

111TH CONGRESS
1ST SESSION

H. R. 245

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

JANUARY 7, 2009

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.

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 2009”.

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 Consistent with the representations made by digital
13 audio radio satellite service licensees in the Commission's
14 record that digital audio radio satellite service would be
15 a national service, on which the Commission relied in au-
16 thorizing digital audio radio satellite service, the Federal
17 Communications Commission shall revise section 25.144
18 of its regulations (47 C.F.R. 25.144) to provide that—

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

1 delivered to consumers in any other geographic mar-
2 ket; and

3 (2) digital audio radio satellite service repeaters
4 shall be restricted to simultaneously retransmitting
5 the programming transmitted by satellite directly to
6 digital audio radio satellite service subscribers' re-
7 ceivers, and may not be used to distribute any infor-
8 mation not also transmitted to all subscribers' re-
9 ceivers.

10 **SEC. 4. FEDERAL COMMUNICATIONS COMMISSION RULE-**
11 **MAKING ON LOCAL SERVICES BY SATELLITE**
12 **PROVIDERS.**

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

19 (1) the impact of locally oriented satellite radio
20 services on the viability of local radio broadcast sta-
21 tions and their ability to provide news and other
22 services to the public;

23 (2) the ability of digital audio radio satellite
24 service licensees to afford listeners the same emer-

1 gency and other information as is afforded listeners
2 of local broadcast radio stations;

3 (3) whether digital audio radio satellite service
4 licensees committed to providing only national serv-
5 ices in order to obtain authorization for their service;
6 and

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

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