

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 15-0339.01 Gregg Fraser x4325

SENATE BILL 15-041

SENATE SPONSORSHIP

Holbert,

HOUSE SPONSORSHIP

Van Winkle,

Senate Committees

Local Government

House Committees

Local Government

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT LOCAL GOVERNMENTS REGULATE**
102 **AMATEUR RADIO COMMUNICATIONS IN ACCORDANCE WITH AN**
103 **EXISTING FEDERAL PREEMPTION ESTABLISHED BY THE FEDERAL**
104 **COMMUNICATIONS COMMISSION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

The federal communications commission (FCC) currently limits the authority of local governments to regulate amateur radio communications. Any local government regulation must be based on

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
2nd Reading Unamended
February 19, 2015

SENATE
3rd Reading Unamended
January 26, 2015

SENATE
2nd Reading Unamended
January 23, 2015

health, safety, or aesthetic considerations, must be crafted to reasonably accommodate amateur radio communications, and must represent the minimum practicable regulation to accomplish a legitimate purpose of the local government. This federal preemption is contained in a memorandum opinion and order from the FCC known as "PRB-1".

The bill specifies that no local government shall enact or enforce an ordinance or resolution regulating amateur radio antennas that fails to comply with the restrictions contained in the PRB-1.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 29-20-109 as
3 follows:

4 **29-20-109. Local government regulation of amateur radio**
5 **antennas.** (1) NO LOCAL GOVERNMENT SHALL ENACT OR ENFORCE AN
6 ORDINANCE OR RESOLUTION REGULATING AMATEUR RADIO ANTENNAS
7 THAT FAILS TO CONFORM TO THE LIMITED PREEMPTION SET FORTH IN THE
8 MEMORANDUM OPINION AND ORDER PRB-1 ENTITLED "FEDERAL
9 PREEMPTION OF STATE AND LOCAL REGULATIONS PERTAINING TO
10 AMATEUR RADIO FACILITIES", 101 FCC 2d 952 (1985), ISSUED BY THE
11 FEDERAL COMMUNICATIONS COMMISSION AND FURTHER CODIFIED IN 47
12 CFR 97.15 (b). AN ORDINANCE OR RESOLUTION ADOPTED BY A LOCAL
13 GOVERNMENT THAT REGULATES AMATEUR RADIO ANTENNAS SHALL
14 CONFORM TO THE LIMITED FEDERAL PREEMPTION WHICH PROVIDES THAT
15 LOCAL GOVERNMENT REGULATIONS INVOLVING THE PLACEMENT,
16 SCREENING, OR HEIGHT OF ANTENNAS MUST:

17 (a) BE BASED ON HEALTH, SAFETY, OR AESTHETIC
18 CONSIDERATIONS;

19 (b) BE CRAFTED TO REASONABLY ACCOMMODATE AMATEUR
20 COMMUNICATIONS; AND

21 (c) REPRESENT THE MINIMUM PRACTICABLE REGULATION

1 REQUIRED TO ACCOMPLISH THE LOCAL GOVERNMENT'S LEGITIMATE
2 PURPOSE.

3 **SECTION 2. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly
6 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,
7 if a referendum petition is filed pursuant to section 1 (3) of article V of
8 the state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2016 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.