

Calendar No. 64

103D CONGRESS
1ST SESSION

H. R. 1308

AN ACT

To protect the free exercise of religion.

MAY 13 (legislative day, APRIL 19), 1993

Received: read twice and ordered placed on the calendar

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IN THE SENATE OF THE UNITED STATES

MAY 13 (legislative day, APRIL 19), 1993

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AN ACT

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;

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

4 (3) governments should not burden religious ex-
5 ercise without compelling justification;

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

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

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

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

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

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

2 (a) IN GENERAL.—Government shall not burden a
3 person’s exercise of religion even if the burden results
4 from a rule of general applicability, except as provided in
5 subsection (b).

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

9 (1) furthers a compelling governmental interest;
10 and

11 (2) is the least restrictive means of furthering
12 that compelling governmental interest.

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

20 **SEC. 4. ATTORNEYS FEES.**

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

1 (b) ADMINISTRATIVE PROCEEDINGS.—Section
2 504(b)(1)(C) of title 5, United States Code, is amended—

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

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

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

8 **SEC. 5. DEFINITIONS.**

9 As used in this Act—

10 (1) the term “government” includes a branch,
11 department, agency, instrumentality, and official (or
12 other person acting under color of law) of the
13 United States, a State, or a subdivision of a State;

14 (2) the term “State” includes the District of
15 Columbia, the Commonwealth of Puerto Rico, and
16 each territory and possession of the United States;

17 (3) the term “demonstrates” means meets the
18 burdens of going forward with the evidence and of
19 persuasion; and

20 (4) the term “exercise of religion” means exer-
21 cise of religion under the first article of amendment
22 to the Constitution of the United States.

23 **SEC. 6. APPLICABILITY.**

24 (a) IN GENERAL.—This Act applies to all Federal
25 and State law, and the implementation of that law,

1 whether statutory or otherwise, and whether adopted be-
2 fore or after the enactment of this Act.

3 (b) **RULE OF CONSTRUCTION.**—Federal statutory law
4 adopted after the date of the enactment of this Act is sub-
5 ject to this Act unless such law explicitly excludes such
6 application by reference to this Act.

7 (c) **RELIGIOUS BELIEF UNAFFECTED.**—Nothing in
8 this Act shall be construed to authorize any government
9 to burden any religious belief.

10 **SEC. 7. ESTABLISHMENT CLAUSE UNAFFECTED.**

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

18 (b) **DEFINITION.**—As used in this section, the term
19 “granting government funding, benefits, or exemptions”
20 does not include a denial of government funding, benefits,
21 or exemptions.

Passed the House of Representatives May 11, 1993.

Attest: DONNALD K. ANDERSON,
Clerk.