



Written by [Joe Wolverton, II, J.D.](#) on January 18, 2013

Missouri State Rep Introduces 2nd Amendment Protection Bill

On Wednesday, President Barack Obama surrounded himself with children masquerading as human theater props, announcing that he will issue a fistful of edicts aimed at eradicating gun violence. But critics of his proposals have often noted that criminals who have no problem committing murder will not somehow suddenly bend their violent will to the will of the president.



One state legislator in Missouri recognizes the federal anti-gun policy for what it is: an unconstitutional, illogical, and ill-fated gun grab.

On Tuesday, January 15, Missouri State Representative [Casey Guernsey](#) (R-Bethany) introduced a bill that would prevent the president from seizing weapons owned by citizens of the Show Me State. He said of his measure,

It is simply legislation to protect the basic Second Amendment rights given to Missouri citizens in the Constitution to keep and bear arms in their homes. The real problem and the real issue and one I found people don't seem to focus on is the fact that we got an administration willing to cut into our Second Amendment right by executive order which, by view of a lot of people in Missouri that I've been talking to over the last couple months, is unconstitutional in and of itself.

The bill — [HB 170](#), appropriately titled the Second Amendment Preservation Act — would nullify all acts of Congress, executive orders, and regulations that infringe on the right of the individual to own and possess guns and ammunition.

In relevant part, Guernsey's bill reads:

Any official, agent, or employee of the federal government who enforces or attempts to enforce any act, order, law, statute, rule, or regulation of the federal government upon a personal firearm, a firearm accessory, or ammunition that is owned or manufactured commercially or privately in the state of Missouri and that remains exclusively within the borders of the state of Missouri shall be guilty of a class D felony.

Conviction of a [class D felony in Missouri](#) carries a possible sentence of four years in prison.

Nullification is a concept of constitutional law recognizing the right of each state to nullify, or invalidate, any federal measure that exceeds the few and defined powers allowed the federal government as enumerated in the Constitution.

Nullification exists as a right of the states because the sovereign states formed the union, and as creators of the compact, they hold ultimate authority as to the limits of the power of the central government to enact laws that are applicable to the states and the citizens thereof.

As President Obama and [the United Nations accelerate their plan to disarm Americans](#), the need for nullification is urgent, and liberty-minded citizens are encouraged to see state legislators boldly



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asserting their right to restrain the federal government through application of that very powerful and very constitutional principle.

It is important to remember, finally, that any act of the federal government exceeding the limited powers granted it by the Constitution is not a law at all. Witness the words of Alexander Hamilton in [The Federalist, No. 33](#):

If a number of political societies enter into a larger political society, the laws which the latter may enact, pursuant to the powers intrusted [sic] to it by its constitution, must necessarily be supreme over those societies and the individuals of whom they are composed.... But it will not follow from this doctrine that acts of the larger society which are *not pursuant* to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies, will become the supreme law of the land. These will be merely acts of usurpation, and will deserve to be treated as such. [Emphasis in original.]

According to [a story by the CBS affiliate in St. Louis](#), Representative Guernsey says he is following the lead of other legislators in Wyoming who have recently written their own nullification bill. As *The New American* [reported earlier this month](#):

Republican legislators are rallying behind [nullification](#) legislation that would void unconstitutional infringements on the right to keep and bear arms, even providing prison time for any federal agents who may try to enforce Washington, D.C., gun control in the state. Lawmakers expect it to pass.

The new bill, [H.B. 0104 or the "Firearms Protection Act,"](#) would [nullify](#) any new federal infringements on the constitutionally protected gun rights of state residents — who enjoy some of the lowest crime rates while being among the most heavily armed people in America. Unconstitutional federal gun registration schemes, as well as restrictions on semi-automatic guns or standard-capacity magazines, would also be nullified under the legislation.

There are teeth in the proposed law too: Any federal official attempting to enforce unconstitutional statutes or decrees infringing on gun rights passed after January 1 of this year would be charged with a felony. If convicted, criminal officials would be punished by up to five years in state prison and a \$5,000 fine. The legislation also authorizes the state attorney general to defend citizens of Wyoming if federal authorities seek prosecutions under unconstitutional gun control rules.

In an interview with the Associated Press, the bill's chief sponsor, Representative Kendell Kroeker, revealed his sound understanding of federalism and the concept of enumerated powers.

"We're a sovereign state with our own constitutional form of government," Kroeker said. "We've got a right to make our laws, and if the federal government is going to try to enforce unconstitutional laws on our people and take away the rights of Wyoming citizens, then we as a state are going to step up and make that a crime."

The work of state lawmakers such as Casey Guernsey, Kendell Kroeker, and others is laudable and these men deserve the praise and support of every constitutionalist in every state in the union concerned about the march of federal tyranny threatening the sovereignty of every state.

To aid these legislators in charting a course toward the restoration of state sovereignty and constitutional principles of limited government, Americans should become more familiar with the basic constitutional facts upon which these expressions of state resistance to federal tyranny are built.

As the authors of the [Kentucky and Virginia Resolutions](#) that restated the right and responsibility of



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states to resist federal overreaching, Thomas Jefferson and James Madison knew that if the Constitution were to endure, state governments would have to steadfastly serve as barriers against the national government's predictable assaults on liberty. In fact, it was the understanding that the Constitution as proposed by the convention in Philadelphia in 1787 protected and preserved the power of the states to check any federal usurpation that convinced many fence-sitters during the ratification process to finally vote in favor of the new charter.

Years before he wrote the Virginia Resolution, Madison revealed his position on the proper role of states in the formation of the federal government, as well as its enduring right to rule in all but the most national matters. In [Federalist 39 he wrote](#): "Each State, in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act."

Thankfully, whether targeting [ObamaCare](#), the [National Defense Authorization Act \(NDAA\)](#), or the inalienable right of the people to keep and bear arms, several state legislators are voluntarily and courageously enlisting in the battle to force the federal government back into the constitutional cage where it belongs.

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