

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2681

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

10 **SECTION 1.** (1) This act shall be known and may be cited as
11 the Mississippi Religious Freedom Restoration Act.

12 (2) The Mississippi Legislature finds the following:

13 (a) The free exercise of religion is an inherent,
14 fundamental, and inalienable right secured by Article I, Section 3
15 of the United States Constitution.

16 (b) Laws "neutral" toward religion, as well as laws
17 intended to interfere with the exercise of religion, may burden
18 the exercise of religion.



19 (c) Government should not substantially burden the
20 exercise of religion without compelling justification.

21 (d) In *Employment Division v. Smith*, 494 U.S. 872
22 (1990) the Supreme Court virtually eliminated the requirement
23 under the First Amendment to the United States Constitution that
24 government justify burdens on the exercise of religion imposed by
25 laws neutral toward religion.

26 (e) In *City of Boerne v. P. F. Flores*, 65 LW 4612
27 (1997) the Supreme Court held that an act passed by Congress to
28 address the matter of burdens placed on the exercise of religion
29 infringed on the legislative powers reserved to the states under
30 the Constitution of the United States.

31 (f) The compelling interest test, as set forth in
32 *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and *Sherbert v. Verner*,
33 374 U.S. 398 (1963), is a workable test for striking sensible
34 balances between religious liberty and competing governmental
35 interests.

36 (3) The purposes of this act are as follows:

37 (a) To restore the compelling interest test as set
38 forth in *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and *Sherbert v.*
39 *Verner*, 374 U.S. 398 (1963), and to guarantee that a test of
40 compelling governmental interest will be imposed on all state and
41 local laws, ordinances, policies, procedures, practices, and
42 governmental actions in all cases in which the free exercise of
43 religion is substantially burdened.



44 (b) To provide a claim or defense to persons whose
45 exercise of religion is substantially burdened by government.

46 (4) As used in this act:

47 (a) "Substantially Burden" means any state action that
48 directly or indirectly substantially constrains, inhibits,
49 curtails or denies the exercise of religion by any person or
50 substantially compels any action contrary to a person's exercise
51 of religion. "Burden" includes, but is not limited to,
52 withholding benefits, assessing criminal, civil or administrative
53 penalties or exclusion from governmental programs or access to
54 governmental facilities.

55 (b) "Compelling governmental interest" means a
56 government interest of the highest magnitude that cannot otherwise
57 be achieved without burdening the exercise of religion.

58 (c) "Exercise of religion" means the practice or
59 observance of religion. "Exercise of religion" includes, but is
60 not limited to, the ability to act or the refusal to act in a
61 manner that is substantially motivated by one's sincerely held
62 religious belief, whether or not the exercise is compulsory or
63 central to a larger system of religious belief.

64 (d) "State action" means any law, and the
65 implementation of that law by the government, including, but not
66 limited to, state and local laws, ordinances, rules, regulations
67 and policies, whether statutory or otherwise, or any other action
68 by the state, a political subdivision of the state, an



69 instrumentality of the state or political subdivision of the
70 state, or a public official that is authorized by law in the
71 state.

72 (5) (a) State action shall not substantially burden a
73 person's right to exercise of religion, even if such burden
74 results from a rule of general applicability, unless it is
75 demonstrated that applying such burden to that person's exercise
76 of religion in that particular instance is both of the following:

77 (i) Essential to further a compelling governmental
78 interest;

79 (ii) The least restrictive means of furthering
80 that compelling governmental interest.

81 (b) A person whose exercise of religion has been
82 substantially burdened or is likely to be substantially burdened
83 in violation of this section may assert that violation or
84 impending violation as a claim or defense in a judicial
85 proceeding. The person asserting that claim or defense may obtain
86 appropriate relief against the state or a political subdivision of
87 the state. Appropriate relief includes, but is not limited to,
88 injunctive relief, declaratory relief, compensatory damages, and
89 the recovery of costs and reasonable attorney's fees.

90 (6) Nothing in this act shall create any rights by an
91 employee against an employer if the employer is not a governmental
92 agency.



93 **SECTION 2.** The official seal of the State of Mississippi
94 shall have the inscription "The Great Seal of the State of
95 Mississippi," around the sides and top of the margin, and the
96 inscription "In God We Trust" flanked on each side by a five-point
97 star around the bottom of the margin, and in the center an eagle
98 with the stars and stripes in a shield adorning its chest and
99 olive branch and quiver arrows in its claws.

100 **SECTION 3.** All state agencies shall continue to use
101 stationery and other supplies having the great seal thereon as it
102 existed before July 1, 2014, until such stationery and other
103 supplies are depleted. The great seal as it existed before July
104 1, 2014, affixed on any public buildings or other property shall
105 remain thereon until the replacement of the seal due to normal
106 wear or until replacement with any nonpublic funds.

107 **SECTION 4.** This act shall take effect and be in force from
108 and after July 1, 2014.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO ENACT THE MISSISSIPPI RELIGIOUS FREEDOM RESTORATION
2 ACT; TO PROVIDE THAT STATE ACTION SHALL NOT SUBSTANTIALLY BURDEN A
3 PERSON'S RIGHT TO THE EXERCISE OF RELIGION; TO PRESCRIBE THE
4 CONTENTS OF THE GREAT SEAL OF THE STATE OF MISSISSIPPI; TO PROVIDE
5 THAT STATE AGENCIES SHALL CONTINUE TO USE STATIONERY AND OTHER
6 SUPPLIES HAVING THE GREAT SEAL AS IT EXISTED AS OF JULY 1, 2014,
7 UNTIL SUPPLIES OF SUCH ITEMS ARE DEPLETED; AND FOR RELATED
8 PURPOSES.

