



Written by [Joe Wolverton, II, J.D.](#) on May 11, 2013

Missouri Legislature Sends Gun Grab Nullification Bill to Governor

Less than one week after being passed by the state Senate, lawmakers in the Missouri state House of Representatives approved a bill protecting the right of citizens of the Show Me State to keep and bear arms. [By a vote of 116-38 on May 8](#), the House signed off on [HB 436 — the Second Amendment Preservation Act](#). The measure now awaits Governor Jay Nixon's signature or veto.



Nixon, a two-term Democrat, has not indicated whether he intends to sign the bill into law. He did, however, [announce his plan to veto](#) a bill that would have allowed school employees to qualify as "protection officers" and carry concealed weapons on school grounds.

Should Nixon refuse to sign HB 436, it is worth noting that the bill was passed by a veto-proof majority of state legislators. In fairness, however, just because supporters of the Second Amendment Preservation Act have the numbers, lawmakers might not have the will to go through the override procedure.

With his signature, Governor Nixon would join his colleague Sam Brownback of Kansas, who recently enacted a similar measure passed with overwhelming support by the Kansas state legislature.

While there are similarities between the Kansas and Missouri measures, the text of the Missouri bill goes much farther in its bold opposition to attempts by the federal government to infringe on the right of Missourians to keep and bear arms as guaranteed by the Second Amendment.

Basing his bill substantially on the right of states to nullify federal overreaches as set out by [James Madison in his Virginia Resolution of 1798](#), state [Representative Doug Funderburk](#) (R-St. Peters) is the primary sponsor of [HB 436](#).

"We have the authority to enforce these laws. We are trying to position [ourselves] so that we in this state can have safer neighborhoods," [Funderburk told Fox News](#).

Funderburk deserves credit for the fearless rejection of federal designs on shrinking the scope of the Second Amendment.

The text of the bill declares that the Missouri General Assembly is "firmly resolved to support and defend the United States Constitution against every aggression, either foreign or domestic."

Section 2 of the bill goes on to affirm that not only is it the right of the state legislature to check federal overreaching, but that "the general assembly is duty bound to watch over and oppose every infraction of those principles which constitute the basis of the Union of the States, because only a faithful observance of those principles can secure the nation's existence and the public happiness."



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HB 436 opens with a brief recitation of the history of the creation of the federal government, a recounting that resounds with a firm grasp on the proper, constitutional relationship between state and federal governments, as well as the legal basis for nullification:

Acting through the United States Constitution, the people of the several states created the federal government to be their agent in the exercise of a few defined powers, while reserving to the state governments the power to legislate on matters which concern the lives, liberties, and properties of citizens in the ordinary course of affairs;

The limitation of the federal government's power is affirmed under the Tenth Amendment to the United States Constitution, which 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 power not delegated to the federal government in the Constitution of the United States is reserved to the states respectively, or to the people themselves;

Whenever the federal government assumes powers that the people did not grant it in the Constitution, its acts are unauthoritative, void, and of no force;

The several states of the United States of America are not united on the principle of unlimited submission to their federal government. If the government created by the compact among the states were the exclusive or final judge of the extent of the powers granted to it by the Constitution, the federal government's discretion, and not the Constitution, would be the measure of those powers.

Specifically, the bill denies to the federal government the authority to enact any statutes, rules, regulations, or executive orders "which restrict or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or ammunition exclusively within the borders of Missouri."

Laudably, the bill as amended by the state Senate does not back down from a fight with the federal government over the Second Amendment. Section 3 of the bill boldly asserts:

All federal acts, laws, orders, rules, and regulations, whether past, present, or future, which infringe on the people's right to keep and bear arms as guaranteed by the Second Amendment to the United States Constitution and Article I, Section 23 of the Missouri Constitution shall be invalid in this state, shall not be recognized by this state, shall be specifically rejected by this state, and shall be considered null and void and of no effect in this state.

That final phrase echoes a similar statement made by 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.]

Passage by the state legislature of the Second Amendment Preservation Act comes at a very tense time in the relationship between the Obama administration and state governments determined to thwart the former's intent to place greater restriction on the individual's right to buy, sell, trade, transfer, or own firearms, ammunition, or component parts of weapons.



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As [The New American has reported](#), after Governor Sam Brownback signed into law a bill passed by the Kansas legislature excluding Kansas-made and owned weapons from federal regulations, U.S. Attorney General Eric Holder fired off a threatening letter to Brownback warning him that the Obama administration would “take all appropriate actions” to enforce federal gun control laws, calling the Kansas statute “unconstitutional.”

To his credit, [Governor Brownback told Holder](#) that Kansas was within its rights to protect its citizens’ right to keep and bear arms as guaranteed by the Second Amendment.

Something Governor Brownback and lawmakers in Kansas and Missouri understand is that the federal government is the creature, not the creator. The states ceded a portion of their sovereignty to the federal government and they specifically enumerated that authority in the Constitution.

Federal exercise of power, as understood by Madison, Jefferson, et al., is legitimate only if those powers were granted to the government by the people and listed specifically in the Constitution.

Madison identified any attempt by the federal government to act outside the boundaries of its constitutional powers as a “dangerous exercise,” and said that the states were “duty bound, to interpose for arresting the progress of the evil.”

Therefore, considering that the Second Amendment to the Constitution explicitly forbids the federal government from infringing on the right of citizens to keep and bear arms, any movement by Congress or the White House in that direction certainly makes Madisonian muster for nullification.

Photo: State Capitol of Missouri

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