

Medical Freedom or Government Overreach?



By Paul Engel

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- In response to the COVID-19 mandates, several states passed legislation to prevent them.
- Idaho updated their anti-COVID mandate legislation.
- Does Idaho's Medical Freedom Act increase medical freedom, or simply impose new mandates?

In response to the COVID-19 vaccine mandates, several states passed legislation to put a halt to such practices. For example Idaho recently passed the Medical Freedom Act. The question is, does this legislation protect medical freedom or is it just another example of government overreach?

Government Mandates

Like most of you, I have a knee-jerk reaction when some government bureaucrat tells me I must do something, especially when what they are demanding is none of their business. So when federal actors from Joe Biden on down started making demands that people take an untested gene-therapy, I stood up and said "No!"

In response to these illegal demands, Idaho passed the Corona Virus Stop Act to prevent these illegal mandates. One of my followers in the state wrote me and asked that I write about the recent update to this legislation, now called the [Idaho Medical Freedom Act](#). Always happy to oblige a follower, I did. However, I don't think he's going to get the answer he

expected.

Other than changing some names, the basic structure and contents of the law stayed the same.

RELATING TO MEDICAL FREEDOM; ... TO REVISE PROVISIONS REGARDING PROHIBITED MEDICAL MANDATES AND TO PROHIBIT CERTAIN REGULATORY AUTHORITY;

[Idaho Medical Freedom Act](#)

I am fully behind the state prohibiting medical mandates, especially from the federal government. As I've shown in other articles, the federal government is not vested with the power to regulate medical treatments. That means any such legislative, executive, or judicial act from the federal government violates the Tenth Amendment.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[U.S. Constitution, Amendment X](#)

The problems, as usual, are in the details.

Business Mandates

What the legislature of Idaho seems to have forgotten is while they are trying to prohibit medical mandates, they are in fact creating their own medical mandates.

73-503. MEDICAL MANDATES PROHIBITED. (1) A business entity doing business in the state of Idaho shall not refuse to provide any service, product, admission to a venue, or transportation to a person because that person has or has not received or used a medical intervention.

[Idaho Medical Freedom Act](#)

You see, by prohibiting business entities from refusing

service based on a medical intervention, they created their own mandate. This would be perfectly constitutional, except for the fact that they targeted “business entities.”

73-502. DEFINITIONS. As used in this chapter:

(1) “Business entity” means any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not-for-profit.

[Idaho Medical Freedom Act](#)

I know a lot of people who would be more than happy to tell their local grocery store, movie theater, or doctors office to pound sand if they required some form of medical intervention in order to do business with them. The problem is the “business entities” this bill describes are private entities. That means they are persons, either natural or artificial. And the Fourteenth Amendment states:

nor shall any State deprive any person of life, liberty, or property, without due process of law;

[U.S. Constitution, Amendment XIV](#)

In other words, the State of Idaho is depriving people and business owners of both their liberty and the property rights they have in their business without due process of law. That makes this section of the law unconstitutional, invalid, and void. But there’s more:

(2) A business entity doing business in the state of Idaho shall not require a medical intervention as a term of employment unless required by federal law or in such cases where the terms of employment include travel to foreign jurisdictions requiring a medical intervention as the only means of entry or where the terms of employment require entry into a place of business or facility in a foreign jurisdiction

and such place of business or facility requires a medical intervention as the only means of entry.

[Idaho Medical Freedom Act](#)

Not only is Idaho illegally preventing private businesses from controlling their property, but they are going after their employment policies as well. Remember, these are private actors that the government is denying their liberty and property rights. What if the job requires some form of medical intervention, either to protect the employee or the company? Because the state's definition of "medical intervention" seems quite broad.

(3) "Medical intervention" means a medical procedure, treatment, device, drug, injection, medication, or medical action taken to diagnose, prevent, or cure a disease or alter the health or biological function of a person.

[Idaho Medical Freedom Act](#)

What if the employees work in an environment where they may be exposed to radiation? Could this law be interpreted to prohibit the use of dosimeters to monitor exposure? What about routine blood draws to test for contamination? I agree that these would be rare cases, but does that give the government the authority to deprive persons of their rights?

School Mandates

Next we'll look at the school mandates in this law.

(4) A school operating in the state or a business subject to chapter 11, title 39, Idaho Code, operating in the state shall not mandate a medical intervention for any person to attend, enter campus or buildings, or be employed, subject to the requirements of the Idaho parental rights act, ... For the purposes of this subsection, private and parochial schools shall be considered as having the same authority as school

districts under section 33-512(7), Idaho Code.

[Idaho Medical Freedom Act](#)

Here, Idaho lumps public and private schools together as if there is no fundamental difference between them. Private and parochial schools are just that, private. They are funded with private money and run by private organizations. Therefore, for the state to deprive them of their liberty and/or property, they must follow due process. They must show a legal and constitutional reason why these rights must be infringed. The state has not done so here.

If you are wondering what section 33-512(7) of the Idaho Code is:

33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties: ...

(7) To exclude from school pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school if the board determines that conditions warrant such closure, based on consultation with the district health department of the public health district in which the school district is located;

[Idaho Code, 33-512\(7\)](#)

State and Local Government Mandates

Finally, we get to an area where the state can legally regulate.

(5) Unless required by federal law, no state, county, or local government entity or official in Idaho shall require any person to receive or use a medical intervention.

[Idaho Medical Freedom Act](#)

The state is perfectly within its constitutional powers to mandate government officials within their state to not require medical intervention. The issue I have here is the language "Unless required by federal law." As I've already shown, the federal government does not have the authority to dictate medical treatments. If there is a federal law that legally requires a treatment, such as for international commerce, that does not bind state or local governments actions. This clause has the effect, along with the following one, to cut the knees out of this legislation.

(6) Unless required by federal law, no state, county, or local government entity or official in Idaho shall require any person to receive or use a medical intervention as a condition for:

- (a) Receipt of any government benefit;
- (b) Receipt of any government services;
- (c) Receipt of any government-issued license or permit;
- (d) Entrance into any public building;
- (e) Use of public transportation; or
- (f) A term of employment, provided that such entities that receive medicare or medicaid funding shall be exempt from the requirements of this paragraph.

[Idaho Medical Freedom Act](#)

I would be less concerned with the "Unless required by federal law" language if state like Idaho actually followed the Constitution. Specifically the Supremacy Clause.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land;

[U.S. Constitution, Article VI](#), Clause 2

This concerns me because much of the “law” coming out of Congress lately does not follow the Constitution of the United States. It is therefore not the supreme law of the land. Yet states like Idaho seem compelled to follow these illegal acts. After all, much of the reason for this legislation in the first place were illegal acts coming out of Congress and the Presidency.

Exceptions

Lastly, there appears to be another giant loophole in this legislation.

(9) The prohibition on medical interventions shall not apply to any situation where personal protective equipment, items, or clothing are required by a business entity in the public or private sectors based on existing traditional and accepted industry standards or federal law. These exemptions to the prohibition on medical interventions shall not apply to or include any vaccines, mask requirements, or other medical interventions introduced during the COVID-19 pandemic.

[Idaho Medical Freedom Act](#)

So any personal protective equipment (PPE) is exempt from this law as long as it existed before the COVID-19 pandemic. I think that shows the logic behind this legislation.

Conclusion

First, I want to applaud the legislators of Idaho for what they were trying to do: Push back against illegal mandates, many of them coming out of Washington, D.C. I just wish they had done a better job of it. Personally, I would be quite happy if Subsection 4 limited itself to public schools, and except for Section 502 and Subsections 5 & 6 of Section 503, the language was removed. I'd also like to see every instance

of “Unless required by federal law” add “made pursuant to the Constitution of the United States.”

I wonder how many of the Idaho legislators who voted on this bill went to law school? And just how many, while in said law school, studied the actual language of the Constitution they took an oath to support? As I said, I applaud what these legislators were trying to do. Sadly, when they went beyond the public entities and infringed on the rights of private individuals and businesses, they failed to uphold their oath.

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