



Written by [Bob Adelman](#) on October 20, 2021

Abbott Violates Constitution in Pushback Against Biden's Unconstitutional Vaccine Mandates

[In an exclusive interview with Breitbart](#) on Tuesday, Texas Governor Greg Abbott said he wanted to “set the counterbalance” against the Biden administration’s executive order demanding that employers with more than 100 employees be vaccinated.

He told *Breitbart*:

I had to stand up and protect those freedoms of people not wanting their bodies basically invaded by a vaccine that they do not want....

I talked to too many Texans around the entire state, who were literally crying because they faced either losing their job or compromising their own values and safety by getting the vaccine.

One of the catalysts behind my action was to ensure that people would not be losing their jobs.



World Travel & Tourism Council/Wikimedia Commons
Greg Abbott

Abbott’s “action” first revealed itself in June when he signed into law a bill that said that “a business in this state may not require a customer to provide any documentation certifying the customer’s COVID-19 vaccination ... to gain access to, or to receive service from, that business.” At that time, Abbott declared that “Texas is open 100 percent, and we want to make sure that you have the freedom to go where you want without limits.”

That, of course, violates the right of a business owner to determine, on his own, whether such “documentation” would be required of his customers.

Abbott compounded his error on October 11 by issuing an executive order declaring that “no entity in Texas can compel receipt of a COVID-19 vaccination by any individual, including an employee or a consumer, who objects to such vaccination [demands].” The June law still allowed businesses to require that their employees be vaccinated, but his October ruling violated that right as well.

When Amanda House, *Breitbart*’s host of the interview, asked Abbott about his legal strategy in “counterbalancing” Biden’s executive order, he said:

Neither the President of the United States, nor the federal government, have any legal authority — any constitutional authority — to issue their vaccine mandate.

Throughout the history of the United States of America, it has been governors in states that have been in charge of [the] health and safety of the people who are residents of those



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states, not the federal government....

[It] is part of the governor's job ... to ensure that the freedoms that are guaranteed by the Constitution ... are going to be protected.

Abbott, who obtained his Juris Doctorate from Vanderbilt University Law School in 1984, apparently didn't learn, or perhaps forgot, that by taking his oath of office as governor he committed to upholding the Constitution of the United States as well as the Constitution of the state of Texas. The federal Constitution specifically grants lawmaking power in Article 1 to Congress alone, and not to the executive branch. The Constitution of Texas grants lawmaking power in Article 3 to the state legislature, and not to the governor. And if there is any conflict between state and federal law, the Supremacy Clause in the U.S. Constitution sorts it out:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land.

So, Abbott violated his oath of office by issuing an edict that only the state legislature can make. And then he violated private property rights and freedom of association rights of business owners in his executive order.

As Jacob Sullum wrote in *Reason*: "Abbott's order is just as objectionable as the pending federal rule demanding that private companies with 100 or more employees require them to choose between vaccination and weekly coronavirus testing.... Abbott's order ... is no less outrageous than ... Joe Biden's plan to dictate employers' vaccine policies."

A vastly better and more effective — and Constitutional — way Abbott could have protected his citizens from an overweening federal government would have been for him simply to declare Biden's forthcoming executive order as "null and void" in the state of Texas, noting that it was not "made in pursuance" of the U.S. Constitution.

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