



Written by [Joe Wolverton, II, J.D.](#) on February 3, 2013

Utah Governor: “Utah Will Adhere to the Law” and Obey Federal Gun Laws

As courageous state legislators enlist in the fight to repel the federal government’s assault on the Second Amendment, the governor of one western state is telling a liberty-minded state representative to stand down.

Governor Gary Herbert of Utah recently called a pro-gun rights bill sponsored by a Utah state representative “[an exaggeration](#)” and encouraged the lawmaker to “adhere to the law.”



This is not the level of support citizens of the Beehive State would expect from the man they elected to lead their state.

Herbert was specifically criticizing a [measure offered by first-term Representative Brian Greene](#) (R-Pleasant Grove). The bill is titled the State Supremacy Firearms Act.

Patterned after similar measures proposed in a dozen states, the [Utah State Supremacy Firearm Act](#) restores the walls of state sovereignty protected by the Constitution. Representative Greene provided *The New American* with an advance copy of the measure. The preamble of the legislation declares:

It is the exclusive authority of the Legislature of this State to adopt and enact any and all laws, orders, rules or regulations as may be deemed necessary regarding the manufacture, transfer, possession, ownership, and/or use of firearms within the State of Utah, and ... any federal action which attempts to impose limitations on firearms contrary to the Second Amendment of the Constitution of the United States, or the Constitution or laws of the State of Utah, shall be unenforceable in Utah.

Greene’s bill goes beyond simply restating the fact of state supremacy in this area, however. It criminalizes participation by a federal agent in any federal disarmament program within Utah. Section 2 B declares:

Any official, agent or employee of the United States government who enforces or attempts to enforce any act, law, order, rule or regulation of the United States government upon a personal firearm, a firearm accessory or ammunition that is owned or manufactured commercially or privately in Utah and while the same remains exclusively within the borders of Utah shall be guilty of a third degree felony, and subject to imprisonment not to exceed five (5) years and/or a fine not to exceed five thousand dollars (\$5,000.00).

State employees and officers are likewise prohibited from executing federal gun control laws:

It shall be unlawful for any officer or employee of this state, or any political subdivision, or any federal firearms dealer licensed under 19 U.S.C. Section 923 to enforce or attempt to enforce any act, law, order, statute, rule, or regulation of the federal government relating to a personal firearm, firearm accessory, or ammunition that is owned or manufactured commercially or privately in the



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state of Utah and while the same remains exclusively within the borders of the state of Utah.

At a rally in support of his bill held at the Utah State Capitol, Greene said, “The Utah Legislature knows what is best with respect to gun safety in our state.”

Greene also shared with the rally [a letter from the Utah Sheriffs’ Association](#) to President Obama that informs the president that “no federal official will be permitted to descend upon our constituents and take from them what the Bill of Rights — in particular Amendment 2 — has given them.”

The last line of the letter from the sheriffs brought the seriousness of the message home.

“And we are prepared,” the sheriffs wrote, “to trade our lives for the preservation of its traditional interpretation.”

Governor Herbert doesn’t like the sheriffs’ bold stance against federal tyranny, either. Said Herbert about the sheriffs’ letter to the president:

I think it was probably an emotional, knee-jerk reaction to the idea that Washington is somehow going to tell us what we’re going to do. If we don’t like the laws that are passed, if we don’t like the executive orders, we have a process in place. Go to court. We don’t have to have confrontations at the border. Go to court and we’ll find out whether it’s the law of the land or not, but Utah will adhere to the law of the land.

That statement displays a disdain not only for the constitutional sheriffs of the state of Utah, but a misunderstanding of the Constitution and the role of states in government.

First, going to court will never solve a constitutional crisis between states and the federal government because the federal courts are part of the federal government and have rarely sided with states in cases challenging federal usurpation.

Second, Governor Herbert’s willingness to accede to federal attempts to curtail the right of citizens to keep and bear arms is likely founded on the so-called Supremacy Clause of Article VI of the Constitution.

[Article VI declares](#), “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land ... any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

What Representative Greene (and other like-minded legislators) understands and Governor Herbert does not, however, is that Article VI protects federal laws made “in pursuance” of the Constitution. Laws made in violation of the Constitution deserve no such respect.

One sheriff reacted with surprise at the governor’s dismissal of his and his colleagues’ effort to fight federal gun control.

At a meeting of a conservative activist group, Davis County Sheriff Todd Richardson explained that the sheriffs’ letter was aimed at shaping the debate rather than reacting to it after it was too late.

Richardson reminded the group that sheriffs swear an oath to uphold the Constitution of the United States and they are therefore duty bound to prevent anyone — including the president and Congress — from executing any unconstitutional act.

In [a statement to the Examiner](#), a spokesman for Governor Herbert wrote,

With respect to the issue of firearms generally: Governor Herbert is an ardent supporter of the



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second amendment and has recommended that the present conversation be driven by reason and logic, rather than emotion and politics.

Reason and logic are fine. In fact, the reason and logic of the Founders led them to include in the Constitution the right to keep and bear arms.

It is unfortunate for Utahans that Governor Herbert considers their attempts to uphold the Constitution emotional and political and refuses to support their right to nullify all attempts by the federal government to overreach its constitutional boundaries.

In [responses posted online](#) to the press conference where Herbert made these statements, some of his constituents let their governor know just how they feel about his feckless response to the federal government's gun grab. One commenter wrote, "Thank goodness our own revolutionary war proved that it doesn't take a majority to get the right thing done. He [Governor Herbert] sounds more like the weak-kneed British appointed governors of that time."

Given his opposition to ObamaCare and [federal land ownership](#), Governor Herbert occasionally understands the need for states to stand up to unconstitutional federal acts. The right to bear arms is the right that protects all other rights, though, and Governor Herbert needs to quickly recognize that and get behind his fellow Utahans' effort to protect that right.

Related Articles:

[Utah State Rep Introduces State Supremacy Firearms Act](#)

[Sheriffs Target Obama Gun Control, Vow to Resist](#)

Photo of Gov. Gary Herbert: AP Images

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