CHAPTER 212

SENATE BILL 1179

AN ACT

AMENDING SECTIONS 9-1401, 9-1418, 11-1901 AND 11-1918, ARIZONA REVISED STATUTES; RELATING TO VIDEO SERVICE PROVIDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-1401, Arizona Revised Statutes, is amended to read:

9-1401. Definitions

In this chapter, unless the context otherwise requires:

1. "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with a video service provider.

2. "Agreement" means any agreement or contract.

3. "Boundaries of a local government" or "boundaries" means all of the area within the corporate limits of the city or town.

4. "Cable operator" has the same meaning prescribed in 47 United States Code section 522.

5. "Cable service" has the same meaning prescribed in 47 United States Code section 522.

6. "Cable system" has the same meaning prescribed in 47 United States Code section 522.

7. "Commercial mobile service provider" means a person that provides commercial mobile service as defined in 47 United States Code section 332(d) or commercial mobile radio service as described in 47 Code of Federal Regulations section 20.3.

8. "Day" means a calendar day, except a Saturday or Sunday or a holiday prescribed in section 1-301.

9. "Gross revenue":
   (a) Means all cash, credits, property of any kind or nature or other consideration that is received directly or indirectly by a video service provider, its affiliates, or any person, firm or corporation in which the video service provider has a financial interest or that has a financial interest in the video service provider and that is derived from the video service provider's operation of its video service network to provide video service in the service area.
   (b) Includes all revenue from charges for video service to subscribers and all charges for installation, removal, connection or reinstatement of equipment necessary for a subscriber to receive video service and any other receipts from subscribers derived from the video service provider's operation of the video service network to provide video service, including receipts from forfeited deposits, sale or rental of equipment to provide video service, late charges, interest and sale of program guides.
   (c) Does not include:
      (i) Any revenue not received, even if billed, such as bad debt net of any recoveries of bad debt or any refunds, credits, allowances or discounts to subscribers to the extent that the refund, rebate, credit, allowance or discount is attributed to video service.
(ii) Revenue from commercial advertising on the video service network, the use or lease of studio facilities of the video service network, internet access service, the use or lease of its facilities located in the highways, the use or lease of leased access channels or bandwidth, the use or lease of towers, the production of video programming by the video service provider, the sale, exchange, use or cablecast of any programming by the video service provider in the service area, sales to the video service provider's subscribers by programmers of home shopping services, reimbursements paid by programmers for launch fees or marketing expenses, license fees, taxes or other fees or charges that the video service provider collects and pays to any governmental authority, any increase in the value of any stock, security or asset, or any dividends or other distributions made from any stock or securities.

10. "Highway" means all roads, streets and alleys and other dedicated public rights-of-way that are operated and maintained by a local government.

11. "Holder" means a video service provider that has been issued a uniform video service license pursuant to this chapter.

12. "Holdover cable operator" means an incumbent cable operator that elects under sections 9-1412 and 9-1413 to continue to operate within its service area pursuant to its local license.

13. "Incumbent cable operator" means a cable operator or other video service provider that on December 31, 2019 is providing video service in this state pursuant to a local license.

14. "Information service" has the same meaning prescribed in 47 United States Code section 153.

15. "Interactive computer service" has the same meaning prescribed in 47 United States Code section 230(f).

16. "License" means a franchise as defined in 47 United States Code section 522.

17. "License fee" means a license fee imposed by a local government on a video service provider for using the highways to provide and for the privilege of providing video service.

18. "Local government" means any city, including a charter city, or town.

19. "Local law" means any charter, code, ordinance, resolution, regulation or other law of a local government.

20. "Local license" means any license, agreement, permit or similar authorization that meets all of the following:

   (a) Allows a person to construct or operate a video service network within the boundaries of a local government.

   (b) Is issued, granted, approved, extended or renewed by the local government before January 1, 2020 pursuant to the authority of any federal, state or local law in effect at the time of the issuance, grant, approval, extension or renewal.
(c) Is effective under federal, state or local law on December 31, 2019 for the person to continue to construct or operate a video service network within the boundaries of a local government.

21. "Multichannel video programming distributor" has the same meaning prescribed in 47 United States Code section 522.

22. "Service area" means that part of the boundaries of a local government within which a video service provider is authorized to provide video service pursuant to a uniform video service license or a local license.

23. "Subscriber":
   (a) Means any person in this state that purchases video service. Subscriber
   (b) Does not include any person that purchases video service for resale and that, on resale, is required to pay a license fee pursuant to this chapter or the terms of a local license.

24. "Telecommunications":
   (a) Means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent and received, regardless of the facilities, equipment or technology used.
   (b) Does not include commercial mobile radio service, pay phone service, interstate service or cable service.

25. "Telecommunications provider" means a person that is required to obtain from the corporation commission a certificate of public convenience and necessity to provide telecommunications service.

26. "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such users as to be effectively available directly to the public, regardless of the equipment, facilities or technology used.

27. "Uniform video service license" means a license that is issued by a local government in the form of a uniform video service license agreement as adopted pursuant to section 9-1411.

28. "Video service":
   (a) Means the provision BY A VIDEO SERVICE PROVIDER of multichannel video programming generally considered comparable to video programming delivered by a television broadcast station, video service or other digital television service, whether provided as part of a tier, on demand or on a per-channel basis, without regard to the technology used to deliver the video service, including internet protocol technology or any successor technology.
   (b) Includes cable service.
   (c) Does not include any of the following:
      (i) Video programming provided solely as part of, and ACCESSED through, a service that enables users to access content, information,
e-mail EMAIL, messaging or other services that are offered via the public
internet, INCLUDING STREAMING CONTENT.
   (ii) Direct-broadcast DIRECT-TO-HOME satellite service SERVICES AS
       DEFINED IN 47 UNITED STATES CODE SECTION 303(v).
   (iii) Wireless multichannel video programming that is provided by a
       commercial mobile service provider.
29. "Video service network":
   (a) Means a wireline network, or any component of a wireline
       network, that is located in this state, constructed in whole or in part
       in, on, under or over any highway and used to provide video service.
   (b) Includes a cable system.
30. "Video service provider":
   (a) Means any person that provides or offers to provide video
       service over a video service network to subscribers in this state.
   (b) Includes an incumbent cable operator that elected pursuant to
       sections 9-1412 and 9-1413 to terminate its local license and a
       multichannel video programming distributor.
   (c) Does not include ANY OF THE FOLLOWING:
      (i) A holdover cable operator.
      (ii) A PROVIDER OF VIDEO PROGRAMMING ACCESSED THROUGH A SERVICE
           THAT ENABLES USERS TO ACCESS CONTENT, INFORMATION, EMAIL, MESSAGING OR
           OTHER SERVICES THAT ARE OFFERED VIA THE INTERNET, INCLUDING STREAMING
           CONTENT.
      (iii) A PROVIDER OF DIRECT-TO-HOME SATELLITE SERVICES AS DEFINED IN
           47 UNITED STATES CODE SECTION 303(v).
Sec. 2. Section 9-1418, Arizona Revised Statutes, is amended to
read:
   9-1418. Boundary change; license fees; exemption; notice
   A. Each local government whose boundaries change shall notify in a
      timely manner each video service provider that operates in the
      boundaries. NOTIFICATION SHALL BE MADE BY CERTIFIED MAIL, EMAIL OR
      PERSONAL DELIVERY.
   B. A VIDEO SERVICE PROVIDER MAY NOT BE SUBJECT TO OR REQUIRED TO
      PAY LICENSE FEES ON GROSS REVENUES AS PRESCRIBED IN SECTION 9-1443 WITHIN
      THE AREA ENCOMPASSED BY A BOUNDARY CHANGE FOR AT LEAST THIRTY DAYS AFTER
      THE NOTIFICATION OF A BOUNDARY CHANGE, REQUIRED BY SUBSECTION A OF THIS
      SECTION, IS PROVIDED TO THE VIDEO SERVICE PROVIDER.
   C. THE NOTICE REQUIRED BY SUBSECTION A OF THIS SECTION SHALL BE
      PROVIDED TO THE CONTACT PERSON AND ADDRESS SPECIFIED BY THE VIDEO SERVICE
      PROVIDER. THE VIDEO SERVICE PROVIDER SHALL INFORM THE LOCAL GOVERNMENT OF
      ANY CHANGE IN THE DESIGNATED CONTACT PERSON OR ADDRESS BY PROVIDING
      WRITTEN NOTICE TO THE GOVERNING BODY OF THE LOCAL GOVERNMENT.
Sec. 3. Section 11-1901, Arizona Revised Statutes, is amended to read:

11-1901. Definitions

A. In this chapter, unless the context otherwise requires:
1. "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with a video service provider.
2. "Agreement" means any agreement or contract.
3. "Boundaries of a county" or "boundaries" means all of the area of the county that is not within the corporate limits of any city or town, including unincorporated territory that is surrounded on all sides by a combination of one or more cities, towns or Indian reservations.
4. "Cable operator" has the same meaning prescribed in 47 United States Code section 522.
5. "Cable service" has the same meaning prescribed in 47 United States Code section 522.
6. "Cable system" has the same meaning prescribed in 47 United States Code section 522.
7. "Commercial mobile service provider" means a person that provides commercial mobile service as defined in 47 United States Code section 332(d) or commercial mobile radio service as described in 47 Code of Federal Regulations section 20.3.
8. "Day" means a calendar day, except a Saturday or Sunday or a holiday prescribed in section 1-301.
9. "Gross revenue":
   (a) Means all cash, credits, property of any kind or nature or other consideration that is received directly or indirectly by a video service provider, its affiliates, or any person, firm or corporation in which the video service provider has a financial interest or that has a financial interest in the video service provider and that is derived from the video service provider's operation of its video service network to provide video service in the service area.
   (b) Includes all revenue from charges for video service to subscribers and all charges for installation, removal, connection or reinstatement of equipment necessary for a subscriber to receive video service and any other receipts from subscribers derived from the video service provider's operation of the video service network to provide video service, including receipts from forfeited deposits, sale or rental of equipment to provide video service, late charges, interest and sale of program guides.
   (c) Does not include:
      (i) Any revenue not received, even if billed, such as bad debt net of any recoveries of bad debt or any refunds, rebates, credits, allowances or discounts to subscribers to the extent that the refund, rebate, credit, allowance or discount is attributed to video service.
(ii) Revenue from commercial advertising on the video service network, the use or lease of studio facilities of the video service network, internet access service, the use or lease of its facilities located in the highways, the use or lease of leased access channels or bandwidth, the use or lease of towers, the production of video programming by the video service provider, the sale, exchange, use or cablecast of any programming by the video service provider in the service area, sales to the video service provider's subscribers by programmers of home shopping services, reimbursements paid by programmers for launch fees or marketing expenses, license fees, taxes or other fees or charges that the video service provider collects and pays to any governmental authority, any increase in the value of any stock, security or asset or any dividends or other distributions made from any stock or securities.

10. "Highway" means all roads, streets and alleys and other dedicated public rights-of-way that are operated and maintained by the county.

11. "Holder" means a video service provider that has been issued a uniform video service license pursuant to this chapter.

12. "Holdover cable operator" means an incumbent cable operator that elects under sections 11-1912 and 11-1913 to continue to operate within its service area pursuant to its local license.

13. "Incumbent cable operator" means a cable operator or other video service provider that on December 31, 2019 is providing video service in this state pursuant to a local license.

14. "Information service" has the same meaning prescribed in 47 United States Code section 153.

15. "Interactive computer service" has the same meaning prescribed in 47 United States Code section 230(f).

16. "License" means a franchise as defined in 47 United States Code section 522.

17. "License fee" means a license fee imposed by a county on a video service provider for using the highways to provide and for the privilege of providing video service.

18. "Local law" means any code, ordinance, resolution, regulation or other law of a county.

19. "Local license" means any license, agreement, permit or similar authorization that meets all of the following:

(a) Allows a person to construct or operate a video service network within the boundaries of a county.

(b) Is issued, granted, approved, extended or renewed by the county before January 1, 2020 pursuant to the authority of any federal, state or local law in effect at the time of the issuance, grant, approval, extension or renewal.
(c) Is effective under federal, state or local law on December 31, 2019 for the person to continue to construct or operate a video service network within the boundaries of a county.

20. "Multichannel video programming distributor" has the same meaning prescribed in 47 United States Code section 522.

21. "Service area" means that part of the boundaries of a county within which a video service provider is authorized to provide video service pursuant to a uniform video service license or a local license.

22. "Subscriber":
   (a) Means any person in this state that purchases video service.
   (b) Does not include any person that purchases video service for resale and that, on resale, is required to pay a license fee pursuant to this chapter or the terms of a local license.

23. "Telecommunications":
   (a) Means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information sent and received, regardless of the facilities, equipment or technology used.
   (b) Does not include commercial mobile radio service, pay phone service, interstate service or cable service.

24. "Telecommunications provider" means a person that is required to obtain from the corporation commission a certificate of public convenience and necessity to provide telecommunications service.

25. "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such users as to be effectively available directly to the public, regardless of the equipment, facilities or technology used.

26. "Uniform video service license" means a license that is issued by a county in the form of a uniform video service license agreement as adopted pursuant to section 11-1911.

27. "Video service":
   (a) Means the provision BY A VIDEO SERVICE PROVIDER of multichannel video programming generally considered comparable to video programming delivered by a television broadcast station, video service or other digital television service, whether provided as part of a tier, on demand or on a per-channel basis, without regard to the technology used to deliver the video service, including internet protocol technology or any successor technology.
   (b) Includes cable service.
   (c) Does not include any of the following:
      (i) Video programming provided solely as part of, and ACCESSED through a service that enables users to access content, information, e-mail, messaging or other services that are offered via the public internet, INCLUDING STREAMING CONTENT.
(ii) Direct broadcast DIRECT-TO-HOME satellite service SERVICES AS DEFINED IN 47 UNITED STATES CODE SECTION 303(v).

(iii) Wireless multichannel video programming that is provided by a commercial mobile service provider.

28. "Video service network":
   (a) Means a wireline network, or any component of a wireline network, that is located in this state, constructed in whole or in part in, on, under or over any highway and used to provide video service.
   (b) Includes a cable system.

29. "Video service provider":
   (a) Means any person that provides or offers to provide video service over a video service network to subscribers in this state.
   (b) Includes an incumbent cable operator that elected pursuant to sections 11-1912 and 11-1913 to terminate its local license and a multichannel video programming distributor.
   (c) Does not include ANY OF THE FOLLOWING:
      (i) A holdover cable operator.
      (ii) A PROVIDER OF VIDEO PROGRAMMING ACCESSED THROUGH A SERVICE THAT ENABLES USERS TO ACCESS CONTENT, INFORMATION, EMAIL, MESSAGING OR OTHER SERVICES THAT ARE OFFERED VIA THE INTERNET, INCLUDING STREAMING CONTENT.
      (iii) A PROVIDER OF DIRECT-TO-HOME SATELLITE SERVICES AS DEFINED IN 47 UNITED STATES CODE SECTION 303(v).

Sec. 4. Section 11-1918, Arizona Revised Statutes, is amended to read:

11-1918. Boundary change; license fees; exemption; notice
   A. Each county whose boundaries change shall notify in a timely manner each video service provider that operates in the boundaries. NOTIFICATION SHALL BE MADE BY CERTIFIED MAIL, EMAIL OR PERSONAL DELIVERY.
   B. A VIDEO SERVICE PROVIDER MAY NOT BE SUBJECT TO OR REQUIRED TO PAY LICENSE FEES ON GROSS REVENUES AS PRESCRIBED IN SECTION 11-1943 WITHIN THE AREA ENCOMPASSED BY A BOUNDARY CHANGE FOR AT LEAST THIRTY DAYS AFTER THE NOTIFICATION OF A BOUNDARY CHANGE, REQUIRED BY SUBSECTION A OF THIS SECTION, IS PROVIDED TO THE VIDEO SERVICE PROVIDER.
   C. THE NOTICE REQUIRED BY SUBSECTION A OF THIS SECTION SHALL BE PROVIDED TO THE CONTACT PERSON AND ADDRESS SPECIFIED BY THE VIDEO SERVICE PROVIDER. THE VIDEO SERVICE PROVIDER SHALL INFORM THE COUNTY OF ANY CHANGE IN THE DESIGNATED CONTACT PERSON OR ADDRESS BY PROVIDING WRITTEN NOTICE TO THE COUNTY BOARD OF SUPERVISORS.

APPROVED BY THE GOVERNOR MAY 2, 2022.