

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4230

To amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 1994

Mr. RICHARDSON introduced the following bill; which was referred to the Committee on Natural Resources

---

## A BILL

To amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

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 “American Indian  
5 Religious Freedom Act Amendments of 1994”.

6 **SEC. 2. TRADITIONAL INDIAN RELIGIOUS USE OF THE**  
7 **PEYOTE SACRAMENT.**

8 The Act of August 11, 1978 (42 U.S.C. 1996), com-  
9 monly referred to as the “American Indian Religious Free-

1 dom Act”, is amended by adding at the end thereof the  
2 following new section:

3 “SEC. 3. (a) The Congress finds and declares that—

4 “(1) for many Indian people, the traditional  
5 ceremonial use of the peyote cactus as a religious  
6 sacrament has for centuries been integral to a way  
7 of life, and significant in perpetuating Indian tribes  
8 and cultures;

9 “(2) since 1965, this ceremonial use of peyote  
10 by Indians has been protected by Federal regulation;

11 “(3) while at least 28 States have enacted laws  
12 which are similar to, or are in conformance with, the  
13 Federal regulation which protects the ceremonial use  
14 of peyote by Indian religious practitioners, many  
15 States have not done so, and this lack of uniformity  
16 has created hardship for Indian people who partici-  
17 pate in such religious ceremonies;

18 “(4) the Supreme Court of the United States,  
19 in the case of *Employment Division v. Smith*, 494  
20 U.S. 872 (1990), held that the First Amendment  
21 does not protect Indian practitioners who use peyote  
22 in Indian religious ceremonies, and also raised un-  
23 certainty whether this religious practice would be  
24 protected under the compelling State interest stand-  
25 ard; and

1           “(5) the lack of adequate and clear legal protec-  
2           tion for the religious use of peyote by Indians may  
3           serve to stigmatize and marginalize Indian tribes  
4           and cultures, and increase the risk that they will be  
5           exposed to discriminatory treatment in violation of  
6           the religious guarantees of the First Amendment of  
7           the Constitution.

8           “(b)(1) Notwithstanding any other provision of law,  
9           the use, possession, or transportation of peyote by an In-  
10          dian who uses peyote in a traditional manner for bona fide  
11          ceremonial purposes in connection with the practice of a  
12          traditional Indian religion is lawful, and shall not be pro-  
13          hibited by the United States or any State. No Indian shall  
14          be penalized or discriminated against on the basis of such  
15          use, possession or transportation, including, but not lim-  
16          ited to, denial of otherwise applicable benefits under public  
17          assistance programs.

18          “(2) This section does not prohibit such reasonable  
19          regulation and registration of those persons who cultivate,  
20          harvest, or distribute peyote as may be consistent with the  
21          purposes of this Act.

22          “(3) This section does not prohibit application of the  
23          provisions of section 481.111(a) of Vernon’s Texas Health  
24          and Safety Code Annotated, in effect on the date of enact-

1 ment of this section, insofar as those provisions pertain  
2 to the cultivation, harvest, and distribution of peyote.

3 “(c) For purposes of this section—

4 “(1) the term ‘Indian’ means a member of an  
5 Indian tribe;

6 “(2) the term ‘Indian tribe’ means any tribe,  
7 band, nation, pueblo, or other organized group or  
8 community of Indians, including any Alaska Native  
9 village (as defined in, or established pursuant to, the  
10 Alaska Native Claims Settlement Act (43 U.S.C.  
11 1601 et seq.)), which is recognized as eligible for the  
12 special programs and services provided by the  
13 United States to Indians because of their status as  
14 Indians;

15 “(3) the term ‘Indian religion’ means any reli-  
16 gion—

17 “(A) which is practiced by Indians, and

18 “(B) the origin and interpretation of which  
19 is from within a traditional Indian culture or  
20 community; and

21 “(4) the term ‘State’ means any State of the  
22 United States, and any political subdivision thereof.

23 “(d) Nothing in this section shall be construed as ab-  
24 rogating, diminishing, or otherwise affecting—

1           “(A) the inherent rights of any Indian  
2           tribe;

3           “(B) the rights, express or implicit, of any  
4           Indian tribe which exist under treaties, execu-  
5           tive orders, and laws of the United States;

6           “(C) the inherent right of Indians to prac-  
7           tice their religions; and

8           “(D) the right of Indians to practice their  
9           religions under any Federal or State law.”.

○