

TITLE 47 - TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS
CHAPTER 5 - WIRE OR RADIO COMMUNICATION
SUBCHAPTER III - SPECIAL PROVISIONS RELATING TO RADIO
Part I - General Provisions

§ 302a. Devices which interfere with radio reception

(a) Regulations

The Commission may, consistent with the public interest, convenience, and necessity, make reasonable regulations

- (1) governing the interference potential of devices which in their operation are capable of emitting radio frequency energy by radiation, conduction, or other means in sufficient degree to cause harmful interference to radio communications; and
- (2) establishing minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy. Such regulations shall be applicable to the manufacture, import, sale, offer for sale, or shipment of such devices and home electronic equipment and systems, and to the use of such devices.

(b) Restrictions

No person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.

(c) Exceptions

The provisions of this section shall not be applicable to carriers transporting such devices or home electronic equipment and systems without trading in them, to devices or home electronic equipment and systems manufactured solely for export, to the manufacture, assembly, or installation of devices or home electronic equipment and systems for its own use by a public utility engaged in providing electric service, or to devices or home electronic equipment and systems for use by the Government of the United States or any agency thereof. Devices and home electronic equipment and systems for use by the Government of the United States or any agency thereof shall be developed, procured, or otherwise acquired, including offshore procurement, under United States Government criteria, standards, or specifications designed to achieve the objectives of reducing interference to radio reception and to home electronic equipment and systems, taking into account the unique needs of national defense and security.

(d) Cellular telecommunications receivers

- (1) Within 180 days after October 28, 1992, the Commission shall prescribe and make effective regulations denying equipment authorization (under part 15 of title 47, Code of Federal Regulations, or any other part of that title) for any scanning receiver that is capable of—
 - (A) receiving transmissions in the frequencies allocated to the domestic cellular radio telecommunications service,
 - (B) readily being altered by the user to receive transmissions in such frequencies, or
 - (C) being equipped with decoders that convert digital cellular transmissions to analog voice audio.
- (2) Beginning 1 year after the effective date of the regulations adopted pursuant to paragraph (1), no receiver having the capabilities described in subparagraph (A), (B), or (C) of paragraph (1), as such capabilities are defined in such regulations, shall be manufactured in the United States or imported for use in the United States.

(e) Delegation of equipment testing and certification to private laboratories

The Commission may—

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

- (1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;
 - (2) accept as prima facie evidence of such compliance the certification by any such organization; and
 - (3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.
- (f) State and local enforcement of FCC regulations on use of citizens band radio equipment**
- (1) Except as provided in paragraph (2), a State or local government may enact a statute or ordinance that prohibits a violation of the following regulations of the Commission under this section:
 - (A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.
 - (B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.
 - (2) A station that is licensed by the Commission pursuant to section 301 of this title in any radio service for the operation at issue shall not be subject to action by a State or local government under this subsection. A State or local government statute or ordinance enacted for purposes of this subsection shall identify the exemption available under this paragraph.
 - (3) The Commission shall, to the extent practicable, provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).
 - (4)
 - (A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government agency enforcing a statute or ordinance under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, enacted a statute or ordinance outside the authority provided in this subsection.
 - (B) A person shall submit an appeal on a decision of a State or local government agency to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government agency becomes final, but prior to seeking judicial review of such decision.
 - (C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.
 - (D) If the Commission determines under subparagraph (C) that a State or local government agency has acted outside its authority in enforcing a statute or ordinance, the Commission shall preempt the decision enforcing the statute or ordinance.
 - (5) The enforcement of statute or ordinance that prohibits a violation of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.
 - (6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.
 - (7) The enforcement of a statute or ordinance by a State or local government under paragraph (1) with regard to citizens band radio equipment on board a “commercial motor vehicle”, as defined in section 31101 of title 49, shall require probable cause to find that the commercial motor vehicle or the individual operating the vehicle is in violation of the regulations described in paragraph (1).

(June 19, 1934, ch. 652, title III, § 302, as added Pub. L. 90–379, July 5, 1968, 82 Stat. 290; amended Pub. L. 97–259, title I, § 108(a), Sept. 13, 1982, 96 Stat. 1091; Pub. L. 102–556, title IV, § 403(a), Oct. 28, 1992, 106 Stat. 4195; Pub. L. 104–104, title IV, § 403(f), Feb. 8, 1996, 110 Stat. 131; Pub. L. 106–521, § 1, Nov. 22, 2000, 114 Stat. 2438.)

Amendments

2000—Subsec. (f). Pub. L. 106–521 added subsec. (f).

1996—Subsec. (e). Pub. L. 104–104 added subsec. (e).

1992—Subsec. (d). Pub. L. 102–556 added subsec. (d).

1982—Subsec. (a). Pub. L. 97–259, § 108(a)(1), (2), inserted “(1)” after “regulations” and “; and (2) establishing minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy” after “radio communications”, and substituted “or shipment of such devices and home electronic equipment and systems, and to the use of such devices” for “shipment, or use of such devices”.

Subsec. (b). Pub. L. 97–259, § 108(a)(3), substituted “or ship devices or home electronic equipment and systems, or use devices,” for “ship, or use devices”.

Subsec. (c). Pub. L. 97–259, § 108(a)(4), inserted “or home electronic equipment and systems” after “devices” wherever appearing, inserted “and home electronic equipment and systems” after “Devices”, substituted “objectives” for “common objective”, and inserted “and to home electronic equipment and systems” after “reception”.

Effect on Other Laws

Section 403(c) of Pub. L. 102–556 provided that: “This section [amending this section] shall not affect section 2512 (2) of title 18, United States Code.”

Minimum Performance Standards; Home Electronic Equipment and Systems Manufactured Before September 13, 1982

Section 108(b) of Pub. L. 97–259 provided that: “Any minimum performance standard established by the Federal Communications Commission under section 302(a)(2) of the Communications Act of 1934 [subsec. (a)(2) of this section], as added by the amendment made in subsection (a)(1), shall not apply to any home electronic equipment or systems manufactured before the date of the enactment of this Act [Sept. 13, 1982].”