

110TH CONGRESS
1ST SESSION

S. 1223

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to support efforts by local or regional television or radio broadcasters to provide essential public information programming in the event of a major disaster, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 25, 2007

Ms. LANDRIEU (for herself, Mr. STEVENS, Mr. CARPER, and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to support efforts by local or regional television or radio broadcasters to provide essential public information programming in the event of a major disaster, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “First Response Broad-
5 casters Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) in the periods before, during, and after
2 major disasters that occurred not long before the
3 date of enactment of this Act (including Hurricane
4 Katrina, Hurricane Rita, and the terrorist attacks of
5 September 11, 2001), local media organizations (in-
6 cluding newspapers, public and private broadcasters,
7 and online publications) provided a valuable public
8 service by transmitting and publishing disaster-re-
9 lated information, guidance, and assistance;

10 (2) local broadcasters, public and private, pro-
11 vided a particularly valuable public service by trans-
12 mitting evacuation instructions, warnings of impend-
13 ing threats, timely response status updates, and
14 other essential information related to such major
15 disasters to listeners and viewers to whom other
16 forms of media were often unavailable or inacces-
17 sible;

18 (3) an inability to access a disaster area may
19 impede the ability of local media organizations to
20 provide such public services;

21 (4) according to the report by the Committee
22 on Homeland Security and Governmental Affairs of
23 the Senate, titled “Hurricane Katrina: A Nation
24 Still Unprepared”, dated May 2006, “It is essential
25 that the news media receive accurate disaster infor-

1 mation to circulate to the public. News media can
2 also help inform the public by reporting on rumors
3 and soliciting evidence and comment on their plausi-
4 bility, if any”;

5 (5) according to testimony provided on Sep-
6 tember 22, 2005, to the Committee on Commerce,
7 Science, and Transportation of the Senate, an esti-
8 mated 100 Gulf Coast broadcast stations were un-
9 able to broadcast as a result of Hurricane Katrina,
10 with approximately 28 percent of television stations
11 and approximately 35 percent of radio stations un-
12 able to broadcast in the area affected by Hurricane
13 Katrina;

14 (6) according to testimony provided on Sep-
15 tember 7, 2005, to the Committee on Energy and
16 Commerce of the House of Representatives, fol-
17 lowing Hurricane Katrina only 4 of the 41 radio
18 broadcast stations in the New Orleans metropolitan
19 area remained on the air in the immediate aftermath
20 of that hurricane;

21 (7) the only television station in New Orleans
22 to continue transmitting its over-the-air signal unin-
23 terrupted during and after Hurricane Katrina was
24 able to do so only as a direct result of steps taken

1 to better protect its transmitter and provide redun-
2 dant production facilities in the region;

3 (8) fuel and other supply shortages inhibit the
4 ability of a broadcaster to stay on the air and pro-
5 vide essential public information following a major
6 disaster;

7 (9) according to the report by the Committee
8 on Homeland Security and Governmental Affairs of
9 the Senate, titled “Hurricane Katrina: A Nation
10 Still Unprepared”, dated May 2006, there were in-
11 stances of Federal authorities confiscating privately-
12 purchased fuel supplies in the area affected by Hur-
13 ricane Katrina;

14 (10) the ability of several broadcasters in Mis-
15 sissippi to remain on the air was unduly com-
16 promised by the confiscation of their privately-pur-
17 chased fuel supplies;

18 (11) practices put in place following Hurricane
19 Andrew to involve broadcasters in disaster response
20 and expedite access by broadcast engineers to dis-
21 aster areas for the purpose of repairing critical-to-
22 air facilities and infrastructure has significantly in-
23 creased the ability of broadcasters in Florida to con-
24 tinue transmitting essential public information dur-
25 ing subsequent major disasters;

1 (12) a June 12, 2006, report to the Federal
2 Communications Commission from the Independent
3 Panel Reviewing the Impact of Hurricane Katrina
4 on Communications Networks recommends that
5 cable and broadcasting infrastructure providers, and
6 their contracted workers, be afforded emergency re-
7 sponder status under the Robert T. Stafford Dis-
8 aster Relief and Emergency Assistance Act (42
9 U.S.C. 5121 et seq.) and that this designation would
10 remedy many of the access and fuel sharing issues
11 that hampered industry efforts to quickly repair in-
12 frastructure following Hurricane Katrina;

13 (13) the partnership of competing radio broad-
14 casters in the wake of Hurricane Katrina, casting
15 aside commercial interests to provide uninterrupted,
16 redundant public information programming from
17 multiple transmission facilities, served the public
18 well and for many hurricane victims was the only
19 source of disaster-related information for many days;

20 (14) other similar models for regional broad-
21 caster cooperation nationwide, such as the initiative
22 by 3 public and private radio groups to cooperatively
23 produce essential disaster-related programming in
24 eastern and central Maine, will further prepare the
25 industry to effectively respond to major disasters;

1 (15) following Hurricane Katrina, a Primary
2 Entry Point station in Louisiana, operating only on
3 generator power until commercial power was re-
4 stored 2 weeks after the disaster, was instrumental
5 in providing life-saving information to the general
6 public throughout the area as battery-operated ra-
7 dios were the only source of official news and infor-
8 mation;

9 (16) as of April 18, 2007, there were 24 States
10 with 1 Primary Entry Point station, 4 States with
11 2 Primary Entry point stations, 2 Primary Entry
12 Point stations located in territories of the United
13 States, and 2 Primary Entry Point stations under
14 development in Alabama and Mississippi;

15 (17) in the event of a man-made or natural dis-
16 aster, it is essential to provide for Primary Entry
17 Point stations in any State or territory where there
18 is not a facility, meaning an additional 23 stations
19 are required, located in—

20 (A) Arkansas;

21 (B) Connecticut;

22 (C) Delaware;

23 (D) the District of Columbia;

24 (E) Indiana;

25 (F) Iowa;

- 1 (G) Kentucky;
- 2 (H) Maine;
- 3 (I) Michigan;
- 4 (J) Nebraska;
- 5 (K) New Hampshire;
- 6 (L) New Jersey;
- 7 (M) Oklahoma;
- 8 (N) Oregon;
- 9 (O) Pennsylvania;
- 10 (P) Rhode Island;
- 11 (Q) South Dakota;
- 12 (R) Vermont;
- 13 (S) West Virginia;
- 14 (T) Wisconsin;
- 15 (U) American Samoa;
- 16 (V) the Northern Mariana Islands; and
- 17 (W) Guam; and

18 (18) in the event of a man-made or natural dis-
19 aster, it is essential to provide for the Primary
20 Entry Point stations in larger States where there is
21 currently a facility, but an additional station is re-
22 quired to ensure full sufficient geographic coverage,
23 meaning 2 stations are required, located in—

24 (A) Kansas; and

25 (B) Florida.

1 **SEC. 3. DEFINITIONS.**

2 In this Act—

3 (1) the term “Administrator” means the Ad-
4 ministrator of the Federal Emergency Management
5 Agency;

6 (2) the term “disaster area” means an area in
7 which the President has declared a major disaster,
8 during the period of that declaration;

9 (3) the term “first response broadcaster”
10 means a local or regional television or radio broad-
11 caster that provides essential disaster-related public
12 information programming before, during, and after
13 the occurrence of a major disaster;

14 (4) the term “major disaster” has the meaning
15 given the term in section 102 of the Robert T. Staf-
16 ford Disaster Relief and Emergency Assistance Act
17 (42 U.S.C. 5122); and

18 (5) the term “Secretary” means the Secretary
19 of Homeland Security.

20 **SEC. 4. PRIMARY ENTRY POINT STATIONS.**

21 (a) IN GENERAL.—There are authorized to be appro-
22 priated \$6,500,000 to the Administrator of the Federal
23 Emergency Management Agency for facility and equip-
24 ment expenses to construct an additional 25 Primary
25 Entry Point stations in the continental United States and
26 territories.

1 (b) DEFINITION.—In this section, the term “Primary
2 Entry Point station” means a radio broadcast station des-
3 ignated to provide public information following national
4 and local emergencies where there is no commercial power.

5 **SEC. 5. BROADCAST DISASTER PREPAREDNESS GRANT**
6 **PROGRAM.**

7 (a) DEFINITION.—In this section, the term “pilot
8 program” means the Broadcast Disaster Preparedness
9 Grant Program established under subsection (b).

10 (b) ESTABLISHMENT.—Not later than 90 days after
11 the date of enactment of this Act, the Secretary shall es-
12 tablish a pilot program under which the Administrator
13 may make grants to first response broadcasters, to be
14 known as the “Broadcast Disaster Preparedness Grant
15 Program”.

16 (c) PRIORITY.—The Administrator may give priority
17 to an application for a grant under the pilot program
18 that—

19 (1) is submitted—

20 (A) on behalf of more than 1 first response
21 broadcaster operating in an area;

22 (B) in cooperation with State or local au-
23 thorities;

24 (C) on behalf of a first response broad-
25 caster with 50 employees or less;

1 (D) on behalf of a first response broad-
2 caster that is principally owned and operated by
3 individuals residing within the State, county,
4 parish, or municipality in which the broadcaster
5 is located; or

6 (2) provides, in writing, a statement of the in-
7 tention of the applicant to provide disaster-related
8 programming dedicated to essential public informa-
9 tion purposes before, during, and after a major dis-
10 aster.

11 (d) USE OF FUNDS.—A grant under the pilot pro-
12 gram shall be used by a first response broadcaster to—

13 (1) protect or provide redundancy for facilities
14 and infrastructure, including transmitters and other
15 at-risk equipment (as determined by the Adminis-
16 trator), critical to the ability of that first response
17 broadcaster to continue to produce and transmit es-
18 sential disaster-related public information program-
19 ming; or

20 (2) upgrade or add facilities or equipment that
21 will enhance or expand the ability of the first re-
22 sponder broadcaster to acquire, produce, or transmit
23 essential disaster-related public information pro-
24 gramming.

1 (e) FEDERAL SHARE.—The Federal share of an ac-
2 tivity carried out with a grant under this section shall be
3 not more than 50 percent.

4 (f) TERMINATION.—The authority to make grants
5 under the pilot program shall terminate at the end of the
6 third full fiscal year after the date of enactment of this
7 Act.

8 (g) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to the Secretary to carry
10 out the pilot program \$10,000,000 for each of fiscal years
11 2008 through 2010.

12 **SEC. 6. FIRST RESPONSE BROADCASTER ACCESS FOL-**
13 **LOWING A MAJOR DISASTER.**

14 (a) ACCESS.—Section 403 of the Robert T. Stafford
15 Disaster Relief and Emergency Assistance Act (42 U.S.C.
16 5170b) is amended—

17 (1) in subsection (a)(3)(B), by inserting “(in-
18 cluding providing fuel, food, water, and other sup-
19 plies to first response broadcasters, after providing
20 essential emergency services, health care, and utility
21 restoration services)” before the semicolon at the
22 end; and

23 (2) in subsection (c)(6)—

1 (A) by redesignating subparagraphs (A)
2 and (B) as subparagraphs (B) and (C), respec-
3 tively; and

4 (B) by inserting before subparagraph (B),
5 as so redesignated, the following:

6 “(A) **FIRST RESPONSE BROADCASTER.**—
7 The term ‘first response broadcaster’ has the
8 meaning given that term in section 707.”.

9 (b) **CONFISCATION.**—Title VII of the Robert T. Staf-
10 ford Disaster Relief and Emergency Assistance Act (42
11 U.S.C. 5201 et seq.) is amended by adding at the end
12 the following:

13 **“SEC. 707. CONFISCATION FROM FIRST RESPONSE BROAD-
14 CASTERS.**

15 “(a) **DEFINITION.**—In this section, the term ‘first re-
16 sponse broadcaster’ means a local or regional television
17 or radio broadcaster that provides essential disaster-re-
18 lated public information programming before, during, and
19 after a major disaster.

20 “(b) **IN GENERAL.**—In the event of a major disaster,
21 and to the extent practicable and consistent with not en-
22 dangering public safety, a Federal officer or employee may
23 not confiscate fuel, water, or food from a first response
24 broadcaster if that first response broadcaster adequately
25 documents that such supplies will be used to enable that

1 broadcast first responder to broadcast essential disaster-
2 related public information programming in the area af-
3 fected by that major disaster.”.

4 (c) RESTORATION OF SERVICES.—The Robert T.
5 Stafford Disaster Relief and Emergency Assistance Act
6 (42 U.S.C. 5121 et seq.) is amended—

7 (1) by redesignating section 425 (42 U.S.C.
8 5189e) (relating to essential service providers) as
9 section 427; and

10 (2) in section 427, as so redesignated, by add-
11 ing at the end the following:

12 “(d) FIRST RESPONSE BROADCASTERS.—

13 “(1) DEFINITION.—In this subsection, the term
14 ‘first response broadcaster’ has the meaning given
15 that term in section 707.

16 “(2) IN GENERAL.—In the event of a major dis-
17 aster, the head of a Federal agency, in consultation
18 with appropriate State and local government au-
19 thorities, and to the greatest extent practicable and
20 consistent with not endangering public safety or in-
21 hibiting recovery efforts, shall allow access to the
22 area affected by that major disaster for technical
23 personnel, broadcast engineers, and equipment need-
24 ed to restore, repair, or resupply any facility or
25 equipment critical to the ability of a first response

1 broadcaster to continue to acquire, produce, and
2 transmit essential disaster-related public information
3 programming, including the repair and maintenance
4 of transmitters and other facility equipment and
5 transporting fuel for generators.

6 “(3) NEWS GATHERING EMPLOYEES.—This
7 subsection shall not apply to news gathering employ-
8 ees or agents of a first response broadcaster.”.

9 (d) GUIDELINES FOR PRESS.—

10 (1) DEFINITIONS.—In this subsection—

11 (A) the term “credentialing authority”
12 means a Federal, State, or local government
13 agency that—

14 (i) issues press credentials; and

15 (ii) permits and coordinates access to
16 a designated location or area on the basis
17 of possessing such press credentials;

18 (B) the term “press credential” means the
19 identification provided to news personnel to
20 identify such personnel as members of the
21 press; and

22 (C) the term “news personnel” includes a
23 broadcast journalist or technician, newspaper or
24 periodical reporter, photojournalist, and mem-
25 ber of a similar professional field whose pri-

1 mary interest in entering the disaster area is to
2 gather information related to the disaster for
3 wider publication or broadcast.

4 (2) ACCESS TO DISASTER AREA.—For purposes
5 of permitting and coordinating access by news per-
6 sonnel to a disaster area—

7 (A) any State or local government agency
8 that serves as the primary credentialing author-
9 ity for that disaster area before the date of the
10 applicable major disaster shall remain the pri-
11 mary credentialing authority during and after
12 that major disaster, unless—

13 (i) the State or local government
14 agency voluntarily relinquishes the ability
15 to serve as primary credentialing authority
16 to another agency; or

17 (ii) the State or local government
18 agency, in consultation with appropriate
19 Federal disaster response agencies, assigns
20 certain duties, including primary
21 credentialing authority, to the Federal
22 Emergency Management Agency or an-
23 other appropriate Federal, State, or local
24 government agency; and

1 (B) the Federal Emergency Management
2 Agency and other appropriate Federal disaster
3 response agencies operating in a disaster area
4 shall permit and coordinate news personnel ac-
5 cess to the disaster area consistent with the ac-
6 cess guidelines determined by the primary
7 credentialing authority for that disaster area.

8 (3) CATASTROPHIC INCIDENT ACCESS.—In the
9 event of a catastrophic incident (as that term is de-
10 fined in section 501 of the Homeland Security Act
11 of 2002 (6 U.S.C. 311)) that leaves a State or local
12 primary credentialing authority unable to execute
13 the duties of that credentialing authority described
14 under paragraph (2) or to effectively communicate
15 to Federal officials a determination regarding the in-
16 tent of that credentialing authority to retain, relin-
17 quish, or assign its status as the primary
18 credentialing authority, the Secretary may designate
19 the Federal Emergency Management Agency or an-
20 other Federal agency as the interim primary
21 credentialing authority, until such a time as the
22 State or local credentialing authority notifies the
23 Secretary of whether that authority intends to re-
24 tain, relinquish, or assign its status.

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