



Written by [Joe Wolverton, II, J.D.](#) on April 1, 2013

South Carolina One Step Closer to Nullifying ObamaCare

South Carolina is one step closer to nullifying ObamaCare within the borders of the Palmetto State.

The Constitutional Law Subcommittee of the House Judiciary Committee passed [H3101, the Freedom of Health Care Protection Act](#). Within days the bill will be heard by the full [Judiciary Committee of the state House of Representatives](#).

In an exclusive interview with *The New American*, the bill's chief sponsor, State Representative William M. "Bill" Chumley, discussed his bill and its legislative future. "We're real happy with the vote," Chumley said. "We are confident that the full committee will pass it."

This is a significant victory for citizens of South Carolina specifically and for the right of states to oppose unconstitutional acts of the federal government generally.

Chumley's bill furthers this cause in its preamble. The bill's purpose is to:

Render Null And Void Certain Unconstitutional Laws Enacted By The Congress Of The United States Taking Control Over The Health Insurance Industry And Mandating That Individuals Purchase Health Insurance Under Threat Of Penalty; To Prohibit Certain Individuals From Enforcing Or Attempting To Enforce Such Unconstitutional Laws; And To Establish Criminal Penalties And Civil Liability For Violating This Article.

South Carolina, a state with [a long history of resisting federal despotism](#), joins a handful of other states currently considering bills nullifying ObamaCare. State legislators in Maine, New Jersey, and Oklahoma have also had bills introduced aimed at nullifying ObamaCare.

Simply stated, nullification is a concept of constitutional law that recognizes the right of each state to nullify, or invalidate, any federal measure that exceeds the few and defined powers allowed the federal government as enumerated in the Constitution.

Nullification is founded on the assertion that the sovereign states 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.

In the wake of the Supreme Court's ObamaCare decision, it is encouraging to see state legislators boldly asserting their right to restrain the federal government through application of the very powerful and very constitutional principle of nullification.

Chumley said he believes that his colleagues in the state House of Representatives will pass the bill when it comes to the floor for consideration. After that, the bill will be sent to the Senate and then on to the governor. Chumley estimates that within three weeks the bill could be taken up by the state Senate.





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Nobly, Chumley declares that South Carolina is prepared to “take the hit” financially for failing to carry out federal mandates. Obedience to the federal government’s edicts is compulsory if a state expects to receive federal funds.

Additionally, Chumley realizes that a showdown with the Obama administration could be on the horizon in the aftermath of the president’s decision to ignore state laws nullifying ObamaCare and to send federal agents from the Department of Health and Human Services to forcibly execute each and every provision of ObamaCare.

The president’s proclamation is in direct opposition to the following section of the South Carolina nullifying bill:

The General Assembly declares that the federal law known as the “Patient Protection and Affordable Care Act”, signed by President Barack Obama on March 23, 2010, is not authorized by the Constitution of the United States and violates its true meaning and intent as given by the Founders and Ratifiers, and is invalid in this State, is not recognized by this State, is specifically rejected by this State, and is null and void and of no effect in this State.

Chumley said he and his cosponsors are prepared to resist every overreach of the federal government and stand up for the right of states to govern.

Opponents of the state bill (and of nullification in general) point to the so-called Supremacy Clause of Article VI of the Constitution to rebut the state’s claims. They argue that state laws contrary to federal laws are invalid and that federal law trumps all state attempts to legislate in territory already claimed by Congress.

This argument is easily dismissed.

The [Supremacy Clause \(as some wrongly call it\) of Article VI](#) does not declare that laws passed by the federal government are the supreme law of the land, period. What it says is that the “laws of the United States made in pursuance” of the Constitution are the supreme law of the land.

In *pursuance* thereof, not in *violation* thereof. None of the provisions of ObamaCare is permissible under any enumerated power given to Congress in the Constitution; therefore, they were not made in pursuance of the Constitution, and they are *not* the supreme law of the land.

Chumley is in good company in his concept of the enforceability of unconstitutional federal legislation.

In [Federalist No. 33](#), Alexander Hamilton declared that any act of the federal government exceeding the limited powers granted it by the Constitution is not a law at all:

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.]

Hamilton is not alone. The undeniable truth is that not a single one of our Founding Fathers, not even the most ardent advocate of a powerful central government, would have remained even one day at the Philadelphia Convention if he had believed that the government they were creating would become the instrument of tyranny that it has become.



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All state legislatures have an obligation to liberty and to their citizens to follow the example of South Carolina (and other states, notably Oklahoma) and through the exercise of the [10th Amendment](#) and their natural right to rule as sovereign entities, stop ObamaCare at the state borders by enacting state statutes nullifying the healthcare law.

The best defense of nullification is found in Thomas Jefferson's [Kentucky Resolution](#) of 1798. In the Kentucky Resolution, Jefferson plainly points to the constitutional source of all federal power. He wrote, "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."

Representative Bill Chumley said that he will "never give up the fight" to restore states rights and to keep the federal government from consolidating all power over all aspects of life into Washington D.C. He declared that South Carolina will enforce every provision of the Constitution, including the 10th Amendment. Every issue, every time, no exceptions.

When it comes to standing up for the Constitution, "It's all or nothing," he added.

Photo of Columbia, South Carolina

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