



Written by [chuck](#) - on November 6, 2009

Another State Introduces Firearms Freedom Act

According to a report published on the Tenth Amendment Center's website, "Introduced in the Ohio House on October 16, 2009, the 'Firearms Freedom Act' (HB-315) seeks 'To enact section 2923.26 of the Revised Code to provide that ammunition, firearms, and firearm accessories that are manufactured and remain in Ohio are not subject to federal laws and regulations derived under Congress' authority to regulate interstate commerce and to require the words "Made in Ohio" be stamped on a central metallic part of any firearm manufactured and sold in Ohio.'"



The [report](#) went on to say, "While the HB315's title focuses on federal gun regulations, it has far more to do with the 10th Amendment's limit on the power of the federal government. It specifically states:

"The regulation of intrastate commerce is vested in the states under the Ninth and Tenth Amendments to the United States Constitution, particularly if not expressly preempted by federal law. The congress of the United States has not expressly preempted state regulation of intrastate commerce pertaining to the manufacture on an intrastate basis of firearms, firearm accessories, and ammunition."

Some supporters of the legislation say that a successful application of such a state-law would set a strong precedent and open the door for states to take their own positions on a wide range of activities that they see as not being authorized to the Federal Government by the Constitution.

Two states have already passed their own Firearms Freedom Acts: Montana and Tennessee. And, along with Ohio, at least seven other states have introduced similar bills. Those states are Alaska, Florida, Michigan, Minnesota, Pennsylvania, South Carolina, and Texas.

More information regarding the status of these State bills can be seen [here](#).

As you might suspect, the federal government doesn't take too kindly to these state laws. In fact, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) sent an open letter to all Montana and Tennessee firearms dealers denouncing the state laws. ATF assistant director Carson Carroll wrote that "Federal law supersedes the Act."

The Tenth Amendment Center quotes constitutional historian Kevin Gutzman as correctly stating, "Their [ATF's] view is that the states exist for the administrative convenience of the Federal Government, and so of course any conflict between state and federal policy must be resolved in favor of the latter. "This is another way of saying that the Tenth Amendment is not binding on the Federal Government. Of course, that amounts to saying that federal officials have decided to ignore the Constitution when it doesn't suit them."

Ah! But that's just the problem: The federal government has been ignoring the Constitution for decades — so much so that if there is going to be any restoration of genuine liberty in the country, the states are



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going to have to stand up to this out-of-control national leviathan and say, "No." And they are going to have to say it loudly enough for Washington to get the message. And I cannot think of a freedom issue that is better to "draw a line in the sand" for than the issue of the right of the people to keep and bear arms.

At the end of the day, the Second Amendment was never about hunting or target shooting. It has always been about protecting the people and states against federal tyranny.

The Second Amendment itself states, "A well regulated Militia, *being necessary to the security of a free state*, the right of the people to keep and bear Arms shall not be infringed." (Emphasis added.) Note that the purpose of the right to keep and bear arms was to insure "the security of a *free state*." (Emphasis added.) "Free from what?" you ask. Free from federal tyranny. Free from an overbearing, encroaching, heavy-handed, would-be national government.

The Founders — even the Centralists of the day — all acknowledged that the right to keep and bear arms was, first of all, for the protection of the people against government tyranny. Observe:

- "If circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little, if at all, inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow-citizens." (Alexander Hamilton, *The Federalist Papers*, Number 29)
- "While the people have property, arms in their hands, and only a spark of noble spirit, the most corrupt Congress must be mad to form any project of tyranny." (Rev. Nicholas Collin, *Fayetteville [NC] Gazette*, October 12, 1789)
- "The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government." (Thomas Jefferson)
- "Who are the militia? Are they not ourselves?... Congress has no power to disarm the militia. Their swords, and every other terrible implement of the soldier, are the birthright of an American.... The unlimited power of the sword is not in the hands of either the federal or state governments, but, where I trust in God it will ever remain, in the hands of the people." (Tench Coxe, ally of James Madison and member of the Continental Congress, *Freeman's Journal*, February 20, 1778)
- "As civil rulers, not having their duty to the people duly before them, may attempt to tyrannize, and as the military forces which must be occasionally raised to defend our country, might pervert their power to the injury of their fellow-citizens, the people are confirmed by the next article [the Second Amendment] in their right to keep and bear their private arms." (Tench Coxe, remarks on the First Part of the Amendments to the Federal Constitution, *Philadelphia Federal Gazette*, June 18, 1789)

So, for now, 10 states have proposed — and two have passed — a Firearms Freedom Act, properly declaring that federal authority granted in the Constitution regarding interstate commerce cannot apply to products (firearms, in this case) that are manufactured and sold within the territory of each respective state. In other words, 10 states are serving notice to Washington, D.C., that they are going to insist that the federal government stop ignoring the Constitution of the United States.

In the same vein, Tennessee State Legislator Susan Lynn recently sent an [open letter](#) to the state legislative bodies of the other 49 states stating:

On June 23, 2009, House Joint Resolution 108, the State Sovereignty Resolution, was signed by Governor Phil Bredesen. The Resolution created a committee which has as its charge to:



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- *Communicate the resolution to the legislatures of the several states,
- *Assure them that this State continues in the same esteem of their friendship,
- *Call for a joint working group between the states to enumerate the abuses of authority by the federal government, and
- *Seek repeal of the assumption of the powers and the imposed mandates.

In the body of her letter, Rep. Lynn states, "The role of our American government has been blurred, bent, and breached. The rights endowed to us by our creator must be restored."

The Tennessee State representative continued by saying,

The Constitution does not include a congressional power to override state laws. It does not give the judicial branch unlimited jurisdiction over all matters. It does not provide Congress with the power to legislate over everything. This is verified by the simple fact that attempts to make these principles part of the Constitution were soundly rejected by its signers.

With this in mind, any federal attempt to legislate beyond the Constitutional limits of Congress' authority is a usurpation of state sovereignty—and unconstitutional.

This is a battle that is just beginning to heat up, but promises to get red-hot in the not-too-distant future. As for me and my house, we believe this showdown is long overdue. To quote Patrick Henry, "Let it come! I repeat it, Sir, let it come!"

This column is archived at http://www.chuckbaldwinlive.com/c2009/cbarchive_20091106.html

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