



Written by [Joe Wolverton, II, J.D.](#) on May 9, 2013

Texas House of Reps Passes Slate of 2nd Amendment Protections

On Monday, May 6, the Texas state House of Representatives passed several bills aimed at protecting the right of citizens of the Lone Star State to keep and bear arms as guaranteed by the Second Amendment.

A summary of each of the pro-liberty measures was provided by [Texas state Representative Cindy Burkett](#) — a co-author of one of the bills.



- The “Campus Carry Bill,” House Bill 972, by Rep. Allen Fletcher (Tomball) will allow concealed handgun license holders to carry on the premises of institutions of higher education that opt into the legislation. Representative Cindy Burkett (Sunnyvale), vice chair of the House Caucus, is a joint-author on this important piece of legislation. The goal of HB 972 is to provide students, faculty, and visitors on educational campuses the Second Amendment protections that may be necessary in life-threatening situations. This bill promotes the right of individuals to protect themselves, along with their fellow students and co-workers. □
- The “Firearms Protection Act,” House Bill 1076, by Rep. Steve Toth (The Woodlands), seeks to proactively protect the Second Amendment rights of Texas citizens and the ability of our law-enforcement officers to protect the public. The bill makes federal laws that restrict firearm ownership unenforceable within the state’s boundaries. Under House Bill 1076, any municipality, county, or special district trying to enforce a federal gun ban could face monetary holdings by the state and possible misdemeanor charges. □□
- House Bill 1314, by Rep. Brandon Creighton (The Woodlands), seeks to prevent the encroachment by the federal government on Second Amendment rights. The bill prevents the enforcement of federal laws that exceed the federal government’s constitutional authority by creating a new offense for the unlawful seizure of a firearm. □□
- House Bills 47 and 48 are measures authored by Rep. Dan Flynn (Van) that provide a more efficient and effective concealed handgun license and renewal process for law-abiding Texans. □□

Additionally, as [reported by the National Rifle Association-Institute for Legislative Action](#) (NRA-ILA),



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House Bill 47 was replaced by identical legislation that has already passed the state senate, and that bill will now be sent to Governor Rick Perry for his signature or veto.

In the press release announcing the votes, Representative Burkett spoke out in favor of the state House's decision to stand up against federal aggression:

As an ardent gun rights supporter and a gun owner, I have always devoted special attention to any proposed modifications to Texas gun laws. The lawful possession of firearms is one of the fundamental rights granted to us as citizens of this great nation, and is crucial to protecting Texas families.

Burkett's comments were echoed by her colleague Representative Wayne Smith, himself a co-author of every bill passed by the House:

As a strong defender of the U.S. Constitution and our individual freedoms, I am proud to have co-authored several bills that protect the 2nd Amendment rights of Texas citizens. As the federal government continues to discuss measures that could infringe upon the 2nd Amendment, the Texas legislature is fighting back on behalf of law-abiding Texans.

Although spoken just a couple of days ago, Smith's words are reminiscent of the warning pronounced by Melancton Smith in 1787. Predicting that the federal government would one day assume all powers, rendering the state governments powerless and irrelevant, [Smith wrote](#):

Unless the people shall make some great exertions to restore to the state governments their powers in matters of internal police; as the powers to lay and collect, exclusively, internal taxes, to govern the militia, and to hold the decisions of their own judicial courts upon their own laws final, the balance cannot possibly continue long; but the state governments must be annihilated, or continue to exist for no purpose.

For now, however, the state governments do exist for a purpose, and that purpose is to force the federal beast back into its constitutional cage.

Lately, the battle over the right of the people to not have their right to keep and bear arms infringed upon by the federal government is moving into new theaters — from [Kansas](#) to [Missouri](#) and now on to Texas.

State resistance to federal overreaching has come to the attention of the Obama administration, as well. In a letter to Kansas Governor Sam Brownback, U.S. attorney general Eric Holder called state laws nullifying federal gun grabs "unconstitutional," and he warned that his boss would "take all appropriate actions" to enforce federal gun control laws.

Liberty-minded state lawmakers and the citizens they represent understand that it is the duty of state governments to oppose the usurpation by the federal government of the authority to restrict the right of Americans to buy, sell, trade, transfer, and own weapons and ammunition.

James Madison, [writing in 1785](#), identified the proper role of citizens in knocking government off its tyrannical tack:

It is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of Citizens, and one of the noblest characteristics of the late Revolution. The free men of America did not wait till usurped power had strengthened itself by exercise and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle.



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The principle being denied by the Texas House of Representatives and likeminded state legislators in several others states is that the Constitution grants the federal government power to determine who can and cannot lawfully own firearms and what type of firearm may be lawfully owned.

Of particular note with regard to the bills wending their way through the Texas legislature is the tone taken by [HB 1314](#). As with many similar bills passed or being considered in other states, this measure re-establishes the constitutional lines drawn around federal authority.

Under HB 1314, “an officer or employee of the United States, this state, or a political subdivision of this state” is prohibited from “intentionally or knowingly” seizing a firearm as required by a federal statute, rule, order, or regulation.

There is, however, an exception, and it is an unfortunate one, constitutionally speaking.

Section 46.16 (d) allows an exception to this prohibition for any seizure of a weapon that is “consistent with an explicit and applicable grant of federal statutory authority that is consistent with the United States Constitution.”

As readers are aware, the Second Amendment imposes on the federal government an unqualified proscription on constriction of the right to keep and bear arms. The [Second Amendment reads](#): “A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.”

The phrase that pays: shall not be infringed. That means shall not, not shall not unless a gun is used in a high-profile crime, or shall not unless the president issues an executive order infringing upon it.

As demonstrated by the laudable actions of their state representatives, Kansans, Missourians, and Texans are aware that once the muscle of tyranny develops in the federal body of law, it never atrophies. As Founding Era [jurist St. George Tucker wrote](#):

This may be considered as the true palladium of liberty.... The right of self defence [sic] 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 [sic] or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.

The hour is late and the time is now for state governments to assume their rightful role and steer this Republic away from the brink by nullifying each and every unconstitutional act of the federal government.

Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels frequently nationwide speaking on topics of nullification, the NDAA, and the surveillance state. He can be reached at jwolverton@thenewamerican.com.



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