

REFERENCE TITLE: **exercise of religion; state action**

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

## **HB 2153**

Introduced by  
Representatives Farnsworth E, Allen, Boyer, Coleman, Gowan, Gray,  
Kavanagh, Kwasman, Lesko, Livingston, Montenegro, Petersen, Pierce J,  
Smith, Thorpe, Tobin, Townsend: Barton, Mesnard, Mitchell

**AN ACT**

**AMENDING SECTIONS 41-1493 AND 41-1493.01, ARIZONA REVISED STATUTES; RELATING  
TO THE 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~~ ANY  
20 INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION, CHURCH, RELIGIOUS ASSEMBLY  
21 OR INSTITUTION, ESTATE, TRUST, FOUNDATION OR OTHER LEGAL ENTITY.  
22 6. "Political subdivision" includes any county, city, including a  
23 charter city, town, school district, municipal corporation or special  
24 district, any board, commission or agency of a county, city, including a  
25 charter city, town, school district, municipal corporation or special  
26 district or any other local public agency.  
27 7. "Religion-neutral zoning standards":  
28 (a) Means numerically definable standards such as maximum occupancy  
29 codes, height restrictions, setbacks, fire codes, parking space requirements,  
30 sewer capacity limitations and traffic congestion limitations.  
31 (b) Does not include:  
32 (i) Synergy with uses that a government holds as more desirable.  
33 (ii) The ability to raise tax revenues.  
34 8. "Suitable alternate property" means a financially feasible property  
35 considering the person's revenue sources and other financial obligations with  
36 respect to the person's exercise of religion and with relation to spending  
37 that is in the same zoning district or in a contiguous area that the person  
38 finds acceptable for conducting the person's religious mission and that is  
39 large enough to fully accommodate the current and projected seating capacity  
40 requirements of the person in a manner that the person deems suitable for the  
41 person's religious mission.  
42 9. "Unreasonable burden" means that a person is prevented from using  
43 the person's property in a manner that the person finds satisfactory to  
44 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~~ OF THIS SECTION,  
8 STATE ACTION shall not substantially burden a person's exercise of religion  
9 even if the burden 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 in violation of this  
18 section may assert that violation as a claim or defense in a judicial  
19 proceeding, ~~and obtain appropriate relief against a government~~ REGARDLESS OF  
20 WHETHER THE GOVERNMENT IS A PARTY TO THE PROCEEDING. THE PERSON ASSERTING  
21 SUCH A CLAIM OR DEFENSE MAY OBTAIN APPROPRIATE RELIEF. A party who prevails  
22 in any action to enforce this article against a government shall recover  
23 attorney fees and costs.

24          E. ~~In~~ FOR THE PURPOSES OF this section, the term substantially burden  
25 is intended solely to ensure that this article is not triggered by trivial,  
26 technical or de minimis infractions.

27          F. FOR THE PURPOSES OF THIS SECTION, "STATE ACTION" MEANS ANY ACTION  
28 BY THE GOVERNMENT OR THE IMPLEMENTATION OR APPLICATION OF ANY LAW, INCLUDING  
29 STATE AND LOCAL LAWS, ORDINANCES, RULES, REGULATIONS AND POLICIES, WHETHER  
30 STATUTORY OR OTHERWISE, AND WHETHER THE IMPLEMENTATION OR APPLICATION IS MADE  
31 OR ATTEMPTED TO BE MADE BY THE GOVERNMENT OR NONGOVERNMENTAL PERSONS.