
HOUSE BILL 2631

State of Washington 64th Legislature 2016 Regular Session

By Representatives Klippert, Taylor, and Scott

Read first time 01/18/16. Referred to Committee on Judiciary.

1 AN ACT Relating to preventing discriminatory treatment by
2 government of a person or entity based on beliefs and practices held
3 with regard to marriage as the union between one man and one woman;
4 adding new sections to chapter 49.60 RCW; adding a new section to
5 chapter 19.86 RCW; creating new sections; prescribing penalties; and
6 declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** This act may be known and cited as the
9 Washington state protection of the free exercise of religious beliefs
10 and rights of conscience regarding marriage as the union of one man
11 and one woman act.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.60
13 RCW to read as follows:

- 14 (1) The legislature finds the following:
- 15 (a) The fundamental rights of religious exercise and freedom of
16 conscience are rights that existed long before the United States and
17 the state of Washington were founded, and such rights are expressly
18 recognized and protected by both the federal and state Constitutions.

1 (b) Individuals and entities must be able to act lawfully upon
2 their sincerely held religious or philosophical beliefs without
3 government coercion, intrusion, interference, or discrimination.

4 (c) It is self-evident that rights explicitly recognized and
5 protected in the federal and state Constitutions supersede rights
6 contained only in codified law or judicial opinions, especially when
7 such law or opinions impose a burden on the exercise of manifest
8 constitutional rights.

9 (d) Rights protected by the Constitution must be zealously
10 protected from government incursion by any branch of government
11 whether legislative, executive, or judicial, as a compelling state
12 interest of the highest order.

13 (e) People and organizations throughout this country and state
14 have a broad spectrum of sincerely held beliefs and practices
15 regarding the institution of marriage, and government shall not
16 disparage, marginalize, or discriminate against persons or entities
17 based on beliefs or practices regarding marriage as the union of one
18 man and one woman.

19 (2) The legislature intends by this act to recognize, protect,
20 and further the constitutionally protected rights of all individuals
21 and entities of any faith tradition or heritage, religious belief,
22 philosophical tenet, matter of conscience, or practice regarding
23 marriage as the union of one man and one woman, consistent with the
24 law, and to ensure government does not attempt to force individuals
25 or entities to accept, comply with, or conform to another person's or
26 entity's faith tradition or heritage, religious belief, philosophical
27 tenet, matter of conscience, or practice regarding marriage as the
28 union of one man and one woman.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.60
30 RCW to read as follows:

31 An individual or entity has the constitutionally and statutorily
32 recognized and protected right to choose whether or not to provide
33 services or goods related to the solemnization or celebration of
34 marriage if such marriage is contrary to the individual's or entity
35 owner's sincerely held religious belief, philosophical tenet, matter
36 of conscience, or practice regarding the institution of marriage as
37 the union of one man and one woman.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.86
2 RCW to read as follows:

3 An individual or entity has the constitutionally and statutorily
4 recognized and protected right to choose whether or not to provide
5 services or goods related to the solemnization or celebration of
6 marriage if such marriage is contrary to the individual's or entity
7 owner's sincerely held religious belief, philosophical tenet, matter
8 of conscience, or practice regarding the institution of marriage as
9 the union of one man and one woman.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 49.60
11 RCW to read as follows:

12 (1) Notwithstanding any other provision of law, the state shall
13 not take any discriminatory action against a person or entity, in
14 whole or in part, directly or indirectly, on the basis that such
15 person or entity believes or acts in accordance with a religious
16 belief or moral conviction regarding the institution of marriage as
17 the union of one man and one woman.

18 (2) For purposes of this section, "discriminatory action" means
19 any action taken by the state to:

20 (a) Alter in any way the tax treatment of, or cause any tax,
21 penalty, or payment to be assessed against, or deny, delay, or revoke
22 an exemption from taxation of any person or entity protected under
23 this section;

24 (b) Disallow a deduction for tax purposes of any charitable
25 contribution made to or by any person or entity protected under this
26 section;

27 (c) Withhold, reduce, exclude, terminate, or otherwise deny any
28 grant, contract, subcontract, cooperative agreement, loan, license,
29 certification, accreditation, employment, or other similar position
30 or status from or to any person or entity protected under this
31 section;

32 (d) Withhold, reduce, exclude, terminate, or otherwise deny any
33 benefit under a state benefit program from or to any person or entity
34 protected under this section; or

35 (e) Otherwise discriminate against any person or entity protected
36 under this section.

37 (3) The state shall consider accredited, licensed, or certified
38 for purposes of state law any person or entity protected under this
39 section that would be accredited, licensed, or certified,

1 respectively, for such purposes but for a determination against such
2 person, in whole or in part, directly or indirectly, on the basis
3 that the person believes or acts in accordance with a religious
4 belief or moral conviction regarding the institution of marriage as
5 the union of one man and one woman.

6 NEW SECTION. **Sec. 6.** A new section is added to chapter 49.60
7 RCW to read as follows:

8 For purposes of this act the following apply:

9 (1) A person or entity has standing to assert and may assert an
10 actual or threatened violation of this act by the state as a claim or
11 defense in any judicial or administrative proceeding and obtain
12 compensatory damages, injunctive relief, declaratory relief, or any
13 other appropriate relief against the state.

14 (2) Notwithstanding any other provision of law, an action under
15 this section may be commenced, and relief may be granted, in the
16 superior court without regard to whether the person or entity
17 commencing the action has sought or exhausted available
18 administrative remedies.

19 (3) The court, in its discretion, may allow the prevailing party
20 or entity, other than the state, a reasonable attorneys' fee as part
21 of the costs awarded to the prevailing party.

22 (4) The attorney general may bring an action for injunctive or
23 declaratory relief against the state for the purpose of enforcing
24 this act. Nothing in this subsection may be construed to deny,
25 impair, or otherwise affect any right or authority of the attorney
26 general or other agency of the state, acting under any law other than
27 this subsection, to institute or intervene in any proceeding.

28 NEW SECTION. **Sec. 7.** A new section is added to chapter 49.60
29 RCW to read as follows:

30 (1) This act must be construed in favor of a broad protection of
31 free exercise of religious beliefs and moral convictions, to the
32 maximum extent permitted by the terms of this act and the federal and
33 state Constitutions.

34 (2) Nothing in this act may be construed to preempt any state or
35 federal law that is equally or more protective of free exercise of
36 religious beliefs and moral convictions.

1 (3) Nothing in this act may be construed to narrow the meaning or
2 application of any state or federal law protecting free exercise of
3 religious beliefs and moral convictions.

4 (4) Nothing in this act may be construed to prevent the state
5 from providing, either directly or through a person or entity not
6 seeking protection under this act, any benefit or service authorized
7 under state or federal law.

8 NEW SECTION. **Sec. 8.** A new section is added to chapter 49.60
9 RCW to read as follows:

10 The definitions in this section apply throughout this act unless
11 the context clearly requires otherwise.

12 (1) "Lawfully" or "consistent with the law" means any act that
13 does not otherwise constitute a crime, an act of licentiousness, or
14 an act inconsistent with the peace and safety of the state.

15 (2) "Man" and "woman" means male or female as determined
16 genetically or biologically.

17 (3) "Person" or "entity" means an individual, corporation,
18 business trust, estate, trust, partnership, association, joint
19 venture, or other legal or commercial entity, and includes any such
20 person or entity regardless of religious affiliation or lack thereof
21 and regardless of for-profit or nonprofit status. The term does not
22 include the state.

23 (4) "State" means the state of Washington and any political
24 subdivision of the state, including any agency, officer, employee, or
25 agent thereof.

26 NEW SECTION. **Sec. 9.** This act applies retroactively to any
27 action or claim based on a violation of chapter 49.60 or 19.86 RCW
28 that was filed on or after December 6, 2012, in which an order by the
29 highest court of appeal has not been issued or become final and
30 binding as of July 31, 2016.

31 NEW SECTION. **Sec. 10.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

35 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

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