

At the end of 2016 new legislation was introduced in both the House and Senate entitled, the “*Anti-Semitism Awareness Act of 2016*” ([S.10](#) & [HR 6421](#)). Given the title of this legislation, the public could be forgiven for assuming this must be a response to rising anti-Semitism in the U.S. linked to emboldened Nazis, white supremacists, and supporters of the “alt-Right.” Sadly, the public would be wrong. This Orwellian-entitled legislation in fact has zero to do with raising awareness about or combating actual anti-Semitism. Rather, **it is an effort to trying to police criticism of Israel on U.S. campuses by exploiting claims of “anti-Semitism” – all in order to delegitimize and quash criticism of and activism related to Israel** (with the main but not sole focus being the BDS movement on campuses).

Looking ahead to 2017, it is clear that this legislation is set to be re-introduced in the new Congress and in state legislatures, starting with Virginia. The chart (below) will track this legislation, in its various forms, at both the Federal and State levels. (*Last update: March 15, 2017*)

Key things to understand about this legislation:

(1) **There is no question: the goal is to quash criticism of Israel.** Listen to the ACLU: Commenting on the bill, [the head of the ACLU’s Washington Legislative office](#) warned that it “*opens the door to considering anti-Israel political statements and activities as possible grounds for civil rights investigations.*” And listen to the Anti-Defamation League (one of the groups prominently supporting/claiming credit for the legislation) in how it describes the original legislation: ADL’s [Dec 2, 2016 tweet](#) - “*When do on campus expressions of anti-#Israel beliefs cross the line? This Act will help students know --> <http://bit.ly/2gJ6q4c> “; and ADL’s [Dec 6, 2016 tweet](#) - “*New bill clarifies when campus anti-Israel speech is FA protected and when it’s unlawful discrimination. Take action:<http://ow.ly/AsEJ306Sjp2> “.**

(2) **These bills are brazenly unconstitutional.** They seek to limit free speech in a manner that represents a clear [violation of First Amendment rights on campus](#). On 12/6, the Los [Angeles Times editorial board](#) published an oped noting that this legislation is not really about fighting anti-Semitism, but rather: “*This legislation is really about something else entirely: Israel. What it does is to endorse an expansive definition of anti-Semitism that was adopted by the State Department in 2010 as a benchmark for diplomats. The problem with the definition is that it unfairly conflates anti-Israel speech with anti-Semitic speech, in a way that, if enforced, would violate the free speech rights of students and professors.*”

(3) **This legislation is categorically the wrong way to fight actual anti-Semitism on campuses.** This is explained powerfully in a [June 2015 oped by Kenneth Stern](#), Executive Director of Justus & Karin Rosenberg Foundation and the lead author of the definition of “anti-Semitism” being exploited for the purposes of the legislation (an oped published when University of California’s Board of Regents were being pressed to adopt a policy almost identical to the current legislation). Stern warned that the approach was unconstitutional, misguided, and self-defeating – a position he reiterated strongly in the context of this new legislative effort, in a [letter to House members](#) he sent 12/6/16. Stern argues, (among other things) that incorporating the definition of anti-Semitism he drafted (for another purpose) into law (for this new purpose) “*is both unconstitutional and unwise. If the definition is so enshrined, it will actually harm Jewish students and have a toxic effect on the academy.*” Stern

felt so strongly about this matter (and about his definition being abused this way) that he went on to publish an [oped in the New York Times on December 12, 2016](#).

(4) **In less political times, even the ADL opposed this approach.** Less than 2 years, Abraham Foxman, back when he was the director of the ADL, argued along similar lines in his own [March 2015 oped](#) (he has since [changed his tune](#)):

“Legislation that bars BDS activity by private groups, whether corporations or universities, strikes at the heart of First Amendment-protected free speech, will be challenged in the courts and is likely to be struck down. A decision by a private body to boycott Israel, as despicable as it may be, is protected by our Constitution. Perhaps in Europe, where hate speech laws exist and are acceptable within their own legal frameworks, such bills could be sustained. But not here in America. Moreover, in light of such legislation, BDS campaigners would undoubtedly portray themselves as victims of efforts to stifle their free expression which would likely win them more sympathy and support from students — even those who are not inclined to be hostile to Israel.”

(5) **This effort is such an over-reach that it would, post-facto, define some of the greatest Jewish writers and thinkers as anti-Semitic.** As pointed out in [this oped by Peter Beinart](#), “According to the Senate’s new Anti-Semitism Awareness Act, Henrietta Szold, Hannah Arendt and Martin Buber could also be defined as Jew-haters.” And as Beinart correctly concludes: “It’s an old story: When people in power fear a debate, they try to criminalize it. It won’t work. If Zionism means permanent control of millions of Palestinians who lack basic rights, Zionists will gradually lose the contest of ideas in the United States. And the American Jewish establishment – which chose silencing Zionism’s opponents over fighting for a Zionism they could honestly defend – will bear some of the blame.”

	2017	
Federal	Bill info	Related info
Alabama		
Alaska		
Arizona		
Arkansas		
California		
Colorado		
Connecticut		
Delaware		
Florida		
Georgia		
Hawaii		
Idaho		
Illinois		
Indiana		

Iowa		
Kansas		
Kentucky		
Louisiana		
Maine		
Maryland		
Massachusetts		
Michigan		
Minnesota		
Mississippi		
Missouri		
Montana		
Nebraska		
Nevada		
New Hampshire		
New Jersey		
New Mexico		
New York		
North Carolina		
North Dakota		
Ohio		
Oklahoma		
Oregon		
Pennsylvania		
Rhode Island		
South Carolina	HB 3643 ; Introduced 2/2/17, passed by the House 3/9 (103-3), sent to the Senate 3/10, 3/15 referred to Senate Education Committee	
South Dakota		
Tennessee	SB 0581 ; Introduced 2/7/17 HB 0855 ; introduced 2/8/17, 3/1 – referred to House Education and Instruction & Programs Subcommittee; action scheduled for 3/8, deferred to 3/22	
Texas		
Utah		
Vermont		
Virginia	HB 2261 ; Introduced 1/11/17	Jewish groups' letter of support
Washington		
West Virginia		
Wisconsin		
Wyoming		