

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SENATE BILL 1178

AN ACT

AMENDING SECTIONS 41-1493 AND 41-1493.01, ARIZONA REVISED STATUTES; RELATING
TO FREE EXERCISE OF RELIGION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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 amphitheatres 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
36 finds acceptable for conducting the person's religious mission and that is
37 large enough to fully accommodate the current and projected seating capacity
38 requirements of the person in a manner that the person deems suitable for the
39 person's religious mission.

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

1 Sec. 2. Section 41-1493.01, Arizona Revised Statutes, is amended to
2 read:
3 41-1493.01. Free exercise of religion protected; definition
4 A. Free exercise of religion is a fundamental right that applies in
5 this state even if laws, rules or other government actions are facially
6 neutral.
7 B. Except as provided in subsection C, ~~government~~ STATE ACTION shall
8 not substantially burden a person's exercise of religion even if the burden
9 results from a rule of general applicability.
10 C. ~~Government~~ STATE ACTION may substantially burden a person's
11 exercise of religion only if ~~it~~ THE OPPOSING PARTY demonstrates that
12 application of the burden to the ~~person~~ PERSON'S EXERCISE OF RELIGION IN THIS
13 PARTICULAR INSTANCE is both:
14 1. In furtherance of a compelling governmental interest.
15 2. The least restrictive means of furthering that compelling
16 governmental interest.
17 D. A person whose religious exercise is burdened OR IS LIKELY TO BE
18 BURDENED in violation of this section may assert that violation OR IMPENDING
19 VIOLATION as a claim or defense in a judicial proceeding ~~and obtain~~
20 ~~appropriate relief against a government~~, REGARDLESS OF WHETHER THE GOVERNMENT
21 IS A PARTY TO THE PROCEEDING. THE PERSON ASSERTING SUCH A CLAIM OR DEFENSE
22 MAY OBTAIN APPROPRIATE RELIEF. A party who prevails in any action to enforce
23 this article against a government shall recover attorney fees and costs.
24 E. In this section, the term substantially burden is intended solely
25 to ensure that this article is not triggered by trivial, technical or de
26 minimis infractions.
27 F. FOR THE PURPOSES OF THIS SECTION "STATE ACTION" MEANS THE
28 IMPLEMENTATION OR APPLICATION OF ANY LAW, INCLUDING STATE AND LOCAL LAWS,
29 ORDINANCES, RULES, REGULATIONS AND POLICIES, WHETHER STATUTORY OR OTHERWISE,
30 OR OTHER ACTION BY THE GOVERNMENT.