Written by **Joe Wolverton, II, J.D.** on February 2, 2013

South Carolina Bill Exempts Unorganized Militia From Federal Gun Grab

As the United Nations and the Obama administration combine to outlaw private ownership of weapons and ammunition, state and local leaders nationwide are responding to the crisis.

As *The New American* continues to report, sheriffs, county commissions, and state legislators are passing bills aimed at stopping the federal gun grab at their sovereign borders.

On January 16, four South Carolina state senators joined the fight to protect the Second Amendment and to safeguard their citizens from federal tyranny.

Senate Bill 247 is sponsored by state Senators Tom Corbin, Tom Davis, Kevin Bryant, and Lee Bright. Although only four senators currently sponsor the bill, sources inside the South Carolina House of Representatives report that a companion measure will soon be offered in that chamber, as well.

The Senate bill aims to protect the right of citizens of the Palmetto State to keep and bear arms by amending the definition and rights of the state's "unorganized militia."

According to Section 25-1-80 of the South Carolina Code, "an able-bodied citizen of this State who is over seventeen years of age and can legally purchase a firearm is deemed a member of the South Carolina Unorganized Militia, unless he is already a member of the National Guard or the organized militia not in National Guard service."

The newly proposed bill exempts all members of the unorganized militia (essentially everybody over 17) from complying with federal firearms restrictions passed after January 1, 2013.

Per the bill, "A militia member, at his own expense, shall have the right to possess and keep all arms that could be legally acquired or possessed by a South Carolina citizen as of December 31, 2012. This includes shouldered rifles and shotguns, handguns, clips, magazines, and all components."

Members of the state militia are specifically exempted from falling under the jurisdiction of "any law or regulation or jurisdiction of any person or entity outside of South Carolina." That includes, it would seem, the United Nations, the federal government, and Barack Obama.

This attempt to stop unlawful federal acts at the sovereign borders of a state is called nullification.

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 U.S. 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 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.]

One of the bill's co-sponsors, Senator Corbin, told the Daily Caller that his bill has one purpose: to uphold the right to keep and bear arms as guaranteed by the Second Amendment. "The premise is that that is our state standing army, and the federal government has no jurisdiction to tell our militia what sort of weapons we can possess," he said.

Such protection is not unnecessary given the current climate so hostile to the Second Amendment, specifically to a slew of "assault weapons" and "high-capacity ammunition clips" that will soon be heavily regulated by the federal government.

President Obama has already issued 23 executive orders all but shredding the Second Amendment, and in the pre-dawn hours following his reelection he instructed the U.S. delegation to the United Nations to get the global gun control ball rolling as well.

An armed militia has historically been vital to the maintenance of liberty and the safety of the people.

"A well regulated Militia, being necessary to the security of a free State … shall not be infringed."

As for the need for state militias and their role in the protection of liberty, the Founding Fathers could not have been clearer in their statements in that regard.

In *The Federalist*, No. 46, James Madison wrote that should the unthinkable (to him) happen and the federal government overrun the high fences placed by the states around its constitutional powers, every foxhole in the field of the battle over the exercise of sovereignty would be filled with members of the state militias.

George Washington, perhaps better than anyone, understood that a well-trained but otherwise ad-hoc army composed of state militias could be powerful enough to defeat the invading forces of a mighty empire. The general recognized the urgent need for a disciplined, organized, and independent state militia. As the continental commander-in-chief, Washington knew very well that training an army of citizen soldiers — many of whom used their muskets for little more than hunting — was crucial to restoring the freedom of America. In fact, it was the need for a more well-regulated force that compelled Washington to hire Friedrich von Steuben to drill the soldiers of the Continental Army.

His experience in the War for Independence likely inspired this quote, as well: "A free people ought not only to be armed and disciplined, but they should have sufficient arms and ammunition to maintain a status of independence from any who might attempt to abuse them, which would include their own

government," Washington warned.

Heedless, most states of the United States have failed to maintain an armed and disciplined militia capable of maintaining (or regaining) their independence.

Thankfully, South Carolina and a handful of other states, counties, and cities, recognize the historical and constitutional value and necessity of a well-regulated militia.

Undoubtedly, the federal government will challenge the South Carolina law (should it become such) and all other efforts by states to assert their sovereign authority to nullify federal overreaches. Lawyers for the Obama administration will assert the so-called Supremacy Clause of Article VI of the Constitution, which declares, "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof … shall be the supreme Law of the Land … any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

What South Carolina understands and President Obama does not, however, is that Article VI protects federal laws made "in pursuance" of the Constitution. Laws made in violation of the Constitution deserve no such respect.

Photo: South Carolina State House

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.*