

CHAPTER 68
HOUSE BILL No. 2805*

AN ACT concerning telecommunications; establishing the Kansas emergency communications preservation act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) In order to enhance and preserve the operation of federally licensed amateur radio communications and to ensure its continued role in serving as an integral resource during times of emergency for Kansas and its communities, there is hereby enacted an act which may be known and cited as the Kansas emergency communications preservation act.

(b) As used in this section:

(1) "Amateur radio services" means:

(A) Amateur service, as defined in 47 C.F.R. 97.3 (April 25, 2001) as a radiocommunication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest;

(B) amateur-satellite service, as defined in 47 C.F.R. 97.3 (April 25, 2001) as a radiocommunication service using stations on earth satellites for the same purpose as those of the amateur service; and

(C) radio amateur civil emergency service, as defined in 47 C.F.R. 97.407 (February 10, 2000).

(2) "Amateur service communications" means communications carried out by one or more of the federally licensed amateur radio services.

(3) "Amateur station" means a station in an amateur radio service consisting of the apparatus necessary for carrying on radiocommunications.

(4) "Station antenna structures" means the antennas that serve a federally licensed amateur station, including such appurtenances and other structures as may be necessary to support, stabilize, raise, lower or otherwise adjust the antennas. The station antenna structures shall not be construed to be permanent structures.

(c) A governing body of a city or county shall not adopt an ordinance, resolution, regulation or plan, or take any other action that precludes federally licensed amateur radio service communications, or that in any manner does not conform to the provisions of 47 C.F.R. 97.15 and the limited preemption entitled "amateur radio preemption, 101 F.C.C. 2d 952 (1985)" as issued by the federal communications commission.

(d) If a governing body of a city or county adopts an ordinance, resolution, regulation or plan, or takes any other action that regulates the placement, screening, number or height of a station antenna structure based on health, safety or aesthetic considerations, the ordinance, resolution, regulation, plan or action must:

(1) Reasonably accommodate federally licensed amateur radio service communications; and

(2) constitute the minimum regulation practicable to carry out the legitimate purpose of the governing body.

(e) The provisions of this section do not apply to any district organized pursuant to federal, state or local law, for the purpose of historic or architectural preservation.

(f) Any ordinance, resolution, regulation, plan or other action adopted or taken by a governing body in violation of the provisions of this section is void.

(g) Station antenna structures constructed prior to the effective date of this section are exempted from subsequent changes in zoning regulations by the city or county and may be repaired as required.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.