

108TH CONGRESS  
2D SESSION

# H. R. 4026

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2004

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

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## 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.

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 “Local Emergency  
5       Radio Service Preservation Act of 2004”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds and declares the following:

8               (1) A primary objective and benefit of the Na-  
9       tion’s regulation of radio broadcasting is the local

1 origination of programming. There is a substantial  
2 governmental interest in ensuring its continuation.

3 (2) Local broadcast radio stations are an im-  
4 portant source of local news and weather program-  
5 ming and other local broadcast services critical to  
6 the public.

7 (3) Local radio broadcasting is particularly im-  
8 portant in times of emergencies or disasters when  
9 other means of communications may not be avail-  
10 able.

11 (4) Radio is the most ubiquitous of all mass  
12 media, with receivers located in almost every home  
13 and automobile in the country.

14 (5) Because radio receivers are universally  
15 available and frequently battery-powered or located  
16 in automobiles, the Federal Communications Com-  
17 mission's Media Security and Reliability Council  
18 concluded that "radio broadcasters are likely to be  
19 the last line of defense for communicating with the  
20 public under extremely adverse conditions that could  
21 result in the event of a local disaster". There is a  
22 substantial governmental interest in ensuring the  
23 continuation of this capability.

24 (6) Broadcast radio programming is supported  
25 by revenues generated from advertising broadcast

1 over stations. Such programming is free to listeners.  
2 There is a substantial governmental interest in pro-  
3 moting the continued availability of free radio pro-  
4 gramming.

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

11 (8) When the Federal Communications Com-  
12 mission authorized the digital audio radio satellite  
13 service, it stated that it remained “committed to  
14 supporting a vibrant and vital terrestrial radio serv-  
15 ice for the public”.

16 (9) When the Federal Communications Com-  
17 mission authorized the digital audio radio satellite  
18 service, it understood that digital audio radio sat-  
19 ellite service licensees would provide only national  
20 programming and accepted the contentions of the  
21 proponents of digital audio radio satellite service  
22 that the new service would not affect local broad-  
23 casting because “the ability to offer local content  
24 will give terrestrial broadcasters a competitive ad-  
25 vantage”.

1           (10) Digital audio radio satellite service licens-  
2       ees have announced plans to offer local traffic and  
3       weather channels through the use of their satellites.

4           (11) Developments in receiver technology will  
5       enable digital audio radio satellite service licensees  
6       to offer new services in the future, including local-  
7       ized content that may be intermixed with other na-  
8       tional content or that would be selected based on the  
9       listener's location.

10 **SEC. 3. LIMITS ON LOCALIZED DIGITAL AUDIO RADIO SAT-**  
11 **ELLITE SERVICE PROGRAMMING.**

12       The Federal Communications Commission shall re-  
13       vise section 25.144 of its regulations (47 C.F.R. 25.144)  
14       to provide that—

15           (1) digital audio radio satellite service licensees  
16       shall not, using any capability either on a satellite  
17       or in a radio receiver, provide services that are lo-  
18       cally differentiated or that result in programming  
19       being delivered to consumers in one geographic mar-  
20       ket that is different from the programming that is  
21       delivered to consumers in any other geographic mar-  
22       ket; and

23           (2) digital audio radio satellite service repeaters  
24       shall be restricted to simultaneously retransmitting  
25       the programming transmitted by satellite directly to

1 digital audio radio satellite service subscribers' re-  
2 ceivers, and may not be used to distribute any infor-  
3 mation not also transmitted to all subscribers' re-  
4 ceivers.

5 **SEC. 4. FEDERAL COMMUNICATIONS COMMISSION RULE-**  
6 **MAKING ON LOCAL SERVICES BY SATELLITE**  
7 **PROVIDERS.**

8 Within 270 days after the date of enactment of this  
9 Act, the Federal Communications Commission shall com-  
10 plete a rulemaking proceeding to determine whether dig-  
11 ital audio radio satellite service licensees should be per-  
12 mitted to provide locally oriented services on nationally  
13 distributed channels, taking into account—

14 (1) the impact of locally oriented satellite radio  
15 services on the viability of local radio broadcast sta-  
16 tions and their ability to provide news and other  
17 services to the public;

18 (2) the ability of digital audio radio satellite  
19 service licensees to afford listeners the same emer-  
20 gency and other information as is afforded listeners  
21 of local broadcast radio stations;

22 (3) whether digital audio radio satellite service  
23 licensees committed to providing only national serv-  
24 ices in order to obtain authorization for their service;  
25 and

1           (4) whether the same level and quality of emer-  
2       gency communications services could be provided to  
3       consumers by digital audio radio satellite service li-  
4       censees as by local broadcast radio stations.

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