



## NOTICE TO BUSINESS OWNERS

### Right to Engage in Commerce – No Conditions Required

This resolution is presented in pursuance of the mission of the American Committees Association, which is to assist committees, individuals, businesses and organizations in asserting their constitutional rights. Included is the attached letter, taken from a public notice given by a Utah Constitutional Attorney. This attorney's statements accurately reflect the law and is applicable in any of the several states. All businesses have the right to remain open and **are never required to close** without due process of law. If you have not been personally taken to court, where you have been found guilty of a crime by a jury of your peers, then you still have all your rights to your life and property.

**WHEREAS**, all individuals and businesses have the right to engage in commerce and there exists no entity that has the authority to suspend the people's rights, without due process, to engage in commerce.

**WHEREAS**, any attempt by a public or private entity to create policy, rules, or laws that "act under the color of law" (*US Code Title 18, 242*) are unconstitutional and unlawful. **Any act of ignoring unconstitutional rules is in accordance with upholding the law.**

**WHEREAS**, these statements are based on the very foundation of our system of laws, supported by the 9<sup>th</sup> and 10<sup>th</sup> Amendments to the United States Constitution, the constitutions of the several states' right to assembly and free market clauses (Different reference per state) and Title 18, Section 242 of the US Code, which provides criminal penalties to any entity or individual who attempts to interfere with anyone's rights, including the right to engage in commerce.

**WHEREAS**, continual violations of constitutional law have already started showing signs of resulting in long term consequences, such as, but not limited to, famine, addictions, violence and deaths by heart failure, suicides, and many diseases that hospitals are being restricted from treating through policy or cultural hesitation.

**THEREFORE**, **We invite all individuals and businesses to follow the law by immediately engaging in their right to commerce.** We encourage a spirit of cooperation in honoring the governing law of the land.

Business owners and individuals are not required to follow unconstitutional requests, but may choose to follow what they feel is a commonsense approach according to their own needs

**The following are statements taken from the attached letter, drafted by an attorney seeking to help businesses follow the law by lawfully ignoring unconstitutional demands:**

"Business owners have the right to run their businesses under the Constitution and United States Code ... The penalties for denying rights, privileges, or immunities secured or protected by the Constitution or laws of the United States range from misdemeanor penalties to the death penalty ... **If a business provides a service to its customers and supports families with its income, it is essential!**"

## **An open letter to the people of the State of Utah:**

April 27, 2020

My name is Garrett Smith and I am a practicing attorney in Utah. My practice focuses on both Business Law and Constitutional Law. As such, I feel that I can provide a legal opinion regarding current regulations in relation to the COVID-19 situation.

Utah is in a financial crisis right now because of our national, state, and local responses to COVID-19. Utah is also facing a freedom crisis because of the unilateral and arbitrary restrictions of essential liberty. The Declaration of Independence explains that we “are endowed by [our] Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” Our government does not give us rights and does not have power to take them away. The Declaration of Independence also outlines that the purpose of government is “to secure these rights” and that governments “deriv[e] their just powers from the consent of the governed.”

COVID-19 is not the only threat to life. Have we considered the unintended consequences of forcibly shutting down businesses and implementing stay at home orders? These government actions have created irrational fear and increased stress. Is life without liberty the quality of life we desire? Patrick Henry’s well-known statement “give me liberty or give me death” encapsulates the American belief that liberty is essential to purposeful life. If life is so precious, why are abortion facilities deemed by governments to be essential during the COVID-19 shutdown? Abortions have claimed 70 times more lives this year than COVID-19 as of the date of this letter. If the shutdown of our economy was really about saving lives, why not immediately shut down and funnel resources to stopping an immensely greater threat to life?

The same argument that government officials used to shutdown businesses could be used to restrict people from driving their cars. Do we restrict liberty to prevent a potential harm to life? An estimated 1.25 million people die in car accidents each year worldwide. Would you consent to the government executing unilateral and arbitrary restrictions of our freedom of movement on their justification that it would prevent loss of life? We have the freedom to make choices and be accountable to the resulting consequences. While there may be a potential that I die in my car today, I have the freedom to weigh and manage that risk by choosing whether to leave my house or not. Small Business Owners, the ones hit hardest by these actions, employ 48% of the workers, generate 44% of economic activity, and generate 50% of GDP for our country. They are not just important to our economy; they are vital to our economy. Opening businesses would not force any person to patronize businesses. Rather, it allows the conscious exercise of liberty by giving people the opportunity to weigh and manage their own risk as they choose to leave their house or not.

**Business owners have the right to run their businesses under the Constitution and United States Code.** The Fourteenth Amendment provides, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law;...” If the Constitution itself was not clear enough, these rights have been codified in Title 18 of the United States Code which outlines crimes and criminal procedure. Section 242 of Title 18 states,

*“Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different*

punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, ***shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section*** or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, ***shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.***”

The penalties for denying rights, privileges, or immunities secured or protected by the Constitution or laws of the United States range from misdemeanor penalties to the death penalty. This section of the United States Code should serve as a reassurance to federal, state, and local officials and law enforcement that they do not have to follow unconstitutional mandates given by federal, state, or local government. This section should also serve as a warning to federal, state, and local officials and law enforcement that there are strict and severe penalties that accompany the denial of rights, privileges, or immunities of the people.

Many Utah business owners have already been deprived of liberty and property without due process of law. Business owners should understand that they have a right to engage in business and provide their much-needed services to the people of this great State. Many business owners have been shut down or threatened by unelected state or local health officials. Some have been threatened with criminal penalties for violating a stay at home order. Some have been told that they are non-essential. There are double standards and selective enforcement that have already taken place and will inevitably increase. If a business provides a service to its customers and supports family(ies) with its income, ***it is essential!***

This letter is sent in an effort to inform people of their rights and ***foster a spirit of cooperation, not conflict.*** I understand that there will be many who deal in the extremes of freedom and security. My hope is that business owners will exercise their rights appropriately while being responsible citizens. Business owners have the freedom to open their doors and people have the freedom to patronize those businesses. If business owners choose to refine their normal processes of providing service to accommodate the concern over COVID-19, it is likely that people will be more willing to engage with the business because it will be easier for the customer to weigh and manage the risk.

I hope that public servants will also avoid unnecessary conflict. I took an oath to uphold the Constitution of the United States when I was admitted to both the Utah and Idaho State bars. Many, if not all, of our public servants have done the same. Some may feel that they have no choice but to enforce policies they receive from federal, state, or local governments. However, the oath of office that we took is to uphold the Constitution of the United States. My hope is that all the great people of this State will work together in a spirit of collaboration, avoid unnecessary conflict, and do our part to protect our rights of life, liberty, and property as outlined in the United States Constitution.