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ACLU OF RI POSITION: SUPPORT

TESTIMONY ON 24-H 7536, RELATING TO ALCOHOLIC BEVERAGES – RETAIL LICENSES March 12, 2024

This bill would repeal the law that bars retail liquor licenses within 200 feet of schools and religious institutions and, in doing so, it also repeals the many site-specific exemptions the General Assembly has enacted over the years to nonetheless grant such licenses. To the extent that the legislation repeals the ban as it relates to religious institutions, we support its enactment as making the law more consistent with First Amendment principles.

By providing protection both to public schools and religious institutions, the core of the current statute appears to have immunized itself from a constitutional challenge under the First Amendment's ban on the "establishment of religion" – a challenge that would be much stronger if religious institutions were the only entities given special treatment. The problem with the current law, rather, is in its numerous exemptions, whether granted because the religious institution acquiesces to the granting of the liquor license or because the city or town council overrides the law's ban notwithstanding the religious institution's views. Those exemptions suggest and encourage potential religious favoritism or discrimination that the First Amendment does not allow. The law with its completely discretionary exemptions thus comes dangerously close to running afoul of a key U.S. Supreme Court case, *Larkin v. Grendel's Den*, 459 U.S. 116 (1982), which struck down a Massachusetts statute that permitted churches to veto applications for liquor licenses within 500 feet of their property.

If the General Assembly is going to give itself the power to create numerous exceptions to this ban, we believe it is more appropriate, and more consistent with First Amendment standards, to eliminate the ban altogether as it applies to religious institutions.

Thank you for considering our views.