

**TESTIMONY IN OPPOSITION TO 19-H 5330,
AN ACT RELATING TO PANHANDLING**

February 27, 2019

The ACLU of Rhode Island opposes this legislation, which is a clear attempt to undermine the right of poor people to engage in panhandling. Any efforts to label this a “public safety” issue are baseless, and simply cannot withstand scrutiny under the First Amendment.

As this committee is aware, the ACLU has successfully challenged ordinances that attempt to ban or severely restrict panhandling, and we believe this one is also incapable of surviving First Amendment review. Instead, it would harm individuals who are struggling with homelessness or destitution and who seek to peacefully exercise their First Amendment right to solicit donations. Rather than addressing the problems that have forced people to engage in panhandling in the first place, legislation like this instead seeks to punish them for their poverty. Admittedly, it does so indirectly by fining the motorist rather than the panhandler, but that is a distinction without a difference. The effect on First Amendment rights is the same regardless of which side of the free speech transaction is punished.

We wish to make a few additional points in this regard:

1. The legislation cites completely irrelevant data concerning traffic accidents and pedestrian fatalities to attempt to bolster the claim that the bill is all about safety. But the fact that traffic accidents occur says absolutely nothing about the purported dangers that panhandling on roadways poses. In fact, our pending lawsuit against Cranston’s panhandling ordinance has found no evidence whatsoever that panhandling has had any effect on traffic accidents in the City.
2. The bill’s exception for “special solicitation permits” that can be used twice a year to solicit on the roadways belies its concerns for safety, and is a clear attempt to allow organizations that currently engage in the same type of activity that panhandlers engage in to continue to do so. Requiring a certificate of liability ensures that this exemption will leave out the poor. The inclusion of this exemption undermines the bill’s rationale and demonstrates its goal of targeting panhandling.

Obstruction, harassment, assaultive or other dangerous behavior, whether done by panhandlers or any other person, is already illegal. A bill like this is really aimed at prohibiting an activity because of who the people are, not because of what they are doing. For all these reasons, we urge rejection of this troubling and constitutionally problematic proposal.

Thank you for considering our views.