



Written by [James Heiser](#) on February 25, 2013

Texas Legislators Consider Firearms Protection Act

Even as elected representatives of the people of Colorado are busy trying to abridge the Second Amendment liberties in the “Centennial State,” Texas legislators are preparing to fend off similar schemes by the federal government.

As [Bob Adelman](#) recently reported for [The New American](#), the Democrat-controlled Colorado House of Representatives recently passed four bills that would significantly infringe on the free exercise of rights guaranteed by the Second Amendment, and the passage of such sweeping legislation in that state seems a harbinger of things to come. In Adelman’s words:



Democrats now have commanding control of both houses and the governorship and nothing is standing in their way to enforce their view of the world onto unsuspecting and politically naïve Colorado citizens and gun owners....

The Republicans are in disarray, to put it nicely. John Andrews, the former Republican Senate majority leader, admitted as much back in 2008: “Colorado is being used as a test bed for a swarm offense by Democrats and liberals to put conservatives and Republicans on defense as much as possible.”

With no effective pushback, the Colorado Republican Party can only mount a noisy and emotional defense of sacred rights against this onslaught. Gun control bills like those just passed by the Colorado legislature and shortly to be signed into law by the Colorado governor, are just the beginning.

However, a very different spirit is at work in Austin, as legislators in the Lone Star State are considering a bill that, if enacted, would penalize any state official attempting to inflict proposed federal limitations on the right to keep and bear arms. On February 7, [Rep. Steve Toth](#) (R-15th District) introduced House Bill 1076 (entitled the “Firearms Protection Act”) for the purpose of blocking efforts by federal officials to come into the state and interfere with the civil rights of citizens of Texas. As Toth’s office [explained in a press release](#):

The ‘Firearms Protection Act’ or HB 1076 would make any federal law banning semi-automatic firearms or limiting the size of gun magazines unenforceable within the state’s boundaries. Any municipality, county, or special district trying to enforce a federal gun ban could face monetary holdings by the state and misdemeanor charges under this proposal....

The ‘Firearm Protection Act’ would do the following:

- Supports and protects our local sheriffs and law enforcement officers working hard to protect Texan’s 2nd Amendment Rights
- Sends a clear message to Washington by supporting and protecting Texans from the Federal



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Administrations unconstitutional overreach

- Addresses local Texans concerns for their personal safety

Toth's proposed bill is intended to prevent any element of the legal structure of the state and local government in Texas from being used by the federal government for the purpose of abridging second amendment liberties. The [legislation](#) specifically applies to

- (1) the State of Texas, including an agency, department, commission, bureau, board, office, council, court or other entity that is in any branch of state government and that is created by the Constitution or a statute of this state, including a university system or a system of higher education;
- (2) the governing body of a municipality, county, or special district or authority;
- (3) an officer, employee, or other body that is part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and
- (4) a district attorney or criminal district attorney.

If any such persons or entities "enforce or attempt to enforce any federal statute" abridging such civil liberties, their state funding would be terminated and they would be subject to prosecution for a Class A Misdemeanor. The legislation does not specifically allow for the prosecution of federal authorities.

On February 19, the bill was referred to the Federalism and Fiscal Responsibility Committee. It is uncertain as of this date when the proposed legislation would come before the house, but it is already drawing attention. Greg Abbott, the Texas Attorney General, helped draft the legislation, but is now attempting to distance himself from Toth's bill. The Associated Press cites the provision that actually gives teeth to the bill — prosecution for a Class A Misdemeanor — as the cause of Abbott's vacillation:

Abbott's office confirmed its role in crafting the legislation but distanced itself from the criminal penalties it contains.

"The attorney general does not support a law that would provide any criminal penalties for police officers," said [Daniel Hodge](#), Abbott's top assistant.

However, without such a provision, the bill could very quickly be reduced to little more than a non-binding resolution — a fact not lost on the bill's supporters, who understand that constitutional principle is what is at stake. The fact that the bill only targets state and local law enforcement officers is, according to Toth, intended to protect those officials from federal prosecution. As [Cheryl Chumley wrote for the Washington Times](#):

"From the very first day President Obama started infringing on our Second [Amendment](#), my sheriff ... said he wouldn't enforce it, and none of his deputies would, either," [Mr. Toth](#) said, explaining the lead-up to his bill. "From that point on, dozens and dozens of county sheriffs around Texas said we're not going to enforce this."

Mt. Toth said the sheriffs' statements set the stage for a constitutional and legal crisis.

"They would [then] be subject to prosecution" by the U.S. Department of Justice and Attorney General Eric Holder, [Mr. Toth](#) said. "So this legislation protects them."

[Mr. Toth's](#) bill would subject state and local — not federal — law enforcement to arrest and charges for trying to implement any federal ban on assault weapons or on ammunition magazines. It's not a



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bill to nullify federal law, he said.

Whether or not HB 1076 should be considered a nullification bill is open to debate — the intention of the bill is to hamper efforts by the federal government to infringe upon the rights of citizens of Texas. For gun control activists, anything that interferes with that agenda would be considered nullification. However, the Texas bill is significantly different from that which has been introduced in Wyoming, which would require the prosecution of federal officials. As Alex Newman wrote for *The New American*, the Wyoming bill has the teeth that are lacking in Toth's bill:

There are teeth in the proposed law too: Any federal official attempting to enforce unconstitutional statutes or decrees infringing on gun rights passed after January 1 of this year would be charged with a felony. If convicted, criminal officials would be punished by up to five years in state prison and a \$5,000 fine. The legislation also authorizes the state attorney general to defend citizens of Wyoming if federal authorities seek prosecutions under unconstitutional gun control rules.

Nevertheless, although HB 1076 is less bold than Wyoming's HB 0104, it is a further sign of a movement afoot in a number of states to push back against federal efforts to restrict the constitutionally guaranteed rights of the American people. The actions of Colorado's Democrat-controlled assembly aside, other states are preparing to defend their liberties.

Photo of Texas State Capitol in Austin, Texas



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