

Governor Kate Brown
Office of the Governor
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Honorable Kate Brown,

The Supreme Court of the United States has an opinion (Marbury vs. Madison, 1803) recorded in the Sixteenth American Jurisprudence, Second Edition, Section 177 (late 2nd Ed. Section 256). It speaks on the topic of the duty to an unconstitutional law. It reads as follows:

“The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The Constitution of the United States is the supreme law of the land, and any statute, to be valid, must agree. It is impossible for both the Constitution and a law violating it to be valid; one must prevail.

This is succinctly stated as follows:

The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it.

An unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted.

Since an unconstitutional law is void, the general principals follow that it imposes no duties, confers no rights, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it . . .

A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it.”

The executive orders issued by you to rule over the Oregon People are in at least 9 instances complete violations to our Oregon Constitution. As you have read above, no law can be valid when it is contrary to the constitution.

Article X-A lays out the duty of the governor and government when an emergency is declared. You will see that in section 1, clause 2 (d) Public Health Emergencies are enumerated in its authority. I have attached the article as an exhibit for you to reference, so you will see 4 clear violations of this article.

Article X-A Section 1 Clause (4) At the time the Governor invokes the provisions of this Article under subsection (3) of this section, the Governor shall issue a proclamation convening the Legislative Assembly under section 12, Article V of this Constitution, unless:

If you choose to research this article, you will find that the “Unless” reasons are not valid to the timeline you have acted within. We have not had the legislature convened for the purpose to satisfy this constitutional obligation, and hence the people have been left to the hands of one and void of representation in our government.

Article X-A Section 6. Termination of operation of this Article; extension by Legislative Assembly;

- (1) the provisions of sections 1 to 5 of this Article, once invoked, **shall cease to be operative not later than 30 days following the date the Governor invoked the provisions of sections 1 to 5 of this Article**, or on an earlier date recommended by the Governor and determined by the Legislative Assembly
- (2) Prior to expiration of the 30-day limit established in subsection (1) of this section, **the Legislative Assembly may extend the operation of sections 1 to 5 of this Article beyond the 30-day limit upon the approval of three-fifths of the members of each house**
- (5) **The Governor may not invoke the provisions of sections 1 to 5 of this Article more than one time** with respect to the same catastrophic disaster

This illegal executive action began in March 2020, far beyond the 30 or even 60-day limits IF you had bothered to convene the legislature. None of the orders have been for 30 days AND there have clearly been extensions issued for which none have been by the legislature. I have listed 4 clear violations of just one Article in our Constitution SO FAR.

Article 4 Section 14. Deliberations to be open; rules to implement requirement. The deliberations of each house, of committees of each house or joint committees and of committees of the whole, shall be open.

*December’s emergency session of the legislature was CLOSED to the public by you unconstitutionally. You incited the State Police to use heavy force to ensure the public was kept out of the building. The Oregon Constitution reaffirms it **MUST** be open. And remember, there is NO Emergency Pandemic Clause past the statutory time limit authority given in Constitutional and Statutory laws.*

Article 3 Section 1. Separation of powers. The powers of the Government shall be divided into three separate branches, the Legislative, the Executive, including the administrative, and the Judicial; and no person charged with official duties under one of these branches, shall exercise any of the functions of another, except as in this Constitution expressly provided.

This article is noticeably clear and distinct in purpose, to prevent power from being assumed that is not delegated. It is not a power of the executive branch to make law. The executive’s sole authority is to execute the law as written by the legislative branch, not write your own laws or disregard what is inconvenient. ORS 401.192 is being used in clear violation of Article 3 Section 1.

You have relied heavily on this statute to push your executive order upon the People of Oregon. The legislature's intent here was for legislative rules and orders discussed in this Statute, as that is the process described in Article X-A, the very reason why the legislature was to be convened.

ORS 401.192

All rules and orders issued under authority conferred by ORS [401.165 \(Declaration of state of emergency\)](#) to [401.236 \(Rules\)](#) shall have the full force and effect of law both during and after the declaration of a state of emergency. All existing laws, ordinances, rules and orders inconsistent with ORS [401.165 \(Declaration of state of emergency\)](#) to [401.236 \(Rules\)](#) shall be inoperative during the period of time and to the extent such inconsistencies exist.

Article 1 Section 26. Assemblages of people; instruction of representatives; application to legislature. **No law shall** be passed restraining any of the inhabitants of the State from assembling together in a peaceable manner to consult for their common good; nor from instructing their Representatives; nor from applying to the Legislature for redress of grievances.

*Not only are you using 401.192 as the authority in your EO to usurp Article 3 - Section 1, but also to usurp the Rights enumerated in Article 1 - Section 26 with your gathering limits and again limiting access to every single government building in this State. This is not the intent of this article and under no circumstance, emergency or not, does the State have any authority to suspend an **unalienable right**.*

Article 1 Section 22. Suspension of operation of laws. The operation of the laws **shall never be suspended**, except by the Authority of the Legislative Assembly.

*Once again, this executive order through unconstitutionally applied revised statutes claiming authority to dictate to the People how, when and who they can live their lives goes beyond the constitutional barrier that every law must adhere to. I would like to reference the words above. **SHALL NEVER BE SUSPENDED**. This is clear, and no interpretation required. **NEVER** is definitive. It does not say **SOMETIMES**, or when necessary, it says **NEVER**. Now refer to 401.192 above. Does that fit the definition of **NEVER**?*

Article 1 Section 21. Ex-post facto laws; laws impairing contracts; laws depending on authorization in order to take effect; laws submitted to electors. No ex-post facto law, or law impairing the obligation of contracts shall ever be passed, nor shall any law be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this Constitution.

Your use of executive agencies such as OHA, OSHA and OLCC constitute a willful violation of this Article. A license is a contract to operate, for which the terms may not be changed midstream without the consent of both parties to the agreement. Moving the flagpoles and adding requirements that businesses become the "WEAPON OF THE STATE" to enforce these draconian orders is not only cowardly, but a huge abuse of power NOT delegated. Secondly, the next provision expressly rejects that application of revised statutes such as 401.192 can be valid as they arbitrarily create rule and regulation that did not exist prior to this executive

order, AND the constitution, expressly article X-A which we have reviewed above gives no such authority to create any rule, law, or regulation that any public servant sees fit.

Section 20. Equality of privileges and immunities of citizens. **No law shall** be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens. —

Simply put, the law is mandated to be equally applied to every person of this State. Our local restaurants and stores do not have the same immunities, privileges as stores such as Walmart, Best Buy or Home Depot. Stores like these are fully open, flocked with people touching every item on every isle, while local shops and restaurants are forced shut or at minimum capacity, threatened by your executive agents. There is nothing equal about the application of this EO.

Article 1 Section 2. Freedom of worship. **All men shall** be secure in the Natural right, to worship Almighty God according to the dictates of their own consciences.

Article 1 Section 3. Freedom of religious opinion. **No law shall** in any case whatever control the free exercise, and enjoyment of religious opinions, or interfere with the rights of conscience.

Our churches have suffered immensely; they have been forced to close, reduce attendance, all without valid authority, done under threat of force and extortion. These 2 articles are truly clear, that the State has no business or authority in the operation of Church. People are free to choose the how and when they worship without influence from an abusive government.

*We have only addressed one ORS above that has been used to abuse the people of this State. There are many others that have been misapplied, misconstrued and cherry picked to push this agenda. For instance, Chapter 401 of the Revised Statutes was clearly written to address MANAGEMENT of major disasters such as floods, fire, earthquake, tsunami, etc. These are all detailed in Chapter 401 and Constitutionally in Article X-A. The authorities delegated here were intended to restore the State to order and help the victims in recovery, NOT instill draconian measures on questionable data and science. In fact, chapter 433, specifically 433.441 hits directly on public health emergencies, yet you refused to acknowledge the 14-day limit instilled within the statute. And your Supreme Court Activists have also punted the football on this fact! As stated above, **no law** can be unconstitutional and lawfully forced on the People of the State.*

The Constitution was written for an 8th grade comprehension level. It's not left up to attorneys and public officials to tell We The People what our consent is. One constitutional conflict is enough to invalidate a law or rule, we have shown you at least nine (9). Governor Brown, you have included a "Severability" clause in your executive order. This is not only proof that you blatantly know your EO is working outside of the law, but also shows you intend to continue to do so without regard to our foundational principles "that all law if founded upon."

Secondly, on this issue, severability clauses are reserved for contracts, an executive order is NOT a contract. A contract requires at least 2 parties, of which all agree to the terms set forth. This executive order is no contract, its more of a proclamation from a self-appointed dictator. What you are basically saying, "I will do as I please, and if something turns out to be illegal, well the rest is still OK until it is found to be illegal too..." That is not the purpose of executive orders. Executive orders direct executive agencies on the process and plan of how the executive branch intends to execute the law **AS WRITTEN**.

We will be taking this information, along with more, regarding the revised statutes to every business that is willing to listen. We will be offering our complete support and protection if they choose to Open their doors to the public. The People in our community have had enough. We choose to stand up to this abject lawlessness.

Article 1 Section 1 clearly defines what the role of the People is when governments act unjustly. The constitution is the consent of the people to be governed and the terms within the contract is between Us and elected officials as well as those State Agents who are employed to manage the contract. I hope you choose to stand up and interpose. That is the proper role of jurisdictional governments. One protects the people from the other, and vice versa, creating layers of protection from overreach and unjust actions.

The declaration of Independence states:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. --That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

Lastly, there is a clear reason you take an oath to support and defend the Constitutions against those who wish to destroy it both domestic and foreign. **"That to secure these rights..."** Not all laws and rules adhere to the constitution, and the constitution is our consent to be governed; we agreed only to be governed by rules and laws that meet those qualifications and protect our rights. Ultimately, your Oath is to the People, because without that beautiful document, you would not have our consent.

In conclusion, I hope this has opened your eyes to what is important. I hope you choose to stand with the People and not with an elected public servant turned tyrant. The answer is quite simple yet never easy. This is the beauty of a self-governing society. Solutions exist when abuses of power take place. We are not Subjects to a crown; we are free people that choose to be governed in a specific predetermined manner, not subject to the whims and ambitions of a single individual. You have a duty; we all hope you choose the right path. It is time to make that choice.

In the meantime, we have included an invoice based upon our Profit & Loss statements from 2019 and 2020 in addition to all expenses incurred due to this illegal mandate that forced us to lockdown our businesses. Upon request, we can provide those P&L statements.

*Article I, Section 18 states; **Private property or services taken for public use.** Private property shall not be taken for public use, nor the particular services of any man be demanded, **without just compensation**; nor except in the case of the state, without such compensation first assessed and tendered; provided, that the use of all roads, ways and waterways necessary to promote the transportation of the raw products of mine or farm or forest or water for beneficial use or drainage is necessary to the development and welfare of the state and is declared a public use.*

[Constitution of 1859; Amendment proposed by S.J.R. 17, 1919, and adopted by the people May 21, 1920; Amendment proposed by S.J.R. 8, 1923, and adopted by the people Nov. 4, 1924]

*You have taken our **Pursuit of Happiness** by locking down our business unjustly. We expect to be repaid for our lost revenues. Article X-A, Section 6 states where you can get the money to pay us back. We are giving you 30 days. If you don't pay us, we will withhold our Oregon State Taxes and continue to operate our business as we lawfully can.*

With Respect,

Your Name,

Your Business