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TO AMEND SECTION 16 OF THE RADIO ACT OF 1927

MAY 27, 1930.—Referred to the House Calendar and ordered to be printed

Mr. LEHLBACH, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H. R. 12599]

The Committee on the Merchant Marine and Fisheries, to whom was referred the bill (H. R. 12599) to amend section 16 of the radio act of 1927, having considered the same, do report the bill back to the House with the recommendation that the bill do pass.

In compliance with the rules of the House there follow the present law and the proposed amendment. The matter inclosed in brackets represents that to be stricken out and the matter printed in italics represents the new matter to be inserted:

[SEC. 16. Any applicant for a construction permit, for a station license, or for the renewal or modification of an existing station license whose application is refused by the licensing authority shall have the right to appeal from said decision to the Court of Appeals of the District of Columbia; and any licensee whose license is revoked by the commission shall have the right to appeal from such decision or revocation to said Court of Appeals of the District of Columbia or to the district court of the United States in which the apparatus licensed is operated, by filing with said court, within twenty days after the decision complained of is effective, notice in writing of said appeal and of the reasons therefor.

The licensing authority from whose decision an appeal is taken shall be notified of said appeal by service upon it, prior to the filing thereof, of a certified copy of said appeal and of the reasons therefor. Within twenty days after the filing of said appeal the licensing authority shall file with the court the originals or certified copies of all papers and evidence presented to it upon the original application for a permit or license or in the hearing upon said order of revocation, and also a like copy of its decision thereon and a full statement in writing of the facts and the grounds for its decision as found and given by it. Within twenty days after the filing of said statement by the licensing authority either party may give notice to the court of his desire to adduce additional evidence. Said notice shall be in the form of a verified petition stating the nature and character of said additional evidence, and the court may thereupon order such evidence to be taken in such manner and upon such terms and conditions as it may deem proper.

At the earliest convenient time the court shall hear, review, and determine the appeal upon said record and evidence, and may alter or revise the decision appealed from and enter such judgment as to it may seem just. The revision by the court shall be confined to the points set forth in the reasons of appeal.]

Sec. 16. (a) An appeal may be taken, in the manner hereinafter provided, from decisions of the commission to the Court of Appeals of the District of Columbia in any of the following cases:

(1) By any applicant for a station license, or for renewal of an existing station license, or for modification of an existing station license, whose application is refused by the commission.

(2) By any licensee whose license is revoked, modified, or suspended by the commission.

(3) By any other person, firm, or corporation aggrieved or whose interests are adversely affected by any decision of the commission granting or refusing any such application or by any decision of the commission revoking, modifying, or suspending an existing station license.

Such appeal shall be taken by filing with said court within twenty days after the decision complained of is effective, notice in writing of said appeal and a statement of the reasons therefor, together with proof of service of a true copy of said notice and statement upon the commission. Unless a later date is specified by the commission as part of its decision, the decision complained of shall be considered to be effective as of the date on which public announcement of the decision is made at the office of the commission in the city of Washington.

(b) The commission shall thereupon immediately, and in any event not later than five days from the date of such service upon it, mail or otherwise deliver a copy of said notice of appeal to each person, firm, or corporation shown by the records of the commission to be interested in such appeal and to have a right to intervene therein under the provisions of this section, and shall at all times thereafter permit any such person, firm, or corporation to inspect and make copies of the appellant's statement of reasons for said appeal at the office of the commission in the city of Washington. Within thirty days after the filing of said appeal the commission shall file with the court the originals or certified copies of all papers and evidence presented to it upon the application involved or upon its order revoking, modifying, or suspending a license, and also a like copy of its decision thereon, and shall within thirty days thereafter file a full statement in writing of the facts and grounds for its decision as found and given by it, and a list of all interested persons, firms, or corporations to whom it has mailed notice of appeal.

Within thirty days after the filing of said appeal any interested person, firm, or corporation may intervene and participate in the proceedings had upon said appeal by filing with the court a notice of intention to intervene and a verified statement setting forth the grounds and the interest of such party, together with proof of service of true copies of said notice and statement, both upon appellant and upon the commission. Any person, firm, or corporation who would be aggrieved or whose interests would be adversely affected by a reversal or modification of the decision of the commission complained of shall be considered an interested party.

(d) At the earliest convenient time the court shall hear and determine the appeal upon the record before it, and shall have power, upon such record, to enter a judgment affirming or reversing the decision of the commission, and in any event the court shall render a decision and enter an order reversing the decision of the commission, and remand the case to the commission to carry out the terms of the court's decision; however, that the review by the court of the findings of fact of the commission shall be conclusive upon the commission. The court may, upon writ of certiorari on petition for review of the decision of the commission, or by the appellant, by the commission, or by any interested party intervening in the appeal.

The court may, in its discretion, enter judgment for costs in favor of or against the appellant, and/or other interested parties intervening in said appeal, but not against the commission, depending upon the nature of the issues involved upon said appeal and the outcome thereof.

The purpose of the amendment is to clarify the procedure on appeal to the court from decisions of the Federal Radio Commission, to more clearly define the scope of the subject matter of such appeals, and to insure a review of the decision of the Court of Appeals of the District of Columbia by the Supreme Court.

This amendment was part of H. R. 11635, which unanimously passed in the House on April 30, 1930. Because of the urgent need of this legislation and the probability that consideration of H. R. 11635 will not be reached in the Senate, the amendment is offered as a separate bill.