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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

FEB 14 1990

IN REPLY REFER TO:

Christopher D. Imlay, Esquire
American Radio Relay League, Inc.
Office of Legal Counsel
1920 N Street, N.W.
Suite 150
Washington, D.C. 20036

Re: Ordinance Regulating Radio Frequency Interference,
Pierre, South Dakota

Dear Mr. Imlay:

This is in response to your letter of January 16, 1990, concerning an ordinance enacted in Pierre, South Dakota, empowering the City Inspector to investigate and prohibit emissions by radios and other electronic devices which cause or create interference to television or radio reception. You state that the City Inspector has enforced this ordinance against an amateur radio operator licensed by the Commission, and you seek an opinion concerning the validity of the ordinance.

Congress has preempted any concurrent state or local regulation of radio interference pursuant to the provisions of the Communications Act. See 47 U.S.C. § 302(a). Section 302(a)(1) of the Act provides that 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" 47 U.S.C. § 302(a)(1). The legislative history of Section 302(a) provides explicitly that the Commission has exclusive authority to regulate radio frequency interference (RFI). In its Conference Report No. 97-765, Congress declared:

The Conference Substitute is further intended to clarify the reservation of exclusive jurisdiction to the Federal Communications Commission over matters involving RFI. Such matters shall not be regulated by local or state law, nor shall radio transmitting be subject to local or state regulation as part of any effort to resolve an RFI complaint.

Christopher C. Imlay, Esquire

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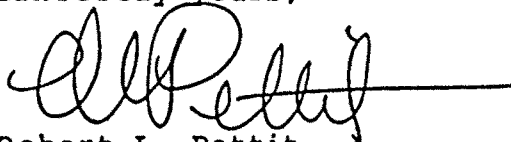
H.R. Report No. 765, 97th Cong., 2d Sess. 33 (1982), reprinted at 1982 U.S. Code Cong. & Ad News 2277.

State laws that require amateurs to cease operations or incur penalties as a consequence of radio interference thus have been entirely preempted by Congress.

Of course, any member of the public may seek the Commission's assistance in resolving interference problems. The Commission's Field Operations Bureau (FOB) frequently investigates radio interference complaints and has prepared the enclosed pamphlets describing the various remedies available to address radio interference matters. Members of the public in Pierre experiencing interference may also wish to contact Dennis P. Carlton, Engineer-in-Charge of FOB's Denver Office at (303) 236-8026.

I trust the foregoing is responsive to your inquiry.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "R. L. Pettit", with a long horizontal line extending to the right.

Robert L. Pettit
General Counsel

Enclosures

cc: City Inspector, Pierre, South Dakota