



Written by [Joe Wolverton, II, J.D.](#) on May 15, 2017

## Tennessee Takes Another Step Toward Restoring Gun Rights

There are, the saying goes, many ways to skin a cat. In Tennessee, the Second Amendment was just strengthened by a bill aimed at protecting hearing.

On May 9, Governor Bill Haslam signed the Tennessee Hearing Protection Act into law. The bill legalizes the manufacture and possession of firearm suppressors (known inaccurately as “silencers”) in the Volunteer State.



Republican Representative Tilman Goins of Morristown filed the House of Representatives’ version of the legislation (HB11) that removed the devices from the list of weapons banned for having “no common lawful purpose.”

Weapons-related devices remaining on the list of those illegal to own include machine guns, short-barreled shotguns, brass knuckles, and explosive weapons.

Prior to the enactment of the Hearing Protection Act, the possession, manufacture, or sale of a firearm suppressor was classified as a felony under the law of Tennessee.

The House voted 74-18 in favor of the bill and the State Senate followed suit soon thereafter, voting 28-1 to send the legislation to the governor’s desk.

During the House of Representatives’ deliberations, the House Democratic Caucus Chairman Mike Stewart tried to tack an amendment onto the bill that would have required background checks for anyone trying to buy a suppressor and would have made any crime committed with a suppressor-equipped gun a felony. The amendment failed.

“Any citizen who can imagine what it will be like to be a police officer and to potentially face a concealed assailant using a silenced weapon can see what an unwise and irresponsible bill this is,” Stewart wrote in an e-mail sent to state reporters.

During the debate on the House side, Goins reminded his colleagues that suppressors must be registered with the federal Bureau of Alcohol, Tobacco and Firearms and that the registration must be accompanied by a \$200 fee, payable to the federal government.

Goins explained that his bill simply “gets Tennessee out of the way” of those who want to buy suppressors in conformity with federal regulations.

Lawmakers who supported the bill are committed, according to local media reports, to “renewing efforts to eliminate permitting requirements in order to carry handguns in public.”

For years lawmakers in Tennessee have tried to free citizens of that state from the unconstitutional federal restrictions on the right to keep and bear arms, as protected by the Second Amendment to the Constitution.

About two years ago, Governor Haslam signed into law HB 1110, a statute blocking state agencies and



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employees from enforcing federal acts aimed at unconstitutionally infringing on the right to keep and bear arms as protected by the U.S. and Tennessee constitutions.

Specifically, the 2015 law prohibits state or local public funds, personnel, or resources from being used for the “implementation, regulation, or enforcement of any federal law, executive order, rule or regulation regulating the ownership, use, or possession of firearms, ammunition, or firearm accessories” if such participation would “result in the violation of Tennessee statutory or common law or the Constitution of Tennessee.”

This constitutionally sound strategy 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).

Former Arizona Sheriff Richard Mack was one of the named plaintiffs in the latter landmark case, and on the website of his organization, the Constitutional Sheriffs and Peace Officers Association, he recounts the basic facts of the case:

The Mack/Printz case was the case that set Sheriff Mack on a path of nationwide renown as he and Sheriff Printz sued the Clinton administration over unconstitutional gun control measures, were eventually joined by other sheriffs for a total of seven, went all the way to the Supreme Court and won.

There is much more “ammo” in this historic and liberty-saving Supreme Court ruling. We have been trying to get state and local officials from all over the country to read and study this most amazing ruling for almost two decades. Please get a copy of it today and pass it around to your legislators, county commissioners, city councils, state reps, even governors!

The *Mack/Printz* ruling makes it clear that the states do not automatically have to accept orders from the feds.

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

As Madison expressed it: “[T]he 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]

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.” *Gregory, supra*, at 458.

This latest law decriminalizing the making and owning of firearm sound suppressors carries on Tennessee’s tradition of thwarting federal attempts to convert the right to own a weapon into a privilege given or denied at the will of Washington, D.C.

Nothing in the history of the drafting and ratification of the Constitution would support the popular



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position that states or the people residing within them should have to appeal to the plutocrats on the Potomac for permission to exercise their natural rights, among which is the right to protect one's life, by force if necessary.

In fact, in *Federalist 45*, James Madison suggested that state lawmakers "refuse to cooperate with officers of the Union" when the federal authority attempted to enforce any act not falling within its constitutionally enumerated powers.

Tennessee is trying, Mr. Madison.

The new law goes into effect on July 1, 2017.



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