

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE DRH90080-MM-70 (03/28)

Short Title: NC Religious Freedom Restoration Act. (Public)

Sponsors: Representatives Schaffer, Jones, Riddell, and Shepard (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE NORTH CAROLINA RELIGIOUS FREEDOM RESTORATION
3 ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 147 of the North Carolina General Statutes is amended by
6 adding a new Article to read:

7 **"Article 9.**

8 **"The North Carolina Religious Freedom Restoration Act.**

9 **"§ 147-100. Definitions.**

10 As used in this Article, the following definitions apply:

- 11 (1) "Demonstrates" means meets the burdens of going forward with the
12 evidence and of persuasion.
- 13 (2) "Exercise of religion" means the exercise of religion under the First
14 Amendment to the United States Constitution and Sec. 13 of Article I of the
15 North Carolina Constitution.
- 16 (3) "Person" includes an individual, corporation, firm, partnership, association,
17 or organization.
- 18 (4) "Prevails" means to obtain "prevailing party" status as defined by courts
19 construing the federal Civil Rights Attorney's Fees Awards Act of 1976, 42
20 U.S.C. § 1988.
- 21 (5) "State" means the State of North Carolina and any political subdivision of
22 the State and includes a branch, department, agency, board, commission,
23 instrumentality, entity as well as any officer, employee, or official of the
24 State or a of a political subdivision of the State or any other person acting
25 under color of law.
- 26 (6) "Substantially burden" means to inhibit or curtail religiously motivated
27 practice.

28 **"§ 147-101. Purpose.**

29 The purposes of this Article are as follows:

- 30 (1) To restore the compelling interest test set forth in *Wisconsin v. Yoder*, 406
31 U.S. 205 (1972), and *Sherbert v. Verner*, 374 U.S. 398 (1963), and to
32 guarantee that a test of compelling state interest will be imposed on all State
33 and local laws and ordinances in all cases in which the free exercise of
34 religion is substantially burdened.
- 35 (2) To provide a claim or defense to persons whose exercise of religion is
36 substantially burdened by the State.



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1 **"§ 147-102. Restriction on State's ability to burden exercise of religion.**

2 (a) The State shall not substantially burden a person's free exercise of religion, even if
3 the burden results from a rule of general applicability, unless the State demonstrates that
4 application of the burden to the person is in furtherance of a compelling State interest and that
5 the State used the least restrictive means of furthering that compelling State interest.

6 (b) Nothing in this section shall be construed to do any of the following:

7 (1) Authorize the State to burden any religious belief.

8 (2) Affect, interpret, or in any way address those portions of the First
9 Amendment to the United States Constitution or Sec. 13 of Article I of the
10 North Carolina Constitution that prohibit laws respecting the establishment
11 of religion.

12 (c) Granting State funds, benefits, or exemptions, to the extent permissible under
13 subdivision (b)(2) of this section, shall not constitute a violation of this section. As used in this
14 subsection, "granting" with respect to State funding, benefits, or exemptions shall not include
15 the denial of State funding, benefits, or exemptions.

16 **"§ 147-103. Burden of exercise of religion a claim or defense; attorney's fees.**

17 If a person's exercise of religion has been burdened in violation of this Article, the person
18 may assert the violation as a claim or defense in a judicial proceeding. If the person prevails in
19 such a proceeding, the court shall award attorney's fees and costs."

20 **SECTION 2.** This act is effective when it becomes law.