

103<sup>RD</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 1308**

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**AN ACT**

To protect the free exercise of religion.

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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—

1 (1) the framers of the American Constitution,  
2 recognizing free exercise of religion as an  
3 unalienable right, secured its protection in the First  
4 Amendment to the Constitution;

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

8 (3) governments should not burden religious ex-  
9 ercise without compelling justification;

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

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

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

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

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

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

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

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

11           (1) furthers a compelling governmental interest;  
12      and

13           (2) is the least restrictive means of furthering  
14      that compelling governmental interest.

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

22 **SEC. 4. ATTORNEYS FEES.**

23      (a) JUDICIAL PROCEEDINGS.—Section 722 of the Re-  
24      vised Statutes of the United States (42 U.S.C. 1988) is  
25      amended by inserting “the Religious Freedom Restoration

1 Act of 1993,” before “or title VI of the Civil Rights Act  
2 of 1964”.

3 (b) ADMINISTRATIVE PROCEEDINGS.—Section  
4 504(b)(1)(C) of title 5, United States Code, is amended—

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

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

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

10 **SEC. 5. DEFINITIONS.**

11 As used in this Act—

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

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

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

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

1 **SEC. 6. APPLICABILITY.**

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

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

10 (c) RELIGIOUS BELIEF UNAFFECTED.—Nothing in  
11 this Act shall be construed to authorize any government  
12 to burden any religious belief.

13 **SEC. 7. ESTABLISHMENT CLAUSE UNAFFECTED.**

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

21 (b) DEFINITION.—As used in this section, the term  
22 “granting government funding, benefits, or exemptions”

- 1 does not include a denial of government funding, benefits,
- 2 or exemptions.

Passed the House of Representatives May 11, 1993.

Attest:

*Clerk.*