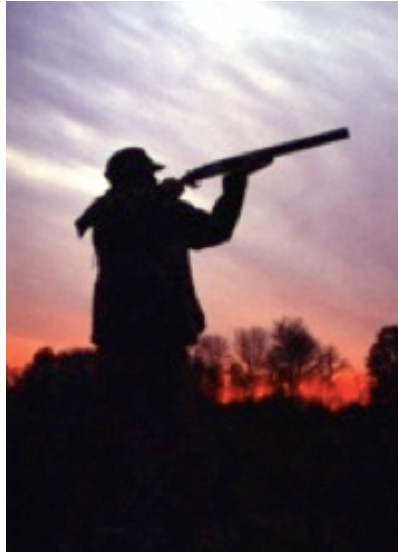




Written by [Patrick Krey](#) on March 10, 2010

## Firearms Freedom Spreading

The Tenth Amendment movement sweeping across the nation has made its way to the Beehive State. The Utah-Made Firearm Act states that all firearms, firearm accessories, and "ammunition that is manufactured commercially or privately in the state to be used or sold within the state [of Utah] is not subject to federal law or federal regulation, including registration, under the authority of Congress to regulate interstate commerce." The bill, SB11, was signed by Utah Governor Herbert Cary on February 26 after passing through the state legislature in a near-party line vote.



SB11 is part of a series of similar Firearms Freedom Acts (FFA) that have also been passed in Montana and Tennessee and introduced in other states. The FFA openly challenges the federal contention that it has the authority to regulate firearms under the interstate commerce clause of the U.S. Constitution, by declaring that any firearms made and retained in-state are beyond the authority of Congress under its constitutional power to regulate commerce among the states.

Utah State Senator Margaret Dayton [explained the motivation](#) behind SB11 and other 10th Amendment legislation. "The federal overreach is out of control.... That tyrannical overreach is what we're trying to stop with this bill ... [and the passage of SB11] illustrates the universal yearning for freedom and shows the people still feel the spark that inspired our ancestors at Lexington and Valley Forge. My hope is that the march toward tyranny can be turned back with our votes."

Opponents of the bill and similar state sovereignty legislation argue that such legislation would never be found to be constitutional by federal courts. According to retired University of [Utah law professor John Flynn](#), "It would really be quite ridiculous of the [Supreme Court] to even take a case like this.... You'd have huge impact across the federal code." Flynn considers SB11 and similar legislation "asinine" because they ignore Supreme Court precedent that interprets the interstate commerce clause into an almost unlimited grant of regulatory power to Congress.

As [The New American](#) has reported before, it is highly unlikely that such legislation will be validated in federal court but that shouldn't be the goal of passing FFAs.

Some activists are heading down the fruitless path of endless legal challenges in federal courts to validate their state nullification legislation... While good-hearted, these groups are unnecessarily expending their time and energy. Just as Thomas Woods explained at the Campaign for Liberty conference, entrusting one party (the federal government) with the sole power to interpret a contract (U.S. Constitution) is the problem. Most observers familiar with the centralizing nature of the federal courts would be shocked if the courts suddenly did a complete 180 and ruled that an act like the Freedom Firearms Act was constitutional. This was exactly why citizens took their battles to the state legislatures. If Montanans were serious about their sovereignty, they would simply start following the



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terms of the Freedom Firearms Act and ignore any federal directives.

Opportunities for such nullification actions are presenting themselves as more and more states pass FFAs. A Firearm Freedom Act easily passed through the state Senate in [Wyoming and is expected to be signed into law](#) by Governor Dave Freudenthal. Wyoming's law includes a provision not in earlier versions of FFAs. The [Billings Gazette](#) reports that "Wyoming's Firearms Freedom Act, though, is harsher ... as it states that any state or federal official who tries to enforce any federal gun law on a firearms made and sold in Wyoming could face a \$2,000 fine and up to a year in prison."

State Representative [Allen Jaggi](#), author of the Wyoming FFA, said that the bill is largely a symbolic gesture. "I think unless we have some overzealous federal officers, this is not a real big deal to them... I'm hoping that nothing really happens except that other states see, 'Hey they did it — let's do it. Let's assert our state rights.'"

Similar legislation is gaining momentum in Oklahoma. State Senator Randy Brogdan, author of the Oklahoma FFA, told the media, "I just don't accept the idea that the federal government has any right to regulate firearms... If we did not have the right to bear arms, we would have no country." The Oklahoma FFA passed the Senate with overwhelming bipartisan support and is now with the state House of Representatives. Brogdan added, "As a private citizen and as a state senator, I believe it is important that we guard against the continued erosion of the Bill of Rights, including the right to protect ourselves and our families.... This legislation reaffirms our Second Amendment rights."



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