

IN THE
**SUPREME COURT OF
PENNSYLVANIA**

Docket No.

CIVIL RIGHTS DEFENSE FIRM, P.C, FIREARMS POLICY COALITION,
INC., PRINCE LAW OFFICES, P.C., TROP GUN SHOP, LTD, and ROGER
MULLINS

Petitioners

vs.

GOVERNOR TOM WOLF

Respondent

**PETITIONERS' EMERGENCY, *EX PARTE* APPLICATION FOR
EXTRAORDINARY RELIEF PURSUANT TO THE COURT'S KING'S
BENCH JURISDICTION**

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I. INTRODUCTION

Petitioners, by counsel,¹ hereby move pursuant to Rule 3309 of the Pennsylvania Rules of Appellate Procedure for emergency, *ex parte* relief in the nature of an emergency preliminary injunction enjoining Pennsylvania Governor Tom Wolf and those acting in concert with him from implementing or enforcing any practice, policy, proclamation, regulation, rule, or interpretation relating to his *Order of Governor of the Commonwealth of Pennsylvania Regarding the Closure of All Businesses that are not Life Sustaining*, and incorporated List of Life Sustaining Businesses, of March 19, 2020, (hereinafter “Order of March 19, 2020”) shuttering all businesses that are “not Life Sustaining” and imposing criminal and civil penalties for non-compliance with the Order. A copy of the Order of March 19, 2020 is attached hereto and incorporated herein as Exhibit A.

II. STATEMENT OF JURISDICTION

Pursuant to Article V, Section 2 of the Pennsylvania Constitution, this Court “shall be the highest court of the Commonwealth and in this court shall be reposed the supreme judicial power of the Commonwealth.” Section 2 further provided that

¹ Pursuant to Counsels’ ethical duty of candor, the undersigned notifies this Court that pursuant to the Order and List of Life Sustaining Businesses issued by Governor Wolf, Attorney Joshua Prince is in violation of the Order, as it proscribes “legal services” from remaining open and conducting business.

the Supreme Court “shall have such jurisdiction as shall be provided by law.” *Id.* at

2(c). The Court’s broad power and jurisdiction is confirmed by statute

The Supreme Court shall have and exercise the powers vested in it by the Constitution of Pennsylvania, including the power generally to minister justice to all persons and to exercise the powers of the court, as fully and amply, to all intents and purposes, as the justices of the Court of King's Bench, Common Pleas and Exchequer, at Westminster, or any of them, could or might do on May 22, 1722. The Supreme Court shall also have and exercise the following powers:

(1) All powers necessary or appropriate in aid of its original and appellate jurisdiction which are agreeable to the usages and principles of law.

(2) The powers vested in it by statute, including the provisions of this title.

42 Pa.C.S. § 502.10.

The Court’s King’s Bench power comprises “every judicial power that the people of the Commonwealth can bestow,” *Stander v. Kelly*, 433 Pa. 406, 428 (1969) (Roberts, J., with Jones and Pomeroy, J.J., concurring), and is “a trust for the people of Pennsylvania[,]” *Chase v. Miller*, 41 Pa. 403, 411 (1862). The Court therefore “would be remiss to interpret the Court's supervisory authority at King’s Bench in narrow terms, contrary to precedent and the transcendent nature and purpose of the power.” *Commonwealth v. Williams*, 634 Pa. 290, 304 (2015); *In re Bruno*, 627 Pa. 505, 578 (2014).

The Court may assume King’s Bench jurisdiction over a matter even where no action is pending before any lower court. *In re Bruno*, 627 Pa. at 562; Standard

Pa. Practice § 2:134. The Court invokes its King’s Bench authority when “an issue of public importance ... requires timely intervention ... to avoid the deleterious effect arising from delays incident to the ordinary process of law.” *Williams*, 634 Pa. at 302 (citing *In re Bruno*, 627 Pa. at 563). This emergency, *ex parte* Petition readily meets this standard.

The issue raised is of immense public importance, as the Governor has overstepped his statutory and constitutional authority and seeks to impose criminal and civil penalties upon those, including, but not limited to, Petitioners, who do not comply. In fact, as specified in the Order, “[e]nforcement actions will be taken against non-life sustaining businesses that are out of compliance effective March 21, 2020, at 12:01 a.m.” and in his Press Release, it declares that Governor Wolf has “directed the following state agencies and local officials to enforce the closure orders to the full extent of the law:

- Pennsylvania Liquor Control Board
- Department of Health
- Department of Agriculture
- Pennsylvania State Police
- Local officials, using their resources to enforce closure orders within their jurisdictions”

A copy of the Press Release is attached hereto as Exhibit B and is additionally available at <https://www.governor.pa.gov/newsroom/all-non-life-sustaining-businesses-in-pennsylvania-to-close-physical-locations-as-of-8-pm-today-to-slow-spread-of-covid-19>. Furthermore, the Press Release declares that “in addition to

any other criminal charges that might be applicable, the Department of Health is authorized to prosecute noncompliant entities for the failure to comply with health laws, including quarantine, isolation or other disease control measures. Violators are subject to fines or imprisonment.” *Id.*

III. STATEMENT OF QUESTIONS INVOLVED

1. Whether this Court should issue an emergency, *ex parte* injunction enjoining Governor Tom Wolf from implementing or enforcing any practice, policy, proclamation, regulation, rule, or interpretation relating to his Order of March 19, 2020, shuttering all businesses that are “not Life Sustaining” and imposing criminal and civil penalties for non-compliance with the Order.

Suggested Answer in the *Affirmative*

IV. BASIS FOR EMERGENCY, *EX PARTE* RELIEF

As specified *supra* and *infra*, unless this Court issues an emergency, *ex parte* injunction enjoining Governor Tom Wolf from implementing or enforcing his Order of March 19, 2020, until such time as an evidentiary hearing can be held by this Court, Petitioners and those similarly situated will be subjected to criminal prosecution, fine, and the loss of substantial revenue, in direct violation of the law and their constitutional rights. Therefore, to maintain the status quo, and provide

this Court with ample time to consider and fully address the arguments of the Parties, it is necessary that an emergency, *ex parte* injunction issue to protect a manifest injustice from occurring.

V. STATEMENT OF FACTS

Procedural Background

Governor Wolf initially attempted to bring about the closure of the businesses of Petitioners and those similarly situated on Saturday, March 14, 2020. Governor Wolf “strongly urged non-essential businesses” in four particular counties across the Commonwealth (Bucks County, Chester County, Delaware County, and Montgomery County) to close to mitigate the spread of the Covid-19 virus. A copy of this announcement is attached hereto as Exhibit C and is additionally *available at* <https://dced.pa.gov/newsroom/wolf-administration-issues-guidance-to-non-essential-businesses-as-part-of-covid-19-mitigation-efforts/>.

On Monday, March 16, 2020, Governor Wolf extended this request to “non-essential businesses” across the Commonwealth. This suggestion was to go into effect beginning at 12:01 a.m. on Tuesday, March 17, 2020. Under this order, all restaurants and bars were to close their dine-in facilities and operate only on a delivery or take-out basis for food orders. Additionally, Governor Wolf designated, amongst other businesses, legal services as those which should have employees

work remotely. A copy of this press release is attached hereto as Exhibit D and is additionally available at <https://www.governor.pa.gov/newsroom/wolf-administration-updates-businesses-on-guidance-for-covid-19-mitigation-efforts/>.

Two days later, on Thursday, March 19, 2020, Governor Wolf ordered the closure of all businesses that are not “life sustaining” pursuant to his powers to proclaim the existence of a disaster emergency throughout the Commonwealth under 35 Pa.C.S. § 7301(c). *See*, Exhibit A. Governor Wolf asserted his purported authority pursuant to 35 Pa.C.S. 7301(f) to “to control ingress and egress to and from a disaster area and the movement of persons within it and the occupancy of premises therein; and suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, and combustibles”. The Governor also stated that all prior orders regarding business closures, such as those cited *supra*, were hereby superseded.

*Facts Specific to Petitioners and
Those Similarly Situated*

Petitioner Civil Rights Defense Firm, P.C. (hereinafter “CRDF”), is a professional corporation registered with the Pennsylvania Bureau of Corporations, entity no. 6373277, whose Owner and sole Officer and Director is Joshua Prince, Esq. Declaration of Joshua Prince, Esq. at ¶ 1. CRDF is a law firm, providing legal services to members of the public, including to the Petitioners in this matter, with a

business address of 646 Lenape Road, Bechtelsville, PA 19505, where Attorney Joshua Prince reports to work, everyday, including almost all weekends. *Id.* at ¶ 2. CRDF’s core mission is to zealously defend its clients’ inalienable and inviolate rights against all forms of injustice and transgression by state and federal actors and it is currently open, and intends to remain open, weekly, Monday through Friday from 9 a.m. through 5 p.m., with Attorney Joshua Prince being on-call and available to handle legal matters of its clients 24 hours a day, when necessary, as reflected by the preparation of this Application for Extraordinary Relief. *Id.* at ¶¶ 3-4. As CRDF provides legal services to its clients and legal services are listed as “non-life sustaining businesses” pursuant to the Order of March 19, 2020, Attorney Joshua Prince fears prosecution, fine, and/or seizure/penalty for violating Order, as well as for those who are similarly situated. *Id.* at ¶¶ 6, 8, 10. Although the Order of March 19, 2020 exempts “virtual or telework operations (e.g., work from home), so long as social distancing and other mitigation measures are followed in such operation,” CRDF does not meet the exemption, as it is necessary for Attorney Joshua Prince to be able to meet and confer with clients, in-person, including in relation to this matter, and for mail, faxes, and client documents to be received and processed at its place of business, to ensure attorney-client privilege and work-product privilege. *Id.* at ¶ 7. Since Wednesday, March 18th, CRDF has received in excess of one hundred new client inquiries for legal advice and representation

relative to the Order and constitutional rights, including, but not limited to, the right to keep and bear arms and due process. *Id.* at ¶ 9. CRDF contends that it constitutes a life sustaining business, as it protects the inalienable and inviolate rights of those individuals of the Commonwealth.

Petitioner Prince Law Offices, P.C. (hereinafter “PLO”), is a professional corporation registered with the Pennsylvania Bureau of Corporations, entity no. 1632035, whose Owner and sole Officer and Director is Warren Prince, Esq. Declaration of Warren Prince, Esq. at ¶ 1. PLO is a law firm, providing legal services to members of the public, with a business address of 646 Lenape Road, Bechtelsville, PA 19505, where Attorney Warren Prince reports to work, everyday, including almost all weekends. *Id.* at ¶ 2. Furthermore, PLO currently employs 14 individuals, between staff, paralegals, and attorneys, whom report to work, Monday through Friday from 9 a.m. through 5 p.m, at its place of business, with attorneys a on-call and available 24 hours a day, seven days a week, to handle emergent matters. *Id.* at ¶ 3. *Id.* at ¶ 2. As PLO provides general legal services to its clients, including, but not limited to, emergency child custody representation, and legal services are listed as “non-life sustaining businesses” pursuant to the Order of March 19, 2020, Attorney Warren Prince fears prosecution, fine, and/or seizure/penalty for violating Order, as well as for those who are similarly situated. *Id.* at ¶¶ 5, 7, 9. Although the Order of March 19, 2020 exempts “virtual or

telework operations (e.g., work from home), so long as social distancing and other mitigation measures are followed in such operation,” PLO does not meet the exemption, as it is necessary for its attorneys to be able to meet and confer with clients, in-person, and for mail, faxes, and client documents to be received and processed at its place of business by its staff and paralegals, to ensure attorney-client privilege and work-product privilege. *Id.* at ¶ 6. Since Wednesday, March 18th, PLO has received in excess of forty new client inquiries for legal advice and representation relative to everything from emergency child custody matters to immigration issues to criminal law matters. *Id.* at ¶ 8. PLO contends that it constitutes a life sustaining business, as it provides general legal services, including emergency child custody representation, to individuals of the Commonwealth. *Id.* at ¶ 7.

Petitioner Trop Gun Shop, Ltd. (hereinafter “Trop”), is a business corporation registered with the Pennsylvania Bureau of Corporations, entity no. 1561531, which holds a federal firearms license issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives. Declaration of David Dunn at ¶ 1. Trop Gun Shop, Ltd. also holds a license to sell firearms in Pennsylvania, pursuant to 18 Pa.C.S. § 6113, as required by 18 Pa.C.S. § 6112. *Id.* Trop is currently open and intends to remain open for the purposes of selling and/or transferring firearms, ammunition, firearms accessories, medical supplies, and other goods to the public,

as well as, provide its indoor ranges for the public to train, practice, and gain proficiency with their firearms and ammunition. *Id.* at ¶ 2. Trop is unable to determine, based on the Order of March 19, 2020, whether it constitutes a “life sustaining business” or a “non-life sustaining business.” *Id.* at ¶¶ 3-8. Should Governor Wolf’s Order of March 19, 2020 classify Trop as a “non-life sustaining” business, Trop will be forced to either operate in violation of the order – where it will be subject to prosecution, fine, seizure, or penalty – or close its doors and lose income along with having to lay off approximately 30 employees. *Id.* at ¶¶ 8-9.

Petitioner Roger Mullins (“Mullins” or “Mr. Mullins”) is an individual, adult resident of Bucks County, PA who is not prohibited from purchasing and possessing firearms and ammunition. Declaration of Roger Mullins at ¶ 1 and 3. Mr. Mullins is a bona fide member of Petitioner Firearms Policy Coalition, Inc. and brings this action on behalf of himself and others similarly situated. *Id.* at ¶ 2. As a result of the manner in which Mr. Mullins is paid, he was unable to complete a purchase for firearms and ammunition prior to the Governor’s Order taking effect. *Id.* at ¶¶ 5-6. Moreover, the gun shops which Mr. Mullins would patronize announced that they were closed as a result of the Governor’s Order. *Id.* at ¶¶ 7-11. Mr. Mullins is unable to acquire a firearm or ammunition for defense of his home, hearth, family, and self, which directly implicates his natural and inviolate right to self-defense. *Id.* at ¶ 12.

Petitioner Firearms Policy Coalition, Inc. (“FPC”) is a non-profit membership organization incorporated under the laws of Delaware with its principal place of business in Sacramento, California, with members residing both within and outside of the Commonwealth of Pennsylvania, that serves its members and the public through direct and grassroots advocacy, legal efforts, and education. Declaration of Brandon Combs at ¶ 2. The purposes of FPC include defending the United States Constitution and the People’s rights, privileges and immunities deeply rooted in the Nation’s history and tradition, especially the fundamental right to keep and bear arms. *Id.* FPC represents these members and supporters, who include Pennsylvanians seeking to acquire firearms. *Id.* at ¶ 5. FPC brings this action on behalf of itself, its members, and supporters, who possess all the indicia of membership, and similarly situated members of the public.

VI. ARGUMENT

- A. Petitioners Can Show that (1) an injunction is necessary to prevent immediate and irreparable harm that cannot be compensated adequately by damages; (2) greater injury will result from refusing the injunction than from granting it; (3) the injunction restores the parties to the status quo ante; (4) the petitioners’ right to relief is clear; (5) the injunction is reasonably suited to abate the offending activity; and (6) the injunction will not adversely affect the public interest.

The prerequisites of a preliminary injunction are:

- (1) the injunction is necessary to prevent immediate and irreparable harm that cannot be compensated adequately by damages; (2) greater injury would

result from refusing the injunction than from granting it, and, concomitantly, the issuance of an injunction will not substantially harm other interested parties in the proceedings; (3) the preliminary injunction will properly restore the parties to their status as it existed immediately prior to the alleged wrongful conduct; (4) the party seeking injunctive relief has a clear right to relief and is likely to prevail on the merits; (5) the injunction is reasonably suited to abate the offending activity; and, (6) the preliminary injunction will not adversely affect the public interest.

SEIU Healthcare Pennsylvania v. Commonwealth, 628 Pa. 573, 584 (2014)(citing *Warehime v. Warehime*, 580 Pa. 201 (2004))

i. Petitioners' Right to Relief is Clear

As discussed *infra*, the Petitioners' right to relief is clear under multiple legal bases. Consistent with the constitutional avoidance doctrine and this Court's holding in *Mt. Lebanon v. Cty. Bd. of Elections of Allegheny Cty.*, 470 Pa. 317, 322 (1977)(declaring that courts in this Commonwealth should decide matters on nonconstitutional grounds, where possible, prior to reviewing the constitutional grounds), Petitioners first address statutory infirmities of the Order of March 19, 2020, and thereafter, the constitutional infirmities.

a. Governor Wolf Lacks the Authority to Close All Businesses That Are Not "Life Sustaining"

1. COVID-19 Does Not Constitute a Disaster Emergency Pursuant to 35 Pa.C.S. § 7301(c)

Pursuant to 35 Pa.C.S. § 7301, in order for a Governor to declare a disaster emergency, there first must be a “disaster.” 35 Pa.C.S. § 7102 defines the term “disaster” to mean “[a] man-made disaster, natural disaster, or war-caused disaster.” Continuing through the terms, the General Assembly defined “natural disaster” to include “[a]ny hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion or other catastrophe which results in substantial damage to property, hardship, suffering or possible loss of life.” Notably absent from the definition of a “natural disaster” is anything pertaining to plague, disease, viruses, *etc.* In fact, all of the enumerated disasters speak to weather-related events, save for explosions, and pursuant to 1 Pa.C.S. § 1932, must be read in *pari materia*. Taking the words in context, there is nothing to suggest that the General Assembly sought to include a plague, disease, virus or pandemic in the term “natural disaster.” Perhaps more importantly, at the time of the enactment of Emergency Management Services Code, 35 Pa.C.S. § 7101, *et seq.*, 1978, Nov. 26, P.L. 1332, the General Assembly was acutely aware of how to draft a statute pertaining to or otherwise including “disease” as reflected by its enactment of the Department of Health’s powers in the Administrative Code of 1923, 71 P.S. §§ 532(a), 1403(a), and the Disease Prevention and Control Law of 1955, 35 P.S. § 521.1, *et seq.*, 1956, April 23, P.L. 1510. More recently, in enacting the Counterterrorism Planning, Preparedness and

Response Act, 35 P.S. § 2140.101, *et seq.*, 2002, Dec. 16, P.L. 1967, No. 227, the General Assembly once again displayed its ability, when it so desires, to regulate an “outbreak of a contagious disease or epidemic.” Specifically, pursuant to 35 P.S. § 2140.301(a),

In the case of an actual or suspected outbreak of a contagious disease or epidemic due to an actual or suspected bioterrorist or biohazardous² event, the Governor, in consultation with the Secretary of Health, may temporarily isolate or quarantine an individual or groups of individuals through a written order if delay in imposing the isolation or quarantine through judicial proceedings currently available to the department and local health departments would significantly jeopardize the department's ability to prevent or limit the transmission of a contagious or potentially contagious disease to others. This subsection shall not require a declaration of disaster emergency by the Governor in order to be effective.³

Pursuant to Counterterrorism Planning, Preparedness and Response Act, while it provides the Department of Health with limited authority to isolate or quarantine an individual or group, it neither provides the Governor nor the Department of Health with the power or authority to shutter business.

The object of statutory construction is to ascertain and effectuate legislative intent. 1 Pa.C.S. § 1921(a). “In pursuing that end, we are mindful that the statute’s plain language generally provides the best indication of legislative intent.”

² Although the term “biohazardous” is not defined in the Act, Meriam-Webster defines “biohazard” as “a biological agent or condition that is a hazard to humans or the environment.” See, <https://www.merriam-webster.com/dictionary/biohazard>.

³ Section 2140.301(b), consistent with due process, thereafter mandates the necessary action to be taken by the Department of Health to ensure judicial review is provided. In this matter, to the best of the undersigned’s knowledge and belief, the Department of Health has not filed, relative to any individual or group, a petition, in any court.

Commonwealth v. McClintic, 589 Pa. 465, 472 (2006). To that end, as the General Assembly is acutely aware of how to enact legislation pertaining to plagues, diseases, epidemics, viruses, *etc.* and has not included such in enacting Emergency Management Services Code, the Governor’s Order of March 19, 2020 is *ultra vires* and must be enjoined.

2. Alternatively, even if COVID-19 Rises to the Level of a Disaster Emergency Pursuant to 35 Pa.C.S. § 7301(c), Governor Wolf Exceeded His Authority

While the Governor’s Order of March 19, 2020 purports to ground its authority to close all “non-life sustaining” businesses throughout the Commonwealth on 35 Pa.C.S. §§ 7301(f)(7), (8), neither subsection provides the Governor with that authority. In fact, when read in context of *pari materia*, and in applying other well established rules of statutory construction, 35 Pa.C.S. § 7301(f) makes explicitly clear that the Governor cannot, by executive order, close nearly every private business in the Commonwealth.

1 Pa.C.S. § 1921(a) provides: “[t]he object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly. Every statute shall be construed, if possible, to give effect to all its provisions.” Consistent therewith, “the Statutory Construction Act disfavors surplusage. This Act requires that [e]very statute shall be construed, if possible, to

give effect to all its provisions, 1 Pa.C.S. § 1921(a), and permits the presumption that the Legislature intends the entire statute to be effective and certain, 1 Pa.C.S. § 1922(2). The Legislature is presumed to have intended to avoid mere surplusage in the words, sentences and provisions of its laws. Courts must therefore construe a statute, if possible, so as to give effect to every single word.” *Habecker v. Nationwide Ins. Co.*, 445 A.2d 1222, 1226 (Pa. Super. 1982) (*internal quotes omitted*).

35 Pa. C.S. § 7301(f)(8) makes explicitly clear that during states of emergency, the Governor *only has* the statutory authority to regulate the sale, dispensing, and transportation of *certain* goods in commerce – namely alcoholic beverages, firearms,⁴ explosives and combustibles. The General Assembly elected to provide an exclusive list of the businesses over which the Governor could exert authority under emergency circumstances – and they did so in 35 Pa.C.S. § 7301(f)(8). The Governor’s Order of March 19, 2020 now seemingly argues that 35 Pa.C.S. § 7301(f)(7) provides him with the authority to close *all other* Commonwealth businesses. If his contention were accurate, and 35 Pa.C.S. § 7301(f)(7) provided him with the ability to regulate and forcibly close any and all Commonwealth business he deemed necessary, then the language of 35 Pa.C.S. § 7301(f)(8) would serve no purpose and would constitute mere surplusage. The

⁴ As set forth *infra*, Petitioners contend this putative power is unconstitutional.

rules of statutory construction outlined *supra* prevent such an interpretation and as a result, require that the Order of March 19, 2020 be enjoined.

b. Governor Wolf’s Order Violates Article 1, Sections 1, 21, 25, and Article V, Section 10, of the Pennsylvania Constitution and the Second, Fifth, and Fourteenth Amendments of the United States Constitution

1. Governor Wolf’s Order is Vague, Arbitrary, Discriminatory and Untailored to Achieve its Purported Goal in Violation of Petitioners’ Article 1, Section 1 and Fifth and Fourteenth Amendment Rights

Article 1, Section 1 of the Pennsylvania Constitution ⁵ provides:

All men are born equally free and independent, and have certain inherent and inalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

The Fifth Amendment to the U.S. Constitution provides, in pertinent part, that “[n]o person shall ... be deprived of life, liberty, or property, without due process of law.” The Fourteenth Amendment to the U.S. Constitution likewise, in pertinent part, provides that “[n]o state shall ... deprive any person of life, liberty, or property, without due process of law.”

⁵ As declared by Article 1, Section 25 of the Pennsylvania Constitution, “[t]o guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall *forever* remain inviolate.” (emphasis added).

As declared by this Court, a “statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law.” *Pennsylvania State Bd. of Pharmacy v. Cohen*, 448 Pa. 189, 200 (1972) (quotation and citations omitted). More importantly, “(n)o one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids.” *Id.* (quotations and citations omitted). The requirement that statutes be sufficiently definite applies whether the statute prohibits conduct or requires the doing of an act. *Commonwealth v. Mayfield*, 574 Pa. 460, 467 (2003).

Governor Wolf’s Order violates this key first tenant of due process in being unconstitutionally vague.

The Governor’s Order of March 19, 2020 provides:

No person or entity shall operate a place of business in the Commonwealth that is not a life sustaining business regardless of whether the business is open to members of the public. This prohibition does not apply to virtual or telework operations (e.g., work from home), so long as social distancing and other mitigation measures are followed in such operations.

Included with the Order, Governor Wolf provided a list of types of businesses that were considered to be “life sustaining” and therefore permitted to remain open for business. This document – five pages in length in approximately 10 point font with more than 70 lines per page – purported to identify every

business in the Commonwealth ⁶ with sufficient specificity such that their owners could determine if they were now – permitted by law – to continue operations. The Order also made clear that businesses found to be non-compliant with the Order beginning at 12:01 AM on March 21, 2020 would face enforcement actions against them and the Press Release declares that “in addition to any other criminal charges that might be applicable, the Department of Health is authorized to prosecute noncompliant entities for the failure to comply with health laws, including quarantine, isolation or other disease control measures. Violators are subject to fines or imprisonment.” *See*, Exhibit B.

The completely arbitrary and capricious nature of the Order is demonstrated by the forced closure of “Specialty Food Stores” as they are deemed non-life sustaining, while “Grocery Stores” are permitted to remain open, as they are deemed life sustaining. *See*, Exhibit A at pg. 5. Such a distinction between the two is arbitrary at best and falls short of being narrowly tailored to achieve the Order’s purported goal. Why is a “Specialty Food Store” non-life sustaining, but a “Grocery Store” is? Neither business type, nor any other in the Governor’s list, are defined. Likewise, “Sporting Goods Stores” are mandated to close, while “Other General Merchandise Stores” are permitted to remain open. *See*, Exhibit A at pg. 5.

⁶ The Commonwealth is the sixth largest economy in the nation. *See*, <https://www.forbes.com/places/pa/>

To wrongly categorize your own small business as life-sustaining is to face “enforcement actions,” inclusive of “fines or imprisonment,” within 36 hours of issuance of the Order and without further clarification or guidance. These are but a few examples of the immediate challenges facing “men of common intelligence” in deciphering the meaning of the Order so as to avoid an enforcement action against them.

Notably, the Commonwealth’s Firearms Retailers have been left with insufficient guidance as to their potential status as “life sustaining.” While the Order notes that 35 Pa.C.S. § 7301(f) purports to empower the Governor to “suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, and combustibles,” the Order clearly neglects to actually invoke this power.⁷ In fact, in the aforementioned list of life-sustaining business types, “Beer, Wine and Liquor Stores” are determined by Governor to be life-sustaining and may remain open for business. *See*, Exhibit A at pg. 5. Firearms retail is not included on the Governor’s list at all.

In fact, the Order is so unconstitutionally vague – and perhaps purposefully so – that the Governor made a point to highlight his purported statutory authority to regulate firearms during a state of emergency, while choosing not to actually do

⁷ To the extent Respondent contends that the Order of March 19, 2020 restricts the sale, dispensing, or transportation of firearms, as discussed *infra*, Petitioners contend that such is in direct violation of Article 1, Sections 21, 25 of the Pennsylvania Constitution, the Second Amendment to the U.S. Constitution, and 18 Pa.C.S. § 6107(b).

so. The Governor’s silence on the classification of Firearms Retail businesses as “life-sustaining” furthers this line of reasoning. By remaining vague, the Governor hopes he can force Commonwealth businesses into closing their doors, without requiring him to expend the political capital of expressly doing so and thereafter having the restriction struck down as unconstitutional.

Many businesses are facing dire straits as a result of the current crisis. To the fullest extent possible, it is in all businesses’ interest to maximize their ability to operate, while maintaining the social distancing necessary to be responsible members of their community. Therefore, to simply err on the side of shuttering their operation as a result of the Order, is not an economically feasible option. Business owners of common intelligence cannot be expected to decipher the web of business types as provided – without definition – by the Governor pursuant to his Order. To prevent – in direct violation of Article 1, Section 1 of the Pennsylvania Constitution and the Fifth and Fourteenth Amendments to the U.S. Constitution – the unlawful prosecution, fining, and seizure of people and property, as well as, the additional and unnecessary damage to the interests of Commonwealth businesses, the Governor’s Order must be enjoined.

2. Governor Wolf’s Order is in Violation of Petitioners’ Article 1, Section 21 and the Second Amendment Rights

Article 1, Section 21 of the Pennsylvania Constitution ⁸ provides:

The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.

The Second Amendment to the United States Constitution provides:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

As the Supreme Court of the United States stated, the right to keep and bear arms “guarantee[s] the individual right to possess and carry” firearms and “elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home.” *D.C. v. Heller*, 554 U.S. 570, 635 (2008). In fact, the *Heller* Court defined “bear arms” as to “wear, bear, or carry ... upon the person or in the clothing or in a pocket, for the purpose ... of being armed and ready for offensive or defensive action in a case of conflict with another person.” 554 U.S. at 584. Shortly thereafter the *Heller* decision, the Supreme Court confirmed that the rights protected by the Second Amendment are “among those fundamental rights necessary to our system of ordered liberty,” and incorporated to the states by the Due Process Clause of the Fourteenth Amendment. *McDonald v. City of Chicago*, 561 U.S. 742, 791 (2010).

⁸ As declared by Article 1, Section 25 of the Pennsylvania Constitution, “[t]o guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall *forever* remain inviolate.” (emphasis added).

Against the backdrop of growing uncertainty, the right of law-abiding Commonwealth residents to keep and bear arms, as guaranteed by both the Pennsylvania and U.S. Constitutions, is the epitome of life-sustaining. The fundamental right to self-defense as articulated by the *Heller* Court could not be more clear. Nothing could be more directly relevant to sustaining life than the right to defend it from mortal threat. Given the uncertain times which prompted the Order, it is as crucial now than at any time prior to ensure the ability of the citizens of the Commonwealth to be able to exercise their right to bear arms in self-defense and the defense of their loved ones.

Yet, if this Court finds that the Order of March 19, 2020 is not vague in relation to Petitioner Trop and requires that it shutter its doors, law-abiding individuals will be divested of an ability to procure a firearm for purposes of self-defense due to 18 Pa.C.S. § 6111(c), which provides:

Any person who is not a licensed importer, manufacturer or dealer and who desires to sell or transfer a firearm to another unlicensed person shall do so only upon the place of business of a licensed importer, manufacturer, dealer or county sheriff's office, the latter of whom shall follow the procedure set forth in this section as if he were the seller of the firearm. The provisions of this section shall not apply to transfers between spouses or to transfers between a parent and child or to transfers between grandparent and grandchild.

Thus, to the extent Governor Wolf's Order is not violative of due process and includes Federal Firearm Licensees, the Governor has stripped, in violation of Article 1, Section 21 and the Second Amendment, Petitioner Trop from being able

to sell firearms to the public and Petitioner Mullins, as well as, millions of Pennsylvanians,⁹ and FPC members, from being able to purchase a handgun. As the *Heller* Court declared, “the American people have considered the handgun to be the quintessential self-defense weapon.” 554 U.S. at 629.

Accordingly, as the Governor’s Order of March 19, 2020 directly infringes on the right of Pennsylvanians to lawfully sell and acquire arms for defense of their home and hearth in direct contravention to Article 1, Section 21 and the Second Amendment, it must be enjoined.

3. Governor Wolf’s Order is in Violation of Article V, Section 10, as it Regulates the Practice of Law

Article V, Section 10 of the Pennsylvania Constitution provides, in pertinent part, that “[t]he Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts ... All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions.”

As declared by this Court, “the Supreme Court in this Commonwealth is empowered by the Pennsylvania Constitution to govern the conduct of attorneys practicing law within the Commonwealth” and that any enactment encroaching

⁹ See, <https://www.census.gov/quickfacts/PA>, declaring at as July 1, 2019, the U.S. Census estimates that Pennsylvania’s population is 12,801,989.

upon the Court's exclusive power to regulate an attorney is unconstitutional. *Lloyd v. Fishinger*, 529 Pa. 513, 519 (1992); *see also*, *Commonwealth v. Stern*, 549 Pa. 505, 512 (1997)(declaring that the legislature is precluded from “exercising powers entrusted to the judiciary.”); *Shaulis v. Pennsylvania State Ethics Comm’n*, 574 Pa. 680, 695 (2003), abrogated on other grounds by *Yocum v. Commonwealth Pennsylvania Gaming Control Bd.*, 639 Pa. 521 (2017)(declaring that provisions of the State Ethics Act were “unconstitutional because they specifically target attorneys”); *Wajert v. State Ethics Comm’n*, 491 Pa. 255, 262 (1980)(same).

In this matter, there can be no dispute that the Order of March 19, 2020 unconstitutionally targets and regulates that which is solely within the purview of this Court – the practice of law, as it explicitly proscribes lawyers from being able to provide “legal services” to anyone, even including those outside of this Commonwealth. As such, Petitioners CRDF and PLO face prosecution, fine, and seizure of property by the Governor and those acting in concert with him for merely providing legal services to those in need, including Petitioners.

Thus, as the Order of March 19, 2020 violates Article V, Section 10, it must be enjoined.

* * * *

As this Court so eloquently noted several months ago:

Notwithstanding the dangers posed by the few, we must remain wary of the diminution of the core liberties that define our republic, even when the

curtailment of individual liberty appears to serve an interest as paramount as public safety. “Experience should teach us to be most on our guard to protect liberty when the government’s purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.” *Olmstead v. United States*, 277 U.S. 438, 479, 48 S.Ct. 564, 72 L.Ed. 944 (1928) (Brandeis, J., dissenting).

Commonwealth v. Hicks, 208 A.3d 916, 946–47 (Pa. 2019), cert. denied sub nom.

Pennsylvania v. Hicks, 140 S.Ct. 645, 205 L.Ed.2d 410 (2019).

ii. *An Injunction is Necessary to Prevent Immediate and Irreparable Harm*

Pennsylvania law does not require a person to be prosecuted to find that he has suffered irreparable harm. *See, City of Erie v. Northwestern Food Council*, 322 A.2d 407, 411-12 (Pa. Cmwlth. 1974) (quoting *Harris-Walsh, Inc. v. Borough of Dickson City*, 216 A.2d 329, 331 (Pa. 1966) (holding that petitioner was not required to undergo criminal prosecution before availing himself of an equitable remedy)); *see also, Arsenal Coal Co. v. Com., Dep't of Env'tl. Res.*, 505 Pa. 198 (1984). Threats to fundamental rights, including the right to be free of threat of prosecution for lawful activity, constitute immediate and irreparable harm and warrant a preliminary injunction. *See, Pa. State Educ. Ass'n ex rel. Wilson v. Commonwealth Dep't of Cmty. & Econ. Dev., Office of Open Records*, 981 A.2d 383, 386 (Pa. Cmwlth. Ct. 2009) (granting a preliminary injunction to prevent public disclosure of employees' home addresses, a threat to their protected privacy

rights), *aff'd*, 606 2 A.3d 558 (Pa. 2010). As stated in *Firearm Owners Against Crime v. Lower Merion Twp.*, 151 A.3d 1172, 1180 (Pa. Cmwlth. 2016), “the violation of an express statutory provision constitutes *per se* irreparable harm and a preliminary injunction may issue where the other necessary elements are met.” (citing *Council 13, American Federation of State, County and Municipal Employees, AFL–CIO v. Casey*, 595 A.2d 670, 674 (Pa. Cmwlth. 1991)).

iii. Greater Injury Will Result From Refusing the Injunction Than Granting It

As Petitioners are under threat of criminal prosecution and civil penalties for non-compliance with the Order of March 19, 2020, there simply cannot be any greater injury than the refusal to grant an injunction, as Petitioners are facing threats of prosecution, fines, and monumental loss of revenue, including for otherwise lawful conduct.

iv. Status Quo

“The *status quo ante* to be preserved by a preliminary injunction is the last actual, peaceable, lawful, noncontested status which preceded the pending controversy.” *Dillon v. City of Erie*, 83 A.3d 467, 470 n. 1 (Pa. Cmwlth. 2014).

In this case, there can be no dispute that the last noncontested status existed immediately prior to the issuance of the Order of March 19, 2020.

v. *The Injunction is Reasonably Suited to Abate the Offending Activity*

As Petitioners only seek to enjoin the Order of March 19, 2020, which has caused the harm complained of herein, there can be no dispute that an injunction is reasonable suited to abate the offending activity.

vi. *The Injunction will not Adversely Affect the Public Interest*

As the public policy of the Commonwealth does not favor unconstitutional or *ultra vires* acts, an injunction furthers public policy. *See, Commonwealth v. Davidson*, 595 Pa. 1, 45 (2007) (Baer, J., concurring and dissenting) (citing *Cmwlth. v. Hughes*, 468 Pa. 502, 510 (1976)).

VII. CONCLUSION

For the foregoing reasons, Petitioners respectfully initially request that this Court issue an emergency, *ex parte* injunction enjoining Pennsylvania Governor Tom Wolf and those acting in concert with him from implementing or enforcing any practice, policy, proclamation, regulation, rule, or interpretation relating to his Order of March 19, 2020. Thereafter, Petitioners respectfully request that this

Court issue a final preliminary injunction, of the same nature, after the Parties have opportunity to be heard.

Respectfully Submitted,

Date: March 20, 2020



Joshua Prince, Esq.
Attorney ID: 306521
Civil Rights Defense Firm, P.C.
646 Lenape Rd
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610-400-8439 (fax)
Joshua@Civilrightsdefensefirm.com



Adam Kraut, Esq.
Attorney ID: 3184821
Firearms Policy Coalition
1215 K Street, 17th Floor
Sacramento, CA 95814
916-476-2342
akraut@fpclaw.org

CERTIFICATE OF SERVICE


I, Joshua Prince, hereby certify that I caused a copy of the foregoing to be filed and served upon the following person by first class United States mail:

Governor Tom Wolf
Office of the Governor
508 Main Capitol Building
Harrisburg, PA 17120

Joshua Shapiro
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Respectfully Submitted,

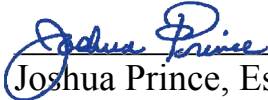
Date: March 20, 2020



Joshua Prince, Esq.
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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non -confidential information and documents.



Joshua Prince, Esq.
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IN THE SUPREME COURT OF PENNSYLVANIA

CIVIL RIGHTS DEFENSE	:
FIRM, P.C., <i>et al.</i>	:
Petitioners	:
v.	:
	:
GOVERNOR TOM WOLF	: Docket No.
Respondent	:

DECLARATION OF JOSHUA PRINCE, ESQ.

I, Joshua Prince, Esq., am competent to state and declare the following based on my personal knowledge:

1. I am an attorney licensed in the Commonwealth of Pennsylvania, Attorney Id. No. 306521, and the Owner and sole Officer and Director of Petitioner Civil Rights Defense Firm, P.C., a professional corporation registered with the Pennsylvania Bureau of Corporations, entity no. 6373277.
2. Civil Rights Defense Firm, P.C. is a law firm, providing legal services to members of the public, including to the Petitioners in this matter, with a business address of 646 Lenape Road, Bechtelsville, PA 19505, where I report to work, everyday, including almost all weekends.

3. Civil Rights Defense Firm, P.C.'s core mission is to zealously defend its clients' inalienable and inviolate rights against all forms of injustice and transgression by state and federal actors.
4. Civil Rights Defense Firm, P.C. is currently open, and intends to remain open, weekly, Monday through Friday from 9 a.m. through 5 p.m., and beyond the general hours of operation, I am on-call and available to handle legal matters of our clients 24 hours a day, when necessary, as reflected by the preparation of the Emergency, *Ex Parte* Application for Extraordinary Relief in this matter.
5. I have reviewed Governor Tom Wolf's Order, and incorporated List of Life Sustaining Businesses, of March 19, 2020 (hereinafter "Order"). A copy of the Order, and incorporated List of Life Sustaining Businesses, of March 19, 2020 is attached to the Emergency, *Ex Parte* Application for Extraordinary Relief as Exhibit A.
6. Pursuant to the List of Life Sustaining Businesses, Section "Professional and Business Services", subsection "Professional, Scientific, and Technical Services" (page 6 of Exhibit A), "Legal Services" are listed as non-life sustaining businesses.

7. Although the Order exempts “virtual or telework operations (e.g., work from home), so long as social distancing and other mitigation measures are followed in such operation,” Civil Rights Defense Firm, P.C. does not meet the exemption, as it is necessary for myself to be able to meet and confer with clients, in-person, including in relation to this matter, and for mail, faxes, and client documents to be received and processed at its place of business, to ensure attorney-client privilege and work-product privilege.
8. Although neither the phrase/term “life sustaining businesses” nor “non-life sustaining businesses” are defined in the Order, Civil Rights Defense Firm, P.C. is a life sustaining business, as it protects the inalienable and inviolate rights of those individuals of the Commonwealth.
9. Since Wednesday, March 18th, Civil Rights Defense Firm, P.C. has received in excess of one hundred new client inquiries for legal advice and representation relative to the Order and constitutional rights, including, but not limited to, the right to keep and bear arms and due process.
10. As the Order is clear that it applies to the services provided by Civil Rights Defense Firm, P.C. and those similarly situated, I fear

prosecution, fine, and/or seizure/penalty for violating Order, as well as for those who are similarly situated.

I, Joshua Prince, Esq., verify that Civil Rights Defense Firm, P.C., is a Petitioner named in the foregoing and all the information contained therein is true and correct to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: March 20, 2020


Joshua Prince

IN THE SUPREME COURT OF PENNSYLVANIA

CIVIL RIGHTS DEFENSE	:
FIRM, P.C., <i>et al.</i>	:
Petitioners	:
v.	:
	:
GOVERNOR TOM WOLF	: Docket No.
Respondent	:

DECLARATION OF WARREN PRINCE, ESQ.

I, Warren Prince, Esq., am competent to state and declare the following based on my personal knowledge:

1. I am an attorney licensed in the Commonwealth of Pennsylvania, Attorney Id. No. 25623, and the Owner and sole Officer and Director of Petitioner Prince Law Offices, P.C., a professional corporation registered with the Pennsylvania Bureau of Corporations, entity no. 1632035.
2. Prince Law Offices, P.C. is a law firm, providing general legal services to members of the public, with a business address of 646 Lenape Road, Bechtelsville, PA 19505, where I report to work, everyday, including almost all weekends.
3. Prince Law Offices, P.C. currently employs 14 individuals, between staff, paralegals, and attorneys, whom report to work, Monday

through Friday from 9 a.m. through 5 p.m, at its place of business.

Attorneys are on-call and available 24 hours a day, seven days a week, to handle emergent matters.

4. I have reviewed Governor Tom Wolf's Order, and incorporated List of Life Sustaining Businesses, of March 19, 2020 (hereinafter "Order"). A copy of the Order, and incorporated List of Life Sustaining Businesses, of March 19, 2020 is attached to the Emergency, *Ex Parte* Application for Extraordinary Relief as Exhibit A.
5. Pursuant to the List of Life Sustaining Businesses, Section "Professional and Business Services", subsection "Professional, Scientific, and Technical Services" (page 6 of Exhibit A), "Legal Services" are listed as non-life sustaining businesses.
6. Although the Order exempts "virtual or telework operations (e.g., work from home), so long as social distancing and other mitigation measures are followed in such operation," Prince Law Offices, P.C. does not meet the exemption, as it is necessary for its attorneys to be able to meet and confer with clients, in-person, and for mail, faxes, and client documents to be received and processed at its place of

- business by our staff and paralegals, to ensure attorney-client privilege and work-product privilege.
7. Although neither the phrase/term “life sustaining businesses” nor “non-life sustaining businesses” are defined in the Order, Prince Law Offices, P.C. is a life sustaining business, as it provides general legal services, including emergency child custody representation, to individuals of the Commonwealth.
 8. Since Wednesday, March 18th, Prince Law Offices, P.C. has received in excess of forty new client inquiries for legal advice and representation relative to everything from emergency child custody matters to immigration issues to criminal law matters.
 9. As the Order is clear that it applies to the services provided by Prince Law Offices, P.C. and those similarly situated, I fear prosecution, fine, and/or seizure/penalty for violating Order, as well as for those who are similarly situated

I, Warren Prince, President of Prince Law Offices, P.C., verify that Prince Law Offices, P.C., is a Petitioner named in the foregoing and all the information contained therein is true and correct to the best of my information, knowledge and belief. I understand that false statements herein

are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: March 20, 2020


Warren Prince

IN THE SUPREME COURT OF PENNSYLVANIA

CIVIL RIGHTS DEFENSE	:
FIRM, P.C., <i>et al.</i>	:
Petitioners	:
v.	:
	:
GOVERNOR TOM WOLF	: Docket No.
Respondent	:

DECLARATION OF DAVID DUNN

I, David Dunn, am competent to state and declare the following based on my personal knowledge:

1. I am the President of Petitioner Trop Gun Shop, Ltd., a business corporation registered with the Pennsylvania Bureau of Corporations, entity no. 1561531, which holds a federal firearms license issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives. Trop Gun Shop, Ltd. also holds a license to sell firearms in Pennsylvania, pursuant to 18 Pa.C.S. § 6113, as required by 18 Pa.C.S. § 6112.
2. Trop Gun Shop, Ltd. is currently open, and intends to remain open, weekly, Monday through Saturday from 10 a.m. through 8 p.m. and Sunday from 11 a.m. through 5 p.m., for the purposes of selling and/or transferring firearms, ammunition, firearm

accessories, medical supplies, and other goods to the public, as well as, provide our indoor ranges for the public to train, practice, and gain proficiency with their firearms and ammunition.

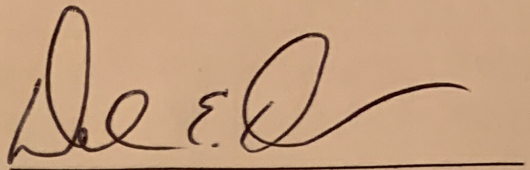
3. I have reviewed Governor Tom Wolf's Order, and incorporated List of Life Sustaining Businesses, of March 19, 2020 (hereinafter "Order"). A copy of the Order, and incorporated List of Life Sustaining Businesses, of March 19, 2020 is attached to the Emergency, *Ex Parte* Application for Extraordinary Relief as Exhibit A.
4. I am unable to determine whether the Order applies to Trop Gun Shop, Ltd., as it lacks specificity or any guidance that would allow a person of ordinary intelligence to determine what is regulated.
5. Although the fourth whereas clause of the Order mentions an ability to "suspend or limit the sale, dispensing, or transportation of ... firearms,"¹ neither the Order nor incorporated List of Life Sustaining Businesses specifically mentions "firearm," "gun," or "ammunition." *See*, Exhibit A.

¹ I specifically dispute, pursuant to Article 1, Sections 21 and 25 of the Pennsylvania Constitution and the Second Amendment to the U.S. Constitution, that the Governor has any legal right to regulate the sale, dispensing, or transportation of firearms.

6. The List of Life Sustaining Businesses, Section “Trade, Transportation, & Utilities”, subsection “Retail Trade” (page 5 of Exhibit A), mentions “Sporting Goods” as non-life sustaining businesses but thereafter specifies that “Other General Merchandise Stores” are life sustaining businesses.
7. Neither “sporting goods” nor “other general merchandise stores” are defined.
8. As the Order is unclear and vague as to whether it applies to federal firearm licensees, I and Trop Gun Shop, Ltd. fear prosecution and/or seizure/penalty for violating Order.
9. If I am required, as a result of the Order, to shutter Trop Gun Shop, Ltd., I, and those similarly situated to Trop Gun Shop, Ltd., anticipate losing \$20,000.00, per day, in sales, and having to layoff approximately 30 employees.

I, David Dunn, President of Trop Gun Shop, Ltd., verify that Trop Gun Shop, Ltd., is a Petitioner named in the foregoing and all the information contained therein is true and correct to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: March 19, 2020

A handwritten signature in black ink, appearing to read 'D. Dunn', written over a horizontal line.

David Dunn

IN THE SUPREME COURT OF PENNSYLVANIA

CIVIL RIGHTS DEFENSE :
FIRM, P.C., *et al.* :
 Petitioners :
 v. :
 :
GOVERNOR TOM WOLF : Docket No.
 Respondent :

DECLARATION OF BRANDON COMBS

I, Brandon Combs, am competent to state and declare the following based on my personal knowledge:

1. I am the President of Firearms Policy Coalition, Inc. (“FPC”).
2. FPC is a 501(c)(4) non-profit organization incorporated under the laws of Delaware, with its principal place of business in Sacramento, California. The purposes of FPC include defending and promoting the People’s rights—especially the fundamental, individual Second Amendment right to keep and bear arms—advancing individual liberty, and restoring freedom. FPC serves its members and the public through legislative advocacy, grassroots advocacy, litigation and legal efforts, research, education, outreach, and other programs. FPC has members and supporters,

who have all the indicia of membership, both within and outside of the State of Pennsylvania.

3. Petitioner Roger Mullins is a law-abiding, non-prohibited member of FPC located in the Commonwealth of Pennsylvania who, prior to Governor Tom Wolf issuing his March 19, 2020 Order¹ (hereinafter “Order”), planned to purchase a firearm and ammunition for defense of his home, hearth, family, and self.
4. Because of the Governor’s Order, Petitioner Mullins, and other FPC members, along with those similarly situated to them, are unable to lawfully acquire firearms and ammunition for defense of their homes, hearth, family and self in violation of their Article I, Section 21 and Second Amendment rights.
5. Petitioner Mullins, and other FPC members, and others similarly situated to them wish to continue to be able to lawfully buy, acquire, transfer, or receive, firearms; yet, they are unable to do so pursuant to the Order, as it prevents the lawful transfer of a firearm pursuant to Pa.C.S. § 6111(c).

¹ A copy of the Order, and incorporated List of Life Sustaining Businesses, of March 19, 2020 is attached to the Emergency, *Ex Parte* Application for Extraordinary Relief as Exhibit A.

I, Brandon Combs, President of Firearms Policy Coalition, Inc., verify that Firearms Policy Coalition, Inc. is a Petitioner named in the foregoing and all the information contained therein is true and correct to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: March 20, 2020



Brandon Combs

IN THE SUPREME COURT OF PENNSYLVANIA

CIVIL RIGHTS DEFENSE :
FIRM, P.C., *et al.* :
 Petitioners :
 v. :
 : :
GOVERNOR TOM WOLF : Docket No.
 Respondent :

DECLARATION OF ROGER MULLINS

I, Roger Mullins, am competent to state and declare the following based on my personal knowledge:

1. I am an adult resident of Bucks County, Pennsylvania.
2. I am a bona fide member of Firearms Policy Coalition, Inc.
3. I am not prohibited under state or federal law from purchasing or possessing firearms and ammunition.
4. I had planned to acquire a firearm and ammunition from Tanner’s Sports Center (“Tanner’s”) in order to exercise my Article I, Section 21 and Second Amendment rights and for defense of my home, hearth, family, and self.
5. However, due to the manner in which I am paid, I could not complete a transaction this week.

6. My paycheck is directly deposited on Thursday but does not clear until Monday.
7. After learning of Governor Tom Wolf's Order, and incorporated List of Life Sustaining Businesses, of March 19, 2020 ¹ (hereinafter "Order"), I accessed Tanner's Facebook page ² to learn that Tanner's posted a message indicating it was officially closed pursuant to the Order.
8. The message declares:

We are officially closed. We are not sure how long we will be shut down. We will be making FB posts to keep everyone informed on what is going on.

Please do not send any emails requesting to hold items. We are not doing any reservations at this time. If you have an item on layaway we are extending them another 30 days.

We have a pile of orders in bound so when we reopen we should be fully stocked up.

I would like to thank all of our customers that have been patient waiting in the long lines and I would like to thank all of my employees for busting their butts.

Thank You
Raymond Tanner

¹ A copy of the Order, and incorporated List of Life Sustaining Businesses, of March 19, 2020 is attached to the Emergency, *Ex Parte* Application for Extraordinary Relief as Exhibit A.

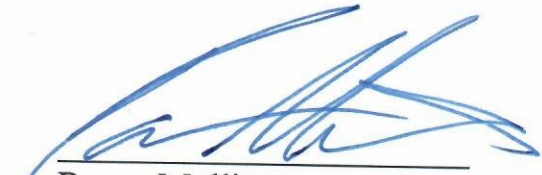
² Located at <https://www.facebook.com/TannersSportCenter>.

A screenshot of the posting is attached hereto and incorporated herein as Exhibit 1.

9. In addition to the message of Raymond Tanner, whom I believe to be the owner of Tanner's, the post included a picture of the press release that accompanied the Order.
10. I then inquired via telephone with another gun shop, Target World Inc., as to whether they would be open.
11. I was informed that they were closed and seeking legal counsel to determine whether they may continue to operate but had not decided on a course of action.
12. As a result of the Order, I am no longer able to acquire a firearm for defense of my home, hearth, family, and self, which I believe directly implicates my natural and inviolate right to self-defense and infringes upon my Article I, Section 21 and Second Amendment rights.

I, Roger Mullins, verify that all the information contained herein is true and correct to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: March 20, 2020



Roger Mullins

EXHIBIT 1



ALL NON-LIFE-SUSTAINING
BUSINESSES IN PENNSYLVANIA
TO CLOSE PHYSICAL
LOCATIONS AS OF 8 PM TODAY
TO SLOW SPREAD OF
COVID-19



FOR IMMEDIATE RELEASE
March 19, 2020
[View Online](#)

ALL NON-LIFE-SUSTAINING
BUSINESSES IN PENNSYLVANIA
TO CLOSE PHYSICAL
LOCATIONS AS OF 8 PM TODAY
TO SLOW SPREAD OF
COVID-19

Wolf Administration Orders Closure of



- 14 hrs · 🌐

We are officially closed. We are not sure how long we will be shut down. We will be making FB posts to keep everyone informed on what is going on.

Please do not send any emails requesting to hold items. We are not doing any reservations at this time. If you have an item on layaway we are extending them another 30 days.

We have a pile of orders in bound so when we reopen we should be fully sto... [See More](#)

👍 🤔 😲 604

252 Comments

116 Shares

👍 Like 💬 Comment ➦ Share 🌐

Most Relevant ▾



Kevin Sona Nothing more life-sustaining then a fully stocked and honest gun shop

Like · Reply · 14h



Joe Sweeney There goes our rights in PA

Like · Reply · 14h



↩ 1 Reply



Douglas Meehan Thank you for your help in purchasing my first handgun on Saturday. It



Write a comment...



Exhibit A



COMMONWEALTH OF PENNSYLVANIA

OFFICE OF THE GOVERNOR

ORDER OF

THE GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA REGARDING THE CLOSURE OF ALL BUSINESSES THAT ARE NOT LIFE SUSTAINING

WHEREAS, the World Health Organization and the Centers for Disease Control and Prevention (“CDC”) have declared a novel coronavirus (“COVID-19”) a “public health emergency of international concern,” and the U.S. Department of Health and Human Services (“HHS”) Secretary has declared that COVID-19 creates a public health emergency; and

WHEREAS, as of March 6, 2020, I proclaimed the existence of a disaster emergency throughout the Commonwealth pursuant to 35 Pa. C.S. § 7301(c); and

WHEREAS, I am charged with the responsibility to address dangers facing the Commonwealth of Pennsylvania that result from disasters. 35 Pa. C.S. § 7301(a); and

WHEREAS, in addition to general powers, during a disaster emergency I am authorized specifically to control ingress and egress to and from a disaster area and the movement of persons within it and the occupancy of premises therein; and suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, and combustibles. 35 Pa. C.S. § 7301(f); and

WHEREAS, in executing the extraordinary powers outlined above, I am further authorized during a disaster emergency to issue, amend and rescind executive orders, proclamations and regulations and those directives shall have the force and effect of law. 35 Pa. C.S. § 7301(b); and

WHEREAS, in addition to my authority, my Secretary of Health has the authority to determine and employ the most efficient and practical means for the prevention and suppression of disease. 71 P.S. § 532(a), 71 P.S. 1403(a); and

WHEREAS, these means include isolation, quarantine, and any other control measure needed. 35 P.S. § 521.5.

NOW THEREFORE, pursuant to the authority vested in me and my Administration by the laws of the Commonwealth of Pennsylvania, I do hereby ORDER and PROCLAIM as follows:

Section 1: Prohibition on Operation of Businesses that are not Life Sustaining

All prior orders and guidance regarding business closures are hereby superseded.

No person or entity shall operate a place of business in the Commonwealth that is not a life sustaining business regardless of whether the business is open to members of the public. This prohibition does not apply to virtual or telework operations (e.g., work from home), so long as social distancing and other mitigation measures are followed in such operations.

Life sustaining businesses may remain open, but they must follow, at a minimum, the social distancing practices and other mitigation measures defined by the Centers for Disease Control to protect workers and patrons. A list of life sustaining businesses that may remain open is attached to and incorporated into this Order.

Enforcement actions will be taken against non-life sustaining businesses that are out of compliance effective March 21, 2020, at 12:01 a.m.

Section 2: Prohibition on Dine-In Facilities including Restaurants and Bars

All restaurants and bars previously have been ordered to close their dine-in facilities to help stop the spread of COVID-19.

Businesses that offer carry-out, delivery, and drive-through food and beverage service may continue, so long as social distancing and other mitigation measures are employed to protect workers and patrons. Enforcement actions will be taken against businesses that are out of compliance effective March 19, 2020, at 8 p.m.

Section 3: Effective Date and Duration

This order is effective immediately and will remain in effect until further notice.



GIVEN under my hand and the Seal of the Governor, at the city of Harrisburg, on this nineteenth day of March two thousand twenty, the year of the commonwealth the two hundred and forty-fourth.

Tom Wolf
TOM WOLF
Governor

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes	
In extenuating circumstances, special exemptions will be granted to businesses that are supplying or servicing health care providers.						
Natural Resources and Mining	Agriculture, Forestry, Fishing, and Hunting	Crop Production	Oilseed and Grain Farming	Yes		
			Vegetable and Melon Farming	Yes		
			Fruit and Tree Nut Farming	Yes		
			Greenhouse, Nursery, and Floriculture Production	Yes		
			Other Crop Farming	Yes		
		Animal Production	Cattle Ranching and Farming	Yes		
			Hog and Pig Farming	Yes		
			Poultry and Egg Production	Yes		
			Sheep and Goat Farming	Yes		
			Animal Aquaculture	Yes		
		Forestry and Logging	Timber Tract Operations	No		
			Forest Nurseries and Local Gathering of Forest Products	No		
			Logging	No		
		Fishing, Hunting, and Trapping	Fishing	Yes		
	Hunting and Trapping		Yes			
	Support Activities for Agriculture & Forestry	Support Activities for Crop Production	Yes			
		Support Activities for Animal Production	Yes			
		Support Activities for Forestry	No			
	Mining, Quarrying, and Oil and Gas Extraction	Oil and Gas Extraction		Yes		
			Coal Mining	No		
Mining		Metal Ore Mining	No			
		Nonmetallic Mineral Mining and Quarrying	No			
Support Activities for Mining		No				
Construction	Construction	Construction of Buildings	Residential Building Construction	No		
			Nonresidential Building Construction	No		
		Heavy and Civil Engineering Construction	Utility Subsystem Construction	No		
			Land Subdivision	No		
			Highway, Street, and Bridge Construction	No		
			Other Heavy and Civil Engineering Construction	No		
	Specialty Trade Contractors	Foundation, Structure, and Building Exterior Contractors	No			
		Building Equipment Contractors	No			
		Building Finishing Contractors	No			
			Other Specialty Trade Contractors	No		
	Manufacturing	Manufacturing	Food Manufacturing	Animal Food Manufacturing	Yes	
				Grain and Oilseed Milling	Yes	
Sugar and Confectionery Product Manufacturing				Yes		
Fruit and Vegetable Preserving and Specialty Food Manufacturing				Yes		
Dairy Product Manufacturing				Yes		
Animal Slaughtering and Processing				Yes		
Seafood Product Preparation and Packaging				Yes		
Bakeries and Tortilla Manufacturing				Yes		
Other Food Manufacturing				Yes		
Beverage and Tobacco Product Manufacturing				Yes		
Tobacco Manufacturing			No			
Textile Mills			Fiber, Yarn, and Thread Mills	No		
			Fabric Mills	No		
			Textile and Fabric Finishing and Fabric Coating Mills	No		
Textile Product Mills			Textile Furnishing Mills	No		
			Other Textile Product Mills	No		
Apparel Manufacturing			Apparel Knitting Mills	No		
			Cut and Sew Apparel Manufacturing	No		
			Apparel Accessories and Other Apparel Manufacturing	No		
Leather & Allied Product Manufacturing			Leather and Hide Tanning and Finishing	No		
			Footwear Manufacturing	No		
			Other Leather and Allied Product Manufacturing	No		
Wood Product Manufacturing			Sawmills and Wood Preservation	No		
			Veneer, Plywood, and Engineered Wood Product Manufacturing	No		
			Other Wood Product Manufacturing	No		
Paper Manufacturing			Pulp, Paper, and Paperboard Mills	Yes		
			Converted Paper Product Manufacturing	Yes		
Printing & Related Support Activities			No			
Petroleum & Coal Products Manufacturing			Yes			
Chemical Manufacturing			Basic Chemical Manufacturing	Yes		
			Resin, Synthetic Rubber, and Artificial Synthetic Fibers and Filaments Manufacturing	Yes		
			Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	Yes		
	Pharmaceutical and Medicine Manufacturing	Yes				
	Paint, Coating, and Adhesive Manufacturing	No				
	Soap, Cleaning Compounds, and Toilet Preparation Manufacturing	Yes				
Other Chemical Product and Preparation Manufacturing	Yes					

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes
Manufacturing (continued)	Manufacturing (Continued)	Plastics & Rubber Products Manufacturing	Plastics Product Manufacturing	Yes	
			Rubber Product Manufacturing	Yes	
		Nonmetallic Mineral Product Manufacturing	Clay Product and Refractory Manufacturing	No	
			Glass and Glass Product Manufacturing	No	
			Cement and Concrete Product Manufacturing	Yes	
			Lime and Gypsum Product Manufacturing	No	
		Primary Metal Manufacturing	Other Nonmetallic Mineral Product Manufacturing	No	
			Iron and Steel Mills and Ferroalloy Manufacturing	Yes	
			Steel Product Manufacturing from Purchased Steel	Yes	
			Alumina and Aluminum Production and Processing	Yes	
			Nonferrous Metal (except Aluminum) Production and Processing	No	
		Fabricated Metal Product Manufacturing	Foundries	No	
			Forging and Stamping	No	
			Cutlery and Handtool Manufacturing	No	
			Boiler, Tank, and Shipping Container Manufacturing	No	
			Hardware Manufacturing	No	
			Spring and Wire Product Manufacturing	No	
			Machine Shops, Turned Product, and Screw, Nut, and Bolt Manufacturing	No	
			Coating, Engraving, Heat Treating, and Allied Activities	No	
			Other Fabricated Metal Product Manufacturing	No	
			Machine Manufacturing	Agriculture, Construction, and Mining Machinery Manufacturing	Yes
		Industrial Machinery Manufacturing		No	
		Commercial and Service Industry Machinery Manufacturing		Yes	
		Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing		Yes	
		Metalworking Machinery Manufacturing		No	
		Engine, Turbine, and Power Transmission Equipment Manufacturing		Yes	
		Other General Purpose Machinery Manufacturing		No	
		Computer and Peripheral Equipment Manufacturing		No	
		Communications Equipment Manufacturing		No	
		Audio and Video Equipment Manufacturing		No	
		Computer & Electronic Product Manufacturing	Semiconductor and Other Electrical Component Manufacturing	Yes	
			Navigation, Measuring, Electromedical, and Control Instruments Manufacturing	Yes	
			Manufacturing and Reproducing Magnetic and Optical Media	No	
		Electrical Equipment, Appliance, & Component Manufacturing	Electric Lighting Equipment Manufacturing	No	
			Household Appliance Manufacturing	No	
			Electrical Equipment Manufacturing	No	
			Other Electrical Equipment and Component Manufacturing	No	
		Transportation Equipment Manufacturing	Motor Vehicle Manufacturing	No	
			Motor Vehicle Body and Trailer Manufacturing	No	
			Motor Vehicle Parts Manufacturing	No	
			Aerospace Product and Parts Manufacturing	No	
			Railroad Rolling Stock Manufacturing	No	
			Ship and Boat Building	No	
		Furniture & Related Product Manufacturing	Other Transportation Equipment Manufacturing	No	
			Household and Institutional Furniture and Kitchen Cabinet Manufacturing	No	
			Office Furniture (including Fixtures) Manufacturing	No	
		Miscellaneous Manufacturing	Other Furniture Related Product Manufacturing	No	
			Medical Equipment and Supplies Manufacturing	Yes	
			Other Miscellaneous Manufacturing	No	

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes		
Trade, Transportation, & Utilities	Wholesale Trade	Merchant Wholesalers, Durable Goods	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers	Yes			
			Furniture and Home Furnishing Merchant Wholesalers	No			
			Lumber and Other Construction Materials Merchant Wholesalers	No			
			Professional and Commercial Equipment and Supplies Merchant Wholesalers	Yes			
			Metal and Mineral (except Petroleum) Merchant Wholesalers	Yes			
			Electrical and Electronic Goods Merchant Wholesalers	Yes			
			Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers	Yes			
			Machinery, Equipment, and Supplies Merchant Wholesalers	Yes			
			Miscellaneous Durable Goods Merchant Wholesalers	Yes			
			Paper and Product Merchant Wholesalers	Yes			
			Drugs and Druggists' Sundries Merchant Wholesalers	Yes			
			Apparel, Piece Goods, and Notions Merchant Wholesalers	No			
		Merchant Wholesalers, Nondurable Goods	Grocery and Related Product Wholesalers	Yes			
			Farm Product Raw Material Merchant Wholesalers	Yes			
			Chemical and Allied Products Merchant Wholesalers	Yes			
			Petroleum and Petroleum Products Merchant Wholesalers	Yes			
			Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers	Yes			
			Miscellaneous Nondurable Goods Merchant Wholesalers	No			
			Wholesale Electronic Markets and Agents & Brokers			No	
			Retail Trade	Motor Vehicle & Parts Dealers	Automobile Dealers	No	
					Other Motor Vehicle Dealers	No	
					Automotive Parts, Accessories, and Tire Stores	Yes	
		Furniture & Home Furnishing Stores		Furniture Stores	No		
				Home Furnishings Stores	No		
		Electronics & Appliance Stores			No		
		Building Material, Garden Equipment, & Supplies Dealers		Building Material and Supplies Dealers	Yes		
				Lawn and Garden Equipment and Supplies Stores	No		
		Food & Beverage Stores		Grocery Stores	Yes		
				Specialty Food Stores	No		
				Beer, Wine, and Liquor Stores (Beer Distributors to Remain Open)	Yes		
		Health & Personal Care Stores			No		
		Gasoline Stations			Yes		
	Clothing & Clothing Accessories Stores	Clothing Stores		No			
		Shoe Stores		No			
		Jewelry, Luggage, and Leather Goods Stores		No			
		Sporting Goods, Hobby, and Musical Instrument Stores		No			
		Book, Periodical, and Music Stores		No			
	General Merchandise Stores	Department Stores		No			
		Other General Merchandise Stores		Yes			
	Miscellaneous Store Retailers	Florists		No			
		Office Supplies, Stationery, and Gift Stores		No			
		Used Merchandise Stores		No			
		Other Miscellaneous Store Retailers		No			
	Nonstore Retailers	Electronic Shopping and Mail-Order Houses		Yes			
		Vending Machine Operators		No			
		Direct Selling Establishments		No			
	Transportation and Warehousing	Air Transportation		Scheduled Air Transportation	Yes		
				Nonscheduled Air Transportation	Yes		
		Rail Transportation			Yes		
		Water Transportation		Deep Sea, Coastal, and Great Lakes Water Transportation	Yes		
				Inland Water Transportation	Yes		
		Truck Transportation	General Freight Trucking	Yes			
			Specialized Freight Trucking	Yes			
		Transit and Ground Passenger Transportation	Urban Transit Systems	Yes			
			Interurban and Rural Bus Transportation	Yes			
			Taxi and Limousine Service	Yes			
			School and Employee Bus Transportation	Yes			
			Charter Bus Industry	No			
			Other Transit and Ground Passenger Transportation	Yes			
			Pipeline Transportation of Crude Oil	Yes			
		Pipeline Transportation	Pipeline Transportation of Natural Gas	Yes			
			Other Pipeline Transportation	Yes			
		Scenic and Sightseeing Transportation	Scenic and Sightseeing Transportation, Land	No			
			Scenic and Sightseeing Transportation, Water	No			
			Scenic and Sightseeing Transportation, Other	No			
		Support Activities for Transportation	Support Activities for Air Transportation	Yes			
			Support Activities for Rail Transportation	Yes			
			Support Activities for Water Transportation	Yes			
			Support Activities for Road Transportation	Yes			
			Freight Transportation Arrangement	Yes			
			Other Support Activities for Transportation	Yes			
		Postal Service			Yes		
		Couriers and Messengers	Couriers	Yes			
			Local Messengers and Local Delivery	Yes			
		Warehousing and Storage			Yes		
		Utilities	Utilities	Electric Power Generation, Transmission, and Distribution	Yes		
				Natural Gas Distribution	Yes		
				Water, Sewage and Other Systems	Yes		

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes	
Information	Information	Publishing Industries (except Internet)	Newspaper, Periodical, Book, and Directory Publishers	Yes		
			Software Publishers	No		
		Motion Picture and Sound Recording Industries	Motion Picture and Video Industries	No		
			Sound Recording Industries	No		
		Broadcasting (except Internet)	Radio and Television Broadcasting	Yes		
			Cable and Other Subscription Programming	Yes		
		Telecommunications	Wired Telecommunications Carriers	Yes		
			Wireless Telecommunications Carriers (except Satellite)	Yes		
			Telecommunications Resellers	No		
			Satellite Telecommunications	Yes		
			Cable and Other Program Distribution	Yes		
			Other Telecommunications	Yes		
Data Processing, Hosting, and Related Services	Yes					
Other Information Services	Yes					
Financial Activities	Finance and Insurance	Monetary Authorities - Central Bank	Depository Credit Intermediation	Yes		
			Nondepository Credit Intermediation	Yes		
			Activities Related to Credit Intermediation	Yes		
		Securities, Commodity Contracts, and Other Financial Investments and Related Activities	Securities and Commodity Contracts Intermediation and Brokerage	No		
			Securities and Commodity Exchanges	No		
			Other Financial Investment Activities	No		
		Insurance Carriers and Related Activities	Insurance Carriers	No		
			Agencies, Brokerages, and Other Insurance Related Activities	No		
		Funds, Trusts, and Other Financial Activities	Insurance and Employee Benefit Funds	No		
			Other Investment Pools and Funds	No		
	Real Estate and Rental and Leasing	Real Estate	Lessors of Real Estate	No		
			Offices of Real Estate Agents and Brokers	No		
			Activities Related to Real Estate	No		
		Rental and Leasing Services	Automotive Equipment Rental and Leasing	Yes		
			Consumer Goods Rental	Yes		
			General Rental Centers	Yes		
			Commercial and Industrial Machinery and Equipment Rental and Leasing	Yes		
	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	No				
	Professional and Business Services	Professional, Scientific, and Technical Services	Legal Services	No		
			Accounting, Tax Preparation, Bookkeeping, and Payroll Services	No		
Architectural, Engineering, and Related Services			No			
Specialized Design Services			No			
Computer Systems Design and Related Services			No			
Management, Scientific, and Technical Consulting Services			No			
Scientific Research and Development Services			Yes			
Advertising and Related Services			No			
Other Professional, Scientific, and Technical Services			Yes			
Management of Companies and Enterprises			No			
Administration and Support and Waste Management and Remediation Services		Administrative and Support Services	Office Administrative Services	No		
			Facilities Support Services	Yes		
			Employment Services	No		
			Business Support Services	No		
			Travel Arrangement and Reservation Services	No		
			Investigation and Security Services	Yes		
			Services to Building and Dwellings	Yes		
			Other Support Services	No		
			Waste Management and Remediation Services	Waste Collection	Yes	
				Waste Treatment and Disposal	Yes	
		Remediation and Other Waste Management Services		Yes		
		Education and Health Services	Educational Services	Elementary and Secondary Schools	No	
				Junior Colleges	No	
Colleges, Universities, and Professional Schools	No					
Business Schools and Computer and Management Training	No					
Technical and Trade Schools	No					
Other Schools and Instruction	No					
Education Support Services	No					
Health Care and Social Assistance	Ambulatory Health Care Services		Offices of Physicians	Yes	Elective procedures prohibited	
			Offices of Dentists	Yes	Elective procedures prohibited	
			Offices of Other Health Practitioners	Yes	Elective procedures prohibited	
			Outpatient Care Centers	Yes	Elective procedures prohibited	
			Medical and Diagnostic Laboratories	Yes	Elective procedures prohibited	
			Home Health Care Services	Yes	Elective procedures prohibited	
			Other Ambulatory Health Care Services	Yes	Elective procedures prohibited	
			General Medical and Surgical Hospitals	Yes	Elective procedures prohibited	
	Hospitals		Psychiatric and Substance Abuse Hospitals	Yes	Elective procedures prohibited	
			Specialty (except Psychiatric and Substance Abuse) Hospitals	Yes	Elective procedures prohibited	
	Nursing and Residential Care Facilities		Nursing Care Facilities	Yes		
			Residential Mental Retardation, Mental Health and Substance Abuse Facilities	Yes		
			Community Care Facilities for the Elderly	Yes		
			Other Residential Care Facilities	Yes		
	Social Assistance		Individual and Family Services	Yes		
			Community Food and Housing, and Emergency and Other Relief Services	Yes		
Vocational Rehabilitation Services		Yes				
Child Day Care Services		No				

Industry	Sector	Subsector	Industry Group	May Continue Physical Operations	Notes	
Leisure and Hospitality	Arts, Entertainment, and Recreation	Performing Arts, Spectator Sports, and Related Industries	Performing Arts Companies	No		
			Spectator Sports	No		
			Promoters of Performing Arts, Sports, and Similar Events	No		
			Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures	No		
			Independent Artists, Writers, and Performers	No		
		Museums, Historical Sites, and Similar Institutions	No			
		Amusement, Gambling, and Recreation Industries	Amusement Parks and Arcades	No		
	Gambling Industries		No			
	Other Amusement and Recreation Industries		No			
	Accommodation and Food Services	Accommodation	Traveler Accommodation	No		
			RV (Recreational Vehicle) Parks and Recreational Camps	Yes	Residential only	
			Rooming and Boarding Houses	Yes	Residential only	
		Food Services and Drinking Places	Full-Service Restaurants	Yes	Takeout only	
			Limited-Service Eating Places	Yes	Takeout only	
			Special Food Services	No		
			Drinking Places (Alcoholic Beverages)	No		
			Other Services (except Public Administration)	Repair and Maintenance	Automotive Repair and Maintenance	Yes
Electronic and Precision Equipment Repair and Maintenance					Yes	
Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance					Yes	
Personal and Household Goods Repair and Maintenance	Yes					
Personal and Laundry Services	Personal Care Services	No		This category includes barbershops, nail salons, beauty salons, gyms (including yoga, barre and spin facilities).		
	Death Care Services	Yes				
	Drycleaning and Laundry Services	No				
	Other Personal Services	No				
Religious, Grantmaking, Civic, Professional, and Similar Organizations	Religious Organizations	Yes				
	Grantmaking and Giving Services	Yes				
	Social Advocacy Organizations	Yes				
	Civic and Social Organizations	Yes				
	Business, Professional, Labor, Political, and Similar Organizations	No				
Private Households	No					

Exhibit B

From: PA Department of Labor & Industry, WC ra-libwc-news@pa.gov
Subject: "Please see important update to the business community from Governor Wolf's administration"
Date: March 19, 2020 at 5:37 PM
To: joshua@princelaw.com

WP



ALL NON-LIFE-SUSTAINING BUSINESSES IN PENNSYLVANIA TO CLOSE PHYSICAL LOCATIONS AS OF 8 PM TODAY TO SLOW SPREAD OF COVID-19



FOR IMMEDIATE RELEASE
March 19, 2020
[View Online](#)

ALL NON-LIFE-SUSTAINING BUSINESSES IN PENNSYLVANIA TO CLOSE PHYSICAL LOCATIONS AS OF 8 PM TODAY TO SLOW SPREAD OF COVID-19

Wolf Administration Orders Closure of Non-Life-Sustaining Businesses at 8 p.m. Today, March 19

Enforcement Actions for Restaurant, Bar Dine-In Closure Began at 8 p.m., March 18

Enforcement Actions for Non-Compliance will Begin at 12:01 a.m. Saturday, March 21

Harrisburg, PA – Governor Tom Wolf today ordered all non-life-sustaining businesses in Pennsylvania to close their physical locations as of 8 p.m. today, March 19, to slow the spread of COVID-19. Enforcement actions against businesses that do not close physical locations will begin at 12:01 a.m. Saturday, March 21.

Gov. Wolf's order is [here](#).

A video statement from Gov. Wolf is [here](#).

Sec. of Health's order is [here](#).

A list of life-sustaining businesses is [here](#).

In extenuating circumstances, special exemptions will be granted to businesses that are supplying or servicing health care providers.

"To protect the health and safety of all Pennsylvanians, we need to take more aggressive mitigation actions," said Gov. Wolf. "This virus is an invisible danger that could be present everywhere. We need to act with the strength we use against any other severe threat. And, we need to act now before the illness spreads more widely."

The governor had [previously encouraged non-life-sustaining businesses to close](#) to mitigate the spread of COVID-19. Restaurants and bars were already required to stop all dine-in services. [Enforcement for establishments with a liquor license began at 8 p.m. March 18](#), and enforcement for all other food establishments will begin at 8 p.m. tonight. Food establishments can offer carry-out, delivery, and drive-through food and beverage service, including alcohol.

Pursuant to the Emergency Management Services Code, the governor is granted extraordinary powers upon his [declaration of a disaster emergency](#), such as COVID-19. Among these powers, the governor may control the ingress and egress into the disaster area, the movement of persons, and the occupancy of premises within the disaster area, which has been established to be the entire commonwealth for the COVID-19 disaster emergency. The secretary of health separately is authorized under the law to employ measures necessary for the prevention and suppression of disease.

Separately, and taken together, the administration is exercising these powers to temporarily close all non-life-sustaining businesses and dine-in facilities at all restaurants and bars across the commonwealth. Persons must be removed from these premises to cope with the COVID-19 disaster emergency.

Failure to Comply and Enforcement

Failure to comply with these requirements will result in enforcement action that could include citations, fines, or license suspensions.

The governor has directed the following state agencies and local officials to enforce the closure orders to the full extent of the law:

- Pennsylvania Liquor Control Board
- Department of Health
- Department of Agriculture
- Pennsylvania State Police

- Local officials, using their resources to enforce closure orders within their jurisdictions

Private businesses, local organizations and other noncompliant entities that fail or refuse to comply with the governor's orders that protect the lives and health of Pennsylvanians will forfeit their ability to receive any applicable disaster relief and/or may be subject to other appropriate administrative action. Such action may include termination of state loan or grant funding, including Redevelopment Assistance Capital Project (RACP) grant funding and/or suspension or revocation of licensure for violation of the law.

Finally, in addition to any other criminal charges that might be applicable, the Department of Health is authorized to prosecute noncompliant entities for the failure to comply with health laws, including quarantine, isolation or other disease control measures. Violators are subject to fines or imprisonment.

Business Loans and Support

The Department of Community and Economic Development (DCED) offers working capital loans that could be of assistance to businesses impacted by COVID-19. Resources and information will be posted to <http://dced.pa.gov/resources> as they become available. The U.S. Small Business Administration, in addition to local funding partners, may also be a source of assistance for affected businesses. The Wolf Administration today announced the availability of [low-interest loans](#) for small businesses and eligible non-profits in all 67 counties in Pennsylvania through the U.S. Small Business Administration (SBA).

Businesses seeking guidance from DCED can also contact its customer service resource account at ra-dcedcs@pa.gov or by calling 1-877-PA-HEALTH and selecting option 1.

For the most up-to-date information on COVID-19, Pennsylvanians should visit: <https://www.pa.gov/guides/responding-to-covid-19/>.

MEDIA CONTACT: Lyndsay Kensinger, Governor's Office

BUSINESS CONTACT: ra-dcedcs@pa.gov or 1-877-PA-HEALTH option 1

PUBLIC CONTACT: 1-877-PA-HEALTH option 2

Or by webform at <https://www.governor.pa.gov/contact/>



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Bureau of Workers' Compensation | 1171 South Cameron Street, Harrisburg, PA 17104-2501

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Sent by ra-libwc-news@pa.gov

Exhibit C

Wolf Administration Issues Guidance to Non-essential Businesses as Part of COVID-19 Mitigation Efforts

March 14, 2020

Businesses in Bucks, Chester, Delaware, Montgomery counties urged to close for 14 days

Harrisburg, PA – Today, the Department of Community and Economic Development (DCED), in consultation with the Department of Health (DOH), issued guidance for non-essential businesses in Bucks, Chester, Delaware, and Montgomery counties to mitigate the spread of COVID-19.

Governor Tom Wolf has strongly urged non-essential businesses in the four counties to close during their county-specific mitigation periods to protect employees, customers, and suppliers and limit the spread of the virus through personal contact and surfaces. DCED and DOH are reaching out to businesses through a **letter (<https://dced.pa.gov/letter-from-secretary-levine>)** to provide guidance on the types of businesses that are urged to close. The letter also indicates to businesses that financial assistance opportunities are available to mitigate the financial impact of closures.

“We are committed to keeping all Pennsylvanians safe and healthy, and we are taking every measure to prevent the spread of COVID-19,” said DCED Secretary Dennis Davin. “We continue to report new cases of coronavirus every day, and additional steps must be taken to stop the spread. Therefore, we strongly urge non-essential businesses across Pennsylvania to do their part by temporarily closing to help mitigate the spread of this contagious virus.”

Non-essential businesses include community and recreation centers; gyms,

including yoga, barre and spin facilities; hair salons, nail salons and spas; casinos; concert venues; theaters; bars; sporting event venues and golf courses; retail facilities, including shopping malls and except for pharmacy or other health care facilities within retail operations. Restaurants are urged only to remain open for carry-out and delivery orders.

“We understand that small businesses are an economic driver in Pennsylvania, and a temporary closure will be a financial and community disruptor,” Davin said. “However, our top priority is maintaining public health and safety of all Pennsylvanians and taking these proactive steps now can help mitigate a potential community spread. DCED is committed to working with the business community to provide helpful resources for financial assistance.”

DCED offers working capital loans that could be of assistance to businesses impacted by COVID-19. Resources and information will be posted to <https://dced.pa.gov/resources> (<https://dced.pa.gov/resources>) as they become available. The U.S. Small Business Administration, in addition to local funding partners, may also be a source of assistance for affected businesses.

The Wolf Administration strongly encourages businesses to act now before the governor or the Secretary of Health finds it necessary to compel closures under the law for the interest of public health, including section 7301 of the Emergency Management Services Code.

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[covid-19 \(https://dced.pa.gov/tag/covid-19/\)](https://dced.pa.gov/tag/covid-19/)

Exhibit D

Wolf Administration Updates Businesses on Guidance for COVID-19 Mitigation Efforts

March 16, 2020

Press Release, Public Health

Earlier today, the Wolf Administration strongly urged non-essential businesses across the state to close for at least 14 days to help mitigate the spread of COVID-19. The governor's request protects employees, customers, and suppliers and limits the spread of the virus through personal contact and surfaces. Previously the governor designated Bucks County, Chester County, Delaware County, and Montgomery County as mitigation counties with Allegheny County launching its own mitigation efforts. These efforts will now be expanded commonwealth-wide beginning at 12:01 a.m. on Tuesday, March 17.

"We strongly urge non-essential businesses across the commonwealth to do their part by temporarily closing as we work to flatten the curve and protect the health and safety of all Pennsylvanians," said DCED Secretary Dennis Davin. "We understand that businesses are an economic driver throughout Pennsylvania, and a temporary closure will be a financial and community disruptor. DCED is committed to working with the business community to provide helpful resources for financial assistance."

Non-essential businesses include public-facing industries such as entertainment, hospitality, and recreation facilities, including but not limited to community and recreation centers; gyms, including yoga, barre and spin facilities; hair salons and barber shops, nail salons and spas; casinos; concert venues; theaters; sporting event venues and golf courses; retail facilities, including shopping malls except for pharmacy or other health care facilities within retail operations.

Further, the Governor has ordered that all restaurants and bars close their dine-in facilities to help stop the spread of COVID-19. Businesses that offer carry-out, delivery, and drive-through food and beverage service may continue to do so, but eating and drinking inside restaurants and bars is temporarily prohibited. These businesses offering carry-out, delivery, and drive-through food and beverage should employ social distancing best practices and be aware of the Trump Administration's guidance to avoid gatherings of 10 or more people.

Essential services and sectors include but are not limited to food processing, agriculture, industrial manufacturing, feed mills, construction, trash collection, grocery and household goods (including convenience stores), home repair/hardware and auto repair, pharmacy and other medical facilities, biomedical and healthcare, post offices and shipping outlets, insurance, banks, gas stations, laundromats, veterinary clinics and pet stores, warehousing, storage, and distribution, public transportation, and hotel and commercial lodging.

Although these businesses may remain open, the Wolf Administration continues to encourage them to employ social distancing practices, and encourages Pennsylvanians to be thoughtful in their visits.

Other businesses, including but not limited to legal services, business and management consulting, professional services and insurance services are encouraged to have employees work remotely or telecommute. If that is not possible, they should employ social distancing best practices and be aware of the Trump Administration's guidance to avoid gatherings of 10 or more people.

Philadelphia has separately provided guidance for businesses. Businesses in Philadelphia County should follow the city's guidance.

DCED offers working capital loans that could be of assistance to businesses impacted by COVID-19. Resources and information will be posted to <http://dced.pa.gov/resources> as they become available. The U.S. Small Business Administration, in addition to local funding partners, may also be a source of assistance for affected businesses.

The Wolf Administration is relying on businesses to act now before the governor or the Secretary of Health finds it necessary to compel closures under the law for the interest of public health, including section 7301 of the Emergency Management Services Code.

For the most up-to-date information on COVID-19, Pennsylvanians should follow www.governor.pa.gov and www.doh.pa.gov.

IN THE SUPREME COURT OF PENNSYLVANIA

CIVIL RIGHTS DEFENSE	:
FIRM, P.C., et al.	:
Petitioners	:
v.	:
	:
GOVERNOR TOM WOLF	: Docket No.
Respondent	:

ORDER

AND NOW, this _____ day of March, 2020, upon consideration of Petitioners’ *Emergency, Ex Parte Application for Extraordinary Relief Pursuant to the Court’s King’s Bench Jurisdiction*, it is hereby **GRANTED**. Pennsylvania Governor Tom Wolf and those acting in concert with him are hereby **ENJOINED** from implementing or enforcing any practice, policy, proclamation, regulation, rule, or interpretation relating to his *Order of Governor of the Commonwealth of Pennsylvania Regarding the Closure of All Businesses that are not Life Sustaining* of March 19, 2020.

A rule is issued on Governor Wolf to show cause why this injunction should not be made permanent, by March _____, 2020. Petitioners shall file a response, if any, to Governor Wolf’s filing within 24 hours of receipt of the Governor’s filing.
