



Written by [Bob Adelman](#) on March 11, 2020

## Missouri House Committee Passes “Second Amendment Preservation Act”

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On Monday the Missouri House General Laws Committee [approved House Bill 1637](#) — the “Second Amendment Preservation Act” — and referred it to the full house with a “do pass” recommendation. The bill has more than 80 sponsors, enough to pass the bill.



The bill, if it became law in Missouri, would prohibit any person, including any public officer or employee of the state, from enforcing any past, present, or future federal “acts, laws, executive orders, administrative orders, court orders, rules or regulations” that infringe on the Second Amendment’s guarantee of the right to keep and bear arms.

The bill defines “infringement” as taxes and fees on firearms, accessories, or ammunition; registration or other schemes devised to track the ownership of firearms; any act that forbids the possession, use, or transfer of a firearm or its accessories or ammunition; or any act that orders the confiscation of firearms or its accessories or ammunition from law-abiding citizens.

That would include President Trump’s “bump stock” ban and any federally mandated “red flag” laws. It also pertains to any federal agents who try to enforce those laws in Missouri.

The knee-jerk reaction from the Michael Bloomberg-funded anti-gun group Moms Demand Action was predictable, and wrong:

So-called “nullification” policies like HB1637 ... are unconstitutional, and would endanger public safety in Missouri by prohibiting state and local officials from helping to enforce federal public safety laws.

On the second point: Public safety is enhanced, not reduced, when law-abiding individuals are free to exercise their right to keep and bear arms. John Lott’s *More Guns, Less Crime* has amply provided proof for that.

But to the first point: Not only are such *federal* laws unconstitutional, scholars have agreed, and the Supreme Court itself has ruled, that the federal government cannot require state officials to assist in the enforcement of federal law.

Two key rulings by the court — *New York v. United States* and *Printz v. United States* — both decided in 1992, clarify the point. In the first, Supreme Court Justice Sandra Day O’Connor wrote for the majority in the 6-3 decision:

As an initial matter, Congress may not simply “commandee[r] the legislative processes of the States



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by directly compelling them to enact and enforce a federal regulatory program....

While Congress has substantial powers to govern the Nation directly, including in areas of intimate concern to the States, the Constitution has never been understood to confer upon Congress the ability to require the States to govern according to Congress' instructions.

The Supreme Court's other decision, *Printz v. United States*, perhaps the key ruling on the matter, laid the issue to rest by referring back to its *New York v. United States* ruling:

We held in *New York* that Congress cannot compel the States to enact or enforce a federal regulatory program.

Today we hold that Congress cannot circumvent that prohibition by conscripting the States' officers directly. The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program.

It matters not whether policymaking is involved, and no case-by-case weighing of the burdens or benefits is necessary; such commands are fundamentally incompatible with our constitutional system of dual sovereignty.

Constitutional scholar and attorney Andrew Napolitano told *Fox and Friends*, "The federal government does not have the manpower and resources to enforce all federal laws on its own. It needs the assistance of state and local police as well."

The judge then referred to the de facto nullification taking place because of states' approval of marijuana in the face of federal sanctions against it: "They don't have that in Washington and Colorado because marijuana is lawful there." By declaring that local officials won't cooperate with federal officers with laws such as the one that just passed the Missouri House committee, "that will make federal enforcement of tighter federal gun laws nearly impossible."

The next step for HB1637 is for it to pass the full House. Its companion bill (SB588) in the Senate must also pass and then get it signed into law by Missouri Governor Mike Parson. When Parson ran for governor in 2018, his campaign website declared, "Mike Parson is a tireless supporter of our Second Amendment rights and has voted not only to expand the Castle Doctrine, but also to protect our rights from being infringed upon by an overzealous federal government."

After years of offering similar legislation and ultimately failing, the 80-plus co-sponsors in the House think this bill has more than a fair chance to become law.

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