

House Bill 707

By: Representatives Spencer of the 180<sup>th</sup>, Stover of the 71<sup>st</sup>, Turner of the 21<sup>st</sup>, Caldwell of the 20<sup>th</sup>, Cooke of the 18<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to  
2 general provisions regarding health, so as to provide a short title; to provide for legislative  
3 findings; to prohibit powers, assets, employees, agents, or contractors of the state or any  
4 political subdivision, municipality, or other local government authority from engaging in an  
5 activity that aids any agency in the enforcement of provisions of the federal Patient  
6 Protection and Affordable Care Act of 2010; to endow the Attorney General with authority  
7 to bring suit to enjoin violations of such prohibition and issue advisory rulings; to provide  
8 that neither the State of Georgia nor any of its political subdivisions shall establish a health  
9 care exchange for the purchase of health insurance nor participate in or purchase insurance  
10 from a health care exchange established by a nonprofit organization; to provide that no  
11 agency, department, or other state entity shall authorize an employee, contractor, vendor, or  
12 any other person acting on behalf of such agency, department, or entity to undertake any  
13 action under the aegis of Section 2951 of the federal Patient Protection and Affordable Care  
14 Act of 2010 or a process established pursuant to such act; to provide for related matters; to  
15 provide for severability; to provide an effective date; to repeal conflicting laws; and for other  
16 purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 This Act shall be known and may be cited as "The Georgia Health Care Freedom and ACA  
20 Noncompliance Act."

21 **SECTION 2.**

22 The General Assembly finds that:

23 (1) The people of the several states comprising the United States of America created the  
24 federal government to be their agent for certain enumerated purposes, and nothing more;

- 25 (2) The Tenth Amendment to the United States Constitution defines the total scope of  
26 federal power as being that which has been delegated by the people of the several states  
27 to the federal government, and all power not delegated to the federal government in the  
28 Constitution of the United States is reserved to the states respectively, or to the people  
29 themselves;
- 30 (3) Article I, Section 1 of the United States Constitution provides in pertinent part that  
31 "All legislative powers herein granted shall be vested in a Congress of the United States";
- 32 (4) The judicial decision of the United States Supreme Court upholding the  
33 constitutionality of the federal Patient Protection and Affordable Care Act of 2010  
34 directly contravenes Article I, Section 1 of the United States Constitution because, in  
35 upholding the law by recharacterizing the Act as a tax, even though Congress specifically  
36 refused to identify it as a tax, the United States Supreme Court legislated new law in  
37 violation of Article I, Section 1 of the United States Constitution;
- 38 (5) The assumption of power that the federal government has made by enacting the  
39 federal Patient Protection and Affordable Care Act of 2010 interferes with the right of the  
40 people of the State of Georgia to regulate health care as they see fit and makes a mockery  
41 of James Madison's assurance in Federalist No. 45 that the "powers delegated" to the  
42 federal government are "few and defined," while those of the states are "numerous and  
43 indefinite";
- 44 (6) The Tenth Amendment to the United States Constitution provides that the United  
45 States federal government is authorized to exercise only those powers delegated to it in  
46 the Constitution;
- 47 (7) Article VI, Clause 2 of the Constitution of the United States provides that laws of  
48 the United States are the supreme law of the land, provided that they are made in  
49 pursuance of the powers delegated to the federal government in the Constitution;
- 50 (8) It is the stated policy of the Georgia General Assembly that provisions of the federal  
51 Patient Protection and Affordable Care Act of 2010 grossly exceed the powers delegated  
52 to the federal government in the United States Constitution;
- 53 (9) The provisions of the federal Patient Protection and Affordable Care Act of 2010,  
54 which exceed the limited powers granted to Congress pursuant to the United States  
55 Constitution, cannot and should not be considered the supreme law of the land;
- 56 (10) The Georgia General Assembly has the absolute and sovereign authority to  
57 interpose and refuse to enforce the provisions of the federal Patient Protection and  
58 Affordable Care Act of 2010 that exceed the authority of Congress; and
- 59 (11) The Fourteenth Amendment of the United States Constitution provides that the  
60 people are to be free from deprivation of life, liberty, or property, without due process of  
61 law.

**SECTION 3.**

62  
63 Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to general  
64 provisions regarding health, is amended by adding a new article to read as follows:

**"ARTICLE 3**

65  
66 31-1-40.

67 (a) No powers, assets, employees, agents, or contractors of the state, including the  
68 University System of Georgia and its member institutions, or any political subdivision,  
69 municipality, or other local government authority shall be used to assist in implementing  
70 the federal Patient Protection and Affordable Care Act of 2010 or any subsequent federal  
71 amendment to such act.

72 (b) The Georgia General Assembly is empowered to enact sanctions, fines, penalties, or  
73 otherwise to ensure compliance with subsection (a) of this Code section.

74 31-1-41.

75 (a) The Attorney General is authorized to bring suit in a state or local court of proper  
76 jurisdiction to enjoin any person or entity from violation of subsection (a) of Code  
77 Section 31-1-40.

78 (b) The Attorney General shall establish procedures for providing advisory opinions as to  
79 whether contemplated action by persons or entities would violate subsection (a) of Code  
80 Section 31-1-40.

81 31-1-42.

82 (a) As used in this Code section, the term 'health care exchange' means an American  
83 Health Benefit Exchange established by any state or political subdivision of a state, as  
84 provided for in the federal Patient Protection and Affordable Care Act of 2010.

85 (b) Neither the State of Georgia nor any of its political subdivisions, including, but not  
86 limited to, counties, municipalities, school districts, and other entities of the state, shall  
87 establish a health care exchange for the purchase of health insurance.

88 (c) Neither the State of Georgia nor any of its political subdivisions, including, but not  
89 limited to, counties, municipalities, school districts, and other entities of the state, shall  
90 participate in or purchase insurance from a health care exchange established by a nonprofit  
91 organization.

92 (d) A health insurance contract purchased or established in violation of this Code section  
93 shall be void and shall not be enforced by the courts of this state.

94 31-1-43.

95 No agency, department, or other state entity, including, but not limited to, the Department  
96 of Community Health, the Department of Behavioral Health and Developmental  
97 Disabilities, and the Department of Human Services, shall authorize an employee,  
98 contractor, vendor, or any other person acting on behalf of the agency, department, or  
99 entity to conduct or participate in an involuntary maternal, infant, and early childhood  
100 in-home visitation pursuant to Section 2951 of the federal Patient Protection and  
101 Affordable Care Act of 2010 and any subsequent amendment to such act."

102 **SECTION 4.**

103 In the event any title, chapter, article, part, subpart, Code section, subsection, paragraph,  
104 subparagraph, item, sentence, clause, phrase, or word of this Act is declared or adjudged to  
105 be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining  
106 portions of this Act, which shall remain of full force and effect as if such portion so declared  
107 or adjudged invalid or unconstitutional were not originally a part of this Act. The General  
108 Assembly declares that it would have enacted the remaining parts of this Act even if it had  
109 known that such portion thereof would be declared or adjudged invalid or unconstitutional.

110 **SECTION 5.**

111 This Act shall become effective upon its approval by the Governor or upon its becoming law  
112 without such approval.

113 **SECTION 6.**

114 All laws and parts of laws in conflict with this Act are repealed.