



November 3, 2016

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The Honorable Tom Wolf, Governor  
508 Main Capitol Building  
Harrisburg, PA 17120

Central Region Office  
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Harrisburg, PA 17108  
717-238-2258 T  
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Dear Governor Wolf,

Western Region Office  
247 Fort Pitt Blvd  
Pittsburgh, PA 15222  
412-681-7736 T  
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The General Assembly recently passed House Bill 2107, and the bill is now before you. Among other things, HB 2107 prohibits the commonwealth from granting contracts to companies that have engaged in boycotts of jurisdictions with which federal law otherwise permits commerce and trade. Although not specifically cited in the language that defines the rule, the preamble to that section of HB 2107 cites the United States' relationship with Israel. Essentially, this bill is intended to punish companies that use their position in the market to express their beliefs about the situation between the Israelis and the Palestinians.

It will be extremely difficult for your administration or any future administration to enforce HB 2107 without punishing companies for their political expression and without chilling political expression that would otherwise occur. This is a fundamental problem under the First Amendment. Therefore, on behalf of the 25,000 members of the ACLU of Pennsylvania, I respectfully urge you to veto HB 2107.

With our mission to defend people's constitutional rights, the ACLU naturally has no position on the complicated matter of Israeli-Palestinian relations. However, we recognize that boycotts have been a form of political expression that have been used throughout American history. In 1774, the First Continental Congress issued a boycott of British, Irish, and West Indian goods, as the American colonists were attempting to influence British policy. Since then, Americans have engaged in boycotts to influence all manner of issues and public policies, from slavery to civil rights to the apartheid government of South Africa. In just the last few weeks, gay-friendly establishments have announced that they are boycotting a Pennsylvania-based brewery for its support of a candidate for office who members of the LGBTQ community believe is hostile to equality.

Our fundamental right to political expression under the First Amendment encourages and protects this type of expression. The Supreme Court has held that "speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection."<sup>1</sup>

HB 2107 attempts to squash it, and by passing it, the General Assembly has failed to recognize its duty to uphold and defend the constitution, even in defense of political

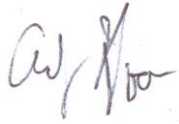
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<sup>1</sup> *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 911 (1982).

expression its members may not like. This legislation even requires companies to certify in writing that they are not engaged in such a boycott and that they will not engage in a boycott through the duration of the contract. This is a 21<sup>st</sup> century loyalty oath.

HB 2107 is fundamentally flawed. The ACLU of Pennsylvania respectfully urges you to veto it.

Sincerely,

A handwritten signature in dark ink, appearing to read "Andy Hoover". The signature is written in a cursive, somewhat stylized font.

Andy Hoover  
Legislative Director, ACLU of Pennsylvania