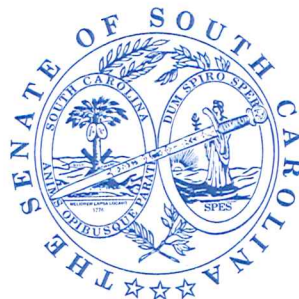


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July 20, 2020
AN OPEN LETTER TO THE GOVERNOR

The Honorably Henry McMaster
State House
1100 Gervais Street
Columbia, SC 29201

In re: State response to COVID-19 pandemic

Dear Governor McMaster,

I am writing to urge you to change course in response to the surge of COVID-19 infections and hospitalizations, which I fear will leave our State with just two horrible options: another statewide lockdown or a humanitarian crisis of uncontrollable deaths and incapacitated hospitals and medical providers.

At the moment, we still have options short of a lockdown. I share your goal of keeping responsible businesses open and giving parents an option to send kids back to school, but only so long as doing these things are safe. And, at this time, South Carolina is not safe. If you want to protect the economy and educate children, we must do a better job fighting the virus.

So, if you refuse to require people to wear masks, and refuse to shut down bars — both measures that medical experts uniformly urge us to do — I implore you to exercise leadership by urging the South Carolina Department of Health and Environmental Control (DHEC) to shutter businesses that are allowing people to gather unsafely in violation with public health guidance.

Over the past week, I have exchanged correspondence (copied to you) with the Director of DHEC urging the Department to exercise its powers under the Emergency Health Powers Act (EHPA) (§§ 44-4-300) to close threats to public health. As reports of unsafe gatherings continued,

I urged DHEC that using its powers to first warn and then close irresponsible businesses would be a huge step to stopping community spread. DHEC's closing power — a power activated and reaffirmed by your 10 emergency declarations — is a lawful and commonsense solution to reduce the number of mass spread incidents. Failure to do so endangers other important goals, like returning children to school and keeping the economy open for responsible, rule-abiding businesses.

DHEC's response to my request is that they prefer to defer to local governments. That decision is wrong for several reasons.

First, under the EHPA, only DHEC has the power to close a business for violating public health standards and endangering the public. You cannot defer to local governments because they have no such power.

Second, the Director thinks that DHEC lacks the ability to enforce public health guidance restricting large gatherings on businesses. I disagree. DHEC's position is a complete abdication of its lawful enforcement powers. Once again, your administration fails to see the benefit of the threat of enforcement, which, by way of example, saves thousands of lives every year on our public roads by requiring seatbelts and speed limits. True, not everyone complies, but that has never been cited as a reason to abolish the highway patrol.

Third, the problem is only going to get worse. Consider the photos circulating on social media from a concert Saturday night in Georgetown County at a venue called Suck Bang Blow.



No facemasks, no distancing. If there were 300 people in attendance (for example), our 20 percent positive statewide average on COVID-19 testing suggests approximately 60 of those in attendance were carrying the virus. Those they had contact with went home, perhaps to the next town over, with a chance of spreading it to family, friends, and coworkers.

Convening such an event in the name of profit was recklessness. Allowing it in the first place is a failure of government. This is precisely the type of super spreader event I urged DHEC last week to stop. But it is not too late to stop similar events in the future.

We are running out of time. I implore you to lead South Carolina by protecting its people, economy, and schools by using the powers of your office and directing the State's departments to affirmatively act by warning and then closing businesses that refuse to comply with public health guidance. I stand ready to assist.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Harpootlian", followed by a horizontal line extending to the right.

Richard A. Harpootlian

RAH:hm