REFERENCE TITLE: exercise of religion; state action.

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1062

Introduced by
Senators Yarbrough: Barto, Worsley

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

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

41-1493. Definitions
In this article, unless the context otherwise requires:
1. "Demonstrates" means meets the burdens of going forward with the evidence and of persuasion.
2. "Exercise of religion" means the PRACTICE OR OBSERVANCE OF RELIGION, INCLUDING THE ability to act or refusal to act in a manner substantially motivated by a religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief.
3. "Government" includes this state and any agency or political subdivision of this state.
4. "Nonreligious assembly or institution" includes all membership organizations, theaters, cultural centers, dance halls, fraternal orders, amphitheaters and places of public assembly regardless of size that a government or political subdivision allows to meet in a zoning district by code or ordinance or by practice.
5. "Person" includes a religious assembly or institution ANY INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION, CHURCH, RELIGIOUS ASSEMBLY OR INSTITUTION, ESTATE, TRUST, FOUNDATION OR OTHER LEGAL ENTITY.
6. "Political subdivision" includes any county, city, including a charter city, town, school district, municipal corporation or special district, any board, commission or agency of a county, city, including a charter city, town, school district, municipal corporation or special district or any other local public agency.
7. "Religion-neutral zoning standards":
   (a) Means numerically definable standards such as maximum occupancy codes, height restrictions, setbacks, fire codes, parking space requirements, sewer capacity limitations and traffic congestion limitations.
   (b) Does not include:
      (i) Synergy with uses that a government holds as more desirable.
      (ii) The ability to raise tax revenues.
8. "Suitable alternate property" means a financially feasible property considering the person's revenue sources and other financial obligations with respect to the person's exercise of religion and with relation to spending that is in the same zoning district or in a contiguous area that the person finds acceptable for conducting the person's religious mission and that is large enough to fully accommodate the current and projected seating capacity requirements of the person in a manner that the person deems suitable for the person's religious mission.
9. "Unreasonable burden" means that a person is prevented from using the person's property in a manner that the person finds satisfactory to fulfill the person's religious mission.
Sec. 2. Section 41-1493.01, Arizona Revised Statutes, is amended to read:

41-1493.01. Free exercise of religion protected; definition

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

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

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

1. In furtherance of a compelling governmental interest.

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

D. A person whose religious exercise is burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding, and obtain appropriate relief against a government REGARDLESS OF WHETHER THE GOVERNMENT IS A PARTY TO THE PROCEEDING. THE PERSON ASSERTING SUCH A CLAIM OR DEFENSE MAY OBTAIN APPROPRIATE RELIEF. A party who prevails in any action to enforce this article against a government shall recover attorney fees and costs.

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

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