



Written by [Joe Wolverton, II, J.D.](#) on December 3, 2016

## Texas Bill Would Restore Right to Carry Firearms Without Gov't Permission

If a bill passes through the state legislature next year and is signed by the governor, Texas will become the 12th state to restore the carrying of a weapon to the status of a right, not a privilege given at the will of the government.

Days ago, Texas state representative Jonathan Stickland filed a bill to be debated in the 2017 legislative session that would remove the current requirement of having a permit to carry a handgun.

The bill, the [Texas Constitutional Carry Act](#) (HB 375), would protect the right — right, not permission — of a person (who is not otherwise prohibited by law from possessing a firearm) to conceal and carry that firearm in public.

Additionally, the carrying of a concealed firearm would not be permitted to be used by police as “reasonable belief to disarm or detain an otherwise law-abiding person.”

This type of measure is called “constitutional carry,” and it represents a nationwide effort by constitutionally minded state legislators to return to the people a right they enjoy as human beings, ending the government’s role of arbiter of who can and cannot carry weapons — a power never intended to be wielded by government at any level.

“Constitutional carry is a big step toward being able to exercise a natural right that has been infringed at all levels for far too long,” stated Scott Landreth, the policy lead at the gun rights organization ShallNot.org.

There is, of course, no such thing as a “reasonable” restriction on owning or carrying a firearm that passes constitutional muster. The Second Amendment permits no infringement whatsoever by government on this most fundamental right.

While the Texas constitutional carry bill is a step in the right direction, the measure does not completely restore the right to keep and bear arms as that right was understood by the Founding Generation and by generations of other free men for centuries.

The bill retains the restrictions on open carry of firearms, as well as on the carrying of firearms on campuses or other property of institutions of higher learning.

The Second Amendment explicitly forbids the federal government from infringing on the right to keep and bear arms. The Constitution is not created as a check on state power (for the most part), so while state regulations on gun ownership may not be specifically prohibited by the Constitution, having state tyrants take away essential liberties is no more preferable than having them taken by tyrants in Washington, D.C.

When state conventions were being held to decide whether to ratify the proposed Constitution, men on





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both sides of that question understood that the possession and use of a weapon by the people of the states would be the last and most reliable check on politicians determined to erect a despotism on top of the ruins of a republic.

James Madison, writing in *Federalist* 46, explained that Americans “with arms in their hands” would fight “for their common liberties” and “could never be conquered” by the forces of tyranny.

Americans, Madison continued, have “the advantage of being armed,” an advantage they have, he insisted “over the people of almost every other nation.” When they would see the “gathering storm” of tyranny, these armed citizens would “form a barrier against ambition more insurmountable than any which a simple government of any form can admit of.”

Sadly, we have watched this advantage be diminished year after year by federal and state gun regulations.

Fortunately, there are now a number of state legislators, such as Representative Stickland in Texas, who are promoting bills that would restore, at least in some measure, the advantage of being armed that the Founding Fathers knew would be the last and greatest block on the rise of a tyrant.

Finally, a word from another member of the Founding Generation who spoke passionately and persuasively on the historically evident purpose behind protecting the right of the people to keep and bear arms.

St. George Tucker was a patriot and friend of Thomas Jefferson. During the War for Independence (there was no revolution in America; there was a restoration), Tucker, on the order of Governor Patrick Henry, smuggled weapons into Virginia for use by the state’s militia. During that war, Tucker himself served in the militia of the Old Dominion, leading several raids on the British invaders.

After the war, Tucker became a judge — first serving as a circuit judge and later as a federal judge appointed by James Madison. It was during his work as a jurist that Tucker wrote commentaries on the work of William Blackstone, applying analogies from that inimitable work to the Constitution of the United States.

After quoting the Second Amendment, Tucker wrote the following, identifying the reason the right to keep and bear arms was considered sacrosanct by the men of the Founding Generation:

This may be considered as the true palladium of liberty.... The right of self defence [sic] is the first law of nature: in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Wherever standing armies are kept up, and the right of the people to keep and bear arms is, under any colour [sic] or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.

The Texas Constitutional Carry Act will be taken up by the Lone Star State’s legislature in the new year, and 2017 could be when citizens of Texas see one of their most important liberties brought significantly closer to the constitutional standard set by our Founders, as their chosen representatives rebuild the “true palladium of liberty.”



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