



Written by [Joe Wolverton, II, J.D.](#) on December 24, 2015

Rand Paul Bill Protects Gun Owners From Executive Orders

In light of President Obama's promise to issue executive orders abridging the right of Americans to purchase and use firearms, one prominent lawmaker is coming to the defense of the Second Amendment and the rights it guarantees.

Senator and Republican presidential hopeful Rand Paul (R-Ky.) is trying once again to protect the right of the people to keep and bear arms from forfeiture by the fiats of a president unconcerned with constitutional limits on his power or protections for basic rights.



The Separation of Powers Restoration and Second Amendment Protection Act is being pushed through the Senate and could come to the floor early in the new year. This bill is nearly identical to one submitted by Paul in 2014.

The bill declares that any "existing or proposed executive action that infringes on the powers and duties of Congress under section 8 of article I of the Constitution of the United States of the Second Amendment to the Constitution of the United States shall have no force or effect."

And:

"It is the sense of Congress that any executive action issued by the President before, on, or after the date of enactment of this Act that infringes on the powers and duties of Congress under section 8 of article I of the Constitution of the United States or the Second Amendment to the Constitution of the United States, or that would require the expenditure of Federal funds not specifically appropriated for the purpose of the executive action, is advisory only and has no force or effect unless enacted as law."

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While Paul's resistance to the president's disarmament program is laudable, the text of his legislation does not go far enough.

Paul is right to assert that the president has no constitutional authority to infringe on the rights protected by the Second Amendment. He is wrong, however, to intimate that such a power is vested in Congress.

In fact, there is no constitutional authority given to the federal government to restrict purchase of firearms, ammunition, or component parts. The Second Amendment explicitly proscribes any attempt by the federal government to infringe on the people's right to keep and bear arms.

Notably, Paul's bill does create legal standing for those who would seek redress in civil court for the violation of their right to be armed committed by an executive order.

In a statement, Paul promised to stand between the people and those who would deprive them of their



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fundamental right to own and use firearms.

“In the United States, we do not have a king, but we do have a Constitution,” Paul stated. “We also have the Second Amendment, and I will fight tooth and nail to protect it.”

Senator Paul deserves kudos for his efforts to thwart tyrannical plans to disarm the American people, but gun owners and those who understand the value and inviolate nature of this right must also appreciate that the federal government will never restrain itself out of a sense of duty to liberty.

We, the People, acting in our collective political capacity as states, are the ultimate sovereigns in this Republic. The Constitution written by the delegates of the states was never intended to — and does not — grant rights; it simply *protects* them. And it will do so only to the degree that we, in turn, hold it inviolate and demand that its strictures be observed by those who have sworn to uphold it.

As it stands today, most people do not consider the Constitution the law of the land. In fact, they generally do not consider it at all.

In fact, many of us have been trained to accept unconstitutional federal acts and executive edicts as if they were etched in stone and handed down from Capitol Hill as if it were Mt. Sinai. Many of us rightly rail against this destructive despotism, but wrongly we look to secure the support and attract the attention of seemingly sympathetic congressmen, presidents, and judges for redress.

In order to truly restore the rights being obliterated by the federal government, states must unashamedly disregard any act of any branch of the central government exceeds the very narrow limits of its enumerated power. Any such act purporting to have the force and function of law must be considered and treated as Thomas Jefferson said, “null, void, and of no force or effect.”

Only after years of consistent practice of this principle of state sovereignty and nullification will we begin to restore our Republic to the four cornerstones of the Constitution upon which it was wisely built.

So while we appreciate Senator Paul’s proposal and its aim, it is the duty of state governors and legislators to protect citizens from the enforcement of any act of the federal government not specifically authorized in the Constitution.

As James Madison explained in the Virginia Resolution of 1798:

“In case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them.”

Alexander Hamilton added in *The Federalist*, No. 78, “There is no position which depends on clearer principles, than that every act of a delegated authority contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the constitution, can be valid.”

Nullification occurs when a state, county, city, or other local entity refuses to afford legal effect to any federal act that exceeds the boundaries of its constitutional powers.

Nullification recognizes that states retain the authority to invalidate any federal measure that exceeds the few and defined powers allowed the federal government as enumerated in the U.S. Constitution.

States can — must — courageously refuse to enforce those acts using the historically, legally, and constitutionally sound principle of nullification.



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The Founding Fathers intended states 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.

Rand Paul's bill is reportedly being "fast tracked" and likely will be brought before the Senate some time soon after the Christmas break.

Action is urgent as President Obama is "[seriously considering circumventing Congress with his executive authority](#)" to unilaterally rewrite the Second Amendment.

Photo of Sen. Rand Paul: AP Images



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