

113TH CONGRESS
1ST SESSION

S. 1808

To prevent adverse treatment of any person on the basis of views held
with respect to marriage.

IN THE SENATE OF THE UNITED STATES

DECEMBER 12 (legislative day, DECEMBER 11), 2013

Mr. LEE (for himself, Mr. VITTER, Mr. INHOFE, Mr. ROBERTS, Mr. COBURN,
Mr. RUBIO, Mr. HATCH, Mr. BLUNT, Mr. WICKER, Mr. RISCH, Mr. GRA-
HAM, and Mr. COCHRAN) introduced the following bill; which was read
twice and referred to the Committee on the Judiciary

A BILL

To prevent adverse treatment of any person on the basis
of views held with respect to marriage.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marriage and Religious
5 Freedom Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Leading legal scholars concur that conflicts
2 between same-sex marriage and religious liberty are
3 real and should be legislatively addressed.

4 (2) As the President stated in response to the
5 decision of the Supreme Court on the Defense of
6 Marriage Act in 2013, “Americans hold a wide
7 range of views” on the issue of same-sex marriage,
8 and “maintaining our Nation’s commitment to reli-
9 gious freedom” is “vital”.

10 (3) Protecting religious freedom from Govern-
11 ment intrusion is a Government interest of the high-
12 est order. Legislatively enacted measures advance
13 this interest by remedying, deterring, and preventing
14 Government interference with religious exercise in a
15 way that complements the protections mandated by
16 the First Amendment to the Constitution of the
17 United States.

18 (4) Laws that protect the free exercise of reli-
19 gious beliefs about marriage will encourage private
20 citizens and institutions to demonstrate similar tol-
21 erance and therefore contribute to a more respectful,
22 diverse, and peaceful society.

1 **SEC. 3. PROTECTION OF THE FREE EXERCISE OF RELI-**
2 **GIUS BELIEFS.**

3 (a) IN GENERAL.—Notwithstanding any other law to
4 the contrary, the Federal Government shall not take an
5 adverse action against a person, wholly or partially on the
6 basis that such person acts in accordance with a religious
7 belief that marriage is or should be recognized as the
8 union of one man and one woman, or that sexual relations
9 are properly reserved to such a marriage.

10 (b) ADVERSE ACTION DEFINED.—As used in sub-
11 section (a), an adverse action means any action taken by
12 the Federal Government to—

13 (1) deny or revoke an exemption from taxation
14 under section 501(a) of the Internal Revenue Code
15 of 1986 of the person who is acting in accordance
16 with the religious belief referred to in subsection (a);

17 (2) disallow a deduction for Federal tax pur-
18 poses of any charitable contribution made to or by
19 such person;

20 (3) alter in any way the Federal tax treatment
21 of, or cause any tax, penalty, or payment to be as-
22 sessed against, such person or such person's employ-
23 ees with respect to any benefit provided or not pro-
24 vided by such person to such person's employees,
25 wholly or partially on the basis that the benefit is

1 provided or not provided on account of a religious
2 belief referred to in subsection (a);

3 (4) deem any employee benefit plan covering
4 employees of such person to have lost its status as
5 a “qualified plan” under section 401(a) of the Inter-
6 nal Revenue Code of 1986, or to be in violation of
7 any part of the Employee Retirement Income Secu-
8 rity Act of 1974 (29 U.S.C. 1001 et seq.), wholly or
9 partially on the basis that the benefit plan fails to
10 provide a benefit, right, or feature on account of
11 such person’s religious belief referred to in sub-
12 section (a);

13 (5) deny or exclude such person from receiving
14 any Federal grant, contract, cooperative agreement,
15 loan, license, certification, accreditation, employ-
16 ment, or other similar position or status;

17 (6) deny or withhold from such person any ben-
18 efit under a Federal benefit program; or

19 (7) otherwise discriminate against such person.

20 **SEC. 4. JUDICIAL RELIEF.**

21 (a) CAUSE OF ACTION.—A person may assert an ac-
22 tual or threatened violation of this Act as a claim or de-
23 fense in a judicial proceeding and obtain compensatory
24 damages, injunctive relief, declaratory relief, or any other
25 appropriate relief against the Federal Government. Stand-

1 ing to assert a claim or defense under this section shall
2 be governed by the general rules of standing under Article
3 III of the Constitution.

4 (b) ATTORNEYS' FEES.—Section 722(b) of the Re-
5 vised Statutes (42 U.S.C. 1988(b)) is amended by insert-
6 ing “the Marriage and Religious Freedom Act,” after “the
7 Religious Land Use and Institutionalized Persons Act of
8 2000,”.

9 (c) AUTHORITY OF UNITED STATES TO ENFORCE
10 THIS ACT.—The Attorney General may bring an action
11 for injunctive or declaratory relief against an independent
12 establishment described in section 104(1) of title 5, United
13 States Code, or an officer or employee of that independent
14 establishment, to enforce compliance with this Act. Noth-
15 ing in this subsection shall be construed to deny, impair,
16 or otherwise affect any right or authority of the Attorney
17 General, the United States, or any agency, officer, or em-
18 ployee of the United States, acting under any law other
19 than this subsection, to institute or intervene in any pro-
20 ceeding.

21 **SEC. 5. RULES OF CONSTRUCTION.**

22 (a) BROAD CONSTRUCTION.—This Act shall be con-
23 strued in favor of a broad protection of religious beliefs
24 described in section 3, to the maximum extent permitted
25 by the terms of this Act and the Constitution.

1 (b) NO PREEMPTION, REPEAL, OR NARROW CON-
2 STRUCTION.—Nothing in this Act shall be construed to
3 preempt State law, or repeal Federal law, that is equally
4 as protective of religious beliefs as, or more protective of
5 religious beliefs than, this Act. Nothing in this Act shall
6 be considered to narrow the meaning or application of any
7 other State or Federal law protecting religious beliefs.

8 (c) SEVERABILITY.—If any provision of this Act or
9 any application of such provision to any person or cir-
10 cumstance is held to be unconstitutional, the remainder
11 of this Act and the application of the provision to any
12 other person or circumstance shall not be affected.

13 **SEC. 6. DEFINITIONS.**

14 In this Act:

15 (1) FEDERAL BENEFIT PROGRAM.—The term
16 “Federal benefit program” has the meaning given
17 that term in section 552a of title 5, United States
18 Code.

19 (2) FEDERAL GOVERNMENT.—The term “Fed-
20 eral Government” includes each authority of any
21 branch of the Government of the United States.

22 (3) PERSON.—The term “person” means a per-
23 son as defined in section 1 of title 1, United States
24 Code, and includes any such person regardless of re-

- 1 religious affiliation or lack thereof, and regardless of
- 2 for-profit or nonprofit status.

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