



Written by [Dina van Heemst](#) on March 27, 2023

Proposed Florida “Hate Speech” Bill Would Put Free-speech Rights at Risk

Florida State Representative Mike Caruso (R-District 87) introduced a [new bill](#) on January 19 that would impose harsh penalties for those who distribute flyers that contribute to littering, interfere with a person based on his religious garments, or project images onto buildings without the owner’s consent. This bill was introduced after Florida saw flyers and banners with claims against Jewish people.

Caruso announced the filing of the new bill during a [news conference](#) on January 26. He stated, “anti-Semitism and hate have no place in Florida and that’s why I’m proud to announce HB 269 which targets and deals with these acts of hate.” Co-sponsor Randy Fine (R - District 33) told [Spectrum News](#), “While you have a right to free speech, when your speech enters conduct that is illegal — littering, violence, trespassing, graffiti — we’re going to hold you accountable.” The bill contains five sections and outlines what actions could be charged as a third-degree felony if the bill is signed into law.

The bill states that if a person distributes flyers or other materials in a public place and the materials lead to littering, the person who distributed the material is guilty of a misdemeanor of the first degree. However, if the material evidences “religious or ethnic animus,” then the offense is reclassified as a felony of the third degree and considered a hate crime.

Section 2 of the bill makes it a hate crime — a felony of the third degree — to willfully follow, harass, or interfere with another person based “on the person’s wearing of religious-based garments or garments associated with a particular religious or ethnic group or any other indicia of any religious or ethnic heritage.”

The bill also includes penalties for any person who defaces, injures, or damages any place, public or private that has religious or ethnic heritage. A violation of the section includes any “physical manifestations of anti-Semitism directed toward a Jewish or non-Jewish individual,” including the display of Swastikas. The above is considered a hate crime and punishable as a third-degree felony.

During the [news conference](#), Caruso remarked that the new bill would make projecting images onto buildings illegal without the consent of the owner. He stated, “We’re going to make it against the law to project onto somebody else’s building. Its graffiti of a type but just of a new technology so we’re rolling



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with the times.” This bill would make it a misdemeanor of the first degree. However, like the flyers, the content of the image is relevant to the severity of the punishment. If the image projected evidences “religious or ethnic animus” then it is a felony of the third degree and considered a hate crime.

The fourth section of the bill states that any person who “willfully interrupts or disturbs any school or any assembly of people met for the worship of God, any assembly of people for the purpose of acknowledging the death of an individual, or for any other lawful purpose” commits a misdemeanor of the second degree. However, if a person evidences “religious or ethnic animus” then the offense is reclassified as a felony of the third degree.

There is a lot to unpack in this bill; however, what it comes down to is an attack on the First Amendment. The bill was created as a reaction to speech on flyers and banners that politicians and the media have denounced. Freedom of speech should apply to all speech, not just speech that is approved and perpetuated by the media and popular culture.

The fact that the bill holds those who distribute literature accountable for littering is also problematic. Many things are thrown onto people’s property, including newspapers, however it is the recipients who are responsible for discarding these materials. This bill will make flyers, pamphlets, and other materials now the fault of the distributor if these items are discarded by the recipients and leads to littering. Another major fault of the bill is the vague terms, which leaves the bill open to abuse. Who gets to define hate literature? What does “religious and ethnic animus” and “physical manifestations of anti-Semitism” consist of?

[Another bill](#) passed in the Georgia House defines anti-Semitism so that it could be included under Georgia’s hate crimes laws. As flyers are found in counties around the state, [police chief Billy Grogan](#) at the Dunwoody City Council meeting stated that “the distribution of the flyers is protected under free speech.” He added, “Lots of things are thrown in people’s yards, and we cannot enforce one because we don’t like the content and not enforce the other.” However, the new bill is described in a [Georgia Public Broadcasting](#) article as a potential “game-changer” in prosecuting people distributing these flyers.

It is clear that Florida HB 269 poses a direct threat to the First Amendment right to free speech. The bill outlines many cases in which the severity of the punishment is tied to the nature of the speech. Distributing flyers that become litter is a misdemeanor of the first degree; however, when the flyers contain “religious or ethnic animus” the offense is a felony of the third degree. Under this bill, non-violent expressions of speech are directly under attack as the content of speech is targeted.

While offensive speech against any religious or cultural group is immoral and distasteful, and should be condemned, classifying certain speech or behaviors as “hate speech” and attaching harsher penalties to such actions is a slippery slope. For instance, who decides what is “hate speech”? And is offensive speech “hate speech” when directed against certain groups, but not when directed against others? Once the government is able to restrict speech, for any reason, where will it stop? It’s a proverbial “foot in the door.” No matter how offensive or hurtful the content is, free speech should not be curtailed. If acts of violence are carried out, those acts are already punishable under the law.

Florida HB 269 is currently in the House Judiciary Committee and, if passed, will come into effect on October 1, 2023.

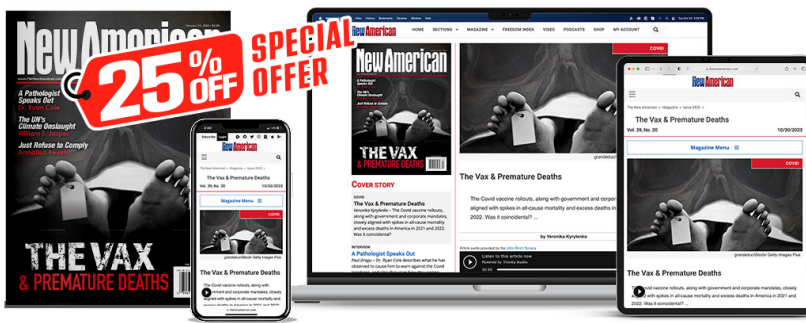


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