Written by **Joe Wolverton, II, J.D.** on February 20, 2016

Arizona House to Consider Bill Nullifying All Future Federal Violations of Second Amendment

On February 17, a committee of the Arizona House approved a measure that would prohibit the state from employing people or funds to enforce federal gun control edicts.

State representatives Anthony Kern, Darin Mitchell, and Steve Montenegro filed House Bill 2300 along with three co-sponsors.

The bill intends to forbid any state or local agency and their employees from knowingly and willingly participating in any way in the carrying out of any federal act, law, order, rule, or regulation promulgated for the purpose of restricting the right to own a personal firearm, a firearm accessory, or ammunition.

Any such order or act is declared unconstitutional in that it "infringes the right to keep and bear arms guaranteed by the Second Amendment of the United States Constitution or that impairs that right in violation of Article 2, Section 26 of the Arizona constitution."

The Arizona Constitution reads in relevant part, "The right of the individual citizen to bear arms in defense of himself or the State shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain, or employ an armed body of men."

The use of state assets or money in the enforcement of any forthcoming federal gun restrictions is explicitly banned by the bill.

As reported by the Tenth Amendment Center, "Any local government found to have assisted in the enforcement of such federal gun laws in violation of the act would lose all of its state funding the following year. State or local employers would face criminal penalties for knowingly violating the law."

The enactment of legislation such as that being considered in Arizona and in several of her sister states is critical today as the danger to the right to keep and bear arms is now clear and present. The attacks on this most fundamental of all individual liberties are coming from several fronts, including the restrictions hidden inside multinational sovereignty surrenders masquerading as trade agreements.

Of course, the candidates for president — every one of them from every political party — in some degree or another support "reasonable" regulation of firearms by the federal government, a concept wholly and completely foreign to our Founding Fathers.

To be clear, moreover, one must appreciate that there is nothing in the Second Amendment that excludes ownership of certain weapons from within its protection. In fact, the text of the Second Amendment is very clear regarding the government's ability to qualify this most basic liberty: "the right of the people to keep and bear arms, shall not be infringed."

Support from any candidate for public office for the concept that the government has the right to give and take away the right to own firearms depending on whether the person has complied with federal guidelines is treachery! Although Americans have allowed this right to be redefined by Congress, the courts, and the president, the plain language of the Second Amendment explicitly forbids any infringement on this right that protects all others.

The reason for inclusion of the Second Amendment in the Bill of Rights had little to do the British and more to do with future attempts by an out-of-control, all-powerful central authority disarming the American people as a step toward tyranny. Take, for example, the following statements by our forefathers regarding the purpose of the passage of this amendment. In commenting on the Constitution in 1833, Joseph Story wrote:

> The right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, *even if these are successful in the first instance, enable the people to resist and triumph over them.* [Emphasis added.]

In his own commentary on the works of the influential jurist Blackstone, Founding-era legal scholar St. George Tucker wrote:

> This may be considered as the true palladium of liberty…. The right of self defence 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 or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.

Writing in *The Federalist*, Alexander Hamilton explained:

> If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government, and which against the usurpations of the national rulers, may be exerted with infinitely better prospect of success than against those of the rulers of an individual state.

After learning of the true history of the Second Amendment's protection of the individual's right to keep and bear arms, the first step in thwarting the federal government's goal of consolidating all power in Washington is to remember that any federal act, regulation, or order that exceeds the constitutional limits on federal power has no legal effect. States can — must — courageously refuse to enforce those acts using the historically, legally, and constitutionally sound principle of nullification.

Nullification recognizes the reserved authority of states to invalidate any federal measure that a state deems unconstitutional. Nullification is founded on the fact that *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 federal government to enact laws that are applicable to states and their citizens.

That our Founders understood this principle is demonstrated by Alexander Hamilton in *The Federalist*, No. 78:

> There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the

> representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

James Madison, also writing in *The Federalist*, recommended that state legislators, in order to prevent federal abridgment of fundamental liberties, should refuse "to co-operate with the officers of the Union."

And that is precisely what the bill recently approved by the Arizona House Judiciary Committee would empower the Grand Canyon State to do.

The bill is scheduled next to be considered by the Arizona House Rules Committee.

Photo: Arizona state flag