

From Duty To Be Armed To Permission To Carry

“If the central government has the authority to tell a state it must accept permits from all the other states, then it also has the authority to tell a state it may not accept a concealed permit from any other states. If the central government can do these things it can set up a national concealed carry permit scheme and in essence bring into existence a national arms registry. That is exactly where this is headed.” Attorney Richard D. Fry[1]

Some are touting the federal [Concealed Carry Reciprocity Act of 2017](#) (HR 38) as a bill which would expand our right to carry. But if you will walk with me for a few minutes, I'll show you a better path to take.

Let us look at the applicable First Principles, *to which I propose we return.*

1- Gun control is not an enumerated power delegated to the federal government

Our federal Constitution doesn't delegate to the federal government any power over the Country at Large[2] to restrict our arms. Accordingly, all pretended federal laws, regulations, orders, opinions, or treaties which purport to do so are *unconstitutional* as outside the scope of powers delegated. They are also unconstitutional as in violation of the Second Amendment.

The only power the federal government has over the Country at Large respecting arms is set forth at Article I, §8, clause 16 with respect to providing for the “organizing, arming, and disciplining, the Militia”. Pursuant to this clause, Congress passed [the Militia Act of 1792](#) which required every able-bodied male citizen (with a few exceptions) between the

ages of 18 and 45 to acquire a rifle, bayonet, ammo, ammo pouch, and report to his local Militia Unit for training.[3]

2- What does your State Constitution say about the right to keep and bear arms?

Each State has its own Constitution which addresses its State Militia and the right to be armed.

Now listen: No State may lawfully make any law which contradicts its State Constitution *or* which interferes with Congress' power to "organize, arm, and discipline, the Militia".

Accordingly, any State Statute which purports to require a permit before one may carry a gun is probably unconstitutional under that State's Constitution; and is certainly unconstitutional under the federal Constitution because Congress may lawfully *require* able-bodied male Citizens to acquire firearms and ammo and report to their local Militia Unit for training!

Do you see?

Now let's look at Title 18, US Code, Part I, Chapter 44, which HR 38 proposes to amend.

3- Title 18, US Code, Part I, Chapter 44 is *unconstitutional*

It sets up a complex federal regulatory scheme over firearms, *every word of which* is unconstitutional as outside the scope of powers delegated, and as in violation of the Second Amendment.

[HERE](#) it is, look through it (§§ 921-931).

4- What HR 38 actually does

HR 38 proposes to amend this existing federal regulatory scheme to insert a new provision [to be § 926 D] to require

States which have a statute which permits residents of their State to apply for a permit [!]
to allow persons from other States:

- who aren't prohibited by federal law from possessing firearms [!]; *and*
- who are carrying a photographic ID issued by a government body [!]; *and*
- who are carrying a concealed carry license or permit from the other State [!],

to possess or carry a concealed handgun (other than a machinegun or "destructive device") which has been shipped or transported in interstate or foreign commerce.

So! Even though a State Constitution, such as that for Connecticut,[4] prohibits the State Legislature from making ANY laws restricting firearms (such as imposing requirements for registration, a permit, government issued photo ID), a Citizen of Connecticut who exercises his constitutionally recognized right to carry *without* registration or a permit or a government issued photo ID, wouldn't qualify under HR 38 for concealed carry in another State.

To qualify for concealed carry in other States, the Citizen of Connecticut would need his State Legislature to pass a law [which is unconstitutional under the Connecticut and federal Constitutions], so that he could comply with an unconstitutional federal statute [HR 38], so that he could carry in other States which also would have to pass unconstitutional laws imposing permit requirements on those who carry concealed.

Do you see how a *God-given right* [self-defense] is thus converted into a *privilege* which is regulated, granted, or denied, by civil government?

HR 38 also provides that any person carrying a concealed

handgun in a State *under the reciprocity provisions* may also carry concealed in the public parts of National Parks and certain other lands under federal control. Lest you think this a gain, consider that: (1) The Constitution doesn't authorize the federal government to operate national parks and such like, and (2) the federal government has no lawful authority to impose registration requirements for carrying arms anywhere!

5- What's the solution?

Read our Declaration of Independence and federal Constitution. Then you won't fall for unconstitutional gimmicks like HR 38.

The gun rights organizations could perform valuable services to our Country by working for:

- the repeal of the entire *unconstitutional federal regulatory scheme* respecting arms;
- the repeal of all *unconstitutional State regulatory schemes*;
- the revitalization of the State Militia to replace the federally controlled National Guard;^[5] and
- by providing [more classes for Citizens in arms training](#).

And please stop lobbying for unconstitutional federal legislation!

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Endnotes:

^[1] From the late Attorney Richard D. Fry's email of Dec. 10, 2015 to US Senator Moran, a co-sponsor of SB 498, the Constitutional Concealed Carry Reciprocity Act of 2015. Richard, who was my Friend, sent me a copy of his letter.

[2] Pursuant to Article I, § 8, next to last clause, Congress has general legislative powers over the District of Columbia, military bases, dock yards, mints, federal courthouses and post offices, and such other places needed for Congress to exercise its enumerated powers. **The exercise of such powers by Congress over these small federal enclaves is restricted by the Bill of Rights – including the 2nd Amendment.** So Congress is prohibited from making, for these federal enclaves, any laws which infringe the Right of The People to keep and bear Arms. Congress may properly require individuals visiting federal prisons, the psych ward of military hospitals, the mint, federal courthouses, and such like, to leave their arms in their vehicles. But Congress may not require Citizens to obtain and carry a permit or photo ID as a condition precedent to carrying a firearm.

[3] The “Militia of the several States” were creatures of State Statutes – not of the federal government. [Dr. Edwin Vieira’s short video](#) shows how the **State** Militia were replaced by the federally controlled National Guard.

[4] The [Constitution of the State of Connecticut](#) says at Article I: *“SEC. 15. Every citizen has a right to bear arms in defense of himself and the state.”*

[5] See [A SERIOUS QUESTION FOR THE NRA](#), by Dr. Edwin Vieira, re revitalization of the Militia of the several States. Dr. Vieira’s mind is a delight.