No. 19-1378

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

Arkansas Times.

Plaintiff-Appellant,

v.

Mark Waldrip, et al.,

Defendant-Appellees,

Appeal from the United States District Court, Eastern District of Arkansas
No. 4:18-cv-914-BSM

BRIEF OF *AMICI CURIAE* STATES OF ARIZONA, FLORIDA, GEORGIA, IDAHO, INDIANA, KANSAS, KENTUCKY, MISSOURI, MONTANA, OHIO, SOUTH CAROLINA, SOUTH DAKOTA, OKLAHOMA, TEXAS, UTAH, AND WEST VIRGINIA SUPPORTING ARKANSAS'S PETITION FOR REHEARING EN BANC

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INTERESTS OF AMICI

Amici curiae—the States of Arizona, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Montana, Missouri, Ohio, Oklahoma, Texas, South Carolina, South Dakota, Utah, and West Virginia—all have a compelling interest in preventing invidious discrimination, and have furthered that compelling interest by imposing conduct-based regulations on government contractors. Moreover, 30 other states—including several of *amici*—have enacted statutes or executive orders similar to the Arkansas statute (the "Act") challenged here. *See* Appendix A. And many of those states' statutes specifically have the "other actions" language which forms the crux of the panel majority's erroneous reasoning. *See* Appendix B.[1]

INTRODUCTION

The panel opinion turns venerable and fundamental principles of statutory interpretation on their head: instead of adopting the best interpretation of a statute that raises no constitutional issues even under the panel majority's reasoning, it instead insisted upon adopting a dubious interpretation of statutory text precisely so that the majority

[1] Under Fed. R. App. P. 29(b)(2), the States may file this brief without leave or the consent of the parties.

could call into question the constitutionality of the statute. This misguided approach warrants rehearing en banc.

In particular, the panel majority's interpretation of "other actions" violates the canons of *noscitur a sociis* and *ejusdem generis*. Even the majority concluded it was a "reasonable interpretation" to read "other actions" to simply refer to similar *actions—i.e.*, not speech. Nor are constitutional ways of reading "other actions" difficult to envision: the Supreme Court's unanimous decision in *International Longshoremen's Association, AFL-CIO v. Allied International, Inc.*, 456 U.S. 212 (1982) provides one such obvious example.

The panel's reasoning unjustifiably threatens the laws of many other states. Thirty-one states have restricted state subsidizing of boycotts of Israel by enacting similar restrictions on public contractors. *See* Appendix A. And 23 states specifically have equivalent "other actions" language that the panel seized upon. *See* Appendix B. All of those states' laws are called into question by the panel majority's reasoning, and for no good reason.

The importance of the issues presented is underscored by the States' compelling interests in prohibiting discrimination, which the

majority gave scant attention to. As explained below, the Act is plainly an anti-discrimination measure, which have been widely upheld against First Amendment challenge even where (unlike here) they burden expression/association. And they have consistently been recognized to be both content- and viewpoint-neutral.

This Court should grant rehearing en banc.

ARGUMENT

I. THE PANEL'S INTERPRETATION TURNS CONSTITUTIONAL AVOIDANCE ON ITS HEAD

The panel majority's opinion overwhelmingly relies upon reading the "other actions" language of the Act to create the purported constitutional infirmities that the panel majority found. But in doing so the majority violated venerable canons of construction: in particular *noscitur a sociis* and constitutional avoidance. Indeed, the majority's reading of "other actions" contradicts its own admission that Arkansas's reading was a "reasonable interpretation." *Arkansas Times LP v. Waldrip*, 988 F.3d 453, 464 (8th Cir. 2021).

"'The canon, *noscitur a sociis*, reminds us that 'a word is known by the company it keeps,' and is invoked when a string of statutory terms raises the implication that the 'words grouped in a list should be given

related meaning.'" *S.D. Warren Co. v. Me. Bd. of Env't. Prot.*, 547 U.S. 370, 378 (2006). The obvious import of that canon, and the related *ejusdem generis* canon, is that the "other actions" language of the Act must be read to be of a similar kind as the preceding enumerated *actions*: all of which involve *boycotting conduct*—not speech.

And this straightforward reading would present no constitutional problems, because all of the boycotting conduct at issue here would fall squarely within what the Supreme Court unanimously recognized was outside the scope of the First Amendment in *Rumsfeld v. FAIR*, 547 U.S. 47 (2006). Yet the panel erroneously rejected what it admitted was a "reasonable" interpretation and adopted one that created constitutional problems instead.

In doing so, the panel majority further violated the canon/doctrine of constitutional avoidance, under which it is "incumbent upon [courts] to read the statute to eliminate those [constitutional] doubts so long as such a reading is not plainly contrary to the intent of [the enacting legislature]." *United States v. X-Citement Video, Inc.*, 513 U.S. 64, 78 (1994). Here there was an obvious reading of the Act—"reasonable"

even in the majority's eyes—that constitutional avoidance should have counseled in favor of adopting.

The panel majority also faulted Arkansas for "not provid[ing] any example of the type of conduct that … would fall in the 'other actions' category." *Arkansas Times LP*, 988 F.3d at 464. But one obvious example is provided by the Supreme Court's decision in *Longshoremen*—which was cited by both Arkansas and *State Amici* to the panel.

In *Longshoremen*, a union refused to offload cargoes from the Soviet Union. 456 U.S. at 214. That was not a boycott *per se*, but it was the sort of closely aligned "other actions" that the Act is designed to capture. And the Supreme Court in *Longshoremen* unanimously held that these boycott-adjacent actions were not a "protected activity under the First Amendment." *Id.* at 226.

II. THE PANEL'S DECISION THREATENS SIMILAR LAWS OF MANY OTHER STATES

The potential mischief that the panel majority's reasoning could cause, absent rehearing en banc, is substantial—demonstrating the exceptional importance of the issues presented to *many* states besides Arkansas.

Nearly two-thirds of all states—31 in all—have laws like Arkansas's. *See* Appendix A. All of them are potentially imperiled by the panel majority's opinion. Notably, the same counsel has brought equivalent suits in Arizona, Kansas, and Texas. There is no reason to doubt that—uncorrected—the panel majority's decision will be weaponized against Arkansas's 30 similarly situated sister states.

The panel majority's reasoning is particularly problematic for states with similar "other actions" language—which number 23 in total. *See* Appendix B. As explained above, that language raises no actual constitutional issues. *Supra* Section I. But many states could easily be faced with protracted litigation absent en banc correction here.

III. THE ARKANSAS ACT SERVES COMPELLING STATE INTERESTS IN DENYING STATE SUBSIDIES TO DISCRIMINATORY CONDUCT

In announcing that the Act "violates the First Amendment," 988 F.3d at 467, the panel majority skipped over a critical part of the analysis: whether Arkansas's compelling interest in prohibiting primary discrimination against Israelis and secondary discrimination against those doing business with Israelis is sufficient to sustain its statute. Even if the panel majority was correct—*FAIR* notwithstanding—that the boycotting conduct regulated by the Act *implicated* the First Amendment, that would only get Plaintiff to consideration of Arkansas's compelling interest in prohibiting discrimination.

The Arkansas Act—like virtually every anti-discrimination measure that has ever come before—is content- and viewpoint-neutral. Plaintiff may disagree with the Arkansas Legislature's choice to protect Israelis and those doing business with them from economic discrimination. And it is entirely free to use its First Amendment rights to call for repeal, donate to candidates that support its desired legislative initiatives, and speak to its heart's content on any and all

such issues. But the First Amendment does not provide Plaintiff with a heckler's veto that it may exercise against the Arkansas Act.

A. The Arkansas Act Properly Advances The State's Compelling Interest In Prohibiting Discrimination

Arkansas has a compelling interest in prohibiting discrimination, to which Plaintiff offers only the scantest response—relegating it to a mere footnote. *See* Answering Br. 51 n.18. And the panel majority failed to address this issue at all. Plaintiff argues that the Arkansas Act is not an anti-discrimination measure because it does not "prevent discrimination based … on protected characteristics." *Id.* That reasoning is deeply flawed.

Plaintiff's protestation conflicts with an intuitively obvious, indeed virtually self-evident fact: targeting a particular group (and those associating with them) for the intentional infliction of economic harm *is discrimination, by definition*. Plaintiff attempts to cast the meting out of financial pain against a specific target group as something other than discrimination. That effort fails as a matter of logic and precedent.

Plaintiff does not appear to dispute that a business's refusal to hire African Americans (*i.e.*, a hiring boycott) would be textbook discrimination. *See* Opening Br. 51 n.18. But suppose instead the

business refuses to purchase products from businesses owned by African Americans. Plaintiff's counsel has suggested elsewhere that this is not discriminatory because it merely involves suppliers (rather than public accommodations or employers).[2] But that merely changes the *target* of the discrimination, not the refusal's *discriminatory character*. *See*, *e.g.*, *Bains LLC v. Arco Prod. Co.*, 405 F.3d 764, 769-70 (9th Cir. 2005) (holding disparate treatment against Sikh-owned company in commercial transactions was actionable discrimination under 42 U.S.C. §1981).

Now substitute "Mexicans and Mexican-Americans" for "African Americans." That again merely changes the category of discrimination (nationality and ethnicity, instead of race), not the fundamental discriminatory character. *Lamarr-Arruz v. CVS Pharmacy, Inc.*, 271 F. Supp. 3d 646, 657 (S.D.N.Y. 2017) (maltreatment based on ethnicity and national ancestry is actionable discrimination under §1981). And, for most BDS boycotters, that is effectively what their boycotts are: *blanket and categorical* refusals to deal with *all Israelis*, based on nationality/national origin. Indeed, the Plaintiffs in the *Jordahl* case

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[2] *See* Plaintiffs' Answering Brief, *Jordahl*, 2019 WL 296918, at 45-46 (Jan. 17, 2019).

(which involved a challenge to a similar Arizona law) admitted as much: "the regular BDS boycott [is] of all of Israel" and is "boycott of all Israeli products."[3] BDS boycotters select targets based solely on membership in a particular group (*i.e.*, Israelis), and nothing more. *Id.* The quintessential nature of those boycotts is *discriminatory*. And Arkansas may properly proscribe—or at least refuse to subsidize—such discrimination. *See*, *e.g.*, *Hishon v. King & Spalding*, 467 U.S. 69, 78 (1984) ("Invidious private discrimination may be characterized as a form of exercising freedom of association protected by the First Amendment, but *it has never been accorded affirmative constitutional protections*." (quoting *Norwood v. Harrison*, 413 U.S. 455, 470 (1973) (emphasis added); *New York State Club Ass'n, Inc. v. City of New York*, 487 U.S. 1, 13 (1988); *Board of Directors of Rotary Int'l v. Rotary Club of Duarte*, 481 U.S. 537, 549 (1987).

To use a real-world example, AirBnB refused to do business with Israelis (but not Palestinians) in the West Bank, viewing it as occupied

[3] *See* Excerpts of Record, *Jordahl*, at 177-80, 183-84 (plaintiffs' admission that "the regular BDS boycott [is] of all of Israel"), 218 ("boycott of all Israeli products").

territory.[4] It would, however, freely rent in Kashmir, Northern Cyprus, Western Sahara, and many other disputed/occupied territories.[5] But even though AirBnB expressly singled out Israelis for distinctly disfavored treatment, Plaintiff blinks reality by denying any discriminatory effect to that uniquely anti-Israeli policy. *See*, *e.g.*, *Dawson v. Steager*, 139 S. Ct. 698, 705 (2019) ("[D]iscrimination [is] something we've often described as treating similarly situated persons differently." (cleaned up)).[6]

Plaintiff also appears to be misapprehending the concepts of "nationality" and "national origin." *See* Opening Br. 51 n.18. But nothing about the First Amendment compels the States to mirror exactly the federal definitions as the exclusive categories of discrimination. Moreover, federal law recognizes that discrimination against Israelis/Jews takes on elements of race, nationality, and

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[4] *See* https://www.nbcnews.com/news/world/airbnb-plans-remove-listings-israeli-west-bank-settlements-n938146.

[5] *Id.*

[6] AirBnB subsequently ceased its discriminatory policy as part of a settlement of lawsuits filed against it. *See* https://press.airbnb.com/update-listings-disputed-regions/. But although that policy has been terminated, it was emblematic of the pervasive discriminatory effect inherent in boycotts of Israel while it was in effect.

religion. *See*, *e.g.*, Marc A. Greendorfer, *The BDS Movement: That Which We Call A Foreign Boycott, By Any Other Name, Is Still Illegal*, 22 Roger Williams U. L. Rev. 1, 29, 37 (2017); *Sinai v. New England Tel. & Tel. Co.*, 3 F.3d 471, 474 (1st Cir. 1993) ("That Israel is a Jewish state, albeit not composed exclusively of Jews, is well established."). *Magana v. Commonwealth*, 107 F.3d 1436, 1446 (9th Cir. 1997) ("Clearly, the line between discrimination based on ancestry or ethnic characteristics, and discrimination based on place or nation of origin, is not a bright one. Often, the two are identical as a factual matter." (cleaned up)).

But that blurring—and constellation—of biases typically involved in boycotts of Israel hardly immunizes them from regulation. Nor can Plaintiff gerrymander anti-discrimination law such that boycotts of all "compan[ies] that operate[] in Israel" (at 51 n.18) amazingly do not implicate any of nationality, national origin, or citizenship. That approach disguises the *substantive* discriminatory effect.

B. The Arkansas Act Is Content- And Viewpoint-Neutral

Plaintiff's contention that the Arkansas Act is not a valid anti-discrimination measure appears to be premised on its contention that

the Act is a content- or viewpoint-based regulation of speech. That premise fails for three reasons.

First, the Act here no more aims to "suppress disfavored viewpoints" (Answering Br.1) than the law in *FAIR*. The legislative history in *FAIR* confirmed that the Solomon Amendment was targeted at one—and only one—particular type of boycott and was designed to penalize those who engaged in it. *FAIR*, 547 U.S. at 57–58. But despite Congress's obvious targeting there, the Solomon Amendment was a "'neutral regulation.'" *Id.* at 67; *accord Burt v. Gates*, 502 F.3d 183, 187 (2d Cir. 2007). And the Supreme Court held the Solomon Amendment was constitutional. So too is Arkansas's Act.[7]

Second, the Arkansas Act applies to all boycotts of Israel, and is agnostic as to underlying motivation—*i.e.*, viewpoint. The Act thus applies to boycotts designed to protest Israel's settlement policies as too tough. And it applies equally to those boycotting Israel as being too soft in not promoting settlement expansion. And it further applies to those

[7] Notably, Plaintiff's own counsel used to understand this basic reality of the Solomon Amendment, telling the Supreme Court that "[t]he legislative history of the Solomon Amendment makes clear that it was enacted to retaliate against law schools for expressing disapproval of the employment policies of military employers." Brief for ACLU, *FAIR*, 2005 WL 2376813, at *6 (U.S. 2005).

merely seeking to curry favor with anti-Semitic customers. The Act does not care *what message* a boycotter is trying to send—only what the boycott's *economic substance* of the boycott is.

Third, it is similarly well-established that anti-discrimination statutes "make[] no distinctions on the basis of the organization's viewpoint." *Rotary International*, 481 U.S. at 549. Instead, "federal and state antidiscrimination laws … [are] *permissible content-neutral regulation[s]* of conduct." *Wisconsin v. Mitchell*, 508 U.S. 476, 487 (1993) (emphasis added). Indeed, even for a cable operator selecting what content to carry—undeniably expressive activity—mandating editorial decisions "free of discriminatory intent … has no connection to the viewpoint or content." *NAAAOM v. Charter Communications, Inc.*, 915 F.3d 617, 629-30 (9th Cir. 2019); *accord Alpha Delta Chi-Delta Chapter v. Reed*, 648 F.3d 790, 801 (9th Cir. 2011).

Plaintiff attempts (at Opening Br.36) to escape this virtually unbroken line of precedents by pointing to the Act applying only to boycotts of Israel, and not other countries. But anti-discrimination laws have never been constitutionally suspect because they ban only a subset of discrimination. Congress may, for example, ban age discrimination

only against the old but not young in the Age Discrimination in Employment Act ("ADEA"). *See* 29 U.S.C. §621. And the ADEA has repeatedly survived constitutional challenge. *See*, *e.g.*, *EEOC v. Wyoming*, 460 U.S. 226 (1983). So too should the Act.

CONCLUSION

For the foregoing reasons, this Court should grant Defendants' petition for rehearing en banc.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that pursuant to Fed. R. App. P. 32(a)(7)(C) and Ninth Circuit Rule 32-1, the Brief of *Amici Curiae* States of Arizona, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Montana, Missouri, Ohio, Oklahoma, Texas, South Carolina, South Dakota, Utah, and West Virginia Supporting Arkansas's Petition For Rehearing is proportionately spaced, has a typeface of 14 point and contains 2,564 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

CERTIFICATE OF SERVICE

I, Drew C. Ensign, hereby certify that I electronically filed the foregoing Brief of *Amici Curiae* States of Arizona, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Montana, Missouri, Ohio, Oklahoma, Texas, South Carolina, South Dakota, Utah, and West Virginia with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the appellate CM/ECF system on April 5, 2021, which will send notice of such filing to all registered CM/ECF users.

s/ Drew C. Ensign
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APPENDIX A:
STATES WITH SIMILAR STATUTES OR EXECUTIVE ORDERS

Alabama

- SB 81, passed and signed into law in 2016
- https://legiscan.com/AL/text/SB81/2016

Arizona

- HB 2617, passed and signed into law in 2016
- https://www.azleg.gov/legtext/52leg/2r/bills/hb2617p.pdf

Arkansas

- SB 513 passed and signed into law in 2017
- https://legiscan.com/AR/text/SB513/id/1551482

California

- AB 2844, passed and signed into law in 2016
- https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2844

Colorado

- HB 16-1284 passed and signed into law in 2016
- http://www.leg.state.co.us/clics/clics2016a/csl.nsf/fsbillcont3/FFEE6B72C4AB699C87257F240063F4A6?open&file=1284_rer.pdf

Florida

- SB 86 passed and signed into law in 2016
- https://www.flsenate.gov/Session/Bill/2016/0086

Georgia

- SB 327 passed and signed into law in 2016
https://legiscan.com/GA/text/SB327/id/1381586

Illinois

- SB 1761 passed and signed into law in 2015
- http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=88&GA=99&DocTypeId=SB&DocNum=1761&GAID=13&LegID=&SpecSess=&Session=

Indiana

- HB 1378 passed and signed into law in 2016
- https://iga.in.gov/legislative/2016/bills/house/1378#document-916c8474

Iowa

- HF 2331 passed and signed into law in 2016 https://www.legis.iowa.gov/docs/publications/LGE/86/HF2331.pdf

Kansas

- HB 2482 passed and signed into law in 2018
- http://www.kslegislature.org/li/b2017_18/measures/hb2482/

Kentucky

- Executive order 2018-905 signed November 18, 2018 https://kentucky.gov/Pages/Activity-stream.aspx?n=KentuckyGovernor&prId=826

Louisiana

- Governor Edwards signed an executive order in 2018
- https://www.doa.la.gov/osp/PC/EO_JBE_2018-15_BDS_Israel.pdf

Maryland

- Governor Hogan signed an executive order in 2017
- https://content.govdelivery.com/attachments/MDGOV/2017/10/23/file_attachments/900819/Executive%2BOrder%2B01.01.2017.25.pdf

Michigan

- HB 5821 and HB 5822 were passed and signed into law in 2017
- https://trackbill.com/bill/mi-hb5821-state-financing-and-management-purchasing-prohibition-of-contracting-with-certain-discriminatory-businesses-that-boycott-certain-entities-provide-for-amends-sec-261-of-1984-pa-431-mcl-18-1261/1308784/

- https://trackbill.com/bill/mi-hb5822-state-financing-and-management-purchasing-prohibition-of-contracting-with-certain-discriminatory-businesses-provide-for-amends-1984-pa-431-mcl-18-1101-18-1594-by-adding-sec-241c-tie-bar-with-hb-582116/1308785/

Minnesota

- HF 400 passed and signed into law in 2017
- https://www.revisor.mn.gov/bills/bill.php?f=HF0400&y=2017&ssn=0&b=house

Mississippi

- HB 761 passed and signed into law in 2019
- http://billstatus.ls.state.ms.us/documents/2019/html/HB/0700-0799/HB0761IN.htm

Missouri

- SB 739 passed and signed into law in 2020
- https://www.senate.mo.gov/20info/pdf-bill/perf/SB739.pdf

Nevada

- SB 26 passed and signed into law in 2017
- https://www.leg.state.nv.us/Session/79th2017/Reports/history.cfm?BillName=SB26

New Jersey

- A 925 passed and signed into law in 2016
- http://www.njleg.state.nj.us/2016/Bills/A1000/925_I1.PDF

New York

- Governor Cuomo signed an executive order in 2016
- https://www.governor.ny.gov/news/no-157-directing-state-agencies-and-authorities-divest-public-funds-supporting-bds-campaign

North Carolina

- HB 161 passed and signed into law in 2017
- https://ncleg.net/Sessions/2017/Bills/House/HTML/H161v0.html

Ohio

- HB 476 passed and signed into law in 2016
- https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA131-HB-476

Oklahoma

- HB 3967 signed into law in 2020
- https://legiscan.com/OK/text/HB3967/id/2185979

Pennsylvania

- HB 2107 passed and signed into law in 2016
- http://www.legis.state.pa.us/cfdocs/billInfo/BillInfo.cfm?syear=2015&sind=0&body=H&type=B&bn=2107

Rhode Island

- H 7736 passed and signed into law in 2016
- http://webserver.rilin.state.ri.us/billtext16/housetext16/h7736.pdf

South Carolina

- H 3583 passed and signed into law in 2015
- http://www.scstatehouse.gov/sess121_2015-2016/prever/3583_20150319.htm

South Dakota

- Governor Noem signed an executive order in 2020
- https://sdsos.gov/general-information/executive-actions/executive-orders/assets/2020-01.PDF

Texas

- HB 89 passed and signed into law in 2017
- http://www.legis.state.tx.us/tlodocs/85R/billtext/html/HB00089I.htm

Wisconsin

- Governor Walker signed an executive order in 2017
- https://content.govdelivery.com/attachments/WIGOV/2017/10/27/file_attachments/903537/Executive%2BOrder%2B%2523261.pdf

Utah

- SB 186 passed and signed into law in 2021
- https://le.utah.gov/~2021/bills/static/SB0186.html

APPENDIX B:
STATES WITH SIMILAR "OTHER ACTIONS" LANGUAGE
(Bolding emphasis added)

Arizona

- A.R.S. § 35-393(2)(a)
- "'boycott' means engaging in a refusal to deal, terminating business activities or performing **other actions that are intended to limit commercial relations** with Israel or with persons or entities doing business in Israel or in territories controlled by Israel"

Arkansas

- Ark. Code Ann. § 25-1-502(1)(A)(i)
- "'boycott of Israel' means engaging in refusals to deal, terminating business activities, or **other actions that are intended to limit commercial relations** with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner"

Colorado

- Colo. Rev. Stat. § 24-54.8-201(3)
- "'economic prohibitions against Israel' means engaging in **actions that are politically motivated and** are intended to penalize, inflict economic harm on, or **otherwise limit commercial relations** with the state of Israel including, but not limited to, the boycott of, divestment from, or imposition of sanctions on the state of Israel."

Florida

- Fla. Stat. § 215.4725, (2020).
- "'boycott of Israel' means refusing to deal, terminating business activities, or taking **other actions to limit commercial relations** with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner."

Georgia

- Ga. Code Ann. § 50-5-85(a)(1)
- "'Boycott of Israel' means engaging in refusals to deal with, terminating business activities with, or **other actions that are intended to limit commercial relations** with Israel or individuals or companies doing business in Israel or in Israeli-controlled territories"

Illinois

- 40 Ill. Comp. Stat. Ann. 5/1-110.16(a).
- "'Boycott Israel' means engaging in **actions that are politically motivated and** are intended to penalize, inflict economic harm on, or **otherwise limit commercial relations** with the State of Israel or companies based in the State of Israel or in territories controlled by the State of Israel."

Indiana

- IC 5-10.5-3-1
- "'boycott, divest from, or sanction Israel activity' means **action or inaction that**: (1) furthers; (2) coordinates with; or (3) acquiesces in; an effort by another person to penalize, inflict economic harm on, or **otherwise limit commercial relations** with the Jewish state of Israel or businesses that are based in the Jewish state of Israel or territories controlled by the Jewish state of Israel."

Kansas

- Kan. Stat. Ann. § 75-3740e (2017)
- "'Boycott' means engaging in a refusal to deal, terminating business activities or performing **other actions that are intended to limit commercial relations** with persons or entities doing business in Israel or in territories controlled by Israel"

Kentucky

- Executive Order 2018-905
- "'Boycott' means refusing to deal with, terminating business activities with, or **otherwise taking any action that is intended to** penalize, inflict economic harm on, or **limit commercial relations** with, a jurisdiction with which Kentucky can enjoy open trade, or with a person or entity doing business with a jurisdiction with which Kentucky can enjoy open trade"

Louisiana

- Executive Order JBE 2018-15
- All state vendors each must certify it "has not…refused to transact or terminated business activities, or taken **other actions intended to limit commercial relations**, with a person or entity that is engaging in commercial transactions in Israel or Israeli-controlled territories, with the specific intent to accomplish a boycott or divestment of Israel."

Maryland

- Executive Order 01.01.2017.25
- "'Boycott of Israel' means the termination of or refusal to transact business activities, or **other actions intended to limit commercial relations,** with a person or entity because of its Israeli national origin, or residence or incorporation in Israel and its territories"

Minnesota

- Minn. Stat. § 16C.053
- "includes but is not limited to engaging in refusals to deal, terminating business activities, or **other actions that are intended to limit commercial relations** with Israel, or persons or entities doing business in Israel"

Mississippi

- Miss. Code Ann. § 27-117-3(a) (2019)
- "'boycott of Israel' means refusing to deal, terminating business activities, or taking **other actions to limit commercial relations** with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner"

Missouri

- Mo. Rev. Stat. § 34.600(A)(3)(1)
- "engaging in refusals to deal, terminating business activities, or **other actions to** discriminate against, inflict economic harm, or **otherwise limit commercial relations** specifically with the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel, that are all intended to support a boycott of the State of Israel"

Nevada

- Nev. Rev. Stat. § 286.737 (2019)
- "refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or **performing any other action that is intended to limit commercial relations**"

New Jersey

- N.J. Stat. Ann. § 52:18A-89.14(2)(e)
- "engaging in **actions that are politically motivated and** are intended to penalize, inflict economic harm on, or **otherwise limit commercial relations** with another state or nation"

New York

- Executive Order 157 (2016)
- "to **engage in any activity**, or promote others to engage in any activity, **that is intended to** penalize, inflict economic harm on, or **otherwise limit commercial relations** with Israel or persons doing business in Israel for purposes of coercing political action by, or imposing policy positions on, the government of Israel"

North Carolina

- N.C. Gen. Stat. § 147-86.80
- "Engaging in refusals to deal, terminating business activities, or **taking actions that are intended to** penalize, inflict economic harm, or **otherwise limit commercial relations** specifically with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories."

Ohio

- Ohio Rev. Code Ann. 9.76(A)(1)
- "**engaging in** refusals to deal, terminating business activities, or **other actions that are intended to limit commercial relations** with persons or entities in a discriminatory manner"

Oklahoma

- 74 O.S. § 582(E)(1)
- "engaging in a refusal to deal, terminating business activities or **performing other actions that are intended to limit commercial relations** with persons or entities doing business in Israel or in territories controlled by Israel"

South Dakota

- Executive Order 2020-01
- "engaging in conduct of refusing to deal, terminating business activities**, or other similar actions that are intended to penalize, inflict economic harm, or otherwise limit commercial relations** specifically with the State of Israel, companies doing business in or with Israel"

Texas

- TX GOVT § 808.001(1)
- "refusing to deal with, terminating business activities with, or otherwise **taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations** specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory"

Utah

- Utah Code Ann. § 63G-27-101
- "refusing to deal, terminating business activities, or **taking another action that is intended to limit commercial trade relations** with a person in a discriminatory manner"