

United States Senate
WASHINGTON, DC 20510-2606

May 5, 2023

Rachel Brand
Executive V.P. of Global Governance, Chief Legal Officer, and Corporate Secretary
Walmart
702 Southwest 8th Street
Bentonville, Arkansas 72716

Dear Ms. Brand:

We write to thank you that Walmart has so far not agreed to dispense abortion pills, including by not illegally using the mail to obtain or sell them. We support and agree with 19 State Attorneys General, who have reminded you that Federal law in 18 U.S.C. 1461-1462 criminalizes nationwide using the mail, or interstate shipment by any express company or common carrier, to send or receive any drug that is “designed, adapted, or intended for producing abortion.” As you know, these laws are additionally enforceable through a private right of action under the Racketeer Influenced and Corrupt Organizations (RICO) Act. These Federal criminal laws restrict the distribution of abortion drugs both upstream from manufacturers to pharmacies and downstream from pharmacies to individual patients. We understand that Walmart has not given any indication that it plans to distribute abortion drugs or that it would not comply with the law. Nevertheless, as Federal lawmakers, we wish to advise you about the requirements of the law on this matter in light of confusion that has been created by the Biden administration’s Department of Justice (DOJ) and Food and Drug Administration (FDA).

As you may be aware, the Biden administration’s Office of Legal Counsel (OLC) with the DOJ has encouraged the U.S. Postal Service to ignore the plain letter of Federal law, through a tortured reading of the law and associated case law, that invents out of whole cloth an exception in the statute for sending abortion drugs “where the sender lacks the intent that the recipient of the drugs will use them unlawfully.” As we previously relayed to the Attorney General, the OLC memo is *not* the law, and in fact runs directly counter to it. Numerous legal scholars have soundly rejected the OLC memo’s weak and convoluted reasoning, and we join the State Attorneys General in unequivocally rejecting it. As you may know, Congress in 1978 also considered and rejected amending the law to limit its scope to “illegal abortions” as OLC now seeks to achieve under the guise of an “interpretation.” We expect Federal courts, as several already have, to agree and fully vindicate the law’s enforceability against the mailing or interstate shipment of drugs for producing abortion, regardless of the abortion’s legality under State law or the FDA’s policies to the contrary, according to the plain words that Congress wrote.

OLC is not authorized to give legal advice to private persons, let alone immunize private parties involved in the commission of Federal crimes. As the Supreme Court has noted before, “[t]he failure of the executive branch to enforce a law does not result in its modification or repeal” (*Dist. of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 113–14 (1953)). The OLC memo, therefore, does not protect any individual or entity from being prosecuted within the five-year statute of limitations for the illegal mailing or interstate shipment of abortion drugs by a future Presidential administration that respects the rule of law and the sanctity of life, even for conduct that occurs today.

As United States Senators with the constitutional power of advice and consent, we will insist that the next President appoints an Attorney General and U.S. Attorneys who will enforce Federal law according to the words written by Congress, without political bias. This necessarily includes rescinding the OLC memo and prosecuting the criminal mailing and interstate shipment of abortion drugs and abortion-related paraphernalia under 18 U.S.C. 1461-1462 committed by the abortion industry and pharmaceutical companies to the full extent of the law.

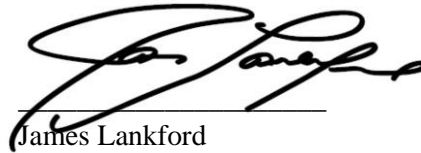
We also note that any pharmacy that would dispense abortion drugs also has legal responsibilities under Federal law to protect its employees from being forced to violate their religious beliefs or moral convictions against participating in abortion under the Church Amendments (42 U.S.C. § 300a-7(c)-(d)) and Title VII of the Civil Rights Act (42 U.S.C. § 2000e et seq.), in addition to any applicable conscience protections under State law.

Chemical abortion drugs present risk of significant harm to women, girls, and their unborn babies. We are committed to holding pharmaceutical companies that plan to sell abortion drugs, as well as the abortion industry as a whole, accountable to Federal and State law, including 18 U.S.C. 1461-1462. Again, we are grateful that Walmart has so far not announced any intent to sell abortion drugs. We urge you to continue to follow the law and maintain your position of providing life-saving medicines, rather than selling deadly abortion drugs.

Sincerely,



Cindy Hyde-Smith
United States Senator



James Lankford
United States Senator



Steve Daines
United States Senator



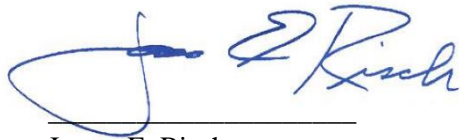
Mike Braun
United States Senator



Marco Rubio
United States Senator



Roger Marshall, MD.
United States Senator

Handwritten signature of James E. Risch in blue ink, featuring a large, stylized initial 'J' followed by the name 'Risch'.

James E. Risch
United States Senator

Handwritten signature of Mike Crapo in blue ink, featuring a stylized 'M' followed by the name 'Crapo'.

Mike Crapo
United States Senator

Handwritten signature of Marsha Blackburn in blue ink, featuring a stylized 'M' followed by the name 'Blackburn'.

Marsha Blackburn
United States Senator

United States Senate
WASHINGTON, DC 20510-2606

May 5, 2023

Juliette Pryor
Executive Vice President, General Counsel and Secretary
Albertsons Companies
250 Parkcenter Blvd
Boise, ID 83706

Dear Ms. Pryor:

We write to thank you that Albertsons has so far not agreed to dispense abortion pills, including by not illegally using the mail to obtain or sell them. We support and agree with 19 State Attorneys General, who have reminded you that Federal law in 18 U.S.C. 1461-1462 criminalizes nationwide using the mail, or interstate shipment by any express company or common carrier, to send or receive any drug that is “designed, adapted, or intended for producing abortion.” As you know, these laws are additionally enforceable through a private right of action under the Racketeer Influenced and Corrupt Organizations (RICO) Act. These Federal criminal laws restrict the distribution of abortion drugs both upstream from manufacturers to pharmacies and downstream from pharmacies to individual patients. We understand that Albertsons has not given any indication that it plans to distribute abortion drugs or that it would not comply with the law. Nevertheless, as Federal lawmakers, we wish to advise you about the requirements of the law on this matter in light of confusion that has been created by the Biden administration’s Department of Justice (DOJ) and Food and Drug Administration (FDA).

As you may be aware, the Biden administration’s Office of Legal Counsel (OLC) with the DOJ has encouraged the U.S. Postal Service to ignore the plain letter of Federal law, through a tortured reading of the law and associated case law, that invents out of whole cloth an exception in the statute for sending abortion drugs “where the sender lacks the intent that the recipient of the drugs will use them unlawfully.” As we previously relayed to the Attorney General, the OLC memo is *not* the law, and in fact runs directly counter to it. Numerous legal scholars have soundly rejected the OLC memo’s weak and convoluted reasoning, and we join the State Attorneys General in unequivocally rejecting it. As you may know, Congress in 1978 also considered and rejected amending the law to limit its scope to “illegal abortions” as OLC now seeks to achieve under the guise of an “interpretation.” We expect Federal courts, as several already have, to agree and fully vindicate the law’s enforceability against the mailing or interstate shipment of drugs for producing abortion, regardless of the abortion’s legality under State law or the FDA’s policies to the contrary, according to the plain words that Congress wrote.

OLC is not authorized to give legal advice to private persons, let alone immunize private parties involved in the commission of Federal crimes. As the Supreme Court has noted before, “[t]he failure of the executive branch to enforce a law does not result in its modification or repeal” (*Dist. of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 113–14 (1953)). The OLC memo, therefore, does not protect any individual or entity from being prosecuted within the five-year statute of limitations for the illegal mailing or interstate shipment of abortion drugs by a future Presidential administration that respects the rule of law and the sanctity of life, even for conduct that occurs today.

As United States Senators with the constitutional power of advice and consent, we will insist that the next President appoints an Attorney General and U.S. Attorneys who will enforce Federal law according to the

words written by Congress, without political bias. This necessarily includes rescinding the OLC memo and prosecuting the criminal mailing and interstate shipment of abortion drugs and abortion-related paraphernalia under 18 U.S.C. 1461-1462 committed by the abortion industry and pharmaceutical companies to the full extent of the law.

We also note that any pharmacy that would dispense abortion drugs also has legal responsibilities under Federal law to protect its employees from being forced to violate their religious beliefs or moral convictions against participating in abortion under the Church Amendments (42 U.S.C. § 300a-7(c)-(d)) and Title VII of the Civil Rights Act (42 U.S.C. § 2000e et seq.), in addition to any applicable conscience protections under State law.

Chemical abortion drugs present risk of significant harm to women, girls, and their unborn babies. We are committed to holding pharmaceutical companies that plan to sell abortion drugs, as well as the abortion industry as a whole, accountable to Federal and State law, including 18 U.S.C. 1461-1462. Again, we are grateful that Albertsons has so far not announced any intent to sell abortion drugs. We urge you to continue to follow the law and maintain your position of providing life-saving medicines, rather than selling deadly abortion drugs.

Sincerely,



Cindy Hyde-Smith
United States Senator



James Lankford
United States Senator



Steve Daines
United States Senator



Mike Braun
United States Senator



Marco Rubio
United States Senator



Roger Marshall, MD.
United States Senator

Handwritten signature of James E. Risch in blue ink, featuring a large, stylized initial 'J' followed by the name 'Risch'.

James E. Risch
United States Senator

Handwritten signature of Mike Crapo in blue ink, featuring a stylized 'M' followed by the name 'Crapo'.

Mike Crapo
United States Senator

Handwritten signature of Marsha Blackburn in blue ink, featuring a stylized 'M' followed by the name 'Blackburn'.

Marsha Blackburn
United States Senator

United States Senate
WASHINGTON, DC 20510-2606

May 5, 2023

John Sullivan
Senior Vice President, General Counsel and Secretary
Costco
999 Lake Drive
Issaquah, WA 98027

Dear Mr. Sullivan:

We write to thank you that Costco has so far not agreed to dispense abortion pills, including by not illegally using the mail to obtain or sell them. We support and agree with 19 State Attorneys General, who have reminded you that Federal law in 18 U.S.C. 1461-1462 criminalizes nationwide using the mail, or interstate shipment by any express company or common carrier, to send or receive any drug that is “designed, adapted, or intended for producing abortion.” As you know, these laws are additionally enforceable through a private right of action under the Racketeer Influenced and Corrupt Organizations (RICO) Act. These Federal criminal laws restrict the distribution of abortion drugs both upstream from manufacturers to pharmacies and downstream from pharmacies to individual patients. We understand that Costco has not given any indication that it plans to distribute abortion drugs or that it would not comply with the law. Nevertheless, as Federal lawmakers, we wish to advise you about the requirements of the law on this matter in light of confusion that has been created by the Biden administration’s Department of Justice (DOJ) and Food and Drug Administration (FDA).

As you may be aware, the Biden administration’s Office of Legal Counsel (OLC) with the DOJ has encouraged the U.S. Postal Service to ignore the plain letter of Federal law, through a tortured reading of the law and associated case law, that invents out of whole cloth an exception in the statute for sending abortion drugs “where the sender lacks the intent that the recipient of the drugs will use them unlawfully.” As we previously relayed to the Attorney General, the OLC memo is *not* the law, and in fact runs directly counter to it. Numerous legal scholars have soundly rejected the OLC memo’s weak and convoluted reasoning, and we join the State Attorneys General in unequivocally rejecting it. As you may know, Congress in 1978 also considered and rejected amending the law to limit its scope to “illegal abortions” as OLC now seeks to achieve under the guise of an “interpretation.” We expect Federal courts, as several already have, to agree and fully vindicate the law’s enforceability against the mailing or interstate shipment of drugs for producing abortion, regardless of the abortion’s legality under State law or the FDA’s policies to the contrary, according to the plain words that Congress wrote.


OLC is not authorized to give legal advice to private persons, let alone immunize private parties involved in the commission of Federal crimes. As the Supreme Court has noted before, “[t]he failure of the executive branch to enforce a law does not result in its modification or repeal” (*Dist. of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 113–14 (1953)). The OLC memo, therefore, does not protect any individual or entity from being prosecuted within the five-year statute of limitations for the illegal mailing or interstate shipment of abortion drugs by a future Presidential administration that respects the rule of law and the sanctity of life, even for conduct that occurs today.

As United States Senators with the constitutional power of advice and consent, we will insist that the next President appoints an Attorney General and U.S. Attorneys who will enforce Federal law according to the words written by Congress, without political bias. This necessarily includes rescinding the OLC memo and prosecuting the criminal mailing and interstate shipment of abortion drugs and abortion-related paraphernalia under 18 U.S.C. 1461-1462 committed by the abortion industry and pharmaceutical companies to the full extent of the law.

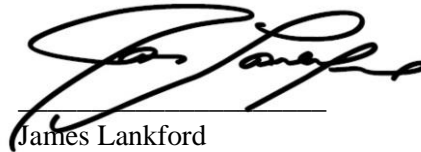
We also note that any pharmacy that would dispense abortion drugs also has legal responsibilities under Federal law to protect its employees from being forced to violate their religious beliefs or moral convictions against participating in abortion under the Church Amendments (42 U.S.C. § 300a-7(c)-(d)) and Title VII of the Civil Rights Act (42 U.S.C. § 2000e et seq.), in addition to any applicable conscience protections under State law.

Chemical abortion drugs present risk of significant harm to women, girls, and their unborn babies. We are committed to holding pharmaceutical companies that plan to sell abortion drugs, as well as the abortion industry as a whole, accountable to Federal and State law, including 18 U.S.C. 1461-1462. Again, we are grateful that Costco has so far not announced any intent to sell abortion drugs. We urge you to continue to follow the law and maintain your position of providing life-saving medicines, rather than selling deadly abortion drugs.

Sincerely,



Cindy Hyde-Smith
United States Senator



James Lankford
United States Senator



Steve Daines
United States Senator




Mike Braun
United States Senator



Marco Rubio
United States Senator



Roger Marshall, MD.
United States Senator

Handwritten signature of James E. Risch in blue ink, featuring a large, stylized initial 'J' followed by the name 'Risch'.

James E. Risch
United States Senator

Handwritten signature of Mike Crapo in blue ink, featuring a large, stylized initial 'M' followed by the name 'Crapo'.

Mike Crapo
United States Senator

Handwritten signature of Marsha Blackburn in blue ink, featuring a large, stylized initial 'M' followed by the name 'Blackburn'.

Marsha Blackburn
United States Senator

United States Senate
WASHINGTON, DC 20510-2606

May 5, 2023

Christine Wheatley
Vice President, Secretary, and General Counsel
Kroger
1014 Vine Street
Cincinnati, OH 45202

Dear Ms. Wheatley:

We write to thank you that Kroger has so far not agreed to dispense abortion pills, including by not illegally using the mail to obtain or sell them. We support and agree with 19 State Attorneys General, who have reminded you that Federal law in 18 U.S.C. 1461-1462 criminalizes nationwide using the mail, or interstate shipment by any express company or common carrier, to send or receive any drug that is “designed, adapted, or intended for producing abortion.” As you know, these laws are additionally enforceable through a private right of action under the Racketeer Influenced and Corrupt Organizations (RICO) Act. These Federal criminal laws restrict the distribution of abortion drugs both upstream from manufacturers to pharmacies and downstream from pharmacies to individual patients. We understand that Kroger has not given any indication that it plans to distribute abortion drugs or that it would not comply with the law. Nevertheless, as Federal lawmakers, we wish to advise you about the requirements of the law on this matter in light of confusion that has been created by the Biden administration’s Department of Justice (DOJ) and Food and Drug Administration (FDA).

As you may be aware, the Biden administration’s Office of Legal Counsel (OLC) with the DOJ has encouraged the U.S. Postal Service to ignore the plain letter of Federal law, through a tortured reading of the law and associated case law, that invents out of whole cloth an exception in the statute for sending abortion drugs “where the sender lacks the intent that the recipient of the drugs will use them unlawfully.” As we previously relayed to the Attorney General, the OLC memo is *not* the law, and in fact runs directly counter to it. Numerous legal scholars have soundly rejected the OLC memo’s weak and convoluted reasoning, and we join the State Attorneys General in unequivocally rejecting it. As you may know, Congress in 1978 also considered and rejected amending the law to limit its scope to “illegal abortions” as OLC now seeks to achieve under the guise of an “interpretation.” We expect Federal courts, as several already have, to agree and fully vindicate the law’s enforceability against the mailing or interstate shipment of drugs for producing abortion, regardless of the abortion’s legality under State law or the FDA’s policies to the contrary, according to the plain words that Congress wrote.

OLC is not authorized to give legal advice to private persons, let alone immunize private parties involved in the commission of Federal crimes. As the Supreme Court has noted before, “[t]he failure of the executive branch to enforce a law does not result in its modification or repeal” (*Dist. of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 113–14 (1953)). The OLC memo, therefore, does not protect any individual or entity from being prosecuted within the five-year statute of limitations for the illegal mailing or interstate shipment of abortion drugs by a future Presidential administration that respects the rule of law and the sanctity of life, even for conduct that occurs today.

As United States Senators with the constitutional power of advice and consent, we will insist that the next President appoints an Attorney General and U.S. Attorneys who will enforce Federal law according to the words written by Congress, without political bias. This necessarily includes rescinding the OLC memo and prosecuting the criminal mailing and interstate shipment of abortion drugs and abortion-related paraphernalia under 18 U.S.C. 1461-1462 committed by the abortion industry and pharmaceutical companies to the full extent of the law.

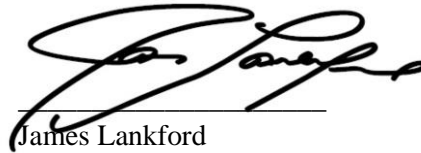
We also note that any pharmacy that would dispense abortion drugs also has legal responsibilities under Federal law to protect its employees from being forced to violate their religious beliefs or moral convictions against participating in abortion under the Church Amendments (42 U.S.C. § 300a-7(c)-(d)) and Title VII of the Civil Rights Act (42 U.S.C. § 2000e et seq.), in addition to any applicable conscience protections under State law.

Chemical abortion drugs present risk of significant harm to women, girls, and their unborn babies. We are committed to holding pharmaceutical companies that plan to sell abortion drugs, as well as the abortion industry as a whole, accountable to Federal and State law, including 18 U.S.C. 1461-1462. Again, we are grateful that Kroger has so far not announced any intent to sell abortion drugs. We urge you to continue to follow the law and maintain your position of providing life-saving medicines, rather than selling deadly abortion drugs.

Sincerely,



Cindy Hyde-Smith
United States Senator



James Lankford
United States Senator



Steve Daines
United States Senator



Mike Braun
United States Senator



Marco Rubio
United States Senator



Roger Marshall, MD.
United States Senator

Handwritten signature of James E. Risch in blue ink.

James E. Risch
United States Senator

Handwritten signature of Mike Crapo in blue ink.

Mike Crapo
United States Senator

Handwritten signature of Marsha Blackburn in blue ink.

Marsha Blackburn
United States Senator