

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4869

To preempt of local taxation with respect to satellite digital audio radio services and to provide for determining State authority for taxation of satellite digital audio radio service.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2002

Mr. TOM DAVIS of Virginia introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To preempt of local taxation with respect to satellite digital audio radio services and to provide for determining State authority for taxation of satellite digital audio radio service.

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. SHORT TITLE.**

4       This Act may be cited as the “Satellite Radio Free-  
5       dom Act”.

6       **SEC. 2. DEFINITIONS.**

7       For purposes of this Act:

1           (1) CUSTOMER.—The term “customer”  
2 means—

3           (A) a person or entity that contracts with  
4 a provider of satellite digital audio radio serv-  
5 ice; or

6           (B) if the end user of such satellite digital  
7 audio radio service is not such contracting  
8 party, the end user of such satellite digital  
9 audio radio service, but only for purposes of de-  
10 termining the place of primary use;

11 but does not include a reseller of satellite digital  
12 audio radio services.

13           (2) LOCAL TAXING JURISDICTION.—The term  
14 “local taxing jurisdiction” means any municipality,  
15 city, county, township, parish, transportation dis-  
16 trict, or assessment jurisdiction, or any other local  
17 jurisdiction in the territorial jurisdiction of the  
18 United States with the authority to impose a tax or  
19 fee, but does not include a State.

20           (3) PLACE OF PRIMARY USE.—The term “place  
21 of primary use” means the residential street address  
22 or the primary business street address representative  
23 of where the customer’s use of the satellite digital  
24 audio radio service primarily occurs.

1           (4) PROVIDER OF SATELLITE DIGITAL AUDIO  
2 RADIO SERVICE.—The term “provider of satellite  
3 digital audio radio service” means a person who  
4 transmits, broadcasts, sells, or distributes satellite  
5 digital audio radio service.

6           (5) SATELLITE DIGITAL AUDIO RADIO SERV-  
7 ICE.—The term “satellite digital audio radio service”  
8 means any radio communication service provided in  
9 the 2320–2345 MHz frequency band pursuant to a  
10 license from the Federal Communications Commis-  
11 sion.

12           (6) STATE.—The term “State” means any of  
13 the several States, the District of Columbia, or any  
14 territory or possession of the United States.

15           (7) SUPPLEMENTAL TERRESTRIAL RE-  
16 PEATER.—The term “supplemental terrestrial re-  
17 peater” means a complementary terrestrial trans-  
18 mitter used to retransmit signals received from one  
19 or more satellites used to provide satellite digital  
20 audio radio service.

21           (8) TAX OR FEE.—The terms “tax” and “fee”  
22 mean any local sales tax, local use tax, local intan-  
23 gible tax, local income tax, business license tax, util-  
24 ity tax, privilege tax, gross receipts tax, excise tax,  
25 franchise fees, telecommunications tax, communica-

1 tions tax, or any other tax, license, or fee that is im-  
2 posed for the privilege of doing business, regulating,  
3 or raising revenue for a local taxing jurisdiction,  
4 other than ad valorem property taxes.

5 **SEC. 3. PREEMPTION OF LOCAL TAXATION WITH RESPECT**  
6 **TO DIGITAL AUDIO RADIO SATELLITE SERV-**  
7 **ICE.**

8 (a) PREEMPTION.—

9 (1) EXEMPTION FROM LOCAL TAXATION.—No  
10 tax or fee shall be imposed by a local taxing jurisdic-  
11 tion on the provision, purchase, or use of satellite  
12 digital audio radio service, or on a provider of sat-  
13 ellite digital audio radio service.

14 (2) EXCEPTION.—Subsection (a)(1) shall not  
15 apply to any tax or fee imposed by any local taxing  
16 jurisdiction on satellite digital audio radio service to  
17 the extent that a provider of satellite digital audio  
18 radio service owns, leases, or otherwise uses a sup-  
19 plemental terrestrial transmitter that is physically  
20 located in such jurisdiction.

21 (b) PRESERVATION OF STATE AUTHORITY.—This  
22 section shall not be construed to prevent taxation of a pro-  
23 vider of satellite digital audio radio service by a State or  
24 to prevent a local taxing jurisdiction from receiving rev-

1 enue derived from a tax or fee imposed and collected by  
2 a State.

3 **SEC. 4. STATE TAXATION OF SATELLITE DIGITAL AUDIO**  
4 **RADIO SERVICES.**

5 (a) **LIMITATION.**—This section does not provide the  
6 authority for a State to impose a tax or fee unless all of  
7 the following circumstances exist:

8 (1) The place of primary use is physically lo-  
9 cated within the physical boundaries of the State.

10 (2) The law of such State authorizes the impo-  
11 sition of such taxes or fees.

12 (b) **CHARGES.**—

13 (1) **SOURCING FOR PURPOSES OF STATE TAXES**  
14 **AND FEES.**—All charges for satellite digital audio  
15 radio services subject to imposition of taxes or fees  
16 by a State shall be sourced to the customer’s place  
17 of primary use as defined in section 2, regardless of  
18 where the satellite digital audio radio service trans-  
19 mission services originate, terminate, or pass  
20 through.

21 (2) **SOURCING FOR OTHER PURPOSES.**—Not-  
22 withstanding the law of any State, all charges for  
23 satellite digital audio radio service shall be sourced  
24 to the customer’s applicable residential street ad-

- 1 dress or the primary business street address of the
- 2 customer.

