Written by **Joe Wolverton, II, J.D.** on April 24, 2015

North Carolina Senate Passed Bill Nullifying EPA Regulations on Wood-burning Stoves

Fresh on the heels of its effort to thwart federal attempts to disarm civilians, the North Carolina legislature is trying to arrest the Environmental Protection Agency's (EPA) larceny of liberty, as well.

Senate Bill 303 would permit North Carolina to refuse to enforce recently promulgated EPA regulations restricting the use of wood-burning stoves for heat.

"The EPA has drafted over 300 pages of regulations for wood stoves and heaters," said state senator Chad Barefoot, as quoted in a story posted by news station WRAL. Barefoot added, according to the WRAL piece, that "in many western North Carolina counties have large populations that rely on wood stoves for heat."

State senator Ralph Hise echoed Barefoot's criticism of the burn-banning bureaucrats. "This is the point where the EPA has really hopped on the crazy train," he said.

"No longer is the state going to be on autopilot for what the EPA is cramming down upon us," Barefoot said.

While the state lawmakers' refutation of the regulations is laudable, they apparently lose a bit of their courage when it comes to ignoring air quality standards set by the same overreaching federal department.

WRAL reports:

> Although senators were largely supportive of the wood-burning stove provision, other parts of the bill drew criticism. Those sections would slow the adoption of all federal air quality rules by the state going forward. Such regulations would need to clear the appointed Environmental Management Commission by a super-majority vote and then face legislative sign off.

In the end, the bill passed with little opposition, 40-9.

Perhaps the nine state senators who defended the EPA's usurpations and attempts to forbid North Carolinians from heating their homes in the way they can afford would change their mind had they realized just how tyrannical the green gestapo has grown.

Take, for example, this story published last year in *The New American*:

> As reported on July 8 by the *Washington Times*:
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> > The Environmental Protection Agency has quietly floated a rule claiming authority to bypass the courts and unilaterally garnish paychecks of those accused of violating its rules, a power

currently used by agencies such as the Internal Revenue Service.

The EPA has been flexing its regulatory muscle under President Obama, collecting more fines each year and hitting individuals with costly penalties for violating environmental rules, including recently slapping a $75,000 fine on Wyoming homeowner Andy Johnson for building a pond on his rural property.

Given recent judicial setbacks suffered by the EPA, it is no wonder they have created a scheme whereby they can collect fines without having to let a judge rule on the legitimacy of the levy.

The *Washington Times* story reports that the agency "announced the plan last week in a notice in the *Federal Register*, saying federal law allows it "to garnish non-Federal wages to collect delinquent non-tax debts owed the United States without first obtaining a court order."

Of course, even with the recent legal losses, the EPA continues "eat[ing] out the substance" of Americans accused of harming the environment.

Annual reports filed by the EPA indicated that the coffers are constantly being filled with fines, many of which are enforced not only in violation of the due process requirements protected by the Constitution, but also in violation of the separation of powers set out in that document, wherein the legislative branch is granted exclusive lawmaking authority.

Just how voracious is the EPA's appetite? The *Washington Times* reports, "The amount of fines raked in by the agency has jumped from $96 million in 2009 to $252 million in 2012, a more than 160 percent increase."

This galling power grab is being challenged on several different fronts.

First, when he learned of the EPA's autocratic order, Senator John Barrasso (R-Wyo.) told the *Washington Times*, "The EPA has a history of overreaching its authority. It seems like once again the EPA is trying to take power it doesn't have away from American citizens."

In a letter criticizing the agency's policies, Barrasso wrote, "The EPA's latest regulatory overreach is another one-two punch to responsible Americans who are trying to provide for their families. First, this out of control agency can fine you hundreds of thousands of dollars for simply building a pond on your own land. Now, the EPA is trying to bypass the courts and force your employers to garnish your wages to cover their expensive fines."

Americans interested in protecting their property and their very lives from being seized by the Environmental Protection Agency or any other branch of the federal government need not rely alone on Washington D.C. to fix itself. The more reliable remedy is nullification.

Nullification, whether through active acts passed by the legislatures or the simple refusal to obey unconstitutional directives, is the "rightful remedy" for the ill of federal usurpation of authority. Americans committed to the Constitution must walk the fences separating the federal and state governments and they must keep the former from crossing into the territory of the latter.

The Virginia and Kentucky Resolutions plainly set forth James Madison's and Thomas Jefferson's understanding of the source of all federal power. Those landmark documents clearly demonstrate what these two agile-minded champions of liberty considered the constitutional delegation of power. Jefferson summed it up very economically in the Kentucky Resolutions: "That the several states who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction; and that a nullification, by those sovereignties, of all unauthorized acts done under colour

[sic] of that instrument, is the rightful remedy."

Despite the frequent violations of the terms of the contract by the federal government, states are not left with the only option of voiding the contract. In fact, those state lawmakers and governors committed to forcing the federal beast back into its constitutional cage are better served by simply nullifying each and every congressional act or presidential decree that violates the agreed upon terms in the Constitution.

The failure of the people to force the states to flex the muscle of nullification has led to atrophy, leaving them too weak to put up a good fight against the federal assault on the sovereignty of the states and the liberty of the people.

As a result, Washington considers the states nothing more than administrative subordinates whose continued existence is tolerated only so long as they faithfully facilitate the execution of the millions of mandates of the multitude of federal programs.

States (and their legal subdivisions) retain the right to act as arbiters of the constitutionality of federal acts because they 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.

Despite criticism by those who advocate for a more powerful federal government, nullification would not lead to anarchy, as it is only unconstitutional federal acts that will be subject to state invalidation.

The checks and balances of the Constitution and the separation of powers provided therein are meant to be the first layers of defense against tyranny, not the last or the only as the statists would have you believe. The people acting through their state governments are the final levee protecting the people as individuals from drowning under the flood of unconstitutional federal laws, regulations, and mandates.

North Carolinians can be pleased that in a couple of recent examples, their elected state representatives are erecting a legislative levee to protect citizens from the flood of federal regulations, laws, and executive orders designed to drown liberty.