

AMATEUR RADIO OPERATORS

MAY 25, 1971.—Ordered to be printed

Mr. PASTORE, from the Committee on Commerce,
submitted the following

REPORT

[To accompany S. 485]

The Committee on Commerce, to which was referred the bill (S. 485) to amend the Communications Act of 1934 to provide that certain aliens admitted to the United States for permanent residence shall be eligible to operate amateur radio stations in the United States and to hold licenses for their stations, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

GENERAL STATEMENT

This bill would amend section 303 (dealing with operators) and section 310 (dealing with station licenses) of the Communications Act of 1934 to permit the Federal Communications Commission to issue licenses for the operation of amateur radio stations by aliens who have filed a declaration of intention to become citizens of the United States.

S. 485 was introduced by the Senator from Arizona, Mr. Goldwater, and cosponsored by 34 other Senators. Hearings were held on S. 1466 on October 8, 1970, and as reported by your committee was identical to S. 485. Senator Goldwater and the Chairman of the Federal Communications Commission, Mr. Dean Burch, and the president of American Radio Relay League, Inc., testified in support of the legislation. There was no opposition to the bill and on October 14, 1970, the Senate passed S. 1466.

HISTORY AND NEED FOR LEGISLATION

The Communications Act now generally provides in sections 303(1) and 310(a) that only citizens and nationals of the United States shall be licensed by the FCC to operate amateur radio stations. Prior to

1964, the sole exception to this were Canadian citizens pursuant to a 1952 treaty between the United States and Canada. In 1964, however, Congress amended those sections (78 Stat. 202), to provide another exception to this general requirement.

Under the 1964 exception the Commission is empowered by sections 303(1)(2) and 310(a)(5) to issue an "authorization" to an alien who has an amateur radio operator and station license issued by his government, if the alien's government affords a reciprocal opportunity to the U.S. citizens; and if, after notifying the appropriate agencies of government of the application, the Federal Communications Commission receives no information that would make the grant of such authorization incompatible with national security interests. This "authorization" allows an alien to operate his amateur radio station in the United States, its possessions, and the Commonwealth of Puerto Rico. Sections 303(1)(2) and 310(a)(5) also specifically provide that "other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of such authorization."

While this amendment has worked well according to the witnesses who testified an anomaly exists through inadvertence because there is no provision for aliens who are permanent residents and intend to become citizens. Thus if an amateur radio hobbyist is merely visiting the United States on a student, business, or tourist visa, he may obtain an authorization to operate amateur radio equipment while he is here. But, if the same person decided to settle in this country, he will find himself completely cut off from all right to enjoy his ham radio pursuits until he actually becomes a citizen. Nevertheless, for example, resident immigrants are required to pay U.S. taxes, and are induced into the military.

S. 485 would allow the Commission to license, for amateur radio operation, aliens who have filed first papers to become U.S. citizens, and who could qualify technically for an amateur license. It should be noted, however, that the Commission conducts license examinations only in English, and it is expected that an alien who applied for an amateur license would need sufficient familiarity with the English language to pass the examination.

SECURITY CONSIDERATIONS

Amateur radio operators share frequencies with other licensees or other authorized operators; thus, there is little, if any secrecy in amateur radio transmission. Furthermore, every alien who is issued a visa is given a security check before entering the United States. Witnesses who testified on S. 1466 said it seemed doubtful that anyone would attempt to use these shared frequencies to breach the national security or that anyone intent upon such a use would be inhibited by the lack of a license.

PROCEDURES TO BE FOLLOWED

This bill gives very wide latitude to the Federal Communications Commission in imposing such terms and conditions as may be necessary in the public interest. It specifically provides that other provisions of the Communications Act and of chapters 5 and 7 of title 5,

United States Code (formerly, the Administrative Procedure Act), shall not be applicable to any request or application for, or modification, suspension, or cancellation of any such license. Thus, the license is of a somewhat unique variety and is not entitled to the protections ordinarily associated with a licensing procedure. Hearings would not be required, and termination which could be for any reason, may be in any manner and without prior notice. As an example of the Commission's latitude, it could restrict operation by these licensees to a specific location or area, to a specific frequency or frequencies, to specific modes of operation such as continuous wave Morse code, amplitude modulation voice, or single sideband voice, and/or to specific hours of the day. It could require all transmission to be in English, have call letters or signs transmitted at more frequent intervals than required for citizen amateurs, or require that logs of all transmission and operations be submitted at regular intervals, et cetera.

In short, such procedures as are deemed desirable may be incorporated into rules, adopted without the necessity of public rulemaking procedures under the Administrative Procedure Act, and promulgated by the Commission. It is not the intent of the committee to establish the procedures to be followed. But your committee hopes that the Federal Communications Commission, in working out the procedures implementing this legislation, will not establish cumbersome procedures that may defeat the objectives that underlie the purpose of the bill. Moreover, delays necessitated by coordinating with appropriate agencies must not be permitted to derogate from the very type of good will which the bill intends to promote. The committee expects, therefore, that all agencies involved will treat such matters expeditiously.

CONCLUSION

The committee believes that with the security safeguards written into it, the bill is in the national interest and will rectify an oversight which was inadvertent.

AGENCY COMMENTS

A letter from the Director, Office of Emergency Preparedness dated April 26, 1971; letter from the Acting Assistant Secretary for Congressional Relations, Department of State dated April 26, 1971; letter April 29, 1971; letter from the Acting Comptroller General, General Accounting Office, dated March 23, 1971; and letter from the Chairman, Federal Communications Commission, March 16, 1971, with the Commission's views attached.

EXECUTIVE OFFICE OF THE PRESIDENT.

OFFICE OF EMERGENCY PREPAREDNESS,

OFFICE OF THE DIRECTOR,

Washington, D.C., April 26, 1971.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for comments of this Agency concerning S. 485, 92d Congress, a bill to amend the Communications Act of 1934 to provide that certain aliens admitted to

the United States for permanent residence shall be eligible to operate amateur radio stations in the United States and to hold licenses for their stations.

The Office of Emergency Preparedness is charged with assuring that this Nation has all of the resources needed to meet any emergency that may confront the country. We consider an effective telecommunications system to be one of our most essential resources, and recognize that there is an ever present need for strengthening that system.

However, we are unable to advise you as to whether the provisions of this bill would accomplish that objective. In carrying out our responsibilities for overall mobilization readiness of economic resources, we rely on the various Federal agencies to provide their technical talents and capabilities. Accordingly, we defer to the views of the Federal Communications Commission and other agencies which would be charged with administering this legislation.

From the standpoint of the administration's program, the Office of Management and Budget advises that it has no objection to the submission of this report.

Sincerely,

G. A. LINCOLN, *Director.*

DEPARTMENT OF STATE,
Washington, D.C., April 26, 1971.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I have your letter of February 26, 1971, requesting the Department's comments on S. 485 to amend the Communications Act of 1934 to provide that certain aliens admitted to the United States for permanent residence shall be eligible to operate amateur radio stations in the United States and to hold licenses for their stations.

The Department offered no objections from the standpoint of foreign policy interests to the passage of identical legislation introduced in the 91st Congress, first session, S. 1466, provided that the Federal Communications Commission, which appeared to have primary interest in the matter, concurred.

I am pleased to inform you that the Department continues to hold the same view of the proposed legislation.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., April 29, 1971.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 485, a bill to amend the Communications Act of 1934 to provide that certain aliens admitted to the United States for permanent residence shall be eligible to operate amateur

radio stations in the United States and to hold licenses for their stations.

This legislation would amend section 303 of the Communications Act of 1934, as amended (47 U.S.C. 303), to authorize the Federal Communications Commission to issue amateur radio operators' licenses and station licenses to aliens admitted to the United States for permanent residence who have filed a declaration of intention to become a U.S. citizen.

Upon receipt of an application, the Commission would be required to notify the appropriate governmental agencies and to ascertain whether or not the issuance of each license would be compatible with the national security. The license could then be issued unless information received from the agencies necessitated the denial of the request.

The Department of Justice has no objection to the enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 23, 1971.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Your letter of February 26, 1971, requests our comments on S. 485, 92d Congress, entitled: "a bill to amend the Communications Act of 1934 to provide that certain aliens admitted to the United States for permanent residence shall be eligible to operate amateur radio stations in the United States and to hold licenses for their stations."

We have no special information as to the advantages or disadvantages of the proposed legislation and, therefore, we have no comment as to its merits.

Sincerely yours,

R. F. KELLER,
Assistant Comptroller General of the United States.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., March 16, 1971.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I am pleased to enclose copies of the Commission's views in support of S. 485, a bill to amend the Communications Act of 1934 to provide that certain aliens admitted to the United States for permanent residence shall be eligible to operate amateur radio stations in the United States and to hold licenses for their stations. This bill is identical to S. 1466 as passed by the Senate on October 14, 1970.

We are advised by the Office of Management and Budget that there is no objection to the submission of these comments to your committee.

Sincerely,

DEAN BURCII,
Chairman.

(Enclosure.)

COMMENTS OF THE FEDERAL COMMUNICATIONS COMMISSION ON
S. 485, 92D CONGRESS, FIRST SESSION

S. 485 would amend the Communications Act of 1934 to provide that certain aliens admitted to the United States for permanent residence shall be eligible to operate amateur radio stations in the United States and to hold licenses for their stations. Specifically, the bill would amend sections 303(1) and 310(a) of the act (47 U.S.C. §§ 303(1) and 310(a)) to permit the Federal Communications Commission to issue licenses for the operation of amateur radio stations by aliens who have filed a declaration of intention to become citizens of the United States.

The Communications Act now generally provides in sections 303(1) and 310(a) that only citizens and nationals of the United States shall be licensed by the Federal Communications Commission to operate amateur radio stations. However, sections 303(1)(2) and 310(a) contain an exception to this general requirement. The Commission is empowered by sections 303(1)(2) and 310(a) to issue an "authorization" to an alien who has an amateur radio operator and station license issued by his government if the alien's government affords a reciprocal opportunity to United States citizens. This "authorization" allows an alien to operate his amateur radio station in the United States, its possessions, and the Commonwealth of Puerto Rico. An "authorization," however, does not have the legal protection of a license. Sections 303(1)(2) and 310(a) specifically provide that "other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of such authorization." These provisions, added to the act in 1964 (78 Stat. 202), have been implemented without difficulty. S. 485 would not affect this authorization procedure. Thus, our citizens could still be permitted to operate amateur radios in countries with which we have reciprocal arrangements.

S. 485 would allow the Commission to license, for amateur radio operation, aliens who have filed first papers to become United States citizens, and who could qualify technically for an amateur license. It should be noted, however, that the Commission conducts license examinations only in English and that an alien who applies for an amateur license would need sufficient familiarity with the English language to pass the examination.

Although present procedures allow only the above-described "authorizations" for alien amateur operation where there are reciprocal bilateral agreements, we see no reasons why the very limited group of aliens encompassed by S. 485 should not also be permitted to engage in amateur radio operations. Accordingly, we support S. 485.

The Commission does not believe that S. 485 presents any problem of security. Amateur radio operators share frequencies with other licensees or authorized operators; thus there is little, if any, secrecy in amateur radio transmissions. It seems doubtful that anyone would attempt to use these shared frequencies to breach the national security or that anyone intent upon such a use would be inhibited by the lack of a license or authorization. Furthermore, every alien who is issued a visa is given a security check before entering the country.

The Commission is preparing a legislative proposal which will recommend general authority to license aliens in the Safety and Special and experimental radio services, of which amateur radio is a part. Our proposal will soon be submitted for consideration by other interested Government departments and agencies. It is expected that it will be sent to the Congress within a few months. Because our experience with the alien amateur authorizations and with the general prohibition against licensing of aliens and alien corporations has convinced us that present security provisions in the law are unnecessary, our proposal will probably recommend repeal of those provisions so far as the Safety and Special Radio services are concerned. In the interim, however, because the security procedures are in the law with respect to alien amateur authorizations, which may be summarily revoked, it may be deemed desirable to require similar procedures if we are to license in the amateur service those aliens who have filed declarations of intention to become citizens. This whole procedure could then be reviewed in detail at such time as the Congress considers our more general proposal.

(Adopted: March 3, 1971.)

COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

It is impracticable for your committee to estimate additional cost, if any, to the FCC because it is not known how many resident aliens will file applications for the license which the Commission may grant under this legislation.

The committee is not aware of any estimates of cost by any Federal agency which are different from the estimate made by the committee in the preceding paragraph.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown

as follows (new matter is printed in italic; and existing law in which no change is proposed is shown in roman) :

COMMUNICATIONS ACT OF 1934, AS AMENDED

GENERAL POWERS OF THE COMMISSION

SEC. 303. Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires shall—

(a) * * *

(1) * * *

(2) Notwithstanding section 301 of this Act and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the aliens' government for such operation on a reciprocal basis by United States amateur radio operators: *Provided*, That when an application for an authorization is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further*, That the requested authorization may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

(3) *Notwithstanding paragraph (1) of this subsection, the Commission may issue licenses for the operation of amateur radio stations to aliens admitted to the United States for permanent residence who have filed under section 334(f) of the Immigration and Nationality Act (8 U.S.C. 1445(f)) a declaration of intention to become a citizen of the United States: Provided, That when an application for a license is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: And provided further, That the requested license may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such license.*

(m) (1) * * *

LIMITATION ON HOLDING AND TRANSFER OF LICENSES

Section 310. (a) The station license required hereby shall not be granted to or held by—

(1) * * *

(5) * * *

Notwithstanding section 301 of this Act and paragraphs (1) and (2) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators: Provided, That when an application for an authorization is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: And provided further, That the requested authorization may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

Notwithstanding paragraph (1) of this subsection, a license for an amateur radio station may be granted to and held by an alien admitted to the United States for permanent residence who has filed under section 334(f) of the Immigration and Nationality Act (8 U.S.C. 1445(f)) a declaration of intention to become a citizen of the United States; Provided, That when an application for a license is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security; And provided further, That the requested license may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such license."

(b) * * *

