

The Preventing Unwarranted Communications Shutdowns Act
Section-by-Section Summary

SEC. 2. REQUIREMENTS FOR EXERCISE OF CERTAIN EMERGENCY POWERS OF THE PRESIDENT.

(a) **In general** – Amends section 706 of the Communications Act of 1934 (47 U.S.C. 606) by adding the following subsections:

(i) Requirements for Actions by President under this Section

(1) Standard for Taking Action – The President may not take action under §706 unless such action is: necessary to protect against an imminent and specific threat to human life or national security; narrowly tailored for such purposes; and the least restrictive means to achieve such a purpose.

(2) Notification to Congressional Leaders and Senior Government Officials – Before or less than 12 hours after taking any actions under §706, the President must notify congressional leaders and senior government officials. The written notification should identify the condition requiring the action, a detailed description of the action, the amount of time for which the President is requesting authorization, and justification of how the action meets the required standard in (1). The 48-hour period begins after the third congressional leader receives the required notice. The contents of the notice shall be presumptively public unless secrecy is needed to protect against an imminent threat to human life or information is classified (secret orders shall be released within 180 days). FCC Commissioners may provide an independent analysis of the notice to Congress.

(3) Effectiveness of Action – If the President fails to provide notice within 12 hours as required in (2), the §706 action ceases having force or effect after 12 hours. If the President provides notice, the action ceases having force or effect after 48 hours unless an approval resolution is passed.

(4) Procedures for Expedited Congressional Consideration – The Speaker or Senate Majority Leader shall reconvene the House or Senate if it is not in session. The approval resolution shall be considered using expedited procedures. The 48-hour period may be extended if either chamber is adjourned and cannot practicably reconvene in time to consider the resolution, as long as all four congressional leaders (or their designees) agree the President's actions are necessary to protect against an imminent threat to human life or national security. Any approval legislation requires an affirmative vote from at least three-fifths of both chambers and at least one-quarter of the minority party.

(5) Subsequent Actions – The President cannot take repeated actions if Congress fails to authorize the actions except in a completely separate and distinct circumstance.

(6) *Earlier Termination by President* – Nothing prohibits the President from terminating an action under §706 earlier than any time period authorized.

(7) *Post-hoc GAO Report* – Not later than 90 days after any actions taken under §706, the Government Accountability Office (GAO) must submit a report to Congress assessing the President’s adherence to the requirements of this Act, along with the impact of the action on civil liberties and civil rights, public safety, the functioning of government, the economy, communications facilities, and private companies.

(8) *Definitions* – Key definitions in this subsection include:

- Approval legislation – A joint resolution that reads as follows: “That Congress approves the action by the President under section 706 of the Communications Act of 1934 (47 U.S.C. 606) with respect to which the President transmitted a notification under subsection (i)(2) of such section on _____, and such action is authorized to be in effect through _____.”
- Congressional Leaders – Speaker, House Minority Leader, Senate Majority Leader, and Senate Minority Leader
- Senior Government Officials – VP, each department head, each FCC Commissioner, each head of IC agencies, and each member of the Joint Chiefs of Staff

(j) *Liability* – No person shall be held criminally or civilly liable for any action taken to comply with an action taken by the President if actions are taken according to this section, and service disruptions are restored as soon as reasonably feasible.

(b) **One-time GAO report** – Not later than 6 months after enactment, the GAO shall submit to Congress a report that predicts the impact of a partial or total communications shutdown on civil liberties and civil rights, public safety, the functioning of government, the economy, communications facilities, and private companies.

(c) **Just Compensation and Costs to Customers** – Section 706(e) of the Communications Act of 1934 (47 U.S.C. 606(e)) is amended so that providers and customers of providers are entitled to just compensation for losses associated with actions under §706. A person may challenge the determined cost by suing the US. The FCC shall determine a methodology for ascertaining compensation within 180 days of the enactment of this Act.

(d) **Conforming Amendments**

(e) **Rule of Construction** – This section and associated amendments shall not be construed to expand Presidential authorities existing as of the day before enactment.