[COMMITTEE PRINT]

AUGUST 12, 1960

House language is shown in *italic* type. House language proposed to be deleted is shown in linetype ~~*italic*~~. Proposed new language is shown in roman type

86TH CONGRESS
2D SESSION

S. 1898

IN THE SENATE OF THE UNITED STATES

JUNE 30, 1960

Ordered to be printed with the amendments of the House of Representatives

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AN ACT

To amend the Communications Act of 1934 with respect to the procedure in obtaining a license and for rehearings under such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended to read as follows:~~

1 ~~"ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS~~
2 ~~ATTACHED TO LICENSES~~
3 ~~"SEC. 309. (a) (1) No application provided for in sec-~~
4 ~~tions 308, 310(b), and 325(b) for an instrument of author-~~
5 ~~ization or any station in the broadcasting or common car-~~
6 ~~rier services or for any station within the scope of subsection~~
7 ~~(c) shall be granted by the Commission earlier than thirty~~
8 ~~days following issuance of public notice by the Commission~~
9 ~~of the acceptance for filing of such application or of any sub-~~
10 ~~stantial amendment thereof: *Provided,* That this requirement~~
11 ~~shall not apply to any minor amendment of any such appli-~~
12 ~~cation or to any application for (A) minor change in the~~
13 ~~facilities of an authorized station, (B) consent to an invol-~~
14 ~~untary assignment or transfer under section 310(b) or to~~
15 ~~an assignment or transfer thereunder which does not involve~~
16 ~~a substantial change in ownership or control, (C) license un-~~
17 ~~der section 319(c) or, pending application for or grant of~~
18 ~~such license, any special or temporary authorization to permit~~
19 ~~interim operation to facilitate completion of authorized con-~~
20 ~~struction or to provide substantially the same service as would~~
21 ~~be authorized by such license, (D) extension of time to com-~~
22 ~~plete construction of authorized facilities, (E) authorization~~
23 ~~of facilities for remote pickups, studio links and similar fa-~~
24 ~~cilities for use in the operation of a broadcast station, or (F)~~
25 ~~authorizations pursuant to section 325(b) where the pro-~~

1 ~~grams to be transmitted are special events not of a continuing~~
2 ~~nature, or (G) special temporary authorization for non-~~
3 ~~broadcast operation not to exceed thirty days where no~~
4 ~~application for regular operation is contemplated to be filed~~
5 ~~or pending the filing of an application for such regular~~
6 ~~operation or (H) authorization under any of the proviso~~
7 ~~clauses of section 308(a).~~

8 ~~"(2) Any party in interest may file a petition to deny~~
9 ~~any application or amendment thereof to which the require-~~
10 ~~ment of paragraph (1) of this subsection applies at any time~~
11 ~~prior to the day of Commission grant thereof without hearing~~
12 ~~or formal designation thereof for hearing: *Provided,* That,~~
13 ~~with respect to any classification of applications, the Commis-~~
14 ~~sion from time to time by rule may specify a shorter period~~
15 ~~(no less than thirty days following the issuance of public~~
16 ~~notice by the Commission of the acceptance for filing of such~~
17 ~~application or of any substantial amendment thereof), which~~
18 ~~shorter period shall be reasonably related to the time when~~
19 ~~the applications would normally be reached for processing.~~
20 ~~Such petition shall be served on the applicant and shall con-~~
21 ~~tain specific allegations of fact sufficient to show that the~~
22 ~~petitioner is a party in interest and that a grant hereof would~~
23 ~~be prima facie inconsistent with subsection (b). Such alle-~~
24 ~~gations of fact shall, except for those of which official notice~~
25 ~~may be taken, be supported by affidavit of a person or per-~~

1 ~~sons with personal knowledge thereof. The applicant shall~~
2 ~~be given the opportunity to file a reply in which allegations~~
3 ~~of fact or denials thereof shall similarly be supported by~~
4 ~~affidavit. If the Commission finds on the basis of the appli-~~
5 ~~cation, the pleadings filed, or other matters which it may~~
6 ~~officially notice that there are no substantial and material~~
7 ~~questions of fact and that a grant of the application would be~~
8 ~~consistent with subsection (b), it shall make the grant, deny~~
9 ~~the petition, and issue a concise statement of the reasons for~~
10 ~~denying the petition which shall dispose of each substantial~~
11 ~~question presented thereby. If a substantial and material~~
12 ~~question of fact is presented or if the Commission for any~~
13 ~~other reason is unable to find that grant of the application~~
14 ~~would be consistent with subsection (b), it shall proceed as~~
15 ~~provided in subsection (c).~~

16 ~~"(b) Whether or not a petition to deny is filed under~~
17 ~~subsection (a), the Commission shall examine each applica-~~
18 ~~tion provided for in section 308. If upon examination of~~
19 ~~any such application provided for in section 308 and upon~~
20 ~~consideration of any such petition and any reply thereto or~~
21 ~~such other matters as the Commission may officially notice~~
22 ~~the Commission shall find that public interest, convenience,~~
23 ~~and necessity would be served by the granting thereof, it~~
24 ~~shall grant such application.~~

25 ~~"(c) If upon examination of any such application, peti-~~

1 ~~tion to deny or reply thereto or such other matters as the~~
2 ~~Commission may officially notice the Commission is unable~~
3 ~~to make the finding specified in subsection (b), it shall for~~
4 ~~mally designate the application for hearing on the ground or~~
5 ~~reasons then obtaining and shall forthwith notify the appli-~~
6 ~~cant and all other known parties in interest of such action~~
7 ~~and the grounds and reasons therefor, specifying with par-~~
8 ~~ticularity the matters and things in issue but not including~~
9 ~~issues or requirements phrased generally: *Provided,* That,~~
10 ~~if the Commission finds that by first giving the applicant and~~
11 ~~other known parties in interest notice of all objections to such~~
12 ~~application and an opportunity to reply thereto a determina-~~
13 ~~tion of the application may be expedited, it shall forthwith~~
14 ~~give such notice and opportunity for reply before formally~~
15 ~~designating the application for hearing. The parties in inter-~~
16 ~~est, if any, who are not notified by the Commission of its~~
17 ~~action with respect to a particular application, may acquire~~
18 ~~the status of a party to the proceeding thereon by filing a~~
19 ~~petition for intervention showing the basis for their interest~~
20 ~~at any time not less than ten days prior to the date of hearing.~~
21 ~~Any hearing subsequently held upon such application shall be~~
22 ~~a full hearing in which the applicant and all other parties in~~
23 ~~interest shall be permitted to participate. The burden of~~
24 ~~proceeding with the introduction of evidence and the burden~~
25 ~~of proof shall be upon the applicant, except that with respect~~

1 ~~to any issue presented by a petition to deny or a petition~~
2 ~~to enlarge the issues, such burdens shall be as determined by~~
3 ~~the Commission.~~

4 ~~"(d) When an application subject to subsection (a)~~
5 ~~has been filed, the Commission, notwithstanding the require-~~
6 ~~ments thereof, may, if otherwise authorized by law and if it~~
7 ~~finds that there are extraordinary circumstances requiring~~
8 ~~emergency operations in the public interest and that delay in~~
9 ~~the institution of such emergency operations would seriously~~
10 ~~prejudice the public interest, grant a temporary authoriza-~~
11 ~~tion, accompanied by a statement of its reasons therefor, to~~
12 ~~permit such emergency operations for a period not exceeding~~
13 ~~ninety days, and upon making like findings may extend such~~
14 ~~temporary authorization for one additional period not to~~
15 ~~exceed ninety days. When any such grant is made, the Com-~~
16 ~~mission shall give expeditious treatment to any timely filed~~
17 ~~petition to deny such application and to any petition for~~
18 ~~rehearing of such grant filed under section 405.~~

19 ~~"(e) The stations other than in the broadcasting or~~
20 ~~common carrier service referred to in subsection (a) are (1)~~
21 ~~fixed point-to-point microwave stations, but not including~~
22 ~~control and relay stations used as integral parts of mobile~~
23 ~~radio systems, (2) industrial radio positioning stations for~~
24 ~~which frequencies are assigned on an exclusive basis, (3)~~
25 ~~aeronautical en route stations, (4) aeronautical advisory~~

1 ~~stations, (5) airdrome control stations, (6) aeronautical~~
2 ~~fixed stations, and (7) such other stations or classes of sta-~~
3 ~~tions as the Commission by rule provides.~~
4 ~~"(f) The Commission is authorized to adopt by rule~~
5 ~~reasonable classifications of applications and amendments in~~
6 ~~order to effectuate the purposes of this section.~~
7 ~~"(g) Such station licenses as the Commission may grant~~
8 ~~shall be in such general form as it may prescribe, but each~~
9 ~~license shall contain, in addition to other provisions, a state-~~
10 ~~ment of the following conditions to which such license shall~~
11 ~~be subject: (1) The station license shall not vest in the~~
12 ~~licensee any right to operate the station nor any right in the~~
13 ~~use of the frequencies designated in the license beyond the~~
14 ~~term thereof nor in any other manner than authorized~~
15 ~~therein; (2) neither the license nor the right granted there-~~
16 ~~under shall be assigned or otherwise transferred in violation~~
17 ~~of this Act; (3) every license issued under this Act shall be~~
18 ~~subject in terms to the right of use or control conferred by~~
19 ~~section 606 hereof."~~
20 ~~SEC. 2. Section 319(c) of the Communications Act of~~
21 ~~1934 (47 U.S.C. 319(c)) is amended by striking out "and~~
22 ~~(c)" and inserting in lieu thereof "(c), (d), and (e)".~~
23 ~~SEC. 3. Section 405 of the Communications Act of 1934~~
24 ~~(47 U.S.C. 405) is amended—~~

1 ~~(1) by striking out "and party" in the first sentence~~
2 ~~and inserting in lieu thereof "any party", and~~
3 ~~(2) by inserting after the fourth sentence a new~~
4 ~~sentence as follows: "The Commission shall enter an~~
5 ~~order, with a concise statement of the reasons therefor,~~
6 ~~denying a petition for rehearing or granting such peti-~~
7 ~~tion, in whole or in part, and ordering such further pro-~~
8 ~~ceedings as may be appropriate: *Provided*, That in any~~
9 ~~case where such petition relates to an instrument of~~
10 ~~authorization granted without a hearing, the Commis-~~
11 ~~sion shall take such action within ninety days of the~~
12 ~~filing of such petition."~~

13 *SHORT TITLE*

14 *SECTION 1. This Act may be cited as the "Communica-*
15 *tions Act Amendments, 1960".*

16 *REPEAL OF PROVISION PERMITTING ACCEPTANCE OF*
17 *HONORARIUMS*

18 *SEC. 2. The third sentence of subsection (b) of section*
19 *4 of the Communications Act of 1934 (47 U.S.C. 154(b))*
20 *is amended by striking out the following: "; but this shall not*
21 *apply to the presentation or delivery of publications or papers*
22 *for which a reasonable honorarium or compensation may be*
23 *accepted".*

1 *SHORT-TERM GRANTS*

2 *SEC. 3. Subsection (d) of section 307 of the Commu-*
3 *nications Act of 1934 (47 U.S.C. 307) is amended by*
4 *adding at the end thereof a new sentence as follows: "Con-*
5 *sistently with the foregoing provisions of this subsection, the*
6 *Commission may by rule prescribe the period or periods for*
7 *which licenses shall be granted and renewed for particular*
8 *classes of stations, but the Commission may not adopt or*
9 *follow any rule which would preclude it, in any case involving*
10 *a station of a particular class, from granting or renewing a*
11 *license for a shorter period than that prescribed for stations*
12 *of such class if, in its judgment, public interest, convenience,*
13 *or necessity would be served by such action."*

14 *PRE-GRANT PROCEDURE*

15 *SEC. 4. (a) Section 309 of the Communications Act of*
16 *1934 (47 U.S.C. 309) is amended to read as follows:*
17 *"ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS*
18 *ATTACHED TO LICENSES*

19 *"SEC. 309. (a) Subject to the provisions of this section,*
20 *the Commission shall determine, in the case of each applica-*
21 *tion filed with it to which section 308 applies, whether the*
22 *public interest, convenience, and necessity will be served by*

1 *the granting of such application, and, if the Commission,*
2 *upon examination of such application and upon considera-*
3 *tion of such other matters as the Commission may officially*
4 *notice, shall find that public interest, convenience, and neces-*
5 *sity would be served by the granting thereof, it shall grant*
6 *such application.*

7 *"(b) Except as provided in subsection (c) of this sec-*
8 *tion, no such application—*

9 *"(1) for an instrument of authorization in the case*
10 *of a station in the broadcasting or common carrier serv-*
11 *ices, or*

12 *"(2) for an instrument of authorization in the case*
13 *of a station in any of the following categories:*

14 *"(A) fixed point-to-point microwave stations*
15 *(exclusive of control and relay stations used as in-*
16 *tegral parts of mobile radio systems);*

17 *"(B) industrial radio positioning stations for*
18 *which frequencies are assigned on an exclusive basis,*

19 *"(C) aeronautical en route stations,*

20 *"(D) aeronautical advisory stations,*

21 *"(E) airdrome control stations,*

22 *"(F) aeronautical fixed stations, and*

23 *"(G) such other stations or classes of stations,*
24 *not in the broadcasting or common carrier services,*
25 *as the Commission shall by rule prescribe,*

1 *shall be granted by the Commission earlier than thirty days*
2 *following issuance of public notice by the Commission of the*
3 *acceptance for filing of such application or of any substantial*
4 *amendment thereof.*

5 *"(c) Subsection (b) of this section shall not apply—*

6 *"(1) to any minor amendment of an application to*
7 *which such subsection is applicable, or*

8 *"(2) to any application for—*

9 *"(A) a minor change in the facilities of an*
10 *authorized station,*

11 *"(B) consent to an involuntary assignment or*
12 *transfer under section 310(b) or to an assignment*
13 *or transfer thereunder which does not involve a sub-*
14 *stantial change in ownership or control,*

15 *"(C) a license under section 319(c) or, pend-*
16 *ing application for or grant of such license, any*
17 *special or temporary authorization to permit interim*
18 *operation to facilitate completion of authorized con-*
19 *struction or to provide substantially the same service*
20 *as would be authorized by such license,*

21 *"(D) extension of time to complete construction*
22 *of authorized facilities,*

23 *"(E) an authorization of facilities for remote*
24 *pickups, studio links and similar facilities for use*
25 *in the operation of a broadcast station,*

1 *"(F) authorizations pursuant to section 325(b)*
2 *where the programs to be transmitted are special*
3 *events not of a continuing nature,*
4 *"(G) a special temporary authorization for*
5 *nonbroadcast operation not to exceed thirty days*
6 *where no application for regular operation is con-*
7 *templated to be filed or pending the filing of an*
8 *application for such regular operation, or*
9 *"(H) an authorization under any of the proviso*
10 *clauses of section 308(a).*
11 *"(d)(1) Any party in interest may file with the Com-*
12 *mission a petition to deny any application (whether as*
13 *originally filed or as amended) to which subsection (b) of*
14 *this section applies at any time prior to the day of Com-*
15 *mission grant thereof without hearing or the day of formal*
16 *designation thereof for hearing; except that with respect to*
17 *any classification of applications, the Commission from time*
18 *to time by rule may specify a shorter period (no less than*
19 *thirty days following the issuance of public notice by the*
20 *Commission of the acceptance for filing of such application*
21 *or of any substantial amendment thereof), which shorter*
22 *period shall be reasonably related to the time when the appli-*
23 *cations would normally be reached for processing. The*
24 *petitioner shall serve a copy of such petition on the applicant.*
25 *The petition shall contain specific allegations of fact suffi-*

1 *cient to show that the petitioner is a party in interest and*
2 *that a grant of the application would be prima facie incon-*
3 *sistent with subsection (a). Such allegations of fact shall,*
4 *except for those of which official notice may be taken, be*
5 *supported by affidavit of a person or persons with personal*
6 *knowledge thereof. The applicant shall be given the oppor-*
7 *tunity to file a reply in which allegations of fact or denials*
8 *thereof shall similarly be supported by affidavit.*

9 *"(2) If the Commission finds on the basis of the appli-*
10 *cation, the pleadings filed, or other matters which it may offi-*
11 *cially notice that there are no substantial and material ques-*
12 *tions of fact and that a grant of the application would be*
13 *consistent with subsection (a), it shall make the grant,*
14 *deny the petition, and issue a concise statement of the reasons*
15 *for denying the petition, which statement shall dispose of all*
16 *substantial issues raised by the petition. If a substantial and*
17 *material question of fact is presented or if the Commission for*
18 *any reason is unable to find that grant of the application*
19 *would be consistent with subsection (a), it shall proceed as*
20 *provided in subsection (e).*

21 *"(e) If, in the case of any application to which subsection*
22 *(a) of this section applies, a substantial and material question*
23 *of fact is presented or the Commission for any reason is un-*
24 *able to make the finding specified in such subsection, it shall*
25 *formally designate the application for hearing on the ground*

1 *or reasons then obtaining and shall forthwith notify the*
2 *applicant and all other known parties in interest of such*
3 *action and the grounds and reasons therefor, specifying*
4 *with particularity the matters and things in issue but*
5 *not including issues or requirements phrased generally.*
6 *When the Commission has so designated an application*
7 *for hearing the parties in interest, if any, who are not*
8 *notified by the Commission of such action may acquire the*
9 *status of a party to the proceeding thereon by filing a peti-*
10 *tion for intervention showing the basis for their interest at*
11 *any time not less than ten days prior to the date of hearing.*
12 *Any hearing subsequently held upon such application shall be*
13 *a full hearing in which the applicant and all other parties in*
14 *interest shall be permitted to participate. The burden of*
15 *proceeding with the introduction of evidence and the burden*
16 *of proof shall be upon the applicant, except that with respect*
17 *to any issue presented by a petition to deny or a petition*
18 *to enlarge the issues, such burdens shall be as determined by*
19 *the Commission.*

20 *"(f) When an application subject to subsection (b)*
21 *has been filed, the Commission, notwithstanding the require-*
22 *ments of such subsection, may, if the grant of such applica-*
23 *tion is otherwise authorized by law and if it finds that there*
24 *are extraordinary circumstances requiring emergency opera-*

1 *tions in the public interest and that delay in the institution of*
2 *such emergency operations would seriously prejudice the public*
3 *interest, grant a temporary authorization, accompanied by a*
4 *statement of its reasons therefor, to permit such emergency*
5 *operations for a period not exceeding ninety days, and upon*
6 *making like findings may extend such temporary authoriza-*
7 *tion for one additional period not to exceed ninety days.*
8 *When any such grant of a temporary authorization is made,*
9 *the Commission shall give expeditious treatment to any timely*
10 *filed petition to deny such application and to any petition for*
11 *rehearing of such grant filed under section 405.*
12 *"(g) The Commission is authorized to adopt reasonable*
13 *classifications of applications and amendments in order to*
14 *effectuate the purposes of this section.*
15 *"(h) Such station licenses as the Commission may grant*
16 *shall be in such general form as it may prescribe, but each*
17 *license shall contain, in addition to other provisions, a state-*
18 *ment of the following conditions to which such license shall*
19 *be subject: (1) The station license shall not vest in the*
20 *licensee any right to operate the station nor any right in the*
21 *use of the frequencies designated in the license beyond the*
22 *term thereof nor in any other manner than authorized*
23 *therein; (2) neither the license nor the right granted there-*
24 *under shall be assigned or otherwise transferred in violation*

1 *of this Act; (3) every license issued under this Act shall be*
2 *subject in terms to the right of use or control conferred by*
3 *section 606 of this Act."*

4 *(b) Section 319(c) of the Communications Act of*
5 *1934 (47 U.S.C. 319(c)) is amended by striking out "and*
6 *(c)" and inserting in lieu thereof "(c), (d), (e), (f), and*
7 *(g)".*

8 *(c) Section 405 of the Communications Act of 1934*
9 *(47 U.S.C. 405) is amended—*

10 *(1) by striking out "and party" in the first sentence*
11 *and inserting in lieu thereof "any party", and*

12 *(2) by inserting after the fourth sentence a new*
13 *sentence as follows: "The Commission shall enter an*
14 *order, with a concise statement of the reasons therefor,*
15 *denying a petition for rehearing or granting such peti-*
16 *tion, in whole or in part, and ordering such further pro-*
17 *ceedings as may be appropriate: Provided, That in any*
18 *case where such petition relates to an instrument of*
19 *authorization granted without a hearing, the Commis-*
20 *sion shall take such action within ninety days of the*
21 *filing of such petition."*

22 *(d)(1) Subsections (a) and (b) of this section shall*
23 *take effect ninety days after the date of the enactment of this*
24 *Act.*

25 *(2) Section 309 of the Communications Act of 1934*

1 *(as amended by subsection (a) of this section) shall apply to*
2 *any application to which section 308 of such Act applies*
3 *(A) which is filed on or after the effective date of subsection*
4 *(a) of this section, (B) which is filed before such effective*
5 *date, but is substantially amended on or after such effective*
6 *date, or (C) which is filed before such effective date and*
7 *is not substantially amended on or after such effective date,*
8 *but with respect to which the Commission by rule provides*
9 *reasonable opportunity to file petitions to deny in accordance*
10 *with section 309 of such Act (as amended by subsection (a)*
11 *of this section).*
12 *(3) Section 309 of the Communications Act of 1934,*
13 *as in effect immediately before the effective date of subsection*
14 *(a) of this section, shall, on and after such effective date,*
15 *apply only to applications to which section 308 of such Act*
16 *apply which are filed before such effective date and not sub-*
17 *stantially amended on or after such effective date and with*
18 *respect to which the Commission does not permit petitions to*
19 *deny to be filed as provided in clause (C) of paragraph (2)*
20 *of this subsection.*
21 *(4) The amendment made by paragraph (2) of sub-*
22 *section (c) of this section shall only apply to petitions for*
23 *rehearing filed on or after the date of the enactment of this*
24 *Act.*

1 *LOCAL NOTICE AND LOCAL HEARINGS; PAY-OFFS*

2 *SEC. 5. (a) Section 311 of the Communications Act*
3 *of 1934 (47 U.S.C. 311) is amended to read as follows:*
4 *"SPECIAL REQUIREMENTS WITH RESPECT TO CERTAIN*
5 *APPLICATIONS IN THE BROADCASTING SERVICE*

6 *"SEC. 311. (a) When there is filed with the Commis-*
7 *sion any application to which section 309(b)(1) applies,*
8 *for an instrument of authorization for a station in the broad-*
9 *casting service, the applicant—*

10 *"(1) shall give notice of such filing in the principal*
11 *area which is served or is to be served by the station; and*

12 *"(2) if the application is formally designated for*
13 *hearing in accordance with section 309, shall give notice*
14 *of such hearing in such area at least ten days before com-*
15 *mencement of such hearing.*

16 *The Commission shall by rule prescribe the form and content*
17 *of the notices to be given in compliance with this subsection,*
18 *and the manner and frequency with which such notices shall*
19 *be given.*

20 *"(b) Hearings referred to in subsection (a) may be*
21 *held at such places as the Commission shall determine to be*
22 *appropriate, and in making such determination in any case*
23 *the Commission shall consider whether the public interest,*
24 *convenience, or necessity will be served by conducting the*

1 *hearing at a place in, or in the vicinity of, the principal area*
2 *to be served by the station involved.*
3 *"(c)(1) If there are pending before the Commission*
4 *two or more applications for a permit for construction of a*
5 *broadcasting station, only one of which can be granted, it shall*
6 *be unlawful, without approval of the Commission, for the*
7 *applicants or any of them to effectuate an agreement whereby*
8 *one or more of such applicants withdraws his or their appli-*
9 *cation or applications.*
10 *"(2) The request for Commission approval in any such*
11 *case shall be made in writing jointly by all the parties to*
12 *the agreement. Such request shall contain or be accompanied*
13 *by full information with respect to the agreement, set forth in*
14 *such detail, form, and manner as the Commission shall by*
15 *rule require.*
16 *"(3) The Commission shall approve the agreement only*
17 *if it determines that the agreement is consistent with the public*
18 *interest, convenience, or necessity. If the agreement does not*
19 *contemplate a merger, but contemplates the making of any*
20 *direct or indirect payment to any party thereto in considera-*
21 *tion of his withdrawal of his application, the Commission*
22 *may determine the agreement to be consistent with the public*
23 *interest, convenience, or necessity only if the amount or value*
24 *of such payment, as determined by the Commission, is not*

1 *in excess of the aggregate amount determined by the Com-*
2 *mission to have been legitimately and prudently expended*
3 *and to be expended by such applicant in connection with pre-*
4 *paring, filing, and advocating the granting of his application.*
5 *"(4) For the purposes of this subsection an application*
6 *shall be deemed to be 'pending' before the Commission from*
7 *the time such application is filed with the Commission until*
8 *an order of the Commission granting or denying it is no*
9 *longer subject to rehearing by the Commission or to review*
10 *by any court."*
11 *(b) Section 313 of such Act (47 U.S.C. 313) is*
12 *amended—*
13 *(1) by inserting after the word "LAWS" in the heading*
14 *of such section the following: "; REFUSAL OF LICENSES AND*
15 *PERMITS IN CERTAIN CASES"; and*
16 *(2) by inserting "(a)" after "SEC. 313." and adding*
17 *at the end of such section the following subsection:*
18 *"(b) The Commission is hereby directed to refuse a sta-*
19 *tion license and/or the permit hereinafter required for the*
20 *construction of a station to any person (or to any person*
21 *directly or indirectly controlled by such person) whose license*
22 *has been revoked by a court under this section."*

1 ~~*Suspension,*~~ ~~*Revocation,*~~ *REVOCATION AND CEASE AND*
2 *DESIST ORDERS*
3 *SEC. 6. (a) Section 312 of the Communications Act of*
4 *1934 (47 U.S.C. 312) is amended to read as follows:*
5 *"ADMINISTRATIVE SANCTIONS*
6 *"SEC. 312. (a) The Commission may revoke any station*
7 *license or construction permit—*
8 *"(1) for false statements knowingly made either in*
9 *the application or in any statement of fact which may*
10 *be required pursuant to section 308;*
11 *"(2) because of conditions coming to the attention*
12 *of the Commission which would warrant it in refusing to*
13 *grant a license or permit on an original application;*
14 *"(3) for willful or repeated failure to operate sub-*
15 *stantially as set forth in the license;*
16 *"(4) for willful or repeated violation of, or willful*
17 *or repeated failure to observe any provision of this Act*
18 *or any rule or regulation of the Commission authorized*
19 *by this Act or by a treaty ratified by the United States;*
20 *"(5) for violation of or failure to observe any*
21 final *cease and desist order issued by the Commission*
22 *under this section; or*

1 *"(6) for violation of section 1304, 1343, or 1464*
2 *of title 18 of the United States Code.*
3 *"(b) Where any person (1) has failed to operate sub-*
4 *stantially as set forth in a license, (2) has violated or*
5 *failed to observe any of the provisions of this Act, or section*
6 *1304, 1343, or 1464 of title 18 of the United States Code,*
7 *or (3) has violated or failed to observe any rule or regulation*
8 *of the Commission authorized by this Act or by a treaty rati-*
9 *fied by the United States, the Commission may order such*
10 *person to cease and desist from such action.*
11 ~~*"(c) The Commission may suspend any station license*~~
12 ~~*for a period of not more than ten consecutive days—*~~
13 ~~*"(1) for false statements knowingly made either in*~~
14 ~~*the application or in any statement of fact which may be*~~
15 ~~*required pursuant to section 308;*~~
16 ~~*"(2) because of conditions coming to the attention*~~
17 ~~*of the Commission which would warrant it in refusing to*~~
18 ~~*grant a license on an original application;*~~
19 ~~*"(3) for negligent or intentional failure to operate*~~
20 ~~*substantially as set forth in the license;*~~
21 ~~*"(4) for negligent or intentional violation of, or*~~
22 ~~*negligent or intentional failure to observe any provi-*~~
23 ~~*sion of this Act or any rule or regulation of the Com-*~~

~~mission authorized by this Act or by a treaty ratified by the United States;~~

~~"(5) for violation of or failure to observe any cease and desist order issued by the Commission under this section; or~~

~~"(6) for violation of section 1304, 1343, or 1464 of title 18 of the United States Code.~~

~~"(d)~~ (c) *Before revoking a license or permit pursuant to subsection (a), issuing a cease and desist order pursuant to subsection (b),* ~~or suspending a license pursuant to subsection (c),~~ *the Commission shall serve upon the licensee, permittee, or person involved an order to show cause why an order of revocation* ~~or suspension~~ *or a cease and desist order should not be issued. Any such order to show cause shall contain a statement of the matters with respect to which the Commission is inquiring and shall call upon the licensee, permittee, or person to appear before the Commission at a time and place stated in the order, but in no event less than thirty days after the receipt of such order, and give evidence upon the matter specified therein; except that where safety of life or property is involved, the Commission may provide in the order for a shorter period. If after hearing, or a waiver thereof, the Commission determines that an order of revocation*

1 ~~or suspension~~ *or a cease and desist order should issue, it shall*
2 *issue such order, which shall include a statement of the find-*
3 *ings of the Commission and the grounds and reasons therefor*
4 *and specify the effective date of the order, and shall cause*
5 *the same to be served on said licensee, permittee, or person.*
6 ~~"(e)~~ (d) *In any case where a hearing is conducted pur-*
7 *suant to the provisions of this section, both the burden of*
8 *proceeding with the introduction of evidence and the burden*
9 *of proof shall be upon the Commission.*
10 ~~"(f)~~ (e) *The provisions of section 9(b) of the Adminis-*
11 *trative Procedure Act which apply with respect to the institu-*
12 *tion of any proceeding for the* ~~suspension or~~ *revocation of a*
13 *license or permit shall apply also with respect to the institu-*
14 *tion, under this section, of any proceeding for the issuance*
15 *of a cease and desist order."*
16 ~~(b) The first sentence of section 307(d) of the Commu-~~
17 ~~nications Act of 1934 (47 U.S.C. 307(d)) is amended by~~
18 ~~inserting "suspended or" before "revoked".~~
19 ~~(c) The second sentence of section 308(b) of such Act~~
20 ~~(47 U.S.C. 308(b)) is amended by inserting "suspended or"~~
21 ~~before "revoked".~~
22 ~~(d) Section 402(b)(5) of such Act (47 U.S.C.~~
23 ~~402(b)(5)) is amended by inserting ", suspended," after~~
24 ~~"modified".~~

1 *FORFEITURE PROVISIONS RELATING TO BROADCAST*
2 *LICENSEES*

3 *SEC. 7. (a) Section 503 of the Communications Act of*
4 *1934 (47 U.S.C. 503) is amended (1) by striking out the*
5 *center heading and inserting in lieu thereof "Forfeitures";*
6 *(2) by inserting "(a)" after "SEC. 503."; and (3) by*
7 *adding at the end thereof the following subsection:*

8 ~~"(b) In any case where the licensee or permittee of a~~
9 ~~broadcast station has negligently or intentionally failed to~~
10 ~~operate his station substantially as set forth in his license, or~~
11 ~~has negligently or intentionally violated, or has negligently~~
12 ~~or intentionally failed to observe any of the provisions of~~
13 ~~this Act or any rule or regulation of the Commission author-~~
14 ~~ized by this Act or by any treaty ratified by the United States,~~
15 ~~or has violated or failed to observe any cease and desist~~
16 ~~order issued by the Commission, the Commission may order~~
17 ~~such licensee or permittee to forfeit to the United States a~~
18 ~~sum not to exceed $1,000 for each day during which the~~
19 ~~Commission finds that such violation or failure has occurred.~~
20 ~~Such forfeiture shall be in addition to any other penalty~~
21 ~~provided by this Act."~~

22 ~~(b) Section 504(b) of such Act is amended by striking~~
23 ~~out "section 507" and inserting in lieu thereof "sections~~
24 ~~503(b) and 507".~~

1 "(b) (1) In any case where the licensee or permittee
2 of a broadcast station has willfully or repeatedly failed to
3 operate his station substantially as set forth in his license,
4 or has willfully or repeatedly failed to observe any of the
5 provisions of this Act or any rule or regulation of the Com-
6 mission authorized by this Act or by any treaty ratified by
7 the United States, or has violated or failed to observe any
8 final cease and desist order issued by the Commission, the
9 Commission may order such licensee or permittee to forfeit
10 to the United States a sum not to exceed $1,000. Each day
11 during which such violation occurs shall constitute a separate
12 offense. Such forfeiture shall be in addition to any other
13 penalty provided by this Act.

14 "(2) No forfeiture liability under subsection (b) (1)
15 hereof shall attach unless a written notice of apparent lia-
16 bility, setting forth the date, facts, and nature of the alleged
17 irregularity or violation of a specific provision of this Act
18 or of a specific rule or regulation of the Commission shall
19 have been issued by the Commission and received by such
20 licensee or permittee, or the Commission shall have sent
21 such notice by registered or certified mail to the last known
22 address of such licensee or permittee. The licensee or per-
23 mittee so notified of apparent liability shall have an oppor-
24 tunity to show in writing why he should not be held liable.

25 "(3) No forfeiture liability under subsection (b) (1)

1 hereof shall attach for any violation occurring more than
2 one year prior to the date of the notice of apparent liability
3 and in no event shall the forfeiture imposed for the acts set
4 forth in any notice of apparent liability exceed $10,000.

5 "(4) The forfeitures provided for in subsection (b) (1)
6 hereof shall not apply to radio stations governed by the pro-
7 visions of parts II and III of title III and section 507 of
8 this Act."

9 (b) Section 504 (a) of the Communications Act of
10 1934 (47 U.S.C. 504) is amended by inserting after the
11 word *"Provided"* in the first sentence thereof the following:
12 "That any trial for the recovery of a forfeiture imposed
13 pursuant to the provisions of this Act shall be a trial on the
14 merits de novo: *Provided further,*".

15 (c) Section 504 (b) of such Act is amended by striking
16 out "section 507" and inserting in lieu thereof "sections
17 503 (b) and 507".

18 (d) Section 504 of such Act is further amended by
19 adding a new subsection to read as follows:

20 "(c) In any case where a forfeiture, as provided in this
21 Act, has been ordered against any person, the pendency
22 thereof before final adjudication as provided in section
23 504 (a) of this Act shall be without prejudice to the rights of
24 such person in any other proceeding before the Commission."

1 *PROVISIONS REQUIRING ANNOUNCEMENTS AND DISCLO-*
2 *SURE OF CERTAIN PAYMENTS WITH RESPECT TO*
3 *MATTER BROADCAST*

4 *SEC. 8. (a) Section 317 of the Communications Act of*
5 *1934 (47 U.S.C. 317) is amended to read as follows:*

6 *"ANNOUNCEMENT WITH RESPECT TO CERTAIN MATTER*
7 *BROADCAST*

8 *"SEC. 317. (a)(1) All matter broadcast by any radio*
9 *station for which any money, service or other valuable con-*
10 *sideration is directly or indirectly paid, or promised to or*
11 *charged or accepted by, the station so broadcasting, from any*
12 *person, shall, at the time the same is so broadcast, be an-*
13 *nounced as paid for or furnished, as the case may be, by*
14 *such person: Provided, That 'service or other valuable con-*
15 *sideration' shall not include any service or property furnished*
16 *without charge or at a nominal charge for use on, or in con-*
17 *nection with, a broadcast unless it is so furnished in consider-*
18 *ation for an identification in a broadcast of any person,*
19 *product, service, trademark, or brand name beyond an iden-*
20 *tification which is reasonably related to the use of such service*
21 *or property on the broadcast.*

22 *"(2) Nothing in this section shall preclude the Commis-*
23 *sion from requiring that an appropriate announcement shall*
24 *be made at the time of the broadcast in the case of any political*
25 *program or any program involving the discussion of any con-*

1 *troversial issue for which any films, records, transcriptions,*
2 *talent, scripts, or other material or service of any kind have*
3 *been furnished, without charge or at a nominal charge, di-*
4 *rectly or indirectly, as an inducement to the broadcast of such*
5 *program.*

6 *"(b) In any case where a report has been made to a*
7 *radio station, as required by section 508 of this Act, of*
8 *circumstances which would have required an announcement*
9 *under this section had the consideration been received by such*
10 *radio station, an appropriate announcement shall be made*
11 *by such radio station.*

12 *"(c) The licensee of each radio station shall exercise*
13 *reasonable diligence to obtain from its employees, and from*
14 *other persons with whom it deals directly in connection with*
15 *any program or program matter for broadcast, information*
16 *to enable such licensee to make the announcement required*
17 *by this section.*

18 *"(d) The Commission may waive the requirement of an*
19 *announcement as provided in this section in any case or class*
20 *of cases with respect to which it determines that the public*
21 *interest, convenience, or necessity does not require the broad-*
22 *casting of such announcement.*

23 *"(e) The Commission shall prescribe appropriate rules*
24 *and regulations to carry out the provisions of this section."*

25 *(b) Title V of the Communications Act of 1934 (47*

1 *U.S.C., subchapter V) is amended by adding at the end*
2 *thereof the following section:*

3 *"DISCLOSURE OF CERTAIN PAYMENTS*

4 *"SEC. 508. (a) Subject to subsection (d), any em-*
5 *ployee of a radio station who accepts or agrees to accept from*
6 *any person (other than such station), or any person (other*
7 *than such station) who pays or agrees to pay such employee,*
8 *any money, service or other valuable consideration for the*
9 *broadcast of any matter over such station shall, in advance of*
10 *such broadcast, disclose the fact of such acceptance or agree-*
11 *ment to such station.*

12 *"(b) Subject to subsection (d), any person who, in con-*
13 *nection with the production or preparation of any program*
14 *or program matter which is intended for broadcasting over*
15 *any radio station, accepts or agrees to accept, or pays or*
16 *agrees to pay, any money, service or other valuable consid-*
17 *eration for the inclusion of any matter as a part of such*
18 *program or program matter, shall, in advance of such broad-*
19 *cast, disclose the fact of such acceptance or payment or agree-*
20 *ment to the payee's employer, or to the person for whom such*
21 *program or program matter is being produced, or to the*
22 *licensee of such station over which such program is broadcast.*

23 *"(c) Subject to subsection (d), any person who sup-*
24 *plies to any other person any program or program matter*
25 *which is intended for broadcasting over any radio station*

1 *shall, in advance of such broadcast, disclose to such other*
2 *person any information of which he has knowledge, or which*
3 *has been disclosed to him, as to any money, service or other*
4 *valuable consideration which any person has paid or ac-*
5 *cepted, or has agreed to pay or accept, for the inclusion of*
6 *any matter as a part of such program or program matter.*

7 *"(d) The provisions of this section requiring the dis-*
8 *closure of information shall not apply in any case where,*
9 *because of a waiver made by the Commission under section*
10 *317(d), an announcement is not required to be made under*
11 *section 317.*

12 "(e) *The inclusion in the program of the announcement*
13 *required by section 317 shall constitute the disclosure required*
14 *by this section.*

15 "~~(e)~~ (f) *The term 'service or other valuable considera-*
16 *tion' as used in this section shall not include any service or*
17 *property furnished without charge or at a nominal charge*
18 *for use on, or in connection with, a broadcast, or for use on a*
19 *program which is intended for broadcasting over any*
20 *radio station, unless it is so furnished in consideration for*
21 *an identification in such broadcast or in such program of any*
22 *person, product, service, trademark, or brand name beyond*
23 *an identification which is reasonably related to the use of such*
24 *service or property in such broadcast or such program.*

25 "~~(f)~~ (g) *Any person who violates any provision of this*

1 *section shall, for each such violation, be fined not more than*
2 *$10,000 or imprisoned not more than one year, or both."*

3 *DECEPTIVE CONTESTS*

4 *SEC. 9. Title V of the Communications Act of 1934 (47*
5 *U.S.C., subchapter V), as amended by section 7(b) of this*
6 *Act, is further amended by adding at the end thereof the*
7 *following section:*

8 *"PROHIBITED PRACTICES IN CASE OF CONTESTS OF IN-*
9 *TELLECTUAL KNOWLEDGE, INTELLECTUAL SKILL, OR*
10 *CHANCE*

11 *"SEC. 509. (a) It shall be unlawful for any person,*
12 *with intent to deceive the listening or viewing public—*

13 *"(1) To supply to any contestant in a purportedly*
14 *bona fide contest of intellectual knowledge or intellectual*
15 *skill any special and secret assistance whereby the out-*
16 *come of such contest will be in whole or in part pre-*
17 *arranged or predetermined.*

18 *"(2) By means of persuasion, bribery, intimida-*
19 *tion, or otherwise, to induce or cause any contestant in*
20 *a purportedly bona fide contest of intellectual knowledge*
21 *or intellectual skill to refrain in any manner from using*
22 *or displaying his knowledge or skill in such contest,*
23 *whereby the outcome thereof will be in whole or in part*
24 *prearranged or predetermined.*

25 *"(3) To engage in any artifice or scheme for the*

1 *purpose of prearranging or predetermining in whole or*
2 *in part the outcome of a purportedly bona fide contest of*
3 *intellectual knowledge, intellectual skill, or chance.*
4 *"(4) To produce or participate in the production*
5 *for broadcasting of, to broadcast or participate in the*
6 *broadcasting of, to offer to a licensee for broadcasting,*
7 *or to sponsor, any radio program, knowing or having*
8 *reasonable ground for believing that, in connection with*
9 *a purportedly bona fide contest of intellectual knowledge,*
10 *intellectual skill, or chance constituting any part of such*
11 *program, any person has done or is going to do any*
12 *act or thing referred to in paragraph (1), (2), or (3)*
13 *of this subsection.*
14 *"(5) To conspire with any other person or per-*
15 *sons to do any act or thing prohibited by paragraph*
16 *(1), (2), (3), or (4) of this subsection, if one or more*
17 *of such persons do any act to effect the object of such*
18 *conspiracy.*
19 *"(b) For the purposes of this section—*
20 *"(1) The term 'contest' means any contest broad-*
21 *cast by a radio station in connection with which any*
22 *money or any other thing of value is offered as a prize or*
23 *prizes to be paid or presented by the program sponsor*
24 *or by any other person or persons, as announced in the*
25 *course of the broadcast.*

1 *"(2) The term 'the listening or viewing public'*
2 *means those members of the public who, with the aid of*
3 *radio receiving sets, listen to or view programs broad-*
4 *cast by radio stations.*
5 *"(c) Whoever violates subsection (a) shall be fined*
6 *not more than $10,000 or imprisoned not more than one*
7 *year, or both."*

Amend the title so as to read: "An Act to promote the public interest by amending the Communications Act of 1934, to provide a pre-grant procedure in case of certain applications; to impose limitations on payoffs between applicants; ~~to grant authority to suspend station licenses~~; to require disclosure of payments made for the broadcasting of certain matter; to grant authority to impose forfeitures in the broadcast service; and to prohibit deceptive practices in contests of intellectual knowledge, skill, or chance; and for other purposes."

Passed the Senate August 19 (legislative day, August 18, 1959.

Attest: FELTON M. JOHNSTON,
Secretary.

Passed the House of Representatives with amendments June 28, 1960.

Attest: RALPH R. ROBERTS,
Clerk.

[COMMITTEE PRINT]

AUGUST 12, 1960

86TH CONGRESS
2D SESSION

S. 1898

AN ACT

To amend the Communications Act of 1934 with respect to the procedure in obtaining a license and for rehearings under such Act.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 1960

Ordered to be printed with the amendments of the House of Representatives