Minnesota churchgoers were hoping for a reprieve Wednesday when Gov. Tim Walz, as expected, announced steps for easing restrictions on bars, restaurants, hair salons and barbershops starting June 1. But churches didn’t make the cut.

In response, an interfaith group including the Minnesota Catholic Conference, the Lutheran Church-Missouri Synod and the Becket Fund for Religious Liberty immediately put the Governor on notice. In accordance with their First Amendment right to the free exercise of religion, they sent letters to their congregations and Gov. Walz announcing their intention to reopen their churches next week—without his blessing.

The president of the Minnesota South District of the Lutheran Church-Missouri Synod, the Rev. Dr. Lucas Woodford, explained their decision this way: “Now that the State has deemed the risk of spreading coronavirus low enough to reopen non-essential business, we respectfully believe that it is our right and duty to safely resume public ministry to the faithful even without the support of the Governor.”
The churches are asking for equal treatment not special treatment, and the decision to reopen came only after efforts to work out an arrangement with the Governor were ignored. As a result, starting June 1, while a restaurant or bar can serve up to 50 people outdoors, churches remain restricted to gatherings of 10 or fewer—indoors or out. As the Becket Fund notes, these Minnesota churches plan to reopen with only 33% capacity, rigorous social distancing and hygiene protocols.

This will put Gov. Walz in an awkward position. Are the cops going to cite or arrest people for going to church? It is a dilemma entirely of his making, and he can’t say he hasn’t been warned.

Last month Attorney General Bill Barr reminded mayors and governors that there is no “pandemic exception” to the U.S. Constitution. The Sixth Circuit Court of Appeals ruled against a Kentucky lockdown biased against churches. And this week the head of Justice’s Civil Rights Division warned California Gov. Gavin Newsom that civil-rights protections forbid favoring secular over religious activities.

Gov. Walz might take a look at that letter. It’s hard to see how under any reading of the First Amendment the Mall of America can be allowed to reopen while churches must keep their doors closed to all but a handful.