

Felons, Fees, and Trends

Amateur Radio Licensing: 2014 – Present

Bob Rose – AA3RR

Rules

Felony Question

Why is there a Felony Question?

The word “felony” DOES NOT APPEAR in:

- **The Communications Act of 1934, as amended, or**
- **Title 47 of the Code of Federal Regulations (Chapter 1 – FCC rules)**

Felony Question

When Congress passed the Communications Act of 1934, it created the Federal Commission Commission (FCC).

Among other things, it tasked the FCC to:

- Create rules
- Create licenses
- Create the process for applying for licenses and granting them
- **Create the standards and conditions for granting a license**

Felony Question

*“All such applications [All applications for station licenses, or modifications or renewals thereof,] shall set forth such facts as the **Commission by regulation may prescribe** as to the citizenship, **CHARACTER**, and financial, technical, and other qualifications of the applicant to operate the station...”*

***The Communications Act of 1934, as amended
Codified in Title 47, US Code, §308(b)***

Felony Question

What is Character?

- Character is the sum of a person's character traits, or qualities/attributes used to describe them

In general, people who are considered to have good character often have traits like integrity, honesty, courage, loyalty, fortitude, and other important **virtues that promote good behavior**

- What is good behavior?

Felony Question

In late 1949, the issue of character first became a concern for the FCC.

- **A Federal court** found applicants and/or licensees in the Broadcast Service had violated the laws of the United States relating to **monopoly, restraint of trade, unfair competition, and other matters**

January 1950 - The FCC conducted a public forum regarding the establishment of a “*Uniform Policy to be followed in Licensing of **Radio Broadcast Stations.***”

Over the next 40 years the FCC held several meetings with lots of discussions before publishing a policy statement in 1990.

Felony Question

The FCC's position evolved over 40 years

- Only violations of the Act and FCC Rules
- Only violations of Federal laws other than the ACT
- Only violations of the ACT and other Federal laws.
- No felonies
- Felonies are serious crimes
- **Only Felonies**
- Felonies and violations of the Act and FCC rules

Felony Question

Key points from these meetings and discussions

- **Congress, in Section 308(b) of the Act, specifically gave the FCC authority and imposed upon it the duty to examine the basic character qualifications of applicants**
- **The FCC must be satisfied that an applicant has the requisite qualifications**
- A blanket, one-size-fits-all policy not feasible
- Qualifications of an applicant should be determined on a case-by-case
- **Time is relevant.** More concern must be given to recent violations than those which occurred in the “remote past” followed by a long period of consistent adherence to law and exemplary behavior.
- A single violation of a federal law or multiple violations does not necessarily make the applicant ineligible.

Felony Question

- Focus generally on **three types of misconduct which are not specifically prohibited by the Act or FCC rules and policies**:
 1. Fraudulent statements to government agencies.
 2. **Certain criminal convictions.**
 - **The FCC found it appropriate to consider only felony convictions.**
 3. Violations of broadcast related anti-competitive and antitrust statutes.
- **The conduct of the applicant is the primary concern.**
- The burden of proof is imposed on the applicant to show he is **qualified**, and it is in **the public interest** that he be licensed.

Felony Question

Between **1963 and mid-1980**, the FCC included the following **character question** on the amateur radio license application form (FCC Form 610):

“Have you been convicted in a Federal, state, or local court for any crime for which the penalty imposed was a fine of \$500 or more or an imprisonment of six months or more within 10 years of the date of this application?”

- The question was removed when a new version of the FCC Form 610 was introduced in August 1980.

Felony Question

Policy Statement adopted 10 May 1990

- Conviction of a felony will be relevant to the evaluation of an applicant's or licensee's character.
- The FCC will consider mitigating factors in their deliberations.
- FCC forms will be amended to include appropriate questions concerning relevant misconduct, **including felonies**, by the applicant.

The felony question is born!

Felony Question

Applicants are required to self-report felony convictions

- December 1997, the FCC introduced **FCC Forms 601** and **603**
 - Both forms included four basic qualification questions, including the felony question
- February 1999, **FCC Form 605** was introduced
 - It did not include any basic qualification questions
- September 2017, the felony question, was added to FCC Form 605

Why did it take the FCC over 19 years to add a basic qualification question to FCC Form 605, especially since the form was updated a dozen or more times, since its introduction in 1999?

Felony Question

Impact

7 September 2017 – 6 September 2019 – Data collected and analyzed

- **Less than 1 percent (0.89%) of all applications submitted by VECs (810 of 90,461) are from applicants who answered the Felony Question “Yes”**
 - **About 8 percent of the U.S. adult population has a felony record**

Felony Question

Impact

The grant rate for felony applications processed between 7 September 2017 through 6 September 2019 is about 83%.

810 rcvd (55 WD & 146 DM) = 609 to be processed. 508 Granted. $508/609 = 83.4\%$

371 – New licenses granted

137 – License upgrades granted

14 days = The average number of days a felony application was pending before it was granted

Felony Question

Impact

Burglary/Robbery	Drugs	Sex-related crimes
Assault/Battery	DWI/DUI	Stolen property
Child Porn	Firearm related	Murder
Forgery	Attempted murder	Vehicular homicide
Arson	Property damage	Failure to pay support
Hit and run	Child abuse (Non sex)	Domestic abuse
Driving without a license	Violations of Title 18 USC	Fraud

This data from publicly available records.

About 65% of felony explanations are publicly available (09/07/2017 – 09/06/2019)

Felony Question

Impact

No applicant who answered the Felony Question “Yes” since 7 September 2017, has had their application DENIED.

An application can only be denied after a hearing and a decision by an Administrative Law Judge or by the Commissioners.

As of 2 September 2024

310 applications remain pending from applicants who answered the Felony Question “Yes” between 21 Sep 2017 and 20 Aug 2024.

68 are from licensees (22%)

7 are from women (2%)

181 Explanations are confidential (59%)

129 Explanations are viewable by the public (41%)

7 involve Title 18, US Code violations (Federal) (5%)

- **Wire Fraud, Computer Fraud, Healthcare/Medicare Fraud, Mail/Postal Fraud, Tax Fraud, Bank Fraud, Human Trafficking, possession of a machine gun, Sale/Production/Possession/Distribution of Child Pornography, Sex abuse crimes that occur in areas or facilities under Federal jurisdiction (Navy & Coast Guard vessels, Military installations in US and overseas)**

As of 2 September 2024

26 involve non sex related crimes (State) (21%)

Murder, attempted murder, negligent homicide, vehicular homicide, manslaughter, assault, child abuse, spouse abuse, grand theft, possession of LSD, etc.

96 involve sex crimes mostly involving children (State) (74%)

86 involved children (90%)

Rape, statutory rape, incest, child molestation, aggravated sexual assault of a child, child porn, etc.

11 additional applications are pending from Alert List flag for unknown reasons. The Alert List is the FCC version of a “Black List”.

Felony Question

Impact

Why are they still pending?

David Titus

2014 – RO application denied

2015 – Submitted new application – Pending

2015? – Titus Initiates lawsuit vs FCC

Application Fees

Application fees added 19 April 2022 – No major issues

- **During first two years, 8,840 (6.4%) of 137,216 applications for New licenses and license renewals were dismissed.**
 - **Many were resubmitted**
- **Online renewals = 7.5% 5,675 of 75,508**
- **All VECs (New & Renewals) = 5.1% 3,161 of 61,708**
 - **Laurel VEC = 2.6% 203 of 7,866 (13% of all VECs)**
 - **Most resubmitted and granted**
 - **Email with instructions**

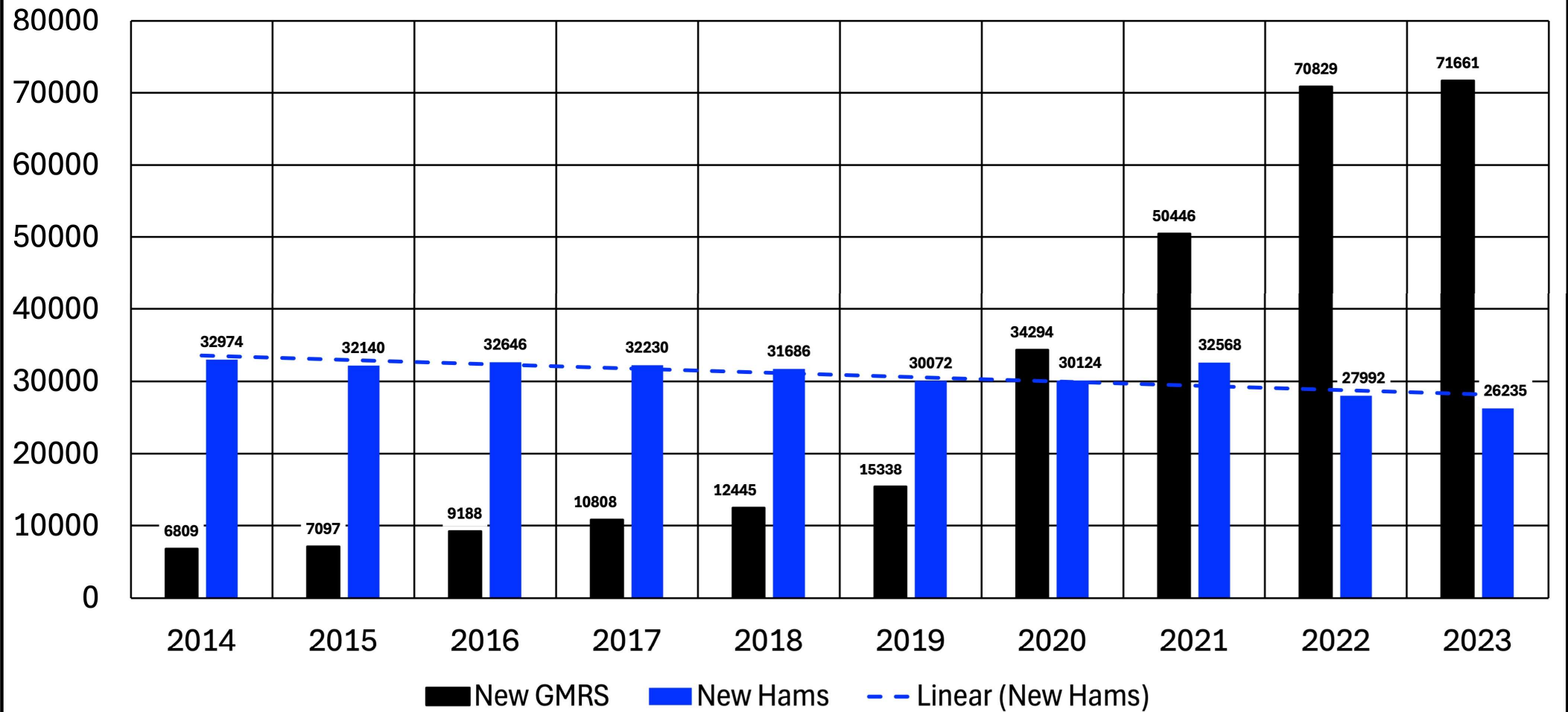
Licensing Trends

Since 2014

- 1. Applications for a new amateur radio license have been slowly and steadily declining.**
- 2. Applications for new GMRS licenses have been steadily increasing since 2014 and experienced significant growth since 2020.**
- 3. No evidence that the felony question or application fees are the reasons for the decline in amateur licenses.**

Licensing Trends

Application for New GMRS vs New Amateur Licenses



The End