



Written by [Joe Wolverton, II, J.D.](#) on May 26, 2013

Mo. Gov. May Allow Gun Control Nullification to Pass Without His Signature

In less than two weeks, Missouri could join Kansas in enacting a state law refusing to enforce federal gun control measures.

[On May 22, the Second Amendment Preservation Act \(HB 436\) was sent to Governor Jay Nixon.](#) As of this writing, Nixon, a Democrat, has not indicated whether he plans to veto or sign the bill.

[Earlier this month,](#) both houses of the Republican-controlled state legislature passed the bill by an overwhelming majority.



When asked about Governor Nixon's intention, a source inside his office told *The New American* that in an effort to avoid multiplying the [several scandals already plaguing his administration](#), Nixon would likely let the bill sit on his desk without signing or vetoing it, thus allowing the measure to become law without his participation.

According to [Article III, Section 31 of the Missouri state constitution](#):

Every bill which shall have passed the house of representatives and the senate shall be presented to and considered by the governor, and, within fifteen days after presentment, he shall return such bill to the house in which it originated endorsed with his approval or accompanied by his objections. If the bill be approved by the governor it shall become a law. When the general assembly adjourns, or recesses for a period of thirty days or more, the governor shall return within forty-five days any bill to the office of the secretary of state with his approval or reasons for disapproval. If any bill shall not be returned by the governor within the time limits prescribed by this section it shall become law in like manner as if the governor had signed it.

Therefore, the Missouri gun control nullification bill could become law on June 6 without the governor's signature.

Should he decide to sign the bill, however, Governor Nixon would join Governor Sam Brownback of Kansas, who recently enacted a similar measure passed with overwhelming support by the Kansas state legislature.

While there are similarities between the Kansas and Missouri measures, the text of the Missouri bill goes much farther in its bold opposition to attempts by the federal government to infringe on the right of Missourians to keep and bear arms as guaranteed by the Second Amendment.

The text of the Missouri bill declares that the state's General Assembly is "firmly resolved to support and defend the United States Constitution against every aggression, either foreign or domestic."

Section 2 of the bill goes on to affirm that the state legislature possesses not only the right to check federal overreaching, but that "the general assembly is duty bound to watch over and oppose every infraction of those principles which constitute the basis of the Union of the States, because only a faithful observance of those principles can secure the nation's existence and the public happiness."



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The bill opens with a brief recitation of the history of the creation of the federal government, a recounting that resounds with a firm grasp on the proper, constitutional relationship between state and federal governments, as well as the legal basis for nullification:

Acting through the United States Constitution, the people of the several states created the federal government to be their agent in the exercise of a few defined powers, while reserving to the state governments the power to legislate on matters which concern the lives, liberties, and properties of citizens in the ordinary course of affairs;

The limitation of the federal government's power is affirmed under the Tenth Amendment to the United States Constitution, which defines the total scope of federal power as being that which has been delegated by the people of the several states to the federal government, and all power not delegated to the federal government in the Constitution of the United States is reserved to the states respectively, or to the people themselves;

Whenever the federal government assumes powers that the people did not grant it in the Constitution, its acts are unauthoritative, void, and of no force;

The several states of the United States of America are not united on the principle of unlimited submission to their federal government. If the government created by the compact among the states were the exclusive or final judge of the extent of the powers granted to it by the Constitution, the federal government's discretion, and not the Constitution, would be the measure of those powers.

Specifically, the bill denies to the federal government the authority to enact any statutes, rules, regulations, or executive orders "which restrict or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition exclusively within the borders of Missouri."

Laudably, the bill as amended by the state Senate does not back down from a fight with the federal government over the Second Amendment. Section 3 of the bill boldly asserts:

All federal acts, laws, orders, rules, and regulations, whether past, present, or future, which infringe on the people's right to keep and bear arms as guaranteed by the Second Amendment to the United States Constitution and Article I, Section 23 of the Missouri Constitution shall be invalid in this state, shall not be recognized by this state, shall be specifically rejected by this state, and shall be considered null and void and of no effect in this state.

That final phrase echoes a similar statement made by 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.]

Passage by the state legislature of the Second Amendment Preservation Act comes at a very tense time in the relationship between the Obama administration and state governments determined to thwart the former's intent to place greater restriction on the individual's right to buy, sell, trade, transfer, or own firearms, ammunition, or component parts of weapons.



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As [The New American has reported](#), after Governor Sam Brownback signed into law a bill passed by the Kansas legislature excluding Kansas-made and owned weapons from federal regulations, U.S. Attorney General Eric Holder fired off a threatening letter to Brownback warning him that the Obama administration would “take all appropriate actions” to enforce federal gun control laws, calling the Kansas statute “unconstitutional.”

To his credit, [Brownback told Holder](#) that Kansas was within its rights to protect its citizens’ right to keep and bear arms as guaranteed by the Second Amendment.

Something Governor Brownback and lawmakers in Kansas and Missouri understand is that the federal government is the creature, not the creator. The states ceded a portion of their sovereignty to the federal government and they specifically enumerated that authority in the Constitution.

Federal exercise of power, as understood by Madison, Jefferson, et al., is legitimate only if those powers were granted to the national government by the people and listed specifically in the Constitution.

Madison described any attempt by the federal government to act outside the boundaries of its constitutional powers as a “dangerous exercise,” and reminded state legislatures that they were “duty bound, to interpose for arresting the progress of the evil.”

Considering, then, that the Second Amendment to the Constitution explicitly forbids the federal government from infringing on the right of citizens to keep and bear arms, any movement by Congress or the White House in that direction certainly passes Madisonian muster for state nullification.

Photo of Gov. Jay Nixon: AP Images

Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels frequently nationwide speaking on topics of nullification, the NDAA, and the surveillance state. He can be reached at jwolverton@thenewamerican.com.



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