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Unequal Protection to Believe In

By [Deroy Murdock](#)

Twenty-eight of these United States - encompassing 164 million people, 53 percent of America's population, and 285 Electoral College votes - are suing the federal government to stop Obamacare. This litigation challenges the constitutionality of Obamacare's mandate that individuals purchase health insurance. The U.S. Supreme Court is likely to decide, once and for all, whether the Constitution's Commerce Clause empowers Congress to force Americans to conduct commerce.

Shattering the Obamacare Death Star, however, may require slamming it from multiple directions. Hence, an additional legal strategy should address this law's apparent violation of the 14th Amendment's Equal Protection Clause - which explicitly applies to the states, but which the Supreme Court has more or less hitched onto the federal government as well.

Obamacare is not being enforced equally at all. As of February 9, the Obama administration had granted [915 waivers](#), mainly to influential organizations, major companies, and pro-Democratic labor unions. Those less lucky or less well connected have a different option: Obey Obamacare.

According to the Health and Human Services Department, these waiver recipients claim that complying with new "annual dollar-limit requirements" would cost their group health plans "either a large increase in premiums or a significant decrease in access to coverage." But unlike the objective income brackets that trigger diverse tax rates, "large" and "significant" are subjective criteria. This gives HHS bureaucrats ample opportunity to treat the insured unequally.

Major waiver [recipients](#) and their enrollees include the Carpenters Health and Welfare Fund (20,500), Service Employees International Union Local 25 (31,000), Darden Restaurants (34,000), Aetna (209,423), CIGNA (265,000), and the United Federation of Teachers (351,000). Union members represent 43.1 percent of the 2,443,047 enrollees included in these waivers.

"Obamacare was sold as all benefit - no downside," Rep. Cliff Stearns (R., Fla.) said Wednesday at a waiver-focused House oversight hearing. And now, "2.5 million people literally need to be protected from the devastating effects of Obamacare."

"The selective dispensations to Obamacare's mandates that Obama so far has given to various special interests - especially his union friends - fly in the face of the Constitution's Equal Protection Clause," says Roger Pilon, the libertarian Cato Institute's vice president for legal affairs. "But they're just the other side of the 'Cornhusker Kickback,' the 'Louisiana Purchase,' and other last-minute shenanigans that Obama and congressional Democrats employed to get this travesty passed in the first place."

"The very interests who supported this law and helped ram it through Congress are now applying for waivers," Betsy McCaughey, president of Defend Your Healthcare (defendyourhealthcare.us), told the Conservative Political Action Conference in Washington on February 12. "If government has the power to grant waivers, it has the power to deny them and destroy any business. Americans never should have to slink and slither to the White House for exemptions, like supplicants." McCaughey will ask President Obama to give waivers to everyone who requests them via her website.

While Democrats hail this new law as the greatest medical innovation since the tongue depressor, these 915 waivers may be the most compelling argument against Obamacare yet. After Democrats ignored the screams of the populace and jammed this catastrophe down our throats, they argued that Americans soon would love this gargantuan law.

"It's very obvious that people have a lack of understanding of our health-care-reform bill," Senate Majority Leader Harry Reid of Nevada [said](#) last August. "The more people learn about this bill, the more they like it."

Democrats have it backward. With Obamacare, familiarity breeds contempt. Nearly one year after its enactment, 57 percent of Americans want Obamacare repealed, while only 38 percent oppose repeal, according to a February 12-13 Rasmussen Reports survey of 1,000 likely voters. (Margin of error: +/- 3 percent.)

Meanwhile, rather than clamor to accelerate Obamacare, unions, corporations, and other prominent players secure the priceless waivers that are their passport out of this mess. Instead of cheerful passengers aboard a luxury liner, those who know Obamacare best resemble terrified Vietnamese huddled atop the U.S. Embassy, praying for seats aboard the last chopper out of Saigon, just steps ahead of the marauding Viet Cong.

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