

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE DRS45282-MM-8D* (01/02)

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

Sponsors: Senators Daniel, Newton, and Soucek (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 General Statutes is amended by adding a new
6 Article to read:

7 "Article 9.

8 "The North Carolina Religious Freedom Restoration Act.

9 **§ 147-100. Short Title.**

10 This Article shall be known and may be cited as the North Carolina Religious Freedom
11 Restoration Act.

12 **§ 147-101. Purpose.**

13 The purposes of this Article are to ensure that in all cases where State action burdens the
14 exercise of religion, strict scrutiny is applied; and to provide a claim or defense to a person or
15 persons whose exercise of religion is burdened by State action.

16 **§ 147-102. Definitions.**

17 The following definitions apply in this Article (North Carolina Religious Freedom
18 Restoration Act):

- 19 (1) Burden. – Any action that directly or indirectly constrains, inhibits, curtails,
20 or denies the exercise of religion by any person or compels any action
21 contrary to a person's exercise of religion, and includes, but is not limited to,
22 withholding benefits; assessing criminal, civil, or administrative penalties; or
23 exclusion from governmental programs or access to governmental facilities.
24 (2) Compelling governmental interest. – A governmental interest of the highest
25 magnitude that cannot otherwise be achieved without burdening the exercise
26 of religion.
27 (3) Exercise of religion. – The practice or observance of religion. It includes, but
28 is not limited to, the ability to act or refuse to act in a manner substantially
29 motivated by one's sincerely held religious beliefs, whether or not the
30 exercise is compulsory or central to a larger system of religious belief.
31 (4) Person. – Any individual, association, partnership, corporation, church,
32 religious institution, estate, trust, foundation, or other legal entity.
33 (5) State action. – The implementation or application of any law, including, but
34 not limited to, State and local laws, ordinances, rules, regulations, and
35 policies, whether statutory or otherwise, or other action by the State or any



1 political subdivision thereof and any local government, municipality,
2 instrumentality, or public official authorized by law in the State.

3 **"§ 147-103. Free Exercise of Religion Protected.**

4 (a) State action shall not burden a person's right to exercise of religion, even if the
5 burden results from a rule of general applicability, unless it is demonstrated that applying the
6 burden to that person's exercise of religion in this particular instance:

7 (1) Is essential to further a compelling governmental interest; and

8 (2) Is the least restrictive means of furthering that compelling governmental
9 interest.

10 (b) A person whose exercise of religion has been burdened, or is likely to be burdened,
11 in violation of this Act may assert such violation or impending violation as a claim or defense
12 in a judicial proceeding, regardless of whether the State or one of its political subdivisions is a
13 party to the proceeding. The person asserting such a claim or defense may obtain appropriate
14 relief, including relief against the State or its political subdivisions. Appropriate relief includes,
15 but is not limited to, injunctive relief, declaratory relief, compensatory damages, and costs and
16 attorney fees.

17 **"§ 147-104. Limitations.**

18 (a) Nothing in this Act shall be construed to do any of the following:

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

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

24 (b) Granting government funding, benefits, or exemptions, to the extent permissible
25 under the First Amendment to the United States Constitution or Sec. 13 of Article I of the
26 North Carolina Constitution, shall not constitute a violation of this section. As used in this
27 subsection, the term "granting," used with respect to government funding, benefits, or
28 exemptions, does not include the denial of government funding, benefits, or exemptions.

29 **"§ 147-105. Severability.**

30 If any subsection or portion of this Article is declared invalid, that declaration shall not
31 affect the validity of the remaining portions."

32 **SECTION 2.** This act is effective when it becomes law and applies to cases,
33 actions, and causes of action for which the trial court has not entered final judgment as of that
34 date.