

106TH CONGRESS
2D SESSION

H. R. 2346

AN ACT

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

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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 That section 302 of the Communications Act of 1934 (47

1 U.S.C. 302a) is amended by adding at the end the fol-
2 lowing:

3 “(f)(1) Except as provided in paragraph (2), a State
4 or local government may enact a statute or ordinance that
5 prohibits a violation of the following regulations of the
6 Commission under this section:

7 “(A) A regulation that prohibits a use of citi-
8 zens band radio equipment not authorized by the
9 Commission.

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

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

20 “(3) The Commission shall provide technical guid-
21 ance to State and local governments regarding the detec-
22 tion and determination of violations of the regulations
23 specified in paragraph (1).

24 “(4)(A) In addition to any other remedy authorized
25 by law, a person affected by the decision of a State or

1 local government enforcing a statute or ordinance under
2 paragraph (1) may submit to the Commission an appeal
3 of the decision on the grounds that the State or local gov-
4 ernment, as the case may be, enacted a statute or ordi-
5 nance outside the authority provided in this subsection.

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

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

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

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

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

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

Passed the House of Representatives September 27,
2000.

Attest:

Clerk.