



Texas Legislature May Criminalize ObamaCare

A bill which Rep. Leo Berman (R-Dist. 6) has introduced for consideration by Texas' 82nd Legislature would give a whole new meaning to the phrase, "Don't Mess With Texas." If HB 297 becomes law, the Lone Star State will be on a direct collision course with the federal government over ObamaCare because it would criminalize any attempt to implement it in Texas.



[Berman's bill defines](#) the "Patient Protection and Affordable Care Act" as a direct assault on the Tenth Amendment of the U.S. Constitution. Rep. Berman summarizes the illegality of the imposition of federal interference on the nation's healthcare as follows:

the people of the several states comprising the United States of America created the federal government as their agent for certain enumerated purposes, and nothing more;

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

the assumption of power by the federal government in enacting the Patient Protection and Affordable Care Act (H.R. 3590; Pub. L. No. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (H.R. 4872; Pub. L. No. 111-152) interferes with the right of the people of this state to regulate health care as they determine is appropriate, and makes a mockery of James Madison's assurance in *Federalist Paper* Number 45 that the powers delegated to the federal government are "few and defined" while those that remain in the state governments are "numerous and indefinite."

But Rep. Berman's bill is not intended merely as a civics lesson for Washington D.C., and HB 297 is more than simply an assertion of the rights reserved to the States. The bill specifically states that the federal act:

- (1) is invalid in this state;
 - (2) is not recognized by this state;
 - (3) is specifically rejected by this state; and
- is null and void and of no effect in this state.

Thus, if enacted, the bill would place the State of Texas at odds with any effort by the Obama administration to implement the unconstitutional federal action.

Furthermore, HB 297 would criminalize any attempt to implement ObamaCare. The second section of the bill would amend the Texas Government Code to stipulate that "a person who is an official, agent, or



Written by [James Heiser](#) on December 7, 2010

employee of the United States or an employee of a corporation providing services to the United States commits an offense if the person enforces or attempts to enforce an act, order, of this chapter.” And the commission of the felony of implementing the federal takeover of healthcare would carry a stiff penalty for such federal officials, agents, or employees, since their action would be “a state jail felony punishable by confinement for a term of not more than five years, a fine of not more than \$5,000, or both the confinement and the fine. Any public officer or employee of the State of Texas would be guilty of a class A misdemeanor if they were involved in an effort to implement Obamacare, meaning they would be open to “punishable by confinement for a term of not more than two years, a fine of not more than \$1,000, or both the confinement and the fine.”

It is far from certain at this point how far Rep. Berman’s proposed bill will proceed in the upcoming legislative session. At the very least, it is one more signal that the upcoming year will be far from dull in Austin, as the Lone Star State considers taking the nullification of federal intrusion into States’ rights to the next level.

Photo of Rep. Leo Berman: AP Images



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