
A BILL FOR AN ACT

RELATING TO RELIGIOUS LIBERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The First Amendment to the U.S. Constitution
2 and Article I, section 4 of the Hawaii Constitution both protect
3 the right to free exercise of religion. The legislature finds
4 that if same-sex marriage becomes legal in Hawaii, it will be
5 imperative to protect our nation's long and rich tradition of
6 religious freedom. In particular, many religious communities
7 and religiously committed persons have a deeply held
8 understanding of marriage as a relationship that can exist only
9 between a man and a woman. Without legislative safeguards, many
10 religious individuals will be forced to engage in conduct that
11 violates their deepest religious beliefs.

12 Therefore, the purpose of this Act is to amend the law on
13 discrimination in public accommodations by ensuring that private
14 individuals, sole proprietors, and owners of small businesses
15 are protected from any type of civil or criminal liability for
16 refusing to provide goods, services, facilities, privileges,
17 advantages, or accommodations that assist or promote the
18 solemnization or celebration of any marriage or civil union, or



1 that directly facilitate the perpetuation of any marriage or
2 civil union, if providing such goods, services, facilities,
3 privileges, advantages, or accommodations would cause such
4 individuals, sole proprietors, or owners of such small
5 businesses to violate their sincerely held religious beliefs.

6 SECTION 2. Section 489-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§489-3 Discriminatory practices prohibition.** (a) Unfair
9 discriminatory practices that deny, or attempt to deny, a person
10 the full and equal enjoyment of the goods, services, facilities,
11 privileges, advantages, and accommodations of a place of public
12 accommodation on the basis of race, sex, including gender
13 identity or expression, sexual orientation, color, religion,
14 ancestry, or disability are prohibited.

15 (b) Notwithstanding any other law to the contrary, and
16 except as provided in subsection (c), no individual, sole
17 proprietor, or small business shall be required to:

18 (1) Provide goods or services that assist or promote the
19 solemnization or celebration of any marriage or civil
20 union, or provide counseling or other services that
21 directly facilitate the perpetuation of any marriage
22 or civil union; or



1 (2) Provide housing or lodging to any couple,
2 if providing such goods, services, housing, or lodging would
3 cause such individuals, sole proprietors, or owners of such
4 small businesses to violate their sincerely held religious
5 beliefs.

6 For the purpose of this subsection, "small business" means:
7 a legal entity other than a natural person that provides
8 services which are primarily performed by an owner of the
9 business; or a legal entity that has five or fewer employees; or
10 in the case of a legal entity that offers housing or lodging for
11 rent, that owns five or fewer units of housing or lodging.

12 (c) Subsection (b) shall not apply if a party to the
13 marriage or civil union is unable to obtain any similar goods or
14 services, or housing or lodging elsewhere, without substantial
15 hardship.

16 (d) Notwithstanding any other provision in this chapter,
17 no refusal to provide goods, services, facilities, privileges,
18 advantages, or accommodations pursuant to subsection (b) shall
19 constitute an unfair discriminatory practice and shall not
20 result in any civil or criminal claim or cause of action
21 challenging such refusal, nor result in any action by the State
22 or any of its political subdivisions to penalize or withhold



1 benefits or privileges, including but not limited to tax
2 exemptions or governmental contracts, grants, or licenses, from
3 any protected entity or individual."

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. If any provision of this Act, or the
6 application thereof to any person or circumstance, is held
7 invalid, the invalidity does not affect other provisions or
8 applications of the Act that can be given effect without the
9 invalid provision or application, and to this end the provisions
10 of this Act are severable.

11 SECTION 5. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 6. This Act shall take effect upon its approval,
15 but only if S.B. No. 1 in any form passed by the legislature
16 during the second special session of 2013 becomes an Act.

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INTRODUCED BY:

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Report Title:

Religious Liberty; Public Accommodations Exemption

Description:

Exempts certain persons from having to provide goods, services, facilities, privileges, advantages, or accommodations that assist or promote the solemnization or celebration of any marriage or civil union, or that directly facilitate the perpetuation of any marriage or civil union, if doing so would cause such persons to violate their sincerely held religious beliefs.

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