

Senate File 2338 - Introduced

SENATE FILE 2338
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO SSB 3171)

(COMPANION TO HF 2209 BY
SALMON)

A BILL FOR

1 An Act relating to the standard of judicial review and
2 providing a claim or defense when a state action burdens a
3 person's exercise of religion, and including effective date
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 675.1 Short title.

2 This chapter shall be known and may be cited as the
3 "*Religious Freedom Restoration Act*".

4 Sec. 2. NEW SECTION. 675.2 Legislative purpose and intent.

5 The purpose and intent of this chapter is all of the
6 following:

7 1. To restore the compelling interest test as set forth
8 in *Sherbert v. Verner*, 374 U.S. 398 (1963) and *Wisconsin v.*
9 *Yoder*, 406 U.S. 205 (1972), and to guarantee its application in
10 all cases where the free exercise of religion is substantially
11 burdened by state action.

12 2. That this chapter be interpreted consistent with the
13 Religious Freedom Restoration Act of 1993, 42 U.S.C. §2000bb et
14 seq., federal case law, and federal jurisprudence.

15 3. To provide a claim or defense to a person whose exercise
16 of religion is substantially burdened by state action.

17 Sec. 3. NEW SECTION. 675.3 Definitions.

18 As used in this chapter, unless the context otherwise
19 requires:

20 1. "*Demonstrates*" means meets the burdens of going forward
21 with the evidence and of persuasion.

22 2. "*Exercise of religion*" means the practice or observance
23 of religion, including any action that is motivated by a
24 sincerely held religious belief, whether or not the exercise is
25 compelled by, or central to, a system of religious belief.

26 3. "*Government*" includes a branch, department, agency,
27 instrumentality, political subdivision, official, or other
28 person acting under color of law of the state.

29 4. "*State law*" includes without limitation a law, ordinance,
30 or resolution of a political subdivision.

31 Sec. 4. NEW SECTION. 675.4 Free exercise of religion
32 protected.

33 1. Government shall not substantially burden a person's
34 exercise of religion, even if the burden results from a rule
35 of general applicability, unless it is demonstrated that

1 applying the burden to that person's exercise of religion is
2 in furtherance of a compelling governmental interest and is
3 the least restrictive means of furthering that compelling
4 governmental interest.

5 2. A person whose exercise of religion has been burdened
6 in violation of this chapter may assert such violation as a
7 claim or defense in a judicial or administrative proceeding
8 and obtain appropriate relief. Standing to assert a claim or
9 defense under this chapter shall be governed by the general
10 rules of standing under state and federal law.

11 Sec. 5. NEW SECTION. **675.5 Applicability.**

12 This chapter applies to all state and local laws and the
13 implementation of state and local laws, whether statutory
14 or otherwise, and whether adopted before, on, or after the
15 effective date of this Act.

16 Sec. 6. NEW SECTION. **675.6 Exemptions.**

17 This chapter does not apply to the department of
18 corrections, a district department of correctional services, a
19 county jail, or any other detention facility.

20 Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
21 immediate importance, takes effect upon enactment.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill relates to the standard of judicial review when a
26 state action burdens a person's exercise of religion.

27 Under current law, a court is not required to apply
28 heightened scrutiny when reviewing a law that burdens a
29 person's exercise of religion when such law is generally
30 applicable. The bill provides that a court shall apply
31 heightened scrutiny in such cases, so that state action cannot
32 substantially burden a person's exercise of religion unless it
33 is demonstrated that applying the law of general applicability
34 is in furtherance of a compelling governmental interest and is
35 the least restrictive means of furthering that interest. The

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1 bill provides that a person whose exercise of religion has been
2 burdened by state action may assert such violation as a claim
3 or defense in a judicial or administrative proceeding.

4 The bill does not apply to the department of corrections, a
5 district department of correctional services, a county jail, or
6 other detention facility.

7 The bill takes effect upon enactment.