

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1371

S.P. 426

In Senate, March 21, 2019

**An Act To Ensure Nondiscriminatory Treatment of Public,  
Educational and Governmental Access Channels by Cable System  
Operators**

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Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator WOODSOME of York.  
Cosponsored by Representatives: BERRY of Bowdoinham, PIERCE of Falmouth,  
Representative O'CONNOR of Berwick and  
Senators: CHENETTE of York, DIAMOND of Cumberland, GUERIN of Penobscot, HERBIG  
of Waldo, LIBBY of Androscoggin, Representative: ORDWAY of Standish.

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

2 **Sec. 1. 30-A MRSA §3008, sub-§5, ¶¶B and C**, as enacted by PL 1987, c. 737,  
3 Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8  
4 and 10, are further amended to read:

5 B. A line extension policy, which must specify a minimum density requirement of no  
6 more than 15 residences per linear strand mile of aerial cable for areas in which the  
7 cable system operator will make cable television service available to every residence;

8 C. A provision for renewal, the term of which may not exceed 15 years. A provision  
9 for automatic renewal or other provision for extending the initial term is prohibited.  
10 Franchise renewal is governed by section 3010, subsection 5-C;

11 **Sec. 2. 30-A MRSA §3008, sub-§5, ¶D**, as amended by PL 2007, c. 548, §1, is  
12 further amended to read:

13 D. Procedures for the investigation and resolution of complaints by the cable system  
14 operator; ~~and~~

15 **Sec. 3. 30-A MRSA §3008, sub-§5, ¶D-1** is enacted to read:

16 D-1. A provision for the use and support of public, educational and governmental  
17 access channels, which must be carried in the same manner and numerical location  
18 sequence as are the local broadcast channels originating from the State and carried on  
19 the cable television system pursuant to section 3010, subsection 5-A; and

20 **Sec. 4. 30-A MRSA §3008, sub-§7**, as enacted by PL 2007, c. 548, §1, is  
21 amended to read:

22 **7. Model franchise agreement.** The Department of Administrative and Financial  
23 Services, Office of Information Technology, or a successor state agency, referred to in  
24 this subsection as "the office," shall develop and may update and amend a model  
25 franchise agreement for use by any municipality and any cable system operator that  
26 mutually choose to adopt the model franchise agreement or any of its provisions. A cable  
27 system operator may not modify or amend the model franchise agreement without the  
28 consent of the municipality. The office shall make the model franchise agreement  
29 available on its publicly accessible website. In the development of the model franchise  
30 agreement, the office shall, at a minimum, consider the following issues:

- 31 A. Franchise fees;
- 32 B. Build-out requirements;
- 33 C. Public, educational and governmental access channels and reasonable facility  
34 support for such channels;
- 35 D. Customer service standards;
- 36 E. The disparate needs of the diverse municipalities in this State; and
- 37 F. The policy goal of promoting competition in the delivery of cable television  
38 service.

1 This subsection does not allow the office to establish prices for any cable television  
2 service or to regulate the content of cable television service.

3 **Sec. 5. 30-A MRSA §3010, first ¶**, as amended by PL 2007, c. 548, §2, is further  
4 amended to read:

5 This section applies to every franchisee. For purposes of this section, "franchisee"  
6 means a cable system operator that is granted a franchise by a municipality in accordance  
7 with section 3008. For purposes of this section, "cable system operator" and "cable  
8 television service" have the same meanings as in section 3008, except that "cable system  
9 operator" includes a multichannel video programming distributor as defined in 47 United  
10 States Code, Section 522(13). For purposes of this section, "originator" means a local  
11 unit of government or the entity to which a local unit of government has assigned  
12 responsibility for managing public, educational and governmental access channels.

13 **Sec. 6. 30-A MRSA §3010, sub-§§5-A, 5-B and 5-C** are enacted to read:

14 **5-A. Public, educational and governmental access channels.** A cable system  
15 operator shall carry public, educational and governmental access channels on the cable  
16 system operator's basic cable or video service offerings or tiers. A cable system operator  
17 may not separate public, educational and governmental access channels numerically from  
18 other local broadcast channels carried on the cable system operator's basic cable or video  
19 service offerings or tiers and, in the event of a franchise license transfer, shall use the  
20 same channel numbers for the public, educational and governmental access channels as  
21 used for those channels by the incumbent cable system operator, unless prohibited by  
22 federal law. After the initial designation of public, educational and governmental access  
23 channel numbers, a cable system operator may not change the channel numbers without  
24 the agreement of the originator, unless the change is required by federal law.

25 A cable system operator shall restore a public, educational or governmental access  
26 channel that has been moved without the consent of the originator within the 24 months  
27 preceding the effective date of this subsection to its original location and channel number  
28 within 60 days after the effective date of this subsection.

29 **5-B. Transmission.** A cable system operator shall retransmit public, educational  
30 and governmental access channel signals in the format in which they are received from  
31 the originator and at the same signal quality as that provided to all subscribers of the  
32 cable television service for local broadcast channels. A cable system operator may not  
33 diminish, down convert or otherwise tamper with the signal quality or format provided by  
34 the originator. A cable system operator shall deliver a public, educational or  
35 governmental access channel signal to the subscriber in a quality and format equivalent to  
36 the quality and format of local broadcast channel signals carried on the cable television  
37 service if provided as such by the originator. A cable system operator shall carry each  
38 public, educational or governmental access channel in both a high definition format and a  
39 standard digital format in the same manner as that in which local broadcast channels are  
40 provided, unless prohibited by federal law.

41 A cable system operator, when requested, shall assist in providing the originator with  
42 access to the entity that controls the cable television service's electronic program guide so

1 that subscribers may view, select and record public, educational and governmental access  
2 channels in the same manner as that in which they view, select and record local broadcast  
3 channels. In addition, a cable system operator shall identify public, educational and  
4 governmental access channels on the electronic program guide in the same manner as that  
5 in which local broadcast channels are identified. This subsection does not obligate a  
6 cable system operator to list public, educational and governmental access channel content  
7 on channel cards and channel listings. If channels are selected by a viewer through a  
8 menu system, the cable system operator shall display the public, educational and  
9 governmental access channels' designations in a similar manner as that in which local  
10 broadcast channel designations are displayed.

11 A cable system operator shall make available to the originator a toll-free telephone  
12 number with a direct line to a service technician who is familiar with the signal path and  
13 equipment associated with public, educational and governmental access channels on the  
14 cable television system for resolution of a signal quality problem.

15 **5-C. Franchise renewals.** The franchise renewal process must be conducted in  
16 compliance with 47 United States Code, Section 546 and this subsection.

17 A. A cable system operator shall maintain adequate personnel and resources to  
18 respond to municipal requests for renewal information in a timely manner. Failure to  
19 respond in a timely manner is a violation of the Maine Unfair Trade Practices Act.

20 B. If an automatic renewal provision exists in a franchise agreement on the effective  
21 date of this subsection, the automatic renewal provision remains in effect until that  
22 franchise agreement expires. The cable system operator shall notify the franchising  
23 authority of the automatic renewal no later than 36 months in advance of the  
24 expiration of the franchise.

25 C. A municipality may require maps, diagrams, annual reports and franchise fee  
26 statements at renewal, which the cable system operator shall make available upon  
27 reasonable notice. If information is proprietary, the municipality may execute a  
28 nondisclosure agreement with the cable system operator.

29 **Sec. 7. Automatic renewal.** Notwithstanding the Maine Revised Statutes, Title  
30 30-A, section 3010, subsection 5-C, paragraph B, an automatic renewal provision in a  
31 franchise agreement in effect between a municipality and a cable system operator on the  
32 effective date of this Act remains in effect if the renewal date is less than 36 months after  
33 the effective date of this Act.

34 **SUMMARY**

35 This bill extends cable television service to rural areas by requiring all cable  
36 television franchises to provide line extensions with a minimum homes-per-mile  
37 requirement not to exceed 15 homes per mile.

38 The bill prohibits automatic franchise renewals beyond the initial term of the  
39 franchise renewal period, except for automatic franchise renewals in effect on the  
40 effective date of this legislation, which require advance notification of expiration from

1 the cable system operator to the municipality. A cable system operator may not refuse to  
2 provide the municipality with required information to complete the renewal process.

3 The bill prohibits a cable system operator from modifying or amending the State's  
4 model franchise agreement without the consent of the municipality as arrived at during  
5 negotiations.

6 The bill includes provisions for the use and support of public, educational and  
7 governmental access channels and requires that these channels be placed in the same  
8 numerical sequence location as the local commercial network broadcast channels. The  
9 bill also requires all cable system operators in the State to carry public, educational and  
10 governmental access channels on the basic cable or video service offerings or tiers and  
11 specifies that the channels may not be separated or moved numerically from other  
12 channels carried on the basic cable or video service offerings or tiers without the  
13 agreement of the local unit of government or the entity to which the local unit of  
14 government has assigned responsibility for managing public, educational and  
15 governmental access channels, unless the change is required by federal law. In the event  
16 of transfer of the franchise license, the same channel numbers used by the incumbent  
17 cable system operator must be retained. The bill provides that any public, educational or  
18 governmental access channel that has been moved within the 24 months preceding the  
19 effective date of this legislation and without the consent of the originator must be restored  
20 within 60 days to its original location and number.

21 The bill requires all cable system operators in the State to work with the local unit of  
22 government or the entity to which the local unit of government has assigned  
23 responsibility for managing public, educational and governmental access channels to  
24 ensure that the signal sent from the point of origination to the cable system operator and  
25 delivered to the cable subscriber is of the same quality and format as originally created.  
26 A cable system operator is required to set up a toll-free telephone number for requests to  
27 resolve a signal quality problem.

28 The bill requires all cable system operators in the State to provide the local unit of  
29 government or the entity to which the local unit of government has assigned  
30 responsibility for managing public, educational and governmental access channels access  
31 to the entity that controls the electronic program guides in the same manner as the local  
32 broadcast channels if requested by the local unit of government or the entity to which the  
33 local unit of government has assigned responsibility for managing public, educational and  
34 governmental access channels. In addition, if channels are selected through a menu  
35 system, public, educational and governmental access channel designations must be  
36 displayed in a similar manner as local broadcast channel designations on the electronic  
37 program guide are displayed.