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Article published May 5, 2010

Posted on

Wednesday, May 05, 2010



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'Less Government' Means Fewer Laws

Does less government really mean less government?

That's a fair question for Texas legislators, as they begin preparing for the upcoming 2011 Session. Many are preparing new legislation they'll submit for enactment, adding to the thousands of pages of criminal laws and regulations.

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But in these heady days of tea parties and a new constitutionalism, lawmakers who are talking about limited government should give themselves a real challenge: Instead of enacting new laws, repeal a few.

Marc Levin of the Texas Public Policy Foundation points out how lawmakers have continually added laws to the books, thereby increasing government and its involvement in our lives.

"Texas lawmakers have created over 1,700 criminal offenses, including 11 felonies alone relating to harvesting and handling oysters," Levin wrote recently. "This includes criminal offenses created through state agency rulemaking and city ordinances. Traditional offenses such as murder, rape, and theft are found in the Penal Code, but the proliferation of crimes now extends to nearly every other body of state law."

Regulations are also increasing exponentially.

In 2008, the "Texas Legislative Council released an exhaustive 299-page report detailing more than 500 regulated occupations and related criminal penalties," Levin reported. "The report unearths numerous occupations that most Texans probably never thought were regulated. Those who must obtain a government license to practice their trade include florists, vegetable seed sellers, racehorse tattooists, talent agency operators, sports referees, and wig servicers. Who knew that one needed government authorization to tattoo a racehorse or adjust a wig?"

Here's where many conservative politicians find themselves in a quandary -- they support law-and-order. But, at the same time, they support limited government.

But excessive laws and regulations merely oppress the public, Levin points out.

"With so many sweeping and often ambiguous criminal laws, including those that are created every week by regulatory agencies without the approval of elected officials, it is impossible for any person or business to regularly stay abreast of the line between what is legal and what is criminal," Levin contends. "Moreover, the deluge of overly broad and vague criminal laws gives police and prosecutors virtually untrammelled authority to arrest and indict anyone."

Levin has some recommendations to legislators that make sense.

"Abolish excessive and unnecessary offenses and narrow offenses that are needed but are overly broad," Levin says. "Since this task is more intensive than any legislative office could manage, a volunteer commission of legal experts and key stakeholders could be created to make recommendations to lawmakers."

The Legislature should also strip state agencies of the power of making new rules and penalties without the approval of elected officials.

It's easy -- and these days, politically expedient -- to talk about the virtues of limited government. It's harder to match the theory to the practice. But the upcoming legislative session is an opportunity for our lawmakers to show they're serious about limited government by simply limiting it.