

ALASKA STATE LEGISLATURE

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REPRESENTATIVE WES KELLER DISTRICT 14

House Bill 8 Sponsor Statement

"An Act relating to certain federal regulations and presidential executive orders; relating to the duties of the attorney general; and providing for an effective date."

HB 8 clarifies in Alaska Statute that a federal regulation or a presidential executive order that is not properly adopted or is unconstitutional does not preempt state law. The Attorney General will continue to review and report federal regulations and executive orders that appear to have not been properly adopted. Under HB 8 those reports will be forwarded to the legislature for consideration.

HB 8 presumes Alaska Legislative interest in an important legal process called "nullification". Nullification is when a state 'nullifies' a federal law, proclaiming it to be void and inoperative, or 'non-effective' within the boundaries of that state. In other words it is not a law as far as that state is concerned. In HB 8 a negative review by the Attorney General would generate an alert to our Judiciary Committees so nullification legislation can be considered.

There has been disagreement regarding nullification going back to the late eighteenth century. Not surprisingly, federal courts have often leaned toward favoring federal power over state sovereignty in spite of the fact that our founding fathers clearly intended otherwise. Federalism is our historically unique and profound arrangement where sovereign and separate states got together and carefully designed a central government with carefully limited powers. It is an illogical perversion of one of our most important founding principles to presume states must comply with unconstitutional federal laws. HB 8 presumes a proper State responsibility to uphold and protect our constitution.

HB 8 is intended to provide important information to the Alaska State Legislature by tapping the expertise and evaluation of our Attorney General. Certainly the legislature has a responsibility to consider its response whenever there is question of constitutionality of a federal regulation or executive order.