

South Carolina Religious Freedom Act

Title 1 - Administration of the Government

CHAPTER 32

South Carolina Religious Freedom Act

SECTION 1-32-10. Short title.

This chapter may be cited as the "South Carolina Religious Freedom Act".

SECTION 1-32-20. Definitions.

In this chapter:

- (1) "Demonstrates" means meets the burdens of going forward with the evidence and of persuasion.
- (2) "Exercise of religion" means the exercise of religion under the First Amendment to the United States Constitution or Article I, Section 2 of the State Constitution.
- (3) "Person" includes, but is not limited to, an individual, corporation, firm, partnership, association, or organization.
- (4) "State" means the State of South Carolina and any political subdivision of the State and includes a branch, department, agency, board, commission, instrumentality, entity, or officer, employee, official of the State or a political subdivision of the State, or any other person acting under color of law.

SECTION 1-32-30. Purposes of chapter.

The purposes of this chapter are to:

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

SECTION 1-32-40. Restriction on state's ability to burden exercise of religion.

The State may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, unless the State demonstrates that application of the burden to the person is:

- (1) in furtherance of a compelling state interest; and
- (2) the least restrictive means of furthering that compelling state interest.

SECTION 1-32-45. Inmate litigation.

This chapter does not affect the application of and must be applied in conjunction with Chapter 27 of Title 24, concerning inmate litigation.

SECTION 1-32-50. Burden on exercise of religion a claim or defense; attorney's fees.

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

SECTION 1-32-60. Applicability; construction.

(A) This chapter applies to all state and local laws and ordinances and the implementation of those laws and ordinances, whether statutory or otherwise, and whether adopted before or after the effective date of this act.

(B) Nothing in this chapter may be construed to authorize the State to burden any religious belief.

(C) Nothing in this chapter may be construed to affect, interpret, or in any way address:

(1) that portion of the First Amendment of the United States Constitution prohibiting laws respecting the establishment of religion;

(2) that portion of Article I, Section 2 of the State Constitution prohibiting laws respecting the establishment of religion.

(D) Granting state funding, benefits, or exemptions, to the extent permissible under the constitutional provisions enumerated in subsection (C)(1) and (2), does not constitute a violation of this chapter.

As used in this subsection, "granting", with respect to state funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.