

106TH CONGRESS
2D SESSION

S. 2767

To authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2000

Mr. FEINGOLD (for himself, Mr. LEVIN, and Mr. ABRAHAM) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment.

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. ENFORCEMENT OF REGULATIONS REGARDING**

4 **CITIZENS BAND RADIO EQUIPMENT.**

5 Section 302 of the Communications Act of 1934 (47

6 U.S.C. 302a) is amended by adding at the end the fol-

7 lowing:

8 “(f)(1) Except as provided in paragraph (2), a State

9 or local government may enact a statute or ordinance that

1 prohibits a violation of the following regulations of the
2 Commission under this section:

3 “(A) A regulation that prohibits a use of citi-
4 zens band radio equipment not authorized by the
5 Commission.

6 “(B) A regulation that prohibits the unauthor-
7 ized operation of citizens band radio equipment on
8 a frequency between 24 MHz and 35 MHz.

9 “(2) A station that is licensed by the Commission
10 pursuant to section 301 in any radio service for the oper-
11 ation at issue shall not be subject to action by a State
12 or local government under this subsection. A State or local
13 government statute or ordinance enacted for purposes of
14 this subsection shall identify the exemption available
15 under this paragraph.

16 “(3) The Commission shall provide technical guid-
17 ance to State and local governments regarding the detec-
18 tion and determination of violations of the regulations
19 specified in paragraph (1).

20 “(4)(A) In addition to any other remedy authorized
21 by law, a person affected by the decision of a State or
22 local government enforcing a statute or ordinance under
23 paragraph (1) may submit to the Commission an appeal
24 of the decision on the grounds that the State or local gov-

1 ernment, as the case may be, enacted a statute or ordi-
2 nance outside the authority provided in this subsection.

3 “(B) A person shall submit an appeal on a decision
4 of a State or local government to the Commission under
5 this paragraph, if at all, not later than 30 days after the
6 date on which the decision by the State or local govern-
7 ment becomes final, but prior to seeking judicial review
8 of such decision.

9 “(C) The Commission shall make a determination on
10 an appeal submitted under subparagraph (B) not later
11 than 180 days after its submittal.

12 “(D) If the Commission determines under subpara-
13 graph (C) that a State or local government has acted out-
14 side its authority in enforcing a statute or ordinance, the
15 Commission shall preempt the decision enforcing the stat-
16 ute or ordinance.

17 “(5) The enforcement of statute or ordinance that
18 prohibits a violation of a regulation by a State or local
19 government under paragraph (1) in a particular case shall
20 not preclude the Commission from enforcing the regula-
21 tion in that case concurrently.

22 “(6) Nothing in this subsection shall be construed to
23 diminish or otherwise affect the jurisdiction of the Com-
24 mission under this section over devices capable of inter-
25 fering with radio communications.

1 “(7) The enforcement of a statute or ordinance by
2 a State or local government under paragraph (1) with re-
3 gard to citizens band radio equipment on board a ‘com-
4 mercial motor vehicle,’ as defined in section 31101 of title
5 49, United States Code, shall require probable cause to
6 find that the commercial motor vehicle or the individual
7 operating the vehicle is in violation of the regulations de-
8 scribed in paragraph (1). Probable cause shall be defined
9 in accordance with the technical guidance provided by the
10 Commission under paragraph (3).”.

○