

101ST CONGRESS
2D SESSION

S. 3254

To protect the free exercise of religion.

IN THE SENATE OF THE UNITED STATES

OCTOBER 26 (legislative day, OCTOBER 2), 1990

Mr. BIDEN (for himself, Mr. HATCH, Mr. KENNEDY, Mr. SPECTER, Mr. INOUE, Mr. LIEBERMAN, Mr. METZENBAUM, and Mr. MOYNIHAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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 1990”.

6 **SEC. 2. FREE EXERCISE OF RELIGION.**

7 (a) **IN GENERAL.**—Except as provided in subsection (b),
8 the government of the United States, a State, or a subdivi-
9 sion of a State may not restrict any person’s free exercise of
10 religion.

1 (b) LAWS OF GENERAL APPLICABILITY.—A govern-
 2 ment may restrict a person’s free exercise of religion only
 3 if—

4 (1) the restriction—

5 (A) is an otherwise valid statute, ordinance,
 6 or other form of rule of general applicability or
 7 action taken to enforce such a rule; and

8 (B) does not intentionally discriminate
 9 against religion or among religions; and

10 (2) the government demonstrates that application
 11 of the restriction to the person—

12 (A) is essential to further a compelling gov-
 13 ernmental interest; and

14 (B) is the least restrictive means of further-
 15 ing that compelling governmental interest.

16 (c) CIVIL ACTION.—A person aggrieved by a violation
 17 of this section may obtain appropriate relief (including relief
 18 against a government) in a civil action.

19 SEC. 3. ATTORNEY’S FEES.

20 (a) JUDICIAL PROCEEDINGS.—Section 722 of the Re-
 21 vised Statutes (42 U.S.C. 1988) is amended by inserting “the
 22 Religious Freedom Restoration Act of 1990,” before “or title
 23 VI of the Civil Rights Act of 1964”.

24 (b) ADMINISTRATIVE PROCEEDINGS.—Section
 25 504(b)(1)(C) of title 5, United States Code, is amended—

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

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

4 (3) by inserting “(iv) the Religious Freedom Res-
5 toration Act of 1990;” after clause (iii).

6 **SEC. 4. DEFINITIONS.**

7 As used in this Act—

8 (1) the term “government” includes a branch, de-
9 partment, agency, instrumentality, and official (or other
10 person acting under color of law) of the United States,
11 a State, or a subdivision of a State;

12 (2) the term “State” means a State, the District
13 of Columbia, the Commonwealth of Puerto Rico, and
14 each territory and possession of the United States;

15 (3) the term “demonstrates” means meets the
16 burdens of going forward with the evidence and of per-
17 suasion; and

18 (4) the term “person” includes natural persons,
19 religious organizations, associations, and corporations.

20 **SEC. 5. RULE OF CONSTRUCTION.**

21 (a) **IN GENERAL.**—This Act applies to—

22 (1) every Federal, State, and local statute, ordi-
23 nance, regulation, administrative order, decision, prac-
24 tice, and other action enacted, adopted, or implemented
25 on or before the date of enactment of this Act; and

1 (2) every State and local statute, ordinance, regu-
2 lation, administrative order, decision, practice, and
3 other action enacted, adopted, or implemented after the
4 date of enactment of this Act.

5 (b) **FUTURE FEDERAL LEGISLATION.**—This Act shall
6 apply to a Federal statute enacted after the date of enact-
7 ment of this Act unless the statute, by specific reference to
8 this Act, expressly exempts the statute or part of it from the
9 application of this Act.

10 (c) **FUTURE FEDERAL ADMINISTRATIVE ACTION.**—
11 This Act shall apply to a Federal regulation, administrative
12 order, decision, practice, or other action adopted or imple-
13 mented after the date of enactment of this Act unless it is
14 adopted or implemented under authority of a statute or part
15 of a statute that makes an exemption in accordance with sub-
16 section (b).

17 **SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.**

18 Nothing in this Act limits or creates rights under the
19 clause of the first article of amendment to the Constitution
20 that prohibits laws respecting an establishment of religion.

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