



Written by [Alex Newman](#) on May 11, 2009

## Montana Defies Feds on Guns

"It's a gun bill, but it's another way of demonstrating the sovereignty of the state of Montana," said Democratic Gov. Brian Schweitzer, who signed the legislation. The law would exempt from federal regulation all guns, ammunition, and accessories that are made, sold, and kept within the state — provided they are stamped with the words "Made in Montana." The idea is that since the federal government justifies its regulations using the interstate commerce clause of the U.S. Constitution, it has no authority to regulate intrastate trade in firearms.



According to an Associated Press article entitled "Montana gun law targets states' rights clash," the drafters of the bill aim to test the law with a single-shot .22 caliber rifle. The plan is to have a "squeaky-clean" Montanan send a note to the federal Bureau of Alcohol, Tobacco, Firearms and Explosive (ATF) threatening to manufacture and sell 20 of the youth-model rifles without a federal permit. If the ATF tries to claim it is illegal, they hope to take the case all the way to the U.S. Supreme Court. An ATF spokesperson cited in the article had no comment about the legislation.

The text of the bill cites the Ninth and 10th Amendments to the U.S. Constitution which guarantee "to the states and their people all powers not granted to the federal government elsewhere in the constitution and reserves to the state and people of Montana certain powers as they were understood at the time that Montana was admitted to statehood in 1889. The guaranty of those powers is a matter of contract between the state and people of Montana and the United States as of the time that the compact with the United States was agreed upon and adopted by Montana and the United States in 1889." It also cites the Second Amendment to the U.S. Constitution and its own constitution which "clearly secures to Montana citizens, and prohibits government interference with, the right of individual Montana citizens to keep and bear arms."

Similar attempts to challenge the federal government on other issues have prompted armed federal raids and less-than-favorable outcomes in court. The state of California legalized medical marijuana that was grown and kept within the state, but in 2005 the U.S. Supreme Court ruled that since marijuana in California is indistinguishable from marijuana grown elsewhere, the federal government had the authority to regulate both. The firearms in question would be distinguishable from out-of-state guns because of the required stamp, so how the court would rule is still uncertain.

Though criticism of the law has been minimal thus far, some anti-gun activists are up in arms. "Guns cross state lines and they do so constantly, and this is a Sagebrush Rebellion-type effort to light some sort of fire and get something going that's pleasing to the gun nuts and that has very little actual sense," the communications director for the Brady Campaign to Prevent Gun Violence told the Associated Press, referring to a rebellion by some Western states over grazing and mineral rights on federal land in the seventies and eighties.



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"What we need here is for Montana to be able to handle Montana's business and affairs," said Republican sponsor Rep. Joel Boniek during the legislature's debate on the bill. "Firearms are inextricably linked to the history and culture of Montana, and I'd like to support that. But I want to point out that the issue here is not about firearms. It's about state rights." The bill passed easily in both houses and is now spreading to other states including Utah, Tennessee, Texas, and Alaska. "I think states have got to stand up or else most of their rights are going to be buffaloed by the administration and by Congress," said Texas state Rep. Leo Berman. He added that the bill filed in the Texas legislature "deals with firearms and ammunition, which raises eyebrows, but it's more of a 10th Amendment bill than a Second Amendment bill.... Sovereignty is a big issue right now."

Montana has defied the federal government on everything from wetlands protection to the Real-ID Act. This is another positive step the state is taking in the battle to rein in an out-of-control federal government that routinely ignores the contract which gives it authority. Speculation about the effect of the new law is running rampant. Commentators have predicted everything from Montana seceding from the Union to federal agents being arrested. Some have called it the first shot in a new war for independence, while others have said it will have almost no effect. But regardless of the outcome in court, if it ever gets there, it is encouraging to see the states rising up to reassert their sovereignty under the U.S. Constitution.

*Photo: Gov. Brian Schweitzer*



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