

# MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

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ONE HUNDRED AND SIXTH LEGISLATURE

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**Legislative Document**

**No. 2361**

S. P. 827

In Senate, January 15, 1974

Referred to the Committee on Public Utilities. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Cummings of Penobscot.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FOUR

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**AN ACT to Provide for Continuation of Service by Cable Television Systems, to Facilitate Compliance with Federal Communications Commission Regulations and to Fix Liability for Cable Television Programming.**

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

**Sec. 1. R. S., T. 30, § 1901, sub-§§ 1-B and 1-C, additional.** Section 1901 of Title 30 of the Revised Statutes, as amended, is further amended by adding 2 new subsections 1-B and 1-C, to read as follows:

**1-B. Cable television company.** "Cable television company" means any person, firm or corporation owning, controlling, operating, managing or leasing a cable television system within the State.

**1-C. Cable television system.** "Cable television system" means any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire or cable to subscribing members of the public who pay for such service, but such term shall not include any such facility that serves fewer than 50 subscribers, or any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of such apartment dwellings.

**Sec. 2. R. S., T. 30, § 2151, sub-§ 2, ¶ H, amended.** Paragraph H of subsection 2 of section 2151 of Title 30 of the Revised Statutes, as amended, is further amended to read as follows:

H. The municipal officers may contract on such terms and conditions and impose such fees, as are in the best interests of the municipality, including the grant of an exclusive franchise for a period not to exceed 10 years, for the placing and maintenance of ~~community antennae~~ cable television systems and appurtenances or parts thereof, along public ways and including contracts with ~~operators of such systems~~ cable television companies which receive the services of television signal transmission offered by any public utilities using public ways for such transmission. **Any cable television system so franchised shall be constructed and operated in accordance with Federal Communications Commission regulations.** No public utility shall be required to contract with the municipal officers pursuant to this paragraph. Systems located in accordance with such ordinances and contracts are not defects in public ways.

The municipal officers may establish such charges as are necessary to defray the costs of public notice, advertising and the expenses of hearings relating to applications for a contract, but in no case to exceed \$25 per applicant.

Any ~~person, firm or corporation~~ cable television company holding a permit to ~~maintain~~ provide a ~~community antennae~~ cable television system, issued prior to July 1, 1965, shall not be required to comply with this paragraph, **except that construction and operation of such system shall accord with Federal Communications Commission regulations;** provided ~~however~~ that any such permit holder whose system shall not be in operation on or before July 1, 1966 shall be required to comply with this paragraph and the original permit shall be null and void, provided further that cases in litigation on July 1, 1965 shall not be required to be in operation prior to July 1, 1967. A municipality shall be entitled to injunctive relief in addition to any other remedies available by law to protect any rights conferred upon the municipality by this section or any ordinances enacted under the authority of this section.

The municipal officers of towns shall have exclusive power to enact all ordinances authorized by this ~~subsection~~ **paragraph.** Seven days' notice of the meeting at which said ordinances are to be proposed shall be given in the manner provided for town meetings, and such ordinances shall be effective immediately.

Any ~~person, firm or corporation~~ cable television company which is ~~furnishing community antennae~~ providing a cable television service system in any municipality prior to June 1, 1967, shall not be required to comply with this paragraph, **except that construction and operation of such system shall accord with Federal Communications Commission regulations.** This paragraph shall not apply to or affect the rights of parties to litigation pending in court on June 1, 1967, and the rights of such parties shall be determined by such litigation;

**Sec. 3. R. S., T. 30, § 2151, sub-§ 2, ¶ I, additional.** Subsection 2 of section 2151 of Title 30 of the Revised Statutes, as amended, is further amended by adding a new paragraph I to read as follows:

I. No cable television company, notwithstanding any provision in a franchise, shall abandon service or portion thereof without having given 6 months' prior written notice to the franchising municipality, if any, and to the municipalities affected by such abandonment. When abandonment of any service is prohibited by a municipal franchise, no cable television company may abandon such service without written consent of the municipal officers. Any cable television company which violates the provisions of this paragraph shall be subject to a fine of \$50 a day for each and every day that said violation continues.

Neither the cable television company whose facilities are used to transmit a program produced by a person other than such cable television company pursuant to Federal Communications Commission regulations or municipal ordinance, nor the officers, directors or employees of any such cable television company, shall be liable for damages arising from any obscene or defamatory statements or actions or invasion of privacy occurring during any program when such company does not originate or produce such program.

#### STATEMENT OF FACT

Liability for cable television programming has not been conclusively determined by federal or state law. This bill would make the actual program producer liable.

This bill also assists municipalities in assuring continuance of cable television service by requiring cable companies to provide 6 months' notice before abandoning any service.

The Federal Communications Commission often operates with a considerable backlog of regulation examination and enforcement at the local level. This bill would reinforce at the state level Federal Communications regulations.

This bill is part of the Public Utilities Committee report on its assigned study of cable television.