the provisions of NRS 703.320 to the contrary, establish penalties and expedited procedures for imposing penalties upon a telecommunication provider for actions that are inconsistent with the standards established by the Commission pursuant to subsection 1, if any. Such penalties may include financial payment to the complaining telecommunication provider for a violation of the standards established by the Commission pursuant to subsection 1, if any. provided that any penalty paid must be deducted, with interest, from any other award under any other judicial or administrative procedure for the same conduct in the same reporting period. Any penalty imposed pursuant to this subsection is in lieu of the administrative fine set forth in NRS 703.380 and must be:

(a) Imposed for violating a standard or standards established by regulations of the Commission pursuant to subsection 1;

(b) Determined by the Commission to further the goal of encouraging competition or discouraging discriminatory conduct; and

(c) In an amount reasonable to encourage competition or discourage discriminatory conduct.

Sec. 3. ~~NRS 704.6883 is hereby amended to read as follows:~~

~~704.6883 Any judicial review of a decision by the Commission pursuant to NRS [704.6881 and] 704.6882 must be made in accordance with NRS 703.373 to 703.376, inclusive.] (Deleted by amendment.)~~

Sec. 4. NRS 704.6884 is hereby amended to read as follows:

704.6884 The provisions of NRS 704.6881 to 704.6882, 704.6883 and] 704.6884, inclusive, must not be construed to exempt telecommunication providers from any other applicable statute of this State or the United States relating to consumer and antitrust protections. The exemption provided in paragraph (c) of subsection 3 of NRS 598A.040 does not apply to conduct of, or actions taken by, a telecommunication provider in violation of the standards established pursuant to subsection 1 of NRS 704.6881 if any.

Sec. 5. ~~NRS 704.68863 is hereby amended to read as follows:~~

~~704.68863 The provisions of NRS 704.68861 to 704.68867, inclusive, do not:~~
~~1. Apply to the Commission in connection with any actions or decisions required or permitted by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or~~

~~2. Limit or modify:~~

~~(a) The duties of a competitive supplier that is an incumbent local exchange carrier regarding the provision of network interconnection, unbundled network elements and resold services under the provisions of the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or~~

~~(b) The authority of the Commission to act pursuant to NRS [704.6881 and] 704.6882.] (Deleted by amendment.)~~

Sec. 6. ~~Any regulations adopted by the Public Utilities Commission of Nevada pursuant to NRS 704.6881 are void. The Legislative Counsel shall remove those regulations from the Nevada Administrative Code as soon as practicable after July 1, 2015.] (Deleted by amendment.)~~

Sec. 7. ~~NRS 704.6881 is hereby repealed.] (Deleted by amendment.)~~

Sec. 8. This act becomes effective on July 1, 2015.

†

TEXT OF REPEALED SECTION

~~704.6881 Establishment of standards and penalties to encourage competition and discourage discrimination in provision of local telecommunication services. The Commission shall, by regulation:~~

~~1. Establish standards of performance and reporting regarding the provision of interconnection, unbundled network elements and resold services, which encourage competition and discourage discriminatory conduct in the provision of local telecommunication services; and~~

~~2. Notwithstanding the provisions of NRS 703.320 to the contrary, establish penalties and expedited procedures for imposing penalties upon a telecommunication provider for actions that are inconsistent with the standards established by the Commission pursuant to subsection 1. Such penalties may include financial payment to the complaining telecommunication provider for a violation of the standards established by the Commission pursuant to subsection 1, provided that any penalty paid must be deducted, with interest, from any other award under any other judicial or administrative procedure for the same conduct in the same reporting period. Any penalty imposed pursuant to this subsection is in lieu of the administrative fine set forth in NRS 703.380 and must be:~~

~~(a) Imposed for violating a standard or standards established by regulations of the Commission pursuant to subsection 1;~~

~~(b) Determined by the Commission to further the goal of encouraging competition or discouraging discriminatory conduct; and~~

~~(c) In an amount reasonable to encourage competition or discourage discriminatory conduct.]~~