

Real World Graduation: Question 91: Legal Exemptions

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Question 91

A Bill was introduced in House of Representatives during the 111th Congress (2009-2010) called H. R. 45 (6 Jan 2009), named "The Blair Holt's Firearm Licensing and Record of Sale Act of 2009". The bill, if passed into law, would require

- 1) Every person to obtain a federal license to buy, sell, or possess any firearm;
- 2) All persons who owned a firearm prior to enactment of the law to obtain a license for those firearms;
- 3) Each person to apply for renewal of the license every five years;
- 4) Payment of a fee to obtain the license;
- 5) All firearm sales to be permanently recorded in a federal database;
- 6) All persons seeking to buy or possess a firearm to submit to a background check;
- 7) A possessor to report theft or loss of a firearm to federal authorities within 72 hours;
- 8) Secure storage of all firearms such that persons under age 18 cannot access them;
- 9) Firearms owners to permit the federal government to search without warrants any facility where firearms are stored, manufactured, or held;
- 10) Persons seeking a license to pass an examination on handling, use, and storage of firearms; and
- 11) Imposition of various penalties for violations of any of the foregoing.

However, Section 801, called "Inapplicability to Governmental Authorities", states:

"This Act and the amendments made by this Act shall not apply to any department or agency of the United States, of a State, or of a political subdivision of a State, or to any official conduct of any officer or employee of such a department or agency".

One of the stated justifications for the bill is "to protect the public against unreasonable risk of injury and death associated with the unrecorded sale or transfer of qualifying firearms to criminals and youth".

Why is it necessary to exempt every level of the government and their employees from this Act?

- a) Requiring government agencies and their employees to comply with this Act would reduce their efficiency.
- b) Requiring government agencies and their employees to comply with this Act would cost too much money that could be devoted to more important objectives.
- c) Requiring government agencies and their employees to comply with this Act would cause unnecessary confusion over which agency is to defer to which other agency.
- d) Requiring government agencies and their employees to comply with this Act would interfere with the powers of the governments under the respective Constitutions.
- e) All of the above.

Answer to Question 91

This is a trick question. All of the given answers are false. The correct answer is that requiring government agencies and their employees to comply with this Act would a) force governments and their employees to obey the same laws as non-government employees; b) preclude the notion that government employees are the first class citizens they believe themselves to be, and c) impede the quest by government employees for the absolute arbitrary power that they so desperately crave. Exempting governments from obeying the law is fairly common.

Answer a) is false because governments excel at bureaucracy above all else. Manufacture and exploitation of bureaucratic "red tape" is the primary product of government regulators. Far from reducing their efficiency, it would demonstrate their efficiency.

Answer b) is false because the amount of money spent on regulation is immaterial; all the money comes from the taxpayer anyway. While many government officials will make this excuse, note that you, the person, have to pay for the license. There is no concern on the government's part about you having to divert resources from other more important things.

Answer c) is false because precedence is well-established in the U. S.: federal, States, county, and local; but that is true only in cases where powers have been granted per the Constitution.

Answer d) is false because this would not reduce the powers of the government; it would enhance them. This Act would grant an unlimited power to destroy the individual right to keep and bear arms under the Second Amendment. Remember, if you have to get a license for something, you are in effect getting permission to do something. If you have to get permission, you are not exercising a "right"; you are begging for a privilege, like the serf in medieval Europe. Do not think that licenses will be "renewed"; there is no penalty spelled out if the federal government declines to renew any license. This is a confiscation scheme; the very same tactic was used by Hitler in 1930's Germany.

But we will never hear the end of excuses about why government employees are above the law. Many government employees are confirmed to high-ranking posts even though they violated a law that would get you put in jail: failing to pay income taxes, hiring illegal immigrants, giving and taking bribes, etc. But these excesses of power are all done in good-natured fun. The auditors at the IRS are always happy because they can't stop laughing at taxpayers, who have to sign forms under penalty of perjury and submit to random arbitrary searches and audits. The clerks at the Motor Vehicle Bureau are always happy because they can't stop laughing at car buyers, who have to take time off from work to stand in line for the privilege of paying a tax to "register" their car. The inspectors at OSHA are always happy because they can't stop laughing at small business owners who must submit to warrantless searches of their property and comply with the arbitrary demands of the inspector to "fix" whatever they decide needs "fixing". The people on the parole boards are happy because they can place thousands of convicted child molesters back onto the streets. Never forget who they are laughing at – they are laughing at you.

They are laughing at you because you are a funny person. You actually believe that the government should exercise only those powers that the people have granted it per the Constitution, and that anyone who exceeds that power should be immediately removed and prosecuted. Ho, ho, ho - now you really are a funny person - so funny that you may be on some government list somewhere.

The only solution to this basic problem is to force the various levels of government to return back to obeying the most basic laws, the respective Constitutions. But this will prove impossible to do, because the

common people do not have the means to force governments to do anything, especially if it conflicts with the governments' desire for power.

James Madison already addressed this problem in a section from **The Federalist, No. 57**. Here he reminds his readers that any government that exempts itself from its own laws has degenerated into a tyranny, and the people who tolerate it have become slaves. It worth quoting in full:

“I will add, as a fifth circumstance in the situation of the House of Representatives, restraining them from oppressive measures, that they can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments, of which few governments have furnished examples; but without which every government degenerates into tyranny. If it be asked, what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of the society? I answer: the genius of the whole system; the nature of just and constitutional laws; and above all, the vigilant and manly spirit which actuates the people of America -- a spirit which nourishes freedom, and in return is nourished by it.

“If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate anything but liberty.”

Any law that exempts any government employee from compliance is unconstitutional on its very face, regardless of the excuses and decrees from Presidents, lawyers, legislatures, and judges.