

Union Calendar No. 366

103D CONGRESS
2D SESSION

H. R. 4230

[Report No. 103-675]

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.

AUGUST 5, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 1994

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

AUGUST 5, 1994

Additional sponsors: Mr. PASTOR and Mr. LEWIS of Georgia

AUGUST 5, 1994

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[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 14, 1994]

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,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “American Indian*
3 *Religious Freedom Act Amendments of 1994”.*

4 **SEC. 2. TRADITIONAL INDIAN RELIGIOUS USE OF THE**
5 **PEYOTE SACRAMENT.**

6 *The Act of August 11, 1978 (42 U.S.C. 1996), com-*
7 *monly referred to as the “American Indian Religious Free-*
8 *dom Act”, is amended by adding at the end thereof the fol-*
9 *lowing new section:*

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

11 *“(1) for many Indian people, the traditional cer-*
12 *emonial use of the peyote cactus as a religious sac-*
13 *rament has for centuries been integral to a way of*
14 *life, and significant in perpetuating Indian tribes*
15 *and cultures;*

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

18 *“(3) while at least 28 States have enacted laws*
19 *which are similar to, or are in conformance with, the*
20 *Federal regulation which protects the ceremonial use*
21 *of peyote by Indian religious practitioners, 22 States*
22 *have not done so, and this lack of uniformity has cre-*
23 *ated hardship for Indian people who participate in*
24 *such religious ceremonies;*

25 *“(4) the Supreme Court of the United States, in*
26 *the case of Employment Division v. Smith, 494 U.S.*

1 872 (1990), held that the First Amendment does not
2 protect Indian practitioners who use peyote in Indian
3 religious ceremonies, and also raised uncertainty
4 whether this religious practice would be protected
5 under the compelling State interest standard; and

6 “(5) the lack of adequate and clear legal protec-
7 tion for the religious use of peyote by Indians may
8 serve to stigmatize and marginalize Indian tribes and
9 cultures, and increase the risk that they will be ex-
10 posed to discriminatory treatment.

11 “(b)(1) Notwithstanding any other provision of law,
12 the use, possession, or transportation of peyote by an Indian
13 for bona fide traditional ceremonial purposes in connection
14 with the practice of a traditional Indian religion is lawful,
15 and shall not be prohibited by the United States or any
16 State. No Indian shall be penalized or discriminated
17 against on the basis of such use, possession or transpor-
18 tation, including, but not limited to, denial of otherwise ap-
19 plicable benefits under public assistance programs.

20 “(2) This section does not prohibit such reasonable reg-
21 ulation and registration by the Drug Enforcement Admin-
22 istration of those persons who cultivate, harvest, or distrib-
23 ute peyote as may be consistent with the purposes of this
24 Act.

1 “(3) This section does not prohibit application of the
2 provisions of section 481.111(a) of Vernon’s Texas Health
3 and Safety Code Annotated, in effect on the date of enact-
4 ment of this section, insofar as those provisions pertain to
5 the cultivation, harvest, and distribution of peyote.

6 “(4) Nothing in this section shall prohibit any Federal
7 department or agency, in carrying out its statutory respon-
8 sibilities and functions, from promulgating regulations es-
9 tablishing reasonable time limitations on the use or inges-
10 tion of peyote prior to performance of official duties by ac-
11 tive duty military personnel, sworn law enforcement offi-
12 cers, or personnel directly involved in public transportation
13 or any other safety-sensitive positions where the perform-
14 ance of such duties may be adversely affected by such use
15 or ingestion, nor shall this section prohibit affected depart-
16 ments or agencies from establishing reasonable limitations
17 on the transportation of peyote on military bases or over-
18 seas. Such regulations shall be adopted only after consulta-
19 tion with representatives of traditional Indian religions for
20 which the sacramental use of peyote is integral to their
21 practice. Any regulation promulgated pursuant to this sec-
22 tion shall be subject to the balancing test set forth in section
23 3 of the Religious Freedom Restoration Act (Public Law
24 103–141; 42 U.S.C. 2000bb–1).

25 “(c) For purposes of this section—

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

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

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

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

14 “(B) the origin and interpretation of which
15 is from within a traditional Indian culture or
16 community; and

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

19 “(d) Nothing in this section shall be construed as abro-
20 gating, diminishing, or otherwise affecting—

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

22 “(2) the rights, express or implicit, of any
23 Indian tribe which exist under treaties, executive
24 orders, and laws of the United States;

1 “(3) the inherent right of Indians to prac-
2 tice their religions; and

3 “(4) the right of Indians to practice their
4 religions under any Federal or State law.”.