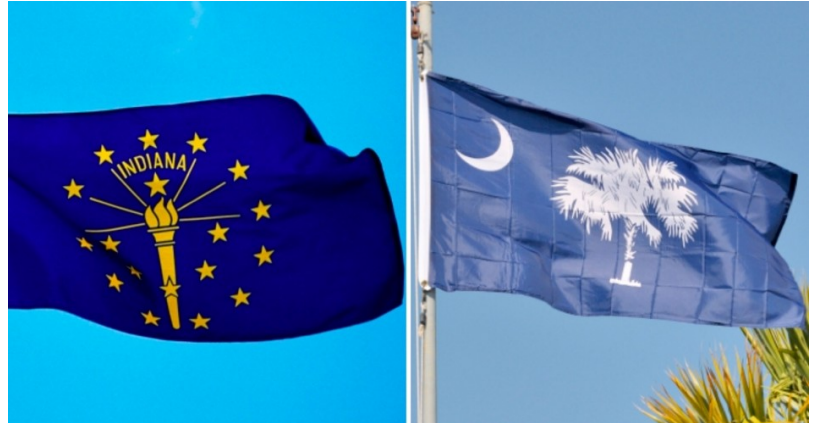




Written by [Joe Wolverton, II, J.D.](#) on January 13, 2013

## Indiana, South Carolina Join Fight to Nullify ObamaCare

As the multitude of mandates contained within the ObamaCare behemoth begin breathing down the necks of Americans, state legislators across the country are proposing bills to protect citizens from being subjected to the healthcare law's unconstitutional provisions. These bills are also designed to restore the walls of sovereignty that protect states from an overreaching federal authority.



In Indiana, for example, [State Senator Phil Boots](#) has offered a nullification bill that would prohibit the enforcement of ObamaCare (officially called the Patient Protection and Affordable Care Act) in the Hoosier State.

Boots' bill ([SB 0230](#)) proposed changes to the current Indiana Code regarding the administration of state and local government. Citing the [Tenth Amendment](#) as authority, Boots' bill states:

Provides that any federal act, order, law, rule, regulation, or statute found by the general assembly to be inconsistent with the power granted to the federal government in the Constitution of the United States is void in Indiana. Provides that a resident of Indiana has a cause of action to enjoin the enforcement or implementation or the attempted enforcement or implementation of a federal act, order, law, rule, regulation, or statute declared void by the general assembly. Provides that a plaintiff who prevails in such an action is entitled to reasonable attorney's fees and costs.

The general assembly finds the following:

The people of the several states comprising the United States of America created the federal government to be their agent for certain enumerated purposes as set forth in the Constitution of the United States and for nothing more.

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

Unlike similar statutes passed by other state legislatures, the Indiana bill criminalizes the enforcement of ObamaCare, declaring state or local compliance with unconstitutional acts of the federal government a felony. The relevant section of the nullification bill reads:

A person who knowingly or intentionally implements or enforces a federal law, or attempts to implement or enforce a federal law, that is declared void under section 2 of this chapter commits a Class D felony.

According to information on the Indiana legislature website, on January 7, 2013, [SB 0230](#) was slated to be considered by the Committee on Rules and Legislative Procedure.

As the noble opposition to federal tyranny proceeds in Indiana, state lawmakers in the Palmetto State are busy building trenches around their state, as well. According to a report filed by Columbia, South



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Carolina, television station WLTX, hundreds of [South Carolinians gathered at the State House](#) to rally in support of a state measure that declares ObamaCare unconstitutional.

The story reports that “stickers with ‘Nullify Obamacare’ were passed out at Tuesday’s rally.”

[Senate Bill S 01012](#) would make it illegal for ObamaCare to be implemented in South Carolina.

A [story posted by Patch.com](#) reports that Harry Kibler of RINO Hunt, who was one of the rally organizers, believes that the nullification bill has a solid chance of passage. “We have a lot of people who understand the power of the free market and the importance of keeping the government from coming between the doctor and patient relationship,” Patch quoted Kibler saying. The anti-ObamaCare, pro-nullification rally coincided with the opening of the state General Assembly.

Kibler also remarked on the problems that will arise were the federal government to assume the role of insurer. “The patient has a lot of options when he can deal directly with the doctor. If they don’t like how their doctor or the insurance or dealing with them they have the option of going somewhere else,” he told Patch.

As with the Indiana bill, the nullification measure being offered in South Carolina would make it a felony for any agent or employee of the federal government who tries to enforce ObamaCare within the borders of South Carolina.

Patch states that “State Sen. Tom Davis spoke in favor of the bill. The Beaufort Republican says the Founding Fathers would expect the people to speak out forcefully against expanding federal government.”

A companion bill will be working its way through the South Carolina House this year, as well. On December 11, South Carolina State Representative William Chumley pre-filed a bill in the South Carolina General Assembly that would prevent the enforcement of ObamaCare within the borders of the Palmetto State.

Chumley’s bill would also prohibit state officials from participating in the implementation of state healthcare exchanges or from enforcing the individual mandate that are key elements of ObamaCare, Chumley’s measure — the [South Carolina Freedom of Health Care Protection Act](#) — requires state lawmakers to “prevent the enforcement of the “Patient Protection and Affordable Care Act” [ObamaCare] within the limits of this state.”

South Carolina, a state with [a long history of resisting federal despotism](#), joins Indiana a handful of other states currently considering bills nullifying ObamaCare. State legislators in Maine, New Jersey, and Oklahoma have also had bills introduced aimed at nullifying ObamaCare.

Simply stated, nullification is a concept of constitutional law that recognizes 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 Constitution.

Nullification is founded on the assertion 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 central government to enact laws that are applicable to the states and the citizens thereof.

In the wake of the Supreme Court’s ObamaCare decision, it is encouraging to see state legislators boldly asserting their right to restrain the federal government through application of the very powerful and very constitutional principle of nullification.



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It is important to remember, finally, that 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.]

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