

In the Senate of the United States,

October 31 (legislative day, September 22), 2000.

Resolved, That the bill from the House of Representatives (H.R. 2346) entitled “An Act to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. STATE AND LOCAL ENFORCEMENT OF FEDERAL***
2 ***COMMUNICATIONS COMMISSION REGULATIONS***
3 ***ON USE OF CITIZENS BAND RADIO***
4 ***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 citizens*
4 *band radio equipment not authorized by the Commis-*
5 *sion.*

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

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

16 “(3) *The Commission shall, to the extent practicable,*
17 *provide technical guidance to State and local governments*
18 *regarding the detection and determination of violations of*
19 *the regulations 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 local*
22 *government agency 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 govern-*

1 *ment, as the case may be, enacted a statute or ordinance*
2 *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 agency to the Commission*
5 *under this paragraph, if at all, not later than 30 days after*
6 *the date on which the decision by the State or local govern-*
7 *ment agency becomes final, but prior to seeking judicial re-*
8 *view 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 agency has acted*
14 *outside its authority in enforcing a statute or ordinance,*
15 *the Commission shall preempt the decision enforcing the*
16 *statute or ordinance.*

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

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

1 “(7) *The enforcement of a statute or ordinance by a*
2 *State or local government under paragraph (1) with regard*
3 *to citizens band radio equipment on board a ‘commercial*
4 *motor vehicle’, as defined in section 31101 of title 49,*
5 *United States Code, shall require probable cause to find that*
6 *the commercial motor vehicle or the individual operating*
7 *the vehicle is in violation of the regulations described in*
8 *paragraph (1).”.*

Attest:

Secretary.

106TH CONGRESS
2D SESSION

H. R. 2346

AMENDMENT