

By: Berman

H.B. No. 297

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain federal health care legislation; imposing  
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The legislature finds that:

6 (1) the people of the several states comprising the  
7 United States of America created the federal government as their  
8 agent for certain enumerated purposes, and nothing more;

9 (2) the Tenth Amendment to the United States  
10 Constitution defines the total scope of federal power as that which  
11 has been delegated by the people of the several states to the  
12 federal government, and all power not expressly delegated to the  
13 federal government in the United States Constitution is reserved to  
14 the states respectively, or to the people themselves; and

15 (3) the assumption of power by the federal government  
16 in enacting the Patient Protection and Affordable Care Act (H.R.  
17 3590; Pub. L. No. 111-148) as amended by the Health Care and  
18 Education Reconciliation Act of 2010 (H.R. 4872; Pub. L. No.  
19 111-152) interferes with the right of the people of this state to  
20 regulate health care as they determine is appropriate, and makes a  
21 mockery of James Madison's assurance in Federalist Paper Number 45  
22 that the powers delegated to the federal government are "few and  
23 defined" while those that remain in the state governments are  
24 "numerous and indefinite."

1 SECTION 2. Subtitle Z, Title 3, Government Code, is amended  
2 by adding Chapter 392 to read as follows:

3 CHAPTER 392. FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT

4 Sec. 392.001. DEFINITION. In this chapter, "federal Act"  
5 means the Patient Protection and Affordable Care Act (H.R. 3590;  
6 Pub. L. No. 111-148) as amended by the Health Care and Education  
7 Reconciliation Act of 2010 (H.R. 4872; Pub. L. No. 111-152).

8 Sec. 392.002. FEDERAL ACT NOT AUTHORIZED. The federal Act  
9 is not authorized by the United States Constitution and violates  
10 the constitution's true meaning and intent as expressed by the  
11 founders of this country and the ratifiers of the constitution.

12 Sec. 392.003. FEDERAL ACT INVALID. The federal Act:

- 13 (1) is invalid in this state;  
14 (2) is not recognized by this state;  
15 (3) is specifically rejected by this state; and  
16 (4) is null and void and of no effect in this state.

17 Sec. 392.004. DUTY OF LEGISLATURE. It is the duty of the  
18 legislature of this state to enact any measure necessary to prevent  
19 the enforcement of the federal Act within this state.

20 Sec. 392.005. OFFENSES; PENALTIES. (a) A person who is an  
21 official, agent, or employee of the United States or an employee of  
22 a corporation providing services to the United States commits an  
23 offense if the person enforces or attempts to enforce an act, order,  
24 law, statute, rule, or regulation of the United States in violation  
25 of this chapter.

26 (b) An offense under Subsection (a) is a state jail felony  
27 punishable by confinement for a term of not more than five years, a

1 fine of not more than \$5,000, or both the confinement and the fine.

2 (c) A person who is a public officer or employee of this  
3 state commits an offense if that person enforces or attempts to  
4 enforce an act, order, law, statute, rule, or regulation of the  
5 United States in violation of this chapter.

6 (d) An offense under Subsection (c) is a Class A misdemeanor  
7 punishable by confinement for a term of not more than two years, a  
8 fine of not more than \$1,000, or both the confinement and the fine.

9 Sec. 392.006. PRIVATE CAUSE OF ACTION. Any aggrieved party  
10 may bring a private cause of action against a person who enforces or  
11 attempts to enforce an act, order, law, statute, rule, or  
12 regulation of the United States in violation of this chapter.

13 SECTION 3. This Act takes effect immediately if it receives  
14 a vote of two-thirds of all the members elected to each house, as  
15 provided by Section 39, Article III, Texas Constitution. If this  
16 Act does not receive the vote necessary for immediate effect, this  
17 Act takes effect September 1, 2011.