



128 DORRANCE STREET, SUITE 220
PROVIDENCE, RI 02903
401.831.7171 (t)
401.831.7175 (f)
www.riaclu.org

**COMMENTS ON 15-H 5192 AND H-5193,
ACTS RELATING TO DISORDERLY CONDUCT
February 4, 2015**

In similar though not identical fashion, both of these bills would make it a specific crime – one a felony punishable by three years in prison, the other a misdemeanor punishable by one year in prison – to obstruct a roadway. The ACLU of Rhode Island opposes these bills because we believe they are unnecessary, overbroad and designed to be used in a discriminatory fashion solely against individuals engaged in public protest.

It is no secret that these bills have been prompted by the shutdown of I-95 in Providence by local protesters this past November. On its face, the legislation is unnecessary because there are already statutes under which individuals can be charged for this type of conduct. In fact, those statutes were actually used to cite several protesters involved in the I-95 demonstration.

To the extent the bills are designed to increase the punishment for this type of conduct, we are deeply concerned about that as well. H-5192 imposes a prison sentence of up to three years, and mandates that at least sixty days of the sentence not be subject to suspension, deferral or probation. This type of mandatory sentence is harsh in any circumstance, but it is especially egregious when it is aimed at protesters. Of course, the consequences go beyond that minimum mandatory sentence. Any person convicted under H-5192 – and it will mostly be young people who are convicted – will carry with them a felony record, potentially impacting severely their future employment, housing and other opportunities for the rest of their lives. The punishment is

especially egregious when one considers that it is harsher than the penalty for “driving so as to endanger, resulting in physical injury” (up to two years) or a first time drunk driving offense (up to one year). While less severe, H-5193 still contains a stricter penalty than other types of obstruction addressed by the state’s disorderly conduct statute.

The two bills are overbroad because they have the potential to curtail the civil liberties of both lawful protesters and individuals experiencing homelessness. The legislation’s broadly-worded and ambiguous language leaves open the possibility that individuals panhandling on sidewalks or medians – a means of survival and a legal exercise of one’s First Amendment rights – could be accused of “distracting” motorists or “restricting traffic flow.” Municipalities that have been trying to crack down on panhandling could easily use a law like this to harass homeless individuals. The bills are broad enough to also be used against protesters standing on a highway median to direct attention to a cause.

Even if the legislation is constitutional on its face, it is likely to be applied – indeed, it is clear that it is intended to be applied – in a questionably selective manner. As others have pointed out, the intentional or reckless disruption of traffic occurs all the time – whether it is the inevitable result of high-volume events that bring a lot of traffic into the city or, more relevantly, due to accidents on the roadway caused by careless drivers. In opposing this legislation, one does not have to condone the activities of the I-95 demonstrators. One does not even have to believe they are innocent of criminal activity. Rather, the bills should be opposed for their breadth, their harshness and for selectively targeting individuals for disparate and harsher treatment solely because they are attempting to make a political point.

For these reasons, the ACLU of RI urges rejection of this legislation.