



Mansell, Matt <matt.mansell@governor.virginia.gov>

---

## Giffords Memo: Correcting the Record- Emergency COVID-19 Gun Store Closures

---

**Molly Voigt** <mvoigt@giffords.org>  
To: "Mansell, Matt" <matt.mansell@governor.virginia.gov>  
Cc: Don Mark <don.mark@me.com>

Mon, Mar 30, 2020 at 7:17 PM

Hi Matt-

I hope you are hanging in there and feeling healthy. I'm sure you're super busy handling everything else, but I just wanted to pass along the below Giffords statement and memo [linked here](#) that we released earlier today covering a variety of issues related to gun stores during this COVID-19 response time.

More than happy to discuss if you have any questions or concerns- just let me know.

Best,  
Molly

--

**Molly Voigt**  
**State Legislative Manager**  
Pronouns: She/Her/Hers  
Giffords: Courage to Fight Gun Violence  
401-741-2037 | [giffords.org](http://giffords.org)  
[@mollyvoigt](#)



[< Back to News](#)

[Press Release](#)

# Correcting the Record: Emergency COVID-19 Gun Store Closures

MARCH 30, 2020

[Coronavirus, COVID-19](#)



## MEMORANDUM

**TO** Interested Parties

**FROM** Giffords Law Center to Prevent Gun Violence

**DATE** March 29, 2020

**RE** Correcting the Record: Emergency COVID-19 Gun Store Closures

### The bottom line:

- **Panic-buying guns will help no one during the COVID-19 pandemic, and in fact poses serious dangers, especially to first-time gun buyers and their families.**
- **Closing gun stores runs the risk of driving sales to the unregulated market, but leaving them open could strain law enforcement resources and worsen virus transmission.**
- **Officials should make decisions based on local conditions and public health experts, not misinformation spread by gun industry actors attempting to profit off this crisis.**

As the nation works to confront the spread of COVID-19, we face an unprecedented public health emergency. Experts project that up to 214 million Americans could be infected and up to 1.7 million people could die without restrictive social distancing measures. In Italy, where the number of cases overwhelmed the healthcare system, the COVID-19 death rate reached as many as 9% of cases—a rate much higher than the seasonal flu—and the US healthcare system could similarly become overwhelmed

unless the disease progression rate slows. Solving this threat to our collective health will require collective sacrifice, with Americans coming together by staying apart, socially isolating, and refraining from commercial and social activities that we all take for granted in ordinary times.

Amid this unprecedented social upheaval, concerned Americans have stockpiled hand sanitizer, toilet paper, groceries—and guns, with an estimated 36% increase in gun background checks in the month of February alone. A substantial portion of these sales appear to be to first-time gun buyers, and with children and families confined to their homes, bringing new guns into households across the nation also introduces proven risks.

In some states hard-hit by COVID-19, local and state officials have been compelled to reduce social transmission of the virus by closing vast numbers of businesses, including gun stores. It is never an easy decision to order the closure of a business, upend workers' livelihoods, and limit consumer activity. The decision about whether to close a category of businesses should be made by infectious disease experts, with the aim of minimizing loss of life to the virus and preserving public health and safety. **As to gun stores, it should be public health experts, and not the gun industry, that makes the call about whether businesses stay open or close temporarily.** Closing gun stores may protect the public by limiting the spread of the virus through face-to-face interactions and flattening the curve of the epidemic, but doing so is also not without risk, and officials must carefully heed expert guidance on the subject.

To help inform Americans and policy makers as they navigate this crisis, this memorandum will: (1) outline the extensive risks related to gun ownership in the home, particularly with respect to first-time gun owners; (2) provide background on gun store closures and correct the gun industry's misinformed legal and policy arguments related to store closures and panic buying; and (3) offer gun safety policy recommendations that should apply whether gun stores are open or closed.

### **Panic Buying Guns Puts American Families at Risk**

The NRA and other gun industry groups have attempted to cash in on tragedy by driving fear of gun seizures or mass chaos to encourage people to panic-purchase firearms as a response to coronavirus. Their cynical response misses the mark and will make everyone less safe.

Well-established scientific evidence, cited below, shows that owning a gun does not inherently make a person safe, and in fact, makes them more likely to be shot and killed. And anyone buying a gun for the first time during the pandemic may be unable to take firearm safety courses or train with an instructor

about safe handling, maintenance, and storage of their new firearm. This increases the risk of unintentional shootings or unsuccessful interventions in a crime that cause more harm than good, and compounds numerous other risks:

- **Firearm access triples the risk of suicide death for all household members**, a particular concern in light of the social isolation Americans are currently experiencing, particularly with teens and college students forced to stay at home and isolated from their peers.
- **Having a gun in the home elevates the risks of injury or death resulting from an unintentional shooting**, a risk tragically realized in the case of an Albuquerque man who bought a gun in response to the coronavirus outbreak and unintentionally shot and killed his 13-year-old cousin. The threat of gun misuse is particularly troubling at a moment when millions of bored and curious American children are confined to their homes for the foreseeable future.
- **Having guns in the home doubles the risk of homicide**, and can particularly escalate dangerous domestic violence situations. Guns in the home have been shown to be much more likely to be used to intimidate an intimate partner than to prevent crime.
- **When an abuser has access to a gun, a domestic violence victim is five times more likely to be killed**. At a time when American couples and families are stuck in their homes for long periods of time, the risks of domestic violence and abuse are more likely to be realized than the prospect of using a gun in self-defense.

Against all of these risks, the gun industry has attempted to stoke fear by claiming gun ownership is essential for self-defense. But self-defensive gun use is rare, and having access to a gun doesn't better protect people from being injured during a crime compared to other protective actions like calling law enforcement or simply running away from danger. **One study found that individuals successfully defend themselves with a gun in less than one percent of crimes in which there is contact between a perpetrator and victim.** Carrying a firearm has been found to actually increase a victim's risk of firearm injury during the commission of a crime.

While Americans are understandably worried about keeping safe in this crisis, the numbers are clear: panic-buying guns, especially in the case of first-time buyers with little training or experience with responsible practices, is not a panacea, and carries extensive risks to gun buyers and their families.

## **Gun Store Closures and Coronavirus**

In the face of this highly communicable virus, Americans have been urged to stay at home and socially distance to avoid the spread of COVID-19, and because federal law requires gun purchases from a licensed dealer be completed in-person with a background check, gun stores are not necessarily similarly situated to other retailers. The risk of person-to-person transmission cannot be entirely avoided when purchasing a gun, which may make the chances of infection higher at gun stores than at other stores or restaurants which can box up items to bring to customers' cars or limit orders to a takeout window.

In response to the risk of person-to-person transmission, states across the country have issued expansive Stay-at-Home orders or taken more limited action to temporarily ban gatherings and close public spaces. As of March 23, some states and localities, including New Jersey, New Mexico, and New York, along with Maine, Michigan, and Massachusetts and the city of Denver, Colorado, have included gun stores in orders temporarily closing all businesses not essential for sustaining human life (like those that sell food and medicine). On the other hand, many other states, including Pennsylvania, Florida, Georgia, Connecticut, Delaware, and Ohio, among others, allowed some or all gun stores to remain open.

**As detailed below, neither closing gun stores nor leaving them open is without risk, and government officials should make decisions based on local conditions and the best advice of public health experts. What officials should *not* do is make decisions with significant public health ramifications based on misinformation or the fear campaign driven by the gun lobby.**

The firearms industry has fueled increases in gun sales by promoting the false narrative that it is essential to keep guns in one's home while sheltering to prevent spread of the virus. As noted above, in reality, the presence of a gun in the home increases the risk to family members. The gun lobby also argues that it is unconstitutional to close gun stores during the COVID-19 pandemic. That argument is equally wrong.

### *Governments May Close Gun Stores on an Emergency Basis*

The gun lobby is wrong that temporary store closings violate the Second Amendment. In a state of emergency, governments have the right to close businesses even if doing so risks temporarily interfering with constitutional rights. The Supreme Court has upheld restrictions on the fundamental right to physical liberty and the constitutional right to travel in a state of emergency, and other courts have held that First and Second Amendment rights fall into the same category. *See, e.g., Zemel v. Rusk*, 381 U.S. 1, 15-16 (1965); *United States v. Salerno*, 481 U.S. 739, 748 (1987); *Smith v. Avino*, 91 F.3d 105, 109 (11th Cir. 1996) (First Amendment rights); *United States v. Chalk*, 441 F.2d 1277 (4th Cir. 1971) (gun rights). Courts have repeatedly found that the grave risks to human life, and the enormous burdens that a state

of emergency places on law enforcement and local governments, justify emergency actions even if they affect constitutional rights. As one court explained: “[t]he invocation of emergency powers necessarily restricts activities that would normally be constitutionally protected.” *Chalk*, 441 F.2d at 1280.

COVID-19 spreads through face-to-face contact and surface-to-surface transmission, necessitating severe restrictions on public life and commercial activity to ensure that people do not spread disease faster than our healthcare system can accommodate. The virus poses an immediate, direct threat to life—precisely the type of emergency that warrants government interventions that might be unconstitutional at other times.

**Despite the gun industry’s profit-driven arguments, Second Amendment rights do not enjoy a special status during such national emergencies.** For example, the Second Amendment does not give people the right—during an epidemic or any other kind of emergency—to engage in vigilantism or form unsanctioned militias to provide for national defense. *See Presser v. Illinois*, 116 U.S. 252, 267 (1886). And while gun lobbyists may wish to argue it is “essential” to acquire additional guns while sheltering in place to prevent spread of a virus, states may reject that unscientific advice in favor of expert counsel. *See, e.g., Marshall v. United States*, 26 414 U.S. 417, 427 (1974) (when a state regulates “in areas fraught with medical and scientific uncertainties, legislative options must be especially broad”); *McDonald v. Chicago*, 561 U.S. 742, 785 (2010) (under the Second Amendment, states retain the flexibility to adopt gun policy solutions “that suit local needs and values”).

It is false and irresponsible for gun store owners or industry lobbyists to claim that gun dealers are constitutionally exempt from complying with COVID-19 closures. The epidemic is an emergency that may justify some closures of gun stores even if gun sales would normally be protected by the Second Amendment. The COVID-19 restrictions that have been announced thus far are temporary in nature, and the temporary closure of a gun store does not affect the self-defense rights for the many millions of Americans who already live in a household with firearms or who have successfully protected their personal safety without firearms up until now. **Governments should make the decision whether to close any business in the interests of public health**, not a misconception that the Second Amendment requires unlimited private access to guns during a national emergency.

### *Closing Gun Stores Is Not Without Challenges*

While the Constitution may permit temporary closures to gun stores on the basis of an emergency public health crisis, government decision makers should know that doing so is not without challenges of its own. In fact, temporarily closing gun stores could give rise to a variety of safety and law enforcement

concerns. There are several reasons longer-term gun store closures could disrupt law enforcement operations or undermine public safety:

**First, closing gun stores will hinder law enforcement at the Bureau of Alcohol, Tobacco, Firearms and Explosives** in tracing firearms recovered in crimes. Under current law, dealers are required to keep the retail sales records of gun transactions in their dealerships, and ATF relies on these paper forms at a physical store when they trace guns recovered at crime scenes. If gun stores are closed and ATF's ability to examine their paperwork is slowed, it will delay law enforcement's ability to trace guns and solve crimes.

**Second, closing gun stores may divert firearm buyers to the black market** and undermine the background check system. While brick-and-mortar gun dealers must conduct background checks on would-be gun buyers, in much of the country, private sellers are not required to run checks. Closing regulated, licensed gun dealers is likely to drive more buyers to the unregulated market, where felons and domestic abusers can avoid background checks and obtain weapons. To the extent Americans want to buy guns, it is preferable that they obtain them from reputable dealers who conduct background checks, and can provide trigger locks and information about safe and responsible gun ownership that may help mitigate the risks of guns in the home. In addition, in most of the several states where private sellers *are* required to conduct background checks, these checks occur at federally licensed dealers, so closing gun stores would prevent private parties from legally transferring firearms in those states.

**Third, closing gun stores may lead more Americans to purchase parts and kits they need to build their own do-it-yourself guns from online retailers**—again with no background checks. These DIY gun kits are used to build “ghost guns”—so named because they lack serial numbers and cannot be traced by police when recovered at crime scenes. Driving more would-be gun owners to untraceable ghost guns will undermine law enforcement's ability to investigate crime and facilitate illegal gun trafficking.

**Finally, closed gun stores may be a target for break-ins and theft**, a growing area of national concern even before the COVID-19 outbreak. Recent years have seen huge increases in the number of high-volume robberies from gun stores, and particularly with gun lobby actors raising fears and driving the surge in gun ownership, we may see an increase in gun store thefts if they are closed.

These risks can be mitigated, particularly for emergency closures of short duration, as can the risks of allowing gun stores to remain open. This is an unprecedented situation, and governments should weigh the considerations laid out above, along with the context-specific advice of local epidemiological

experts, when deciding their policies on gun store closures. We urge states and local governments to follow the recommendations of public health experts and, if those experts deem it appropriate, to consider law enforcement perspectives regarding the impact of gun store closures on gun safety.

### **Recommendations: How to Protect Gun Safety During COVID-19**

Public health experts, not gun industry actors, should make the call about which businesses stay open or closed. Whatever the course of action chosen in particular locations, gun safety concerns should be part of the overall calculus, and government decision makers should consider the following policies to mitigate the risks of any action around gun store closures.

#### **If gun stores remain open:**

- Require gun stores to engage in social distancing measures, such as installing partitions between sellers and buyers, limiting the number of people who may enter a store or wait in line (and the distance between them), or requiring appointments before a prospective gun buyer may enter a store (as states including Delaware, Connecticut, and Pennsylvania, among others, have required). Appointments could be granted on a priority basis to people who do not already own a functional firearm.
- Consider policies that require stores not to proceed with any gun sales unless they get an affirmative approval from the national background check system (NICS) showing that a purchaser is legally entitled to obtain a firearm. The COVID-19-induced surge in gun purchases has placed unprecedented pressure on the FBI's NICS unit, and may result in delays in completing background checks. Otherwise busy law enforcement officials may lack the bandwidth to use their scarce resources to track down prohibited gun purchasers who obtain firearms during a "default-proceed" sale, so stopping default proceed sales in the first instance will be important.

#### **If gun stores are ordered temporarily closed:**

- Consider suspending the online sale of untraceable "ghost gun" components within the state or locality by requiring ghost gun sellers to cease and desist shipping products into the jurisdiction.
- Make an exception that would allow federally licensed dealers to access their stores for the purpose of aiding ATF in firearms tracing or checking on the security of their inventory.
- Consider other measures to ensure secure storage of firearm inventory, such as directing owners to work with local law enforcement to monitor the security of their inventory, as New Jersey has done.



The coronavirus pandemic is a frightening crisis, but one we can overcome with decisive collective action to protect the health of our communities. There are many competing concerns when it comes to the difficult decision of opening or closing any business or gun stores in particular. Considering the above information and policy precautions will ensure that the decision is made based on facts, not misconceptions.

### Additional Giffords Resources:

- [Coronavirus and Guns: What you Need to Know](#)
- [Panic Buying Guns Won't Keep You Safe During the COVID-19 Pandemic](#)
- [Memo: Protecting the Background Check System During National Emergencies](#)
- [Map of Gun Store Closures](#)(from *The Trace*)



## More News

[All News](#) >

### Blog Post

