

Illinois HB 3233 Violates the First Amendment

The bill also exceeds Constitutional limits on state power.



HB 3233 violates the First Amendment by compelling companies to act as a “billboard for the State’s ideological message.”

By requiring business owners to effectively encourage their customers to donate to the government’s chosen charity – a cause they may strongly disagree with – HB 3233 violates the First Amendment’s compelled speech doctrine. This prohibits the government from forcing individuals and companies to speak.

By forcing licensees to advertise “the option to donate to the Illinois DREAM Fund,” a politically-controversial charity, “before the completion of [each] transaction,” HB 3233 unconstitutionally compels them to host the state’s ideological message.

HB 3233 violates the First Amendment right to expressive association.

The First Amendment protects the right to associate – or not associate – with individuals or organizations for expressive and political purposes.

HB 3233 violates this right by forcing licensees to associate with organizations and individuals (those supported by the DREAM Act) they would otherwise not associate with.

By not giving licensees the option to disassociate with the groups and people involved in DREAM, HB 3233 “invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control,” violating their freedom of association.

HB 3233 exceeds Constitutional limits on states’ power over interstate and foreign commerce.

The Supreme Court has interpreted the Commerce Clause both as a positive grant of power to Congress and as an implied restriction on states’ authority to interfere with interstate and foreign commerce.

Under these limitations, states may not regulate, discriminate against, or impose excessive burdens on interstate or foreign commerce unless Congress authorizes them to do so.

Congress did not authorize HB 3233. Thus, by regulating all licensees’ transactions to foreign governments, specifically, HB 3233 violates the Commerce Clause.