

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

832L0579

HOUSE BILL NO. 1160

Introduced by: Representatives Murschel, Boomgarden, Cutler, Krebs, Kroger, Schafer, Sebert, and Street and Senators Broderick, Abdallah, Kelly, Koetzle, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to franchises and cable
2 services.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 9-35 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms used in this Act mean:

- 7 (1) "Cable operator," any person who provides cable service over a cable system;
- 8 (2) "Cable service," the one-way transmission to subscribers of video programming or
9 other programming service and the subscriber interaction, if any, which is required
10 for the selection or use of such video programming or other programming service;
- 11 (3) "Cable system," a facility consisting of a set of closed transmission paths and
12 associated signal generation, reception, and control equipment that is designed to
13 provide cable service to multiple subscribers within a community. The term does not
14 include a facility that serves subscribers without using the public right-of-way; a
15 facility of a telecommunications company that provides telecommunications service



1 as defined and regulated by chapter 49-31, except to the extent that the facility is used
2 to transmit video programming directly to subscribers, unless the extent of such use
3 is solely to provide interactive on-demand services; or an open video system as
4 defined and operated consistent with federal law;

5 (4) "Franchise," an authorization, established by ordinance, issued by a franchising
6 authority, which authorizes the construction and operation of a cable system;

7 (5) "Franchising authority," a municipality, or in the absence of municipal jurisdiction,
8 a county;

9 (6) "Other programming service," information that a cable operator makes available to
10 all subscribers generally;

11 (7) "Public, educational, or governmental access facilities," channel capacity designated
12 for public, educational, and governmental use and the facilities and equipment for the
13 use of such channel capacity; and

14 (8) "Video programming," programming provided by, or generally considered
15 comparable to programming provided by, a television broadcast station.

16 Section 2. That chapter 9-35 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 A franchising authority may require a franchise of any cable operator for the operation of
19 a cable system within its jurisdiction. The exercise of such authority shall be pursuant to an
20 ordinance detailing the basic requirements for a franchise and the terms and conditions for any
21 other contractual arrangement thereafter deemed appropriate and consistent with this Act and
22 federal law.

23 Section 3. That chapter 9-35 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 A franchising authority may grant one or more additional franchises to other cable operators
2 under terms that are not substantially more favorable than that which the cable operator
3 designated by section 2 of this Act is required to meet. The terms that may not be substantially
4 more favorable are with regard to right-of-way access; public, educational, or governmental
5 access facilities requirements; and franchise fees.