

On May 10, 2001, in North Richland Hills, TX, David Israel Avery, 17, was charged with criminal mischief for allegedly attacking two gay teens.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2498. A bill to provide for a 10-year extension of the assault weapons ban.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. MURKOWSKI:

S. 2504. A bill to make improvements to the Arctic Research and Policy Act of 1984; to the Committee on Governmental Affairs.

By Mr. MCCAIN (for himself and Mr. LEAHY):

S. 2505. A bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low power FM service; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 1840

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1840, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm and ranch land to voluntarily make their land available for access by the public under programs administered by States.

S. 2015

At the request of Ms. CANTWELL, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2015, a bill to prohibit energy market manipulation.

S. 2072

At the request of Mr. CRAIG, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2072, a bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for elder care expenses.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself and Mr. LEAHY):

S. 2505. A bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low power FM serv-

ice; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Madam President, I rise today to introduce the Low Power Radio Act of 2004. This bill would allow the Federal Communications Commission (FCC) to license Low Power FM stations on third adjacent channels to full power stations without limitations and eliminate the requirement that the FCC perform further testing on the economic impact of Low Power FM radio. Additionally, the bill seeks to protect stations that provide radio reading services, which some have suggested are more susceptible to interference than other stations because they are carried on a subcarrier frequency. I am pleased to be joined in this effort by Senator LEAHY who is a co-sponsor of the bill. I thank him for his support.

This bill would also right a serious wrong. Four years ago, Congress wrongly delayed the full implementation of a new community based radio service called "Low Power FM" due to broadcasters' grossly exaggerated claims of interference. The FCC recently found, based on data from an independent engineering study, that the broadcasters' claims of interference are groundless. As required, the FCC sent a report to Congress in February describing the study's results and suggesting legislative actions to further the growth of Low Power FM. This bill would implement these recommendations.

In January 2000, the FCC launched Low Power FM radio service to "enhance locally focused community-oriented radio broadcasting." Low Power FM stations are just that—low power radio stations on the FM band that generally reach an audience within a 3.5 mile radius of the station's transmitter. In rural areas, this signal may not reach many people, but it provides rural citizens with another media outlet—another voice in the market. In urban areas, this signal may reach hundreds of thousands of people and provide not just local content, but very specific neighborhood news and information.

Localism is increasingly important in today's changing media landscape. Rampant ownership consolidation has taken place in the radio industry since passage of the Telecommunications Act of 1996. Since that time, many Americans have complained that the large media conglomerates fail to serve local communities' interests and seem to use their local station license as a conduit to air national programming. Low Power FM was introduced, in part, to respond to such complaints.

Low Power FM is an affordable broadcasting option for many community organizations because a full power radio station license is extremely expensive and broadcast spectrum is very scarce. In 2003, the average cost to acquire a commercial radio station was more than \$2.5 million dollars.

Between May 1999 and May 2000, the Commission received over 3,400 applica-

tions for Low Power FM stations from non-commercial educational entities and community organizations. However, before the Commission could act on many of the applications for this new community service, broadcasters frightened legislators into halting the full implementation of Low Power FM. Broadcasters masqueraded their true concerns about competition from a real local radio broadcaster in thinly veiled claims of interference.

Due to the broadcasters' subterfuge, Congress added language to a 2000 appropriations bill requiring the FCC to hire an independent engineering firm to further study broadcasters' claims of interference. Well, the results are in! I am not happy to report that after spending almost two years and over two million dollars, the independent study revealed what the FCC and community groups had said all along: LPFM will do no harm to other broadcasters. The study has stripped the broadcasters of their veiled claims by concluding that Low Power FM stations on third adjacent channels would cause virtually no interference to other broadcast stations.

The broadcasters masquerade has now cost American taxpayers over two million dollars. This was two million dollars taken from the FCC's budget that could have been used to further study efficient spectrum use to promote public safety needs, process license applications faster, hire more high quality engineers for the FCC and much more. Perhaps, we should send a bill to the National Association of Broadcasters. Nevertheless, that is the past, and it is time to focus on the future.

That brings us to the future of Low Power FM. The FCC, as required by the appropriations language, has reported the study's findings to Congress and recommends full implementation of Low Power FM. This bill simply follows the FCC's recommendation: begin licensing Low Power FM stations on third adjacent channels to full power stations without limitations. Additionally, the bill seeks to protect full power stations that provide radio reading services. It is estimated that about 1.1 million people in the U.S. are blind, and it is important to ensure this helpful radio reading service remains interference free.

The enactment of this bill will immediately make available a number of Low Power FM frequencies. By some estimates, Congress' legislation delaying the full implementation, which mostly affected metropolitan areas, led to the elimination of half the Low Power FM applications filed during 2000.

For example, Congress' action eliminated the LPFM slot in Fresno applied for by El Comite de los Pobres. The group had hoped to address the dearth of local programming for the Latino community by airing bilingual coverage of local issues. New Orleans' Music Business Institute's application

was eliminated as well. The Music Business Institute teaches young people how to get into the music business. The Institute had planned to use the station to help start the musical careers of local artists, and to educate listeners about the city's jazz and blues musical heritage. Let's get these valuable stations on air.

There are some wonderful LPFM stations that are up and running. A recent article published in *The Nation* called these stations, "beacons of grassroots democracy." The article discussed WRFR in Rockland, Maine: "Shunning the canned programming approach of Rockland's two Clear Channel stations, WRFR offers an array of local talent, tastes and interests, and was recently named Maine station of the year by a state music association. Although country music, a Maine favorite, is heavily represented, hardly any WRFR deejay restricts himself to a single era, genre or Top-40 play list." Started by a local city council member who was concerned about the lack of local media outlets in his town, today, WRFR has over half the city listening. This is what scares broadcasters about LPFM: competition.

In 2000, the Southern Development Foundation established a Low Power FM station in Opelousas, Louisiana, which sponsors agriculture programs, leases land to farmers, raises money for scholarships for needy kids and helps citizens learn to read. The station director told a local community newsletter: "You've got local radio stations that are owned by larger companies. There should be some programming concerning the music that is from here, and the people from here. But there's not."

I ask the public and commercial broadcasters to come clean and join us in promoting LPFM. More good radio brings about more radio listening and that's good for all broadcasters. Therefore, in the interests of would-be new broadcasters, existing broadcasters, but most of all, the listening public, I urge the enactment of the Low Power Radio Act of 2004.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2505

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The passage of the Telecommunications Act of 1996 led to increased ownership consolidation in the radio industry.

(2) At a hearing before the Senate Committee on Commerce, Science, and Transportation, on June 4, 2003, all 5 members of the Federal Communications Commission testified that there has been, in at least some local radio markets, too much consolidation.

(3) A commitment to localism—local operations, local research, local management, locally originated programming, local artists,

and local news and events—would bolster radio listening.

(4) Local communities have sought to launch radio stations to meet their local needs. However, due to the scarce amount of spectrum available and the high cost of buying and running a large station, many local communities are unable to establish a radio station.

(5) In 2003, the average cost to acquire a commercial radio station was more than \$2.5 million dollars.

(6) In January, 2000, the Federal Communications Commission authorized a new, affordable community radio service called "low power FM" or "LPFM" to "enhance locally focused community-oriented radio broadcasting".

(7) Through the creation of LPFM, the Commission sought to "create opportunities for new voices on the air waves and to allow local groups, including schools, churches and other community-based organizations, to provide programming responsive to local community needs and interests".

(8) The Commission made clear that the creation of LPFM would not compromise the integrity of the FM radio band by stating, "We are committed to creating a low power FM radio service only if it does not cause unacceptable interference to existing radio service."

(9) Small rural broadcasters were particularly concerned about a lengthy and costly interference complaint process. Therefore, in September, 2000, the Commission created a simple process to address interference complaints regarding LPFM stations on an expedited basis.

(10) In December, 2000, Congress delayed the full implementation of LPFM until an independent engineering study was completed and reviewed. This delay was due to some broadcasters' concerns that LPFM service would cause interference in the FM band.

(11) The delay prevented millions of Americans from having a locally operated, community based radio station in their neighborhood.

(12) Approximately 300 LPFM stations were allowed to proceed despite the congressional action. These stations are currently on the air and are run by local government agencies, groups promoting arts and education to immigrant and indigenous peoples, artists, schools, religious organizations, environmental groups, organizations promoting literacy, and many other civically-oriented organizations.

(13) After 2 years and the expenditure of \$2,193,343 in taxpayer dollars to conduct this study, the broadcasters' concerns were demonstrated to be unsubstantiated.

SEC. 2. REPEAL OF PRIOR LAW.

Section 632 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, (Pub. Law 106-553; 114 Stat. 2762A-111) is repealed.

SEC. 3. MINIMUM DISTANCE SEPARATION REQUIREMENTS.

The Federal Communications Commission shall modify its rules to eliminate third-adjacent minimum distance separation requirements between

(1) low-power FM stations; and
(2) full-service FM stations, FM translator stations, and FM booster stations.

SEC. 4. PROTECTION OF RADIO READING SERVICES.

The Federal Communications Commission shall retain its rules that provide third-adjacent channel protection for full-power non-commercial FM stations that broadcast radio reading services via a subcarrier frequency from potential low-power FM station interference.

● Mr. LEAHY. Madam President, I am pleased today to join Senator MCCAIN in introducing important legislation to increase the number of frequencies available for low power radio stations in America. Low power stations serve their communities with broadcasting that reflects local needs and local preferences. In this way, low power FM offers a valuable counterpoint to nationwide media consolidation. For this reason, I have been a strong supporter of low power FM for many years now. In fact, I recently urged FCC Chairman Powell to expedite licensing for new low power stations.

Unfortunately, for many years now, the number of low power FM stations the FCC could license has been limited by unrealistic and unnecessary rules requiring these small stations to find available frequencies far from any full power broadcaster. Interference must be avoided if we are to make use of the airwaves. The current rules, however, go beyond what is necessary to protect full power stations from interference, and instead protect them from competition. The focus of today's legislation is the so-called "third-adjacent rule," which requires that a low power station not broadcast within three frequency intervals of a full power station.

For example, if a full power station were broadcasting at 101.1, the first-adjacent frequencies would be 99.9 and 101.3 and those would be unavailable for broadcasting. The second-adjacent frequencies would be 99.7 and 101.5 and they too would be off-limits. Finally, the third-adjacent frequencies would be 99.5 and 101.7, and under the current rule, those frequencies would also be unavailable. Thus, the existence of just one full power station effectively keeps low power radio from broadcasting anywhere between 99.5 and 101.7. It is easy to see how a radio dial can quickly become off-limits for any low power broadcaster.

A recent study by the FCC concludes that this third-adjacent rule is not necessary to protect full power broadcasters from unreasonable interference. Our new bill simply implements those findings and conclusions. It eliminates the third-adjacent rule, and allows the FCC to license low power stations in accordance with its own studies and findings about potential interference from these stations.

Of course, the need for low power FM radio must be balanced against other important uses of nearby frequencies. I have worked hard to protect reading services for the blind, and this bill protects those services by retaining the third-adjacent rule where such services would be affected. In addition, this bill protects commercial broadcasters of all sizes from actual interference by leaving intact the FCC's expedited interference claim review procedures.

I look forward to working with my colleagues to move this important bill forward, to strengthen local broadcasting. ●