

103^D CONGRESS
1ST SESSION

H. R. 1308

AMENDMENT

In the Senate of the United States,

October 27 (legislative day, October 13), 1993.

Resolved, That the bill from the House of Representatives (H.R. 1308) entitled “An Act to protect the free exercise of religion”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Religious Freedom Res-*
3 *toration Act of 1993”.*

4 ***SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF***

5 ***PURPOSES.***

6 *(a) FINDINGS.—The Congress finds that—*

7 *(1) the framers of the Constitution, recognizing*
8 *free exercise of religion as an unalienable right, se-*
9 *cured its protection in the First Amendment to the*
10 *Constitution;*

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

4 (3) governments should not substantially burden
5 religious exercise without compelling justification;

6 (4) in *Employment Division v. Smith*, 494 U.S.
7 872 (1990) the Supreme Court virtually eliminated
8 the requirement that the government justify burdens
9 on religious exercise imposed by laws neutral toward
10 religion; and

11 (5) the compelling interest test as set forth in
12 prior Federal court rulings is a workable test for
13 striking sensible balances between religious liberty
14 and competing prior governmental interests.

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

16 (1) to restore the compelling interest test as set
17 forth in *Sherbert v. Verner*, 374 U.S. 398 (1963) and
18 *Wisconsin v. Yoder*, 406 U.S. 205 (1972) and to guar-
19 antee its application in all cases where free exercise
20 of religion is substantially burdened; and

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

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

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

6 (b) *EXCEPTION.*—Government may substantially bur-
7 den a person’s exercise of religion only if it demonstrates
8 that application of the burden to the person—

9 (1) *is in furtherance of a compelling govern-*
10 *mental interest; and*

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

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

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

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

25 (b) *ADMINISTRATIVE PROCEEDINGS.*—Section
26 504(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 1993;” after clause (iii).

6 **SEC. 5. DEFINITIONS.**

7 *As used in this Act—*

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

12 (2) the term “State” includes the District of Co-
13 lumbia, the Commonwealth of Puerto Rico, and each
14 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
17 persuasion; and

18 (4) the term “exercise of religion” means the ex-
19 ercise of religion under the First Amendment to the
20 Constitution.

21 **SEC. 6. APPLICABILITY.**

22 (a) *IN GENERAL.*—This Act applies to all Federal and
23 State law, and the implementation of that law, whether
24 statutory or otherwise, and whether adopted before or after
25 the enactment of this Act.

1 (b) *RULE OF CONSTRUCTION.*—Federal statutory law
2 adopted after the date of the enactment of this Act is subject
3 to this Act unless such law explicitly excludes such applica-
4 tion by reference to this Act.

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

8 ***SEC. 7. ESTABLISHMENT CLAUSE UNAFFECTED.***

9 Nothing in this Act shall be construed to affect, inter-
10 pret, or in any way address that portion of the First
11 Amendment prohibiting laws respecting the establishment
12 of religion (referred to in this section as the “Establishment
13 Clause”). Granting government funding, benefits, or exemp-
14 tions, to the extent permissible under the Establishment
15 Clause, shall not constitute a violation of this Act. As used
16 in this section, the term “granting”, used with respect to
17 government funding, benefits, or exemptions, does not in-
18 clude the denial of government funding, benefits, or exemp-
19 tions.

Attest:

Secretary.