

103D CONGRESS
1ST SESSION

H. R. 1308

To protect the free exercise of religion.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1993

Mr. SCHUMER (for himself, Mr. COX, Mr. NADLER, Mrs. MALONEY, Mr. GILMAN, Mr. MORAN, Mr. LEWIS of Georgia, Ms. WOOLSEY, Mr. WASHINGTON, Mr. COOPER, Mr. ACKERMAN, Mr. CARDIN, Mr. YATES, Mrs. MEEK, Mr. KOPETSKI, Mr. RAMSTAD, Mr. DEUTSCH, Mr. PRICE of North Carolina, Mr. SWIFT, Ms. SHEPHERD, Mr. TOWNS, Mrs. MORELLA, Mr. CRAPO, Mr. FRANK of Massachusetts, Mr. BERMAN, Mr. EDWARDS of California, Ms. BYRNE, Ms. PELOSI, Mr. SUNDQUIST, Mr. BRYANT, Mr. HUTCHINSON, Mrs. UNSOELD, Ms. MOLINARI, Mr. HALL of Ohio, Ms. SLAUGHTER, Mr. HASTINGS, Mr. GUTIERREZ, Mr. WELDON, Mr. GORDON, Mr. SPRATT, Mr. SAWYER, Mr. ANDREWS of New Jersey, Mr. RUSH, Mr. LEHMAN, Mr. GLICKMAN, Mr. GONZALEZ, Mr. JOHNSTON of Florida, Mrs. JOHNSON of Connecticut, Mr. MATSUI, Mr. OWENS, Mr. MARTINEZ, Mr. MCDERMOTT, Mr. PORTER, Mr. JEFFERSON, Ms. ESHOO, Mr. HERGER, Mr. SAXTON, Mr. SMITH of Texas, Mr. MCHALE, Mr. SANDERS, Ms. WATERS, Mr. WYNN, Mr. THORNTON, Mr. NEAL of North Carolina, Mr. WYDEN, Ms. MARGOLIES-MEZVINSKY, Mr. LANTOS, Mr. REYNOLDS, Mr. LEVY, Mr. STUDDS, Mr. LINDER, Mr. BLACKWELL, Mr. MINETA, Mr. PAYNE of New Jersey, Ms. MCKINNEY, Mr. TORRICELLI, Mr. KNOLLENBERG, Mr. SERRANO, Mr. SABO, Mr. BARRETT of Wisconsin, Mr. MACHTLEY, Mr. SISISKY, Mr. TORRES, Mr. DELLUMS, Mr. DEFazio, Mr. WAXMAN, Mr. STARK, Mr. SHAYS, Mr. SCOTT, Mr. FROST, Mr. LEVIN, Mr. FILNER, Mr. PETE GEREN of Texas, Mr. STRICKLAND, Mr. FINGERHUT, Mr. HOCHBRUECKNER, Mr. GEJDENSON, Mr. FRANKS of Connecticut, Mr. GOODLATTE, Mr. HOUGHTON, Mr. LIGHTFOOT, Mr. SCHIFF, Mr. TALENT, Mr. BEILENSEN, Mrs. LOWEY, Mr. HANSEN, Ms. DELAURO, Mr. MFUME, Mr. HOYER, Ms. NORTON, Mr. ORTON, Mr. GUNDERSON, Mr. WILLIAMS, Mr. HAMBURG, Mr. KLEIN, Mr. DICKS, Mr. STUMP, Mr. EVANS, Mr. SKAGGS, Mr. STOKES, Mrs. COLLINS of Illinois, Ms. VELÁZQUEZ, Mr. VENTO, Mr. GENE GREEN of Texas, Mr. ANDREWS of Maine, Mr. BACCHUS of Florida, Mr. FAZIO, Mr. COPPERSMITH, Mrs. KENNELLY, Mr. DERRICK, Mr. SWETT, Mr. LAZIO, Mrs. FOWLER, Mr. FRANKS of New Jersey, Mr. RAVENEL, Mr. MCKEON, and Mr. GALLO) introduced the following bill; which was referred to the Committee on the Judiciary

MAY 11, 1993

Additional sponsors: Mr. KENNEDY, Ms. CANTWELL, Mr. COLEMAN, Mr. MEEHAN, Ms. LAMBERT, Mr. GINGRICH, Mr. KING, Mr. KREIDLER, Mr. ZIMMER, Mr. HOEKSTRA, Mr. JACOBS, Mr. SANGMEISTER, Mr. SKELTON, Mr. McMILLAN, Mr. GRANDY, Mr. DICKEY, Mr. ISTOOK, Ms. SCHENK, Mr. LEACH, Mr. APPLGATE, Mr. SLATTERY, Mr. DORNAN, Mr. WHEAT, Mr. ROEMER, Mr. DREIER, Mr. BARTLETT of Maryland, Mr. TUCKER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OLVER, Mr. FLAKE, Mr. PAYNE of Virginia, Ms. DANNER, Mr. HOBSON, and Mr. JOHNSON of Georgia

A BILL

To protect the free exercise of religion.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Religious Freedom
5 Restoration Act of 1993”.

6 **SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF**
7 **PURPOSES.**

8 (a) FINDINGS.—The Congress finds—

9 (1) the framers of the American Constitution,
10 recognizing free exercise of religion as an
11 unalienable right, secured its protection in the First
12 Amendment to the Constitution;

13 (2) laws “neutral” toward religion may burden
14 religious exercise as surely as laws intended to
15 interfere with religious exercise;

1 (3) governments should not burden religious ex-
2 ercise without compelling justification;

3 (4) in *Employment Division of Oregon v. Smith*
4 the Supreme Court virtually eliminated the require-
5 ment that the government justify burdens on reli-
6 gious exercise imposed by laws neutral toward
7 religion; and

8 (5) the compelling interest test as set forth in
9 *Sherbert v. Verner* and *Wisconsin v. Yoder* is a
10 workable test for striking sensible balances between
11 religious liberty and competing governmental inter-
12 ests.

13 (b) PURPOSES.—The purposes of this Act are—

14 (1) to restore the compelling interest test as set
15 forth in Federal court cases before *Employment Di-*
16 *vision of Oregon v. Smith* and to guarantee its appli-
17 cation in all cases where free exercise of religion is
18 burdened; and

19 (2) to provide a claim or defense to persons
20 whose religious exercise is burdened by government.

21 **SEC. 3. FREE EXERCISE OF RELIGION PROTECTED.**

22 (a) IN GENERAL.—Government shall not burden a
23 person's exercise of religion even if the burden results
24 from a rule of general applicability, except as provided in
25 subsection (b).

1 (b) EXCEPTION.—Government may burden a per-
2 son’s exercise of religion only if it demonstrates that appli-
3 cation of the burden to the person—

4 (1) furthers a compelling governmental interest;
5 and

6 (2) is the least restrictive means of furthering
7 that compelling governmental interest.

8 (c) JUDICIAL RELIEF.—A person whose religious ex-
9 ercise has been burdened in violation of this section may
10 assert that violation as a claim or defense in a judicial
11 proceeding and obtain appropriate relief against a govern-
12 ment. Standing to assert a claim or defense under this
13 section shall be governed by the general rules of standing
14 under article III of the Constitution.

15 **SEC. 4. ATTORNEYS FEES.**

16 (a) JUDICIAL PROCEEDINGS.—Section 722 of the Re-
17 vised Statutes of the United States (42 U.S.C. 1988) is
18 amended by inserting “the Religious Freedom Restoration
19 Act of 1993,” before “or title VI of the Civil Rights Act
20 of 1964”.

21 (b) ADMINISTRATIVE PROCEEDINGS.—Section
22 504(b)(1)(C) of title 5, United States Code, is amended—

23 (1) by striking “and” at the end of clause (ii);

24 (2) by striking the semicolon at the end of
25 clause (iii) and inserting “; and”; and

1 (3) by inserting “(iv) the Religious Freedom
2 Restoration Act of 1993” after clause (iii).

3 **SEC. 5. DEFINITIONS.**

4 As used in this Act—

5 (1) the term “government” includes a branch,
6 department, agency, instrumentality, and official (or
7 other person acting under color of law) of the
8 United States, a State, or a subdivision of a State;

9 (2) the term “State” includes the District of
10 Columbia, the Commonwealth of Puerto Rico, and
11 each territory and possession of the United States;

12 (3) the term “demonstrates” means meets the
13 burdens of going forward with the evidence and of
14 persuasion; and

15 (4) the term “exercise of religion” means exer-
16 cise of religion under the first article of amendment
17 to the Constitution of the United States.

18 **SEC. 6. APPLICABILITY.**

19 (a) IN GENERAL.—This Act applies to all Federal
20 and State law, and the implementation of that law,
21 whether statutory or otherwise, and whether adopted be-
22 fore or after the enactment of this Act.

23 (b) RULE OF CONSTRUCTION.—Federal statutory law
24 adopted after the date of the enactment of this Act is sub-

1 ject to this Act unless such law explicitly excludes such
2 application by reference to this Act.

3 (c) RELIGIOUS BELIEF UNAFFECTED.—Nothing in
4 this Act shall be construed to authorize any government
5 to burden any religious belief.

6 **SEC. 7. ESTABLISHMENT CLAUSE UNAFFECTED.**

7 (a) IN GENERAL.—Nothing in this Act shall be con-
8 strued to affect, interpret, or in any way address that por-
9 tion of the First Amendment prohibiting laws respecting
10 the establishment of religion. Granting government fund-
11 ing, benefits, or exemptions, to the extent permissible
12 under the Establishment Clause of the First Amendment,
13 shall not constitute a violation of this Act.

14 (b) DEFINITION.—As used in this section, the term
15 “granting government funding, benefits, or exemptions”
16 does not include a denial of government funding, benefits,
17 or exemptions.

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