

109th CONGRESS

1st Session

**H. R. 998**

To preserve local radio broadcast emergency and other services and to require the Federal Communications Commission to conduct a rulemaking for that purpose.

**IN THE HOUSE OF REPRESENTATIVES**

**March 1, 2005**

Mr. PICKERING (for himself and Mr. GENE GREEN of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce

**A BILL**

To preserve local radio broadcast emergency and other services and to require the Federal Communications Commission to conduct a rulemaking for that purpose.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Local Emergency Radio Service Preservation Act of 2005'.

**SEC. 2. FINDINGS.**

The Congress finds and declares the following:

- (1) A primary objective and benefit of the Nation's regulation of radio broadcasting is the local origination of programming. There is a substantial governmental interest in ensuring its continuation.
- (2) Local broadcast radio stations are an important source of local news and weather programming and other local broadcast services critical to the public.
- (3) Local radio broadcasting is particularly important in times of emergencies or disasters when other means of communications may not be available.
- (4) Radio is the most ubiquitous of all mass media, with receivers located in almost every home and automobile in the country.
- (5) Because radio receivers are universally available and frequently battery-powered or located in automobiles, the Federal Communications Commission's Media Security and Reliability Council concluded that 'radio broadcasters are likely to be the last line of defense for communicating with the public under extremely adverse conditions that could result in the event of a local disaster'. There is a substantial governmental interest in ensuring the continuation of this capability.
- (6) Broadcast radio programming is supported by revenues generated from advertising broadcast over stations. Such programming is free to listeners.

There is a substantial governmental interest in promoting the continued availability of free radio programming.

(7) Because radio programming is supported by advertising, the ability of local stations to continue to provide local news and other services and to ensure communications during emergencies could be jeopardized by a diversion of the listening audience away from local radio programming.

(8) When the Federal Communications Commission authorized the digital audio radio satellite service, it stated that it remained 'committed to supporting a vibrant and vital terrestrial radio service for the public'.

(9) When the Federal Communications Commission authorized the digital audio radio satellite service, it understood that digital audio radio satellite service licensees would provide only national programming and accepted the contentions of the proponents of digital audio radio satellite service that the new service would not affect local broadcasting because 'the ability to offer local content will give terrestrial broadcasters a competitive advantage'.

(10) Digital audio radio satellite service licensees have announced plans to offer local traffic and weather channels through the use of their satellites.

(11) Developments in receiver technology will enable digital audio radio satellite service licensees to offer new services in the future, including localized content that may be intermixed with other national content or that would be selected based on the listener's location.

### **SEC. 3. LIMITS ON LOCALIZED DIGITAL AUDIO RADIO SATELLITE SERVICE PROGRAMMING.**

The Federal Communications Commission shall revise section 25.144 of its regulations (47 CFR 25.144) to provide that--

(1) digital audio radio satellite service licensees shall not, using any capability either on a satellite or in a radio receiver, provide services that are locally differentiated or that result in programming being delivered to consumers in one geographic market that is different from the programming that is delivered to consumers in any other geographic market; and

(2) digital audio radio satellite service repeaters shall be restricted to simultaneously retransmitting the programming transmitted by satellite directly to digital audio radio satellite service subscribers' receivers, and may not be used to distribute any information not also transmitted to all subscribers' receivers.

### **SEC. 4. FEDERAL COMMUNICATIONS COMMISSION RULEMAKING ON LOCAL SERVICES BY SATELLITE PROVIDERS.**

Within 270 days after the date of enactment of this Act, the Federal Communications Commission shall complete a rulemaking proceeding to determine whether digital audio radio satellite service licensees should be permitted to provide locally oriented services on nationally distributed channels, taking into account--

- (1) the impact of locally oriented satellite radio services on the viability of local radio broadcast stations and their ability to provide news and other services to the public;
- (2) the ability of digital audio radio satellite service licensees to afford listeners the same emergency and other information as is afforded listeners of local broadcast radio stations;
- (3) whether digital audio radio satellite service licensees committed to providing only national services in order to obtain authorization for their service; and
- (4) whether the same level and quality of emergency communications services could be provided to consumers by digital audio radio satellite service licensees as by local broadcast radio stations.