

THE HOUSE OF REPRESENTATIVES
Thursday, February 11, 2010

Committee Substitute for
House Bill No. 2812

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2812 - By: KEY of the House.

An Act relating to telecommunications; creating the Communications Freedom Act; stating legislative findings; providing for definitions; making legislative declaration that the use of any apparatus to transmit certain radio transmissions not causing harm or interference is not to be considered interstate commerce or subject to federal regulation; making legislative declaration that the use of any apparatus to transmit certain noncommercial radio transmissions is not to be considered interstate commerce or subject to federal regulation; making legislative declaration that the use of any apparatus to transmit certain radio transmissions not proven to have certain effect is not to be considered interstate commerce or subject to federal regulations; making certain actions unlawful; establishing penalty; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 211 of Title 17, unless there is created a duplication in numbering,
3 reads as follows:

4 This act shall be known and may be cited as the “Communications Freedom Act”.

5 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
6 Statutes as Section 212 of Title 17, unless there is created a duplication in numbering,
7 reads as follows:

8 The Legislature finds that the:

1 1. Tenth Amendment to the United States Constitution guarantees to the states
2 and their people all powers not granted to the federal government elsewhere in the
3 Constitution and reserves to the people and the State of Oklahoma certain powers as
4 they were understood at the time that Oklahoma was admitted to statehood. The
5 guarantee of those powers is a matter of contract between the state and people of
6 Oklahoma and the United States as of the time that the compact with the United States
7 was agreed upon and adopted by Oklahoma and the United States;

8 2. Ninth Amendment to the United States Constitution guarantees to the people
9 rights not granted in the Constitution and reserves to the people of Oklahoma certain
10 rights as they were understood at the time that Oklahoma was admitted to statehood.
11 The guarantee of those rights is a matter of contract between the people and the State of
12 Oklahoma and the United States as of the time that the compact with the United States
13 was agreed upon and adopted by Oklahoma and the United States; and

14 3. Regulation of intrastate commerce is vested in the states under the Ninth and
15 Tenth Amendments to the United States Constitution.

16 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 213 of Title 17, unless there is created a duplication in numbering,
18 reads as follows:

19 A. The Legislature of the State of Oklahoma declares that:

20 1. The definitions as found in 47 U.S.C., Section 153, shall apply to the definition of
21 terms as used in this section;

1 2. The use or operation of any apparatus for the transmission of energy,
2 communications or signals by radio originating inside the State of Oklahoma, that has
3 not been proven and adjudicated by the Oklahoma court system or the federal court
4 system to specifically be causing, or to have caused quantifiable harm to, or interference
5 with the transmission or reception of energy, communications or signals from:

- 6 a. within Oklahoma to any place beyond its borders,
- 7 b. any place beyond the borders of Oklahoma to any place within
8 Oklahoma, or
- 9 c. to places beyond the borders of Oklahoma,

10 is not intended to be involved in interstate commerce, nor to have any effect upon
11 interstate commerce and is not subject to federal law or federal regulation under the
12 authority of the United States Congress to regulate interstate commerce;

13 3. The use or operation of any apparatus for the transmission of energy,
14 communications or signals by radio originating inside the State of Oklahoma that has
15 either been recognized by an agency of the State of Oklahoma to be noncommercial in
16 nature or that has been proven and adjudicated within the Oklahoma court system to be
17 noncommercial in nature is not intended to be involved in interstate commerce, nor to
18 have any effect upon interstate commerce and is not subject to federal law or federal
19 regulation under the authority of the United States Congress to regulate interstate
20 commerce; and

21 4. The use or operation of any apparatus for the transmission of energy,
22 communications or signals by radio originating inside the State of Oklahoma, the effects

1 of which have not been proven and adjudicated by the Oklahoma court system or the
2 federal court system to extend beyond the borders of the State of Oklahoma, is not
3 intended to be involved in interstate commerce, nor to have any effect upon interstate
4 commerce and is not subject to federal law or federal regulation under the authority of
5 the United States Congress to regulate interstate commerce.

6 B. It shall be unlawful for any person, under color of federal law, regulation or
7 authority, to interfere with the use or operation of any apparatus for the transmission of
8 energy, communications or signals by radio originating inside the State of Oklahoma,
9 when the use or operation of such is not subject to federal law or regulation in accordance
10 with this section. Any person convicted of violating the provisions of this subsection
11 without proving jurisdiction of the federal government, or without proving official
12 capacity and authority to act in the name of the federal government, shall be guilty of a
13 felony and shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) or
14 by imprisonment in the State Penitentiary not exceeding two (2) years, or by both such
15 fine and imprisonment.

16 SECTION 4. This act shall become effective November 1, 2010.

17 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
18 FINANCIAL SERVICES, dated 02-10-10 - DO PASS, As Amended.