

**IN THE CIRCUIT COURT FOR
LAWRENCE COUNTY, TENNESSEE**

STATE OF TENNESSEE,)	
)	
<i>Plaintiff,</i>)	Case No. 36138
)	
v.)	
)	JUDGE DAVID ALLEN
Arthur Jay Hirsch,)	
)	
<i>Accused.</i>)	
_____	/	

**II
REQUEST TO JUDGE ALLEN FOR MANDATORY JUDICIAL NOTICE
Relative To
THE UNALIENABLE RIGHT TO TRAVEL**

Accused, Arthur Jay Hirsch, hereby requests this Court to take mandatory judicial notice of facts and law pursuant to Tennessee Rules of Evidence, Rules 201¹, 202² relative to constitutionally secured God-given, unalienable, and inherent/natural rights as follows:

¹

Rule 201: Judicial notice of adjudicative facts.

(b) Kinds of Facts - A judicially noticed fact must be one not subject to reasonable dispute, in that it is either

- (1) generally known within the territorial jurisdiction of the trial court or
- (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(d) When Mandatory - A court shall take judicial notice if requested by a party and supplied with the necessary information.

²

Rule 202: Judicial notice of law.

(a) Mandatory Judicial Notice of Law. The court shall take judicial notice of

- (1) the common law,
- (2) the constitutions and statutes of the United States and of every state, territory, and other jurisdiction of the United States,
- (3) all rules adopted by the United States Supreme Court or by the Tennessee Supreme Court, and
- (4) any rule or regulation of which a statute of the United States or Tennessee mandates judicial notice.

1. RIGHTS PROTECTION - ORIGINAL INTENT:
 - *Tennessee Declaration of Rights, 1796 Constitution*
Article 10th
Section 4th. The Declaration of Rights hereto annexed is declared to be a part of the Constitution of this State and Shall never be violated on any pretence whatever. And to Guard against transgressions of the high Powers which we have delegated, **we declare that everything in the Bill of Rights contained and every other right not hereby delegated is excepted out of the General Powers of Government and shall for ever [i.e. forever] remain inviolate.** (emphasis added) (Now appearing at Art. 11, §16)

2. BOUND BY OATH:
 - Article Six of the U.S. Constitution
 “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof;...shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or laws of any State to the Contrary not one word withstanding.” “The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and **all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution...**” (emphasis added)

3. RIGHTS vs. PRIVILEGES:
 - A **public highway** is such a passageway as any and **all members of the public** have an **absolute right** to use as distinguished from a **permissive privilege** of using same. *Standard Life Ins. Co. v. Hughes*, 203 Tenn. 636, 315 S.W.2d 239, 243, 1958 Tenn. LEXIS 229 (1958). (emphasis added)

4. PUBLIC OWNERSHIP OF STREETS:
 - The streets belong to the public, and are primarily for the use of the public in the ordinary way. *Packard v. Banton*, 264 U.S. 140, 144 (1924) No. 126

5. HIGHWAYS PRIMARILY FOR PRIVATE USE:
 - "The business of using the public highways for profit, earned by transporting persons and property for hire, has been definitely excluded from the category of private or personal rights . . .that **the primary use of the state highways is the use for private purposes.**"
State v. Harris, 76 S.W.2d 324, 168 Tenn. 159 (1934) (emphasis added)

6. USUAL vs. EXTRAORDINARY USE OF HIGHWAYS:
 - "The business of using the public highways for profit, earned by transporting persons and property for hire, has been definitely excluded from the category of private or personal rights . . .that **the primary use of the state highways is the use for private purposes.**"
State v. Harris, 76 S.W.2d 324, 168 Tenn. 159 (1934) (emphasis added)
 Tenn. 628; 72 S.W.2d 1052; 1933 Tenn. LE XIS 71; *Thompson v. Smith*, 155 Va. 367, 377 (1930)) (emphasis added)

7. UNCONDITIONAL RIGHT OF LOCOMOTION
 - "The right to travel is an "**unconditional personal right**," a right whose exercise may not be conditioned." . . . "Iron curtains have no place in a free world. . . ."Undoubtedly the **right of locomotion, the right to remove from one place to another according to inclination**, is an attribute of **personal liberty**, and the right, ordinarily, of free transit from or through the territory of any State is a right secured by the Constitution.' *Shapiro v. Thompson*, 394 U.S. 618, 643; *Dunn V. Blumstein*, 405 U.S. 330, 342 (1972) No. 70-13; *State v. Stroud*, 52 S.W. 697, 698 (emphasis added)

8. FIFTH AMENDMENT LIBERTY RIGHT:
 - "The **right to travel** is a part of the "**liberty**" of which the citizen cannot be deprived without due process of law under the **Fifth Amendment**." *Kent v. Dulles*, 357 U.S. 116 (1958) No. 481. (emphasis added)

9. PLEASURE USE OF HIGHWAYS:
 - "Every member of the public has the right to use the public roads in a reasonable manner for the promotion of his health and happiness. . . ." "A public road is a way **open to all the people, without distinction**, for passage and repassage at their pleasure." *Sumner County v. Interurban Transp. Co.*, 141 Tenn. 493, 213 S.W. 412, 1918 Tenn. LEXIS 112, 5 A.L.R. 765 (1919). (emphasis added)

10. HIGHWAYS - PUBLIC PROPERTY, PRIVATE USE:
 - "It is well established law that the **highways of the state are public property**; that their primary and preferred use is for **private purposes**, and that their **use for purposes of gain is special and extraordinary**, which, generally at least, the legislature may prohibit or condition as it sees fit." *Stephenson v. Binford*, 287 U.S. 251, 264; *Packard v. Banton*, 264 U.S. 140, 144, and cases cited; *Frost Trucking Co. v. Railroad Comm.* U.S. 583, 592-593; *Hodge Co. v. Cincinnati*, 284 U.S. 335, 337; *Johnson Transfer & Freight Lines v. Perry*, 47 F. (2d) 900, 902; *Southern Motorways v. Perry*, 39 F. (2d) 145, 147; *People's Transit Co. v. Henshaw*, 20 F. (2d) 87, 89; *Weksler v. Collins*, 317 Ill. 132, 138-139; 147 N.E. 797; *Maine Motor Coaches v. Public Utilities*, 125 Me. 63, 65 130 Atl. 866. (emphasis added)

11. PRIVILEGED USE BY COMMON CARRIERS FOR HIRE:
 - "A citizen may have, under the Fourteenth Amendment, the **right to travel** and transport his property upon them by auto vehicle. But he has no right to make the highways his place of business by using them as a **common carrier for hire**. Such use is a **privilege** which may be granted or withheld by the state in its discretion, without violating either the due process clause or the equal protection clause." *Packard v. Banton*, 264 U.S. 140, 144 (emphasis added)

12. NO PENALTY FOR EXERCISING RIGHTS:
 - "It has long been established that a State may not impose a penalty upon those who exercise a **right guaranteed by the Constitution** . . . "Constitutional rights would be of little

value if they could be . . . 'indirectly denied'. . . ." *Harman v. Forssenius*, 380 U.S. 528, 540 (1965) (emphasis added)

13. TWO CLASSES OF HIGHWAY USERS - RADICAL DIFFERENCE RECOGNIZED:
 - "The right of the citizen to travel upon the highway and transport his property thereon, in the **ordinary course of life and business**, **differs radically and obviously** from that of one who makes the highway his place of business and uses it for **private gain**, in the running of a stage coach or omnibus...This distinction, elementary and fundamental in character, is **recognized by all authorities.**" *Hadfield v. Lundin* 98 Wash. 657, 663; 168 Pac. 516 (1917). Page 264 U. S. 144 (emphasis added)
14. UNCONDITIONAL PERSONAL RIGHT:
 - "In any event, **freedom to travel** throughout the United States has long been recognized as a basic right under the Constitution." "[T]he right to travel freely . . . it is a virtually **unconditional personal right**, guaranteed by the Constitution to us all." *United States v. Guest*, 383 U. S. 745, 757-758 (1966) (emphasis added)
15. OUR TRAVEL FREEDOM HERITAGE:
 - "The **right to travel** is a part of the '**liberty**' of which the citizen cannot be deprived without due process of law under the **Fifth Amendment**." "Freedom of movement across frontiers in either direction, and inside frontiers as well, was a part of our heritage. Travel abroad, like travel within the country, may be necessary for a livelihood." *Kent v. Dulles*, 357 U.S. 116, 125, 126 (1958) 481, 125 (emphasis added)
16. AUTO TRAVEL - A NECESSITY:
 - "Automobile travel . . . is a basic, pervasive, and often **necessary** mode of transportation to and from one's home [and] workplace." *Delaware v. Prouse*, 440 U.S. 648, 662 (1979)
17. NO RULES OR LAWS TO ABROGATE RIGHTS:
 - "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." *Miranda vs. Arizona*, 384 US 436, 49
18. NO CRIMINALIZATION OF RIGHTS EXERCISED:
 - "The claim and exercise of a constitutional Right cannot be converted into a crime." *Miller vs. U.S.*, 230 F. 486, 489
19. NO CONVERSION OF LIBERTY RIGHT INTO PRIVILEGE:
 - "**No state may convert a secured liberty into a privilege, and issue a license and fee for it. . . a person cannot be compelled "to purchase, through a license fee or a license tax, the privilege freely granted by the constitution.**" *Murdock v. Pennsylvania*, 319 U.S. 105 (emphasis added)

20. NO PENALTY FOR RIGHTS EXERCISE:
 - "There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights." *Snerer vs. Cullen*, 481 F. 946
21. NO SURRENDERED RIGHT SWAP:
 - "We find it intolerable that one Constitutional Right should have to be surrendered in order to assert another." *Simons vs. United States*, 390 US 389
22. LAWS REPUGNANT TO CONSTITUTION ARE VOID:
 - "The Constitution of these United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law." *Marbury v. Madison*, 5 U.S. 137
23. RIGHTS NOT TO BE DIMINISHED:
 - "The state cannot diminish Rights of the people." *Hurtado vs. California*, 110 US 516
24. NO IMPAIRMENT OF RIGHTS BY POLICE:
 - "With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority." *Connolly v Union Sewer Pipe Co.* 184 US 540; *Lafarier v Grand Trunk Railway of Canada* 84 Me 286, 24 A. 848; *O'Neil v Providence Amusement Co.*, 42 RI 479, 108 A. 887
25. RIGHTS EVASION NOT TOLERATED:
 - "Disobedience or evasion of a Constitutional Mandate cannot be tolerated, even though such disobedience may, at least temporarily, promote in some respects the best interests of the public." *Slote vs. Examination*, 112 ALR 660
26. NO HOSTILITY TO ASSERTION OF RIGHTS:
 - "Constitutional Rights cannot be denied simply because of hostility to their assertions and exercise; vindication of conceded Constitutional Rights cannot be made dependent upon any theory that it is less expensive to deny them than to afford them." *Watson v Memphis* 375 US 526
27. POLICE POWERS SUBORDINATE TO CONSTITUTION:
 - "The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution." *Buchanan v Warley* 245 US 60; *Panhandle Eastern Pipeline Co. v State Highway Comm.* 294 US 613
28. EXPRESS AND IMPLIED PROHIBITIONS:
 - "It is well settled that the Constitutional Rights protected from invasion by the police power, include Rights safeguarded both by express and implied prohibitions in the Constitutions." *Tiche v Osborne* 131 A. 60

29. NO STATE OVERRIDING OF CONSTITUTIONAL GUARANTEES:
 ● "No public policy of a state can be allowed to override the positive guarantees of the U.S. Constitution." 16 Am. Jur. 2nd Const. Law §70
30. STATUTES VIOLATING COMMON RIGHTS ARE VOID:
 ● "Statutes that violate the plain and obvious principles of common right and common reason are null and void." *Bennett v. Boggs*, 1 Baldwin 60
31. POLICE POWER LIMITATIONS:
 ● "As a rule, fundamental limitations of regulations under the police power are found in the spirit of the Constitutions, not in the letter, although they are just as efficient as if expressed in the clearest language."
Mehlos v City of Milwaukee 156 Wis 591, 146 NW 882
32. UNCONSTITUTIONAL LICENSING LAWS IGNORED:
 ● "Persons faced with an unconstitutional licensing law which purports to require a license as a prerequisite to exercise of right... may ignore the law and engage with impunity in exercise of such right." *People v. Battle*, 409 NW 2d 739, 161 Mich. App. 99 - Mich: Court of Appeals, 1987
33. COURTS TO GUARD PEOPLES' RIGHTS:
 ● "It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon." *Boyd vs. United States*, 116 US 616
34. POLICE NOT TO OVERTHROW RIGHTS:
 ● "With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that document cannot be overthrown or impaired by any state police authority."
Connolly vs. Union Sewer Pipe Co., 184 US 540; *Lafarier vs. Grand Trunk R.R. Co.*, 24 A. 848; *O'Neil vs. Providence Amusement Co.*, 108 A. 887
35. POLICE POWERS SUBORDINATED TO CONSTITUTION:
 ● "The police power of the state must be exercised in subordination to the provisions of the U.S. Constitution." *Bacahanan vs. Wanley*, 245 US 60; *Panhandle Eastern Pipeline Co. vs. State Highway Commission*, 294 US 613
36. NO ARBITRARY DEPRIVAATION OF RIGHTS:
 ● "There should be no arbitrary deprivation of Life or Liberty ..." *Barbour vs. Connolly*, 113 US 27, 31; *Yick Wo vs. Hopkins*, 118 US 356
37. NO PRESUMPTION OF GUILT:
 ● "[It] is not within the province of a legislature to declare an individual guilty or presumptively guilty of a crime." *McFarland v. American Sugar Rfg. Co.*, 241 U.S. 79, 86

38. PERMISSIVE STATUTES DISTINCTION TO BE MADE:
 ● "Moreover, a distinction must be observed between the regulation of an activity which may be engaged in as a matter of right and one carried on by government sufferance of permission." *Davis vs. Massachusetts*, 167 US 43; *Pachard vs. Banton*, supra.
39. LICENSE, TAGS, INSURANCE FOR COMMERCIAL CARRIERS:
 ● "The use of public highways by private intrastate and interstate carriers of goods by motor vehicle may be conditioned by the state upon the carrier's **obtaining a license**, complying with reasonable regulations, **paying a reasonable license fee and a tax**, for expenses of highway administration and maintenance and reconstruction of the highways covered by the license, and upon the filing of an **insurance policy** as security against injuries from the carrier's negligent operations to persons and property other than the passengers and property he carries." *Continental Baking Co. v. Woodring*, 286 U.S. 352, 365 (1932) (emphasis added)
40. COMMERCIAL ACTIVITY ONLY GROUNDS FOR REGULATION:
 ● "The power to regulate commerce presupposes the existence of **commercial activity** to be regulated. The language of the **Constitution reflects the natural understanding** that the power to regulate assumes there is **already something to be regulated**. . . As expansive as our cases construing the scope of the commerce power have been, they all have one thing in common: **They uniformly describe the power as reaching "activity."**" *National Federation Of Independent Business, et al., Petitioners (No. 11-393) v. Kathleen Sebelius, Secretary Of Health And Human Services*, 132 S. Ct. 2566 (emphasis added)
41. NO ENGAGEMENT IN COMMERCE, NO REGULATIONS:
 ● "But we have never permitted Congress to anticipate that activity itself in order to regulate individuals **not currently engaged in commerce**. . . , commerce. . . prosecution of those. . . **not currently engaged in any commercial activity. . . is fatal to the Government's effort to "regulate..."**" *National Federation Of Independent Business, et al., Petitioners (No. 11-393) v. Kathleen Sebelius, Secretary Of Health And Human Services*, 132 S. Ct. 2566 (emphasis added)
42. 132 S. Ct. 2566 (emphasis added)
43. WHEN PRIVILEGE ENDS, REGULATION CEASES:
 ● "**When the privilege ends, the power of regulation ceases.**" *Munn v. Illinois*, 94 U.S. 113, 147 (1876) (emphasis added)
44. PRE-EXISTING COMMON LAW RIGHTS:
 ● "The individual may stand upon his **constitutional rights** as a citizen. He is entitled to carry on his **private business** in his own way. His power to contract is unlimited. **He owes no duty to the State** or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom beyond the protection of his life and property. **His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution.** Among his rights are a refusal to incriminate himself and the immunity of

himself and his property from arrest or seizure except under a warrant of the law. **He owes nothing to the public so long as he does not trespass upon their rights.**"
Hale v. Henkel, 201 U.S. 43, 44 (1906)³ (emphasis added)

45. PRIVATE PERSONAL AUTO IS "CONSUMER GOODS":
 - UCC DEFINITIONS: Consumer Goods: Goods that are used or bought for use primarily for personal, family, or household purposes. (e.g. automobile) U.C.C. § 9-109(1) Black's Law Dictionary, 6th Ed., p.317
46. AUTOMOBILE DEEMED HOUSEHOLD EFFECT:
 - The Supreme Court held that "carriages were properly classified as household effects, and we see no reason that automobiles should not be similarly disposed of."
Arthur v. Morgan, 112 U.S. 495, 5 S.Ct. 241, 28 L.Ed. 825
47. AUTOMOBILE CONSIDERED SAME AS CHATTEL:
 - "Footnote 11. . . But today, under the regime of *International Shoe*, we see no difference for jurisdictional purposes between an automobile and any other chattel."
Worldwide Volkswagen Corp. v. Woodson, 444 U.S. 286 {1980} No. 78-1078
48. WHEN LICENSE IS A FRAUD;
 - "But, when no trade is carried on, or intended to be carried on, under the license, it is clear that the **license is a fraud upon the State law**, if that law is in other respects valid. *Gibbons v. Ogden*, 22 US 1, 6 L. Ed. 23, 11 S. Ct. 865 - Supreme Court, 1824 (emphasis added)
49. COURT RULING VALID ONLY ON EVIDENCE:
 - The court is only to rule on the sufficiency of the proof tendered.
See *McNutt v. GMAC*, 298 U.S. 178; *Maxfield's Lessee v. Levy*, 4 U.S. 308.
50. PRIVILEGE TAX ONLY ON REGULATED BUSINESS, OCCUPATION, VOCATION:
"A **privilege tax** cannot be imposed upon anything or any act, unless it constitutes a business, occupation, pursuit or vocation. Such use for pleasure does not constitute a business, occupation, pursuit or vocation. **Pleasure taking does not constitute a business**, occupation, pursuit or vocation, in the sense of the definition of a taxable privilege; and

Comment: With respect to "stare decisis," *Hale v. Henkel*, 201 U.S. 43, 44 (1906) has been used 1,600 times in citations to assert the adherence to established precedents and not to disturb or unsettle the same. This is supported by one of the bedrock principles of our legal system, i.e., "stare decisis et non quieta movere" which, according to Black's Law Dictionary, means "[t]o adhere to precedent and not to unsettle things which are established". As found in Black's Law Dictionary, Fifth Edition (1979), page 1261, citing *Ballard County v. Kentucky County Debt Commission*, 290 Ky. 770. (1942), 162 S.W.2d 771, 773. et al.

therefore **is not subject to privilege taxation.**"⁴ *Shannon's Compilation of Tennessee Statutes*, Vol. 1, 1917 (emphasis added)

51. JUDICIAL ABUSE OF DISCRETION:
 - "[a] court abuses its discretion when its ruling is based on an erroneous view of the law." *Chaves v. M/V Medina Star*, 47 F.3d 153, 156 (5th Cir. 1995).
52. GREATEST PUNISHMENT - LIBERTY DEPRIVATION:
 - "Deprivation of liberty, next to deprivation of life, is the greatest punishment a state can impose upon an individual, and the **importance of regaining one's liberty should not be undervalued.**" *In re Attorney General Mike Moore*, 722 So.2d 465 (Miss. 09/24/1998) NO. 95- M-00277-SCT (emphasis added)\
53. RELIGION IN AMERICAN LIFE ACKNOWLEDGED CONSTITUTIONAL
 - "The Court properly has noted "an unbroken history of official acknowledgment . . . of the role of religion in American life." *Lynch v. Donnelly*, 465 U.S., at 674, and has recognized that these **references to "our religious heritage" are CONSTITUTIONALLY ACCEPTABLE.** *Id.*, at 677." (emphasis added)
54. VEHICLE USE, A RIGHT OF LIBERTY NOT PRIVILEGE:
 - he right to operate a motor vehicle [an automobile] upon the public streets and highways is **not a mere privilege. It is a right of liberty**, the enjoyment of which is protected by the guarantees of the federal and state constitutions." *Berberian v. Lussier* (1958) 139 A2d 869, 872, See also: *Schechter v. Killingsworth*, 380 P.2d 136, 140; 93 Ariz. 273 (1963). (emphasis added)
55. RIGHT TO USE PUBLIC HIGHWAYS:
 - Te owner of an automobile has the same right as the owner of other vehicles to use the highway,* * * A traveler on foot has the same right to the use of the public highways as an automobile or any other vehicle." *Campbell v. Walker*, 78 Atl. 601, 603, 2 Boyce (Del.) 41
56. RIGHT TO FREELY TRAVEL A FUNDAMENTAL RIGHT:
 - "The right of the citizen to drive [travel] on the public street with freedom from police interference, unless he is engaged in suspicious conduct associated in some manner with criminality is a FUNDAMENTAL CONSTITUTIONAL RIGHT which must be protected by the courts." *Simeone v. Lindsay*, 65 Atl. 778, 779; *Hannigan v. Wright*, 63 Atl. 234, 236 (emphasis added)
57. PUBLIC HIGHWAYS OPEN AND FREE:
 - "A highway is a public way open and free to any one who has occasion to pass along it on foot or with any kind of vehicle."

Schlesinger v. City of Atlanta, 129 S.E. 861, 867, 161 Ga. 148, 159;

58. TERM “MOTOR VEHICLE” BROAD MEANING;
 - “The term ‘motor vehicle’ is different and broader than the word ‘automobile.’”
International Motor Transit Co. vs. Seattle, 251 P. 120
59. RIGHT TO TRAVEL AND TRANSPORT PROPERTY ON HIGHWAYS:
 - “...a citizen has the right to travel upon the public highways and to transport his property thereon...” *Hillhouse v United States*, 152 F. 163, 164 (2nd Cir. 1907); *State vs. Johnson*, 243 P. 1073; *Cummins vs. Homes*, 155 P. 171; *Packard vs. Banton*, 44 S.Ct. 256; *Hadfield vs. Lundin*, 98 Wash 516, *Willis vs. Buck*, 263 P. 1 982
60. COMMON AND FUNDAMENTAL RIGHT TO TRAVEL & TRANSPORT:
 - “The use of the highways for the purpose of travel and transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived.” *Barney vs. Board of Railroad Commissioners*, 17 P.2d 82
61. USUAL AND ORDINARY RIGHT TO TRAVEL AND TRANSPORT PROPERTY:
 - “The right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business... is the usual and ordinary right of the Citizen, a right common to all.” *Chicago Motor Coach vs. Chicago*, 169 NE 22; *Ligare vs. Chicago*, 28 NE 934; *Boon vs. Clark*, 214 SSW 607; 25 Am.Jur. (1st) Highways Sect.163
62. RIGHT TO TRAVEL NOT A PRIVILEGE BUT SUBJECT TO SAFETY RULES:
 - “No State government entity has the power to allow or deny passage on the highways, byways, nor waterways... transporting his vehicles and personal property for either recreation or business, but by being subject only to local regulation i.e., safety, caution, traffic lights, speed limits, etc. Travel is not a privilege requiring licensing, vehicle registration, or forced insurances.” *People v. Nothaus*, 147 Colo. 210.
63. PRIVATE “OPERATOR” NOT IN COMMERCE:
 - “The word ‘operator’ shall not include any person who solely transports his own property and who transports no persons or property for hire or compensation.”
Shuttlesworth v. Birmingham 394 U.S. 147 (1969).
64. INALIENABLE RIGHT TO TRAVEL NOT CREATED BY STATE:
 - “Highways are for the use of the traveling public, and all have the right to use them in a reasonable and proper manner; the use thereof is an inalienable right of every citizen.” Statutes at Large California Chapter 412 p.83 “RIGHT — A legal RIGHT, a constitutional RIGHT means a RIGHT protected by the law, by the constitution, but government does not create the idea of RIGHT or original RIGHTS; it acknowledges them. . .” *Escobedo v. State* 35 C2d 870 in 8 Cal Jur 3d p.27

65. RIGHTS CANNOT BE LICENSED:
 ● Bouvier’s Law Dictionary, 1914, p. 2961. “Those who have the right to do something cannot be licensed for what they already have right to do as such license would be meaningless.”
66. ORDINARY AND CAREFUL USE OF STREETS DEEMED LAWFUL:
 ● “The customary or usual or ordinary use of a street is for travel from one point to another both along and across it. The use of a street by an automobile when operated with due care and caution and not in violation of state or municipal police regulations would be deemed a proper and lawful one.” *Jenkins v Goodall* 183 Ill App 633
67. ACTIVE MISLEADING BY PROSECUTOR:
 ● “Criminal sanctions are not supportable if the Government's conduct constitutes "active misleading" *Johnson v. United States*, 318 U.S. 189, 197 (1943); 16 Am Jur 2d Constitutional Law §576
68. MAXIM RE. IMPLIED EXCLUSION:
 ● Under the maxim "*expressio unius est exclusio alterius*," it is the uniform rule that **the express mention of one thing in a statute implies the exclusion of all others.** *State ex rel.Port of Seattle v. Dept. of Public Service*, 1 Wn. (2d) 102, 95 P. (2d) 1007 (1939). (emphasis added)
69. HIGHWAY MAINTENANCE AND REPAIR FROM COMMERCE REVENUE:
 ● "... Traffic thereon is to some extent destructive, therefore, the prevention of unnecessary duplication of auto transportation service will lengthen the life of the highways or reduce the cost of maintenance, the revenue derived by the state ... will also tend toward the public welfare by producing at the expense of those operating for private gain, some small part of the cost of repairing the wear ..." *Northern Pacific R.R. Co. v Schoenfeldt* 123 Wash 579, 213 P. 26
70. NATURE AND PURPOSE OF LEGISLATIVE ACTS:
 ● “Courts should... consider the true operation and effect of the law which must be dealt with on the basis of the practical results which follow its operation and not alone by the legislative declarations contained therein.” “As we said in both of these cases, the legislative body cannot change the real nature and purpose of an act by giving it a different title or by declaring its nature and purpose to be otherwise, anymore than a man can transform his character by changing his attire or assuming a different name.” *State v Slavin*, 75 Wn.2d 554, citing 16 Am. Jur. 2D Const. Law §150; *Bunting v Oregon* 243 U.S. 426, 37 S. Ct. 435; *Aberdeen Sav. & Loan Ass'n v Chase* 157 Wash. 351, 289 Pac 536; *Jenson v Henneford* 185 Wash. 209, 53 P. 2d 607; *Clark v Sieber*, 48 Wn 2d 783, 296 P. 2d 680
71. PRESUMPTION UPON PRESUMPTION NOT PERMISSIBLE;
 ● The rule that it is not permissible in making a case or proving an issue to draw one

presumption based upon another presumption may be found stated in many cases. *United States v Ross* (1876) 92 US 281, 23 L ed 707; *Manning v John Hancock Mut. L. Ins. Co.* (1880) 100 US 693, 25 L ed 761; *Looney v Metropolitan R. Co.* (1906) 200 US 480, 50 Led 564, 26 S Ct 303.

72. STATE COURTS MUST ACCEPT SCOTUS CONSTRUCTION.
- The construction given by the United States Supreme Court to the constitution and laws of the United States is to be accepted by all courts as the proper construction. *Elmendorf v. Taylor*, 23 U.S.152, 10 Wheat. 152, 6 L.Ed. 289. (1825)
73. FORBIDDEN ACTS ARE PERMITTED BY LICNESE:
- A license to carry on a business or trade is an official permit to carry on the same or perform other acts forbidden by law except to persons obtaining such permit. *Hoefling v. City of San Antonio*, 85 Ten. 228, 20 S.W. 85, 16 L. R. A. 608.
74. SUBJECT MATTER JURISDICTION, THRESHOLD DETERMINATION:
- “Subject matter jurisdiction is always a threshold determination.”; *Accord v. Anderson Cnty.*, Tennessee, No. 3:21-CV-00077, 2021 WL 6135691, at *2 (M.D. Tenn. Dec. 28, 2021)
75. FACTUAL JURISDICTIONAL ATTACK:
- “A factual attack instead raises a factual controversy concerning whether subject-matter jurisdiction exists. Where there is a factual attack on the subject-matter jurisdiction of the court under Fed. R. Civ. P. 12(b)(1), **no presumptive truthfulness applies to the complaint's allegations; instead, the court must weigh the conflicting evidence to arrive at the factual predicate that subject-matter jurisdiction does or does not exist.** *Doe v. Lee*, No. 3:21-CV-00809, 2022 WL 1164228, at *4 (M.D. Tenn. Apr. 19, 2022).
 - 21 C.J.S. p. 73 – “[T]he gravamen of jurisdiction lies not in the pleading, but in the **existence of the facts necessary for the court to exercise its jurisdiction.** [valid complaint]”
 - 21 C.J.S. P. 105 – “A court is bound to take notice of the limits of its authority, and it is its right and duty to make a preliminary examination of its jurisdiction to entertain the cause, of its own motion, even though the question is not raised by the pleadings or is not suggested by counsel. **If the court finds at any state of the proceedings that it is without jurisdiction, it is its duty to take proper notice of the defect by staying the proceedings, dismissing, or other appropriate action. These rules apply irrespective of the wishes of the parties.**” (emphasis added)
76. COURTS REQUIRED TO TAKE NOTICE OF JURISDICTION LIMITS
- “But jurisdiction is not a matter of sympathy or favor. **The courts are bound to take notice of the limits of their authority,** and it is no part of the defendant's duty to help in obtaining an unauthorized judgment by surprise.” *Reid v. United States*, 211 U.S. 529, 539 (1909) (emphasis added)

77. FREE CHOICE OF CONVEYANCE - OBEY RULES OF THE ROAD:
- “Each citizen has the absolute right to choose for himself the mode of conveyance he desires, whether it be by wagon or carriage, by horse, motor or electric car, or by bicycle, or astride of a horse, subject to the sole condition that he will observe all those requirements that are known as the law of the road.”
Cumberland Telephone. & Telegraph Co. v Yeiser 141 Kentucky 15.
78. FREEDOM TO ORDER OUR LIVES:
- “Our nation has thrived on the principle that, outside areas of plainly harmful conduct, every American is left to shape his own life as he thinks best, do what he pleases, go where he pleases.” *Id.*, at 197. *Williams v. Fears*, 179 U.S. 270, 274, 21 S.Ct. 128, 45 L.Ed. 186
79. RIGHT TO TRAVEL UNDER 14TH AMENDMENT:
- The right to travel without undue restriction was the very first right recognized as a fundamental liberty under the Fourteenth Amendment to the U.S. Constitution.
See *Crandall v. Nevada*, 73 U.S. (6 Wall.) 35 (1867).
80. PERSONAL LIBERTY - RIGHT OF LOCOMOTION:
- “Personal liberty largely consists of the right of locomotion – to go where and when one pleases – only so far restrained as the rights of others may make it necessary for the welfare of all other citizens.” *City of Chicago v. Banker*, 112 Ill. App. 94 (1904).
81. FEDERAL DEFINITION OF MOTOR VEHICLE:
- 18 USC Part 1 Chapter 2 Section 31 definitions:
 - “(6) Motor vehicle. – The term “motor vehicle” means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways...”
 - “(10) “Used for commercial purposes.” Means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit”

<http://www.justice.gov/usam/criminal-resource-manual-1303-definitions-motor-vehicle-aircraft-security>

1303. DEFINITIONS -- "MOTOR VEHICLE" -- "AIRCRAFT" -- "SECURITY"

The terms "motor vehicle" and "aircraft" are defined in 18 U.S.C. § 2311. Motor vehicle includes road vehicles, such as automobiles, vans, motorcycles, and trucks, as well as off-road vehicles such as self-propelled construction and farming equipment. See *United States v. Straughan*, 453 F.2d 422 (8th Cir. 1972); *United States v. McGlamory*, 441 F.2d 130 (5th Cir. 1971). Accordingly, **the definition of motor vehicle is broader** for 18 U.S.C. §§ 2312 and 2313 than it is for 18 U.S.C. §§ 511, 512, 553, and 2321. In the latter four sections the term covers only road vehicles, that is motor vehicles as defined in 49 U.S.C. § 32101(7). The absence of a key part, e.g., the motor, does not mean that the vehicle ceases to be a motor vehicle. See *United States v. McKlemurry*, 461 F.2d 651 (5th Cir. 1972).

Vehicles rebuilt by combining major parts of stolen motor vehicles with parts of other vehicles have been held to constitute a stolen motor vehicle. See *United States v. Neville*, 516 F.2d 1302 (8th Cir. 1975).

While a trailer is not a motor vehicle under 18 U.S.C. § 2312 or 2313 since it is not self-propelled, a trailer is "goods, wares or merchandise" under 18 U.S.C. § 2314 and 2315. See *United States v. Kidding*, 560 F.2d 1303 (7th Cir. 1977). **A trailer is, however, a "motor vehicle" for purposes of 18 U.S.C. § § 511, 512, 553, and 2321.** See 18 U.S.C. § 511 (c)(2) and 49 U.S.C. § 32101(7). If a stolen motor vehicle was "chopped" into its key parts and some of the stolen parts (e.g., doors, fenders, engine, front-end assembly, etc.) were subsequently transported in interstate or foreign commerce, there would be no violation of 18 U.S.C. § 2312 or 2313, but there may be a violation of 18 U.S.C. § 2314 or 2315 if the stolen parts had a value of \$5,000 or more. Shipments of such stolen parts which have a sufficient relationship may be aggregated to reach the \$5,000 amount. See this Manual at 1316. The removal or falsification of an identification number of a road motor vehicle or road motor vehicle component may violate 18 U.S.C. § 511, and trafficking in such road vehicles or components may violate 18 U.S.C. § 2321. See this Manual at 1359 et seq.

A title for a motor vehicle is a security under 18 U.S.C. § § 2314 and 2315. See this Manual at 1313. A title for a motor vehicle is also a security under 18 U.S.C. § 513 as a motor vehicle title is an instrument issued by a state evidencing ownership of goods, wares or merchandise. See 18 U.S.C. § 513(c)(3)(B); USAM 9-61.500.

[cited in USAM 9-61.100]

< 1302. Motor Vehicle And Aircraft Theft -- Definition Of "Stolen"up1304. Elements Of 18 U.S.C. 2312 >

82. CONGRESS CANNOT DESTROY INHERENT FREEDOM RIGHTS;
 - “Power given to Congress to regulate interstate commerce does not carry with it authority to destroy or impair those fundamental guarantees of personal rights that are recognized by the Constitution as inhering in the freedom of the citizen.”
Interstate Commerce Commission v. Brimson, 154 U.S. 447, 488
83. RIGHT TO TRAVEL WITHOUT POLICE INTERFERENCE:
 - “... the right of the citizen to drive on a public street with freedom from police interference... is a fundamental constitutional right”
Packard v. Banton, 264 U.S. 140, 144 (1924):
84. PRIVILEGE LICENSE NEEDED FOR PRIVATE GAIN HIGHWAY USERS:
 - “... For while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place for private gain. For the latter purpose, no person has a vested right to use the highways of the state, but is a privilege or a license which the legislature may grant or withhold at its discretion.” *Hadfield vs. Lundin*, 98 Wash 516

85. HIGHWAY RIGHT TO TRAVEL NOT EXTENDED TO PRIVATE GAIN BUSINESS:
 ● “Heretofore the court has held, and we think correctly, that while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place of business for private gain.” *Barney vs. Board of Railroad Commissioners*, 17 P.2d 82, or 93 Mont. 115:
86. RIGHTS OF CONSCIENCE ARE SACRED:
 ● “The rights of conscience are sacred rights.”
Cummings v. The State of Missouri, 71 U.S. 277 (1866)
87. NATURAL RIGHT TO MOVE/TRAVEL FOR RELIGIOUS REASONS:
 ● As for moral grounds, individuals may have a natural right to move from one place to another unimpeded.
 Tennessee Constitution, Article 1, §3
 Section 3rd That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; **that no human authority can in any case whatever control or interfere with the rights of conscience**; and that no preference shall ever be given by law to any religious establishments or modes of worship.
88. CONSTITUTION IS FIXED:
 ● “The meaning of the constitution is fixed when it is adopted, and it is not different at any subsequent time when a court has occasion to pass upon it.”
West Coast Hotel Co. v. Parrish, 300 U.S. 379, 404 (1937)
89. RIGHT OF LOCOMOTION IS PERSONAL LIBERTY ATTRIBUTE:
 ● Chief Justice Fuller observed that “[u]ndoubtedly the right of locomotion, the right to remove from one place to another according to inclination, is an attribute of personal liberty . . .” *Williams v. Fears*, 179 U.S. 270, 274 (1900).
90. RIGHT TO TRAVEL IS FEDERAL UNION CONCEPT:
 ● SCOTUS held that **the right to travel protected against private as well as governmental interference with travel**. . . Justice Stewart described the right to travel as "fundamental to the concept of our Federal Union" and "**secured against interference from any source whatever, whether governmental or private.**"
U.S v. Guest, 383 U.S. 745 (1965) (emphasis added)
91. UNCONDITIONAL/FUNDAMENTAL PERSONAL RIGHT TO TRAVEL:
 ● “. . .the right to travel is a "fundamental right." Justice Stewart's concurring opinion echoed these sentiments, proclaiming the right to be a "virtually unconditional personal right, guaranteed by the Constitution to all of us." *Shapiro v. Thompson*, 394 U.S. 618 (1969)
 ● SCOTUS declared the "fundamental personal right, the right to travel"

Dunn v. Blumstein, 3405 U.S. 330 (1972).

92. ORGANIC LAW DOCUMENT RIGHT TO TRAVEL:
● ARTICLES OF CONFEDERATION, Art. IV the Articles of Confederation had expressly provided that "people of each State shall have free ingress and egress to and from any other State, and shall enjoy therein all the privileges of trade and commerce... as the inhabitants thereof... ."
93. UNIVERSAL DECLARATION OF HUMAN RIGHTS (UNITED NATIONS)
● Article 13 - Freedom of Movement
> Everyone has the right to freedom of movement and residence within the borders of each state.
> Everyone has the right to leave any country, including his own, and to return to his country.
94. TAXING POWERS NOT TO DESTROY RIGHTS:
● “. . . On the contrary, the power to tax is so far limited that it cannot be used to impair or destroy rights that are given or secured by the supreme law of the land.”
Connolly v. Union Sewer Pipe Co., 184 U.S. 540 (1902)
95. PRESUMPTION OF NON-AUTHORITY:
● Legal Maxim: *In dubiis, non præsimitur pro potentia*. In cases of doubt, the presumption is not in favor of a power.

End of

MANDATORY JUDICIAL NOTICE
OF
FACTS AND LAW RELATIVE TO UNALIENABLE RIGHT TO TRAVEL

Date _____

Arthur Jay Hirsch
1029 W. Gaines St.
Lawrenceburg, TN 38464

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above document was delivered to district attorney general, BRENT COOPER, on July _____, 2022.

Arthur Jay Hirsch