

COMMITTEE ON JUDICIARY
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1178
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 41-1493, Arizona Revised Statutes, is amended to
3 read:

4 41-1493. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Demonstrates" means meets the burdens of going forward with the
7 evidence and of persuasion.

8 2. "Exercise of religion" means the PRACTICE OR OBSERVANCE OF
9 RELIGION, INCLUDING THE ability to act or refusal to act in a manner
10 substantially motivated by a religious belief, whether or not the exercise is
11 compulsory or central to a larger system of religious belief.

12 3. "Government" includes this state and any agency or political
13 subdivision of this state.

14 4. "Nonreligious assembly or institution" includes all membership
15 organizations, theaters, cultural centers, dance halls, fraternal orders,
16 amphitheaters and places of public assembly regardless of size that a
17 government or political subdivision allows to meet in a zoning district by
18 code or ordinance or by practice.

19 5. "Person" includes a religious assembly or institution.

20 6. "Political subdivision" includes any county, city, including a
21 charter city, town, school district, municipal corporation or special
22 district, any board, commission or agency of a county, city, including a
23 charter city, town, school district, municipal corporation or special
24 district or any other local public agency.

25 7. "Religion-neutral zoning standards":

26 (a) Means numerically definable standards such as maximum occupancy
27 codes, height restrictions, setbacks, fire codes, parking space requirements,
28 sewer capacity limitations and traffic congestion limitations.

29 (b) Does not include:

30 (i) Synergy with uses that a government holds as more desirable.

31 (ii) The ability to raise tax revenues.

32 8. "Suitable alternate property" means a financially feasible property
33 considering the person's revenue sources and other financial obligations with
34 respect to the person's exercise of religion and with relation to spending
35 that is in the same zoning district or in a contiguous area that the person

1 finds acceptable for conducting the person's religious mission and that is
2 large enough to fully accommodate the current and projected seating capacity
3 requirements of the person in a manner that the person deems suitable for the
4 person's religious mission.

5 9. "Unreasonable burden" means that a person is prevented from using
6 the person's property in a manner that the person finds satisfactory to
7 fulfill the person's religious mission.

8 Sec. 2. Section 41-1493.01, Arizona Revised Statutes, is amended to
9 read:

10 41-1493.01. Free exercise of religion protected

11 A. Free exercise of religion is a fundamental right that applies in
12 this state even if laws, rules or other government actions are facially
13 neutral.

14 B. Except as provided in subsection C, ~~government~~ STATE ACTION shall
15 not ~~substantially~~ burden a person's exercise of religion even if the burden
16 results from a rule of general applicability.

17 C. ~~Government~~ STATE ACTION may ~~substantially~~ burden a person's
18 exercise of religion only if ~~it~~ THE OPPOSING PARTY demonstrates that
19 application of the burden to the ~~person~~ PERSON'S EXERCISE OF RELIGION IN THIS
20 PARTICULAR INSTANCE is both:

21 1. ~~In furtherance of~~ ESSENTIAL TO FURTHER a compelling governmental
22 interest.

23 2. The least restrictive means of furthering that compelling
24 governmental interest.

25 D. A person whose religious exercise is burdened OR IS LIKELY TO BE
26 BURDENED in violation of this section may assert that violation OR IMPENDING
27 VIOLATION as a claim or defense in a judicial proceeding ~~and obtain~~
28 ~~appropriate relief against a government~~, REGARDLESS OF WHETHER THE GOVERNMENT
29 IS A PARTY TO THE PROCEEDING. THE PERSON ASSERTING SUCH A CLAIM OR DEFENSE
30 MAY OBTAIN APPROPRIATE RELIEF, INCLUDING RELIEF AGAINST THE GOVERNMENT. A
31 party who prevails in any action to enforce this article against a government
32 shall recover attorney fees and costs.

33 ~~E. In this section, the term substantially burden is intended solely~~
34 ~~to ensure that this article is not triggered by trivial, technical or de~~
35 ~~minimis infractions.~~

36 E. FOR THE PURPOSES OF TH IS SECTION:

1 1. "BURDEN" MEANS ANY ACTION THAT DIRECTLY OR INDIRECTLY CONSTRAINS,
2 INHIBITS, CURTAILS OR DENIES THE EXERCISE OF RELIGION BY ANY PERSON OR
3 COMPELS ANY ACTION CONTRARY TO A PERSON'S EXERCISE OF RELIGION, AND INCLUDES
4 WITHHOLDING BENEFITS, ASSESSING CRIMINAL, CIVIL OR ADMINISTRATIVE PENALTIES
5 OR EXCLUSION FROM GOVERNMENTAL PROGRAMS OR ACCESS TO GOVERNMENTAL FACILITIES.

6 2. "COMPELLING GOVERNMENTAL INTEREST" MEANS A GOVERNMENTAL INTEREST OF
7 THE HIGHEST MAGNITUDE THAT SHALL NOT OTHERWISE BE ACHIEVED WITHOUT BURDENING
8 THE EXERCISE OF RELIGION.

9 3. "STATE ACTION" MEANS THE IMPLEMENTATION OR APPLICATION OF ANY LAW,
10 INCLUDING STATE AND LOCAL LAWS, ORDINANCES, RULES, REGULATIONS AND POLICIES,
11 WHETHER STATUTORY OR OTHERWISE, OR OTHER ACTION BY THE GOVERNMENT."

12 Amend title to conform

and, as so amended, it do pass

EDWIN W. FARNSWORTH
Chairman

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3/21/13
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