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# Tennessee Bill Prohibits Federal and International Gun Regs

A bill recently introduced into the state legislature in Tennessee would see the state no longer volunteer to cooperate with federal and international gun control regulations.

Specifically, Senate Bill 146 introduced by State Senator Mae Beavers "prohibits the allocation of state or local funds, property, or personnel for the implementation, regulation, or enforcement of any federal law, executive order, rule, regulation, international law, or treaty regulating the ownership, use, or possession of firearms, ammunition, or firearm accessories" even if state or local agents attempt to justify enforcement by pointing to provisions in a state law or the state constitution.

Earlier this year, Senator Beavers received the highest rating for her votes adhering to conservative principles from the American Conservative Union Foundation (ACU). While the group recognizes lawmakers who score above 80 percent in each state with awards for their commitment to conservative principles, Beavers met the criteria of the highest tier reserved for legislators who score 90 percent or above, earning her the Award for Conservative Excellence.

The purpose of the proposal is not to introduce new nullification statutes into the Tennessee Code; rather it is designed to force the state to execute two previously passed bills.

As reported by weapons ownership advocates ShallNot.org:

> Passage of SB146 would help effectuate two foundational laws recently passed in Tennessee. In May 2015, Gov. Bill Haslam signed a bill setting the foundation to prohibit the state from implementing or enforcing federal gun laws, rules, regulations and orders that are "contrary to the Tennessee state constitution." A similar measure relating to gun control imposed by international law or treaty was signed into law last year. Both laws require additional action to be put into practical effect.

Beavers and her co-sponsors understand that there is nothing in the Second Amendment that excludes ownership of certain weapons from within its protection. In fact, the text of the Second Amendment is quite clear regarding the government's ability to qualify this most basic liberty: "The right of the people to keep and bear arms, shall not be infringed."

Furthermore, the reason for inclusion of the Second Amendment in the Bill of Rights had little to do with the British and more to do with future attempts by an out-of-control, all-powerful central authority disarming the American people as a step toward tyranny. Take, for example, the following statements

by our forefathers regarding the purpose of the passage of this amendment. In commenting on the Constitution in 1833, Joseph Story wrote:

> The right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them.

In his own commentary on the works of the influential jurist Blackstone, founding-era legal scholar St. George Tucker wrote:

> This may be considered as the true palladium of liberty.... The right of self defence is the first law of nature: in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Wherever standing armies are kept up, and the right of the people to keep and bear arms is, under any colour or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.

Writing in *The Federalist*, Alexander Hamilton explained:

> If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government, and which against the usurpations of the national rulers, may be exerted with infinitely better prospect of success than against those of the rulers of an individual state.

After learning of the true history of the Second Amendment's protection of the individual's right to keep and bear arms, the first step in thwarting the federal government's goal of consolidating all power in Washington is to remember that any federal act, regulation, or order that exceeds the constitutional limits on federal power has no legal effect. States can — must — courageously refuse to enforce those acts using the historically, legally, and constitutionally sound principle of *nullification*.

Nullification recognizes the reserved authority of states to invalidate any federal measure that a state deems unconstitutional. This principle is founded on the fact 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 federal government to enact laws that are applicable to states and their citizens.

That our Founders understood this principle is demonstrated by Hamilton 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. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

James Madison, also writing in *The Federalist*, recommended that state legislators, in order to prevent federal abridgment of fundamental liberties, should refuse "to co-operate with the officers of the Union."

The application of this principle — the residual authority of the state to refuse to carry out or participate in an unconstitutional act of the federal government — is known as *anti-commandeering*.

Put simply, anti-commandeering prohibits the federal government from forcing states to participate in any federal program that does not concern "international and interstate matters."

While this expression of federalism ("dual sovereignty," as it was named by Justice Antonin Scalia) was first set forth in the case of *New York v. United States* (1992); most recently it was reaffirmed by the high court in the case of *Mack and Printz v. United States* (1997).

Writing for the majority in the *Mack and Printz* decision, Justice Antonin Scalia explained:

> As Madison expressed it: "The local or municipal authorities form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority than the general authority is subject to them, within its own sphere." *The Federalist* No. 39, at 245. [n.11]
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> This separation of the two spheres is one of the Constitution's structural protections of liberty. "Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front."

As of the date of publication of this article, the bill has not been assigned to a committee of the Tennessee State Senate. In other words, the measure is just beginning its journey from proposal to law, and now is the time for all citizens of Tennessee to contact their state senators and encourage them to support the protection within their state's sovereign borders of the right to keep and bear arms, free from federal or International restrictions and regulations.