H. R. 2802

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2015

Mr. Labrador (for himself, Mr. Collins of Georgia, Mr. Jones, Mr. Sessions, Mr. Duncan of South Carolina, Mrs. Hartzler, Mr. Cramer, Mr. Neugebauer, Mr. Pearce, Mr. Lamborn, Mr. Sam Johnson of Texas, Mr. Sanford, Mrs. Blackburn, Mr. Rothfus, Mr. Franks of Arizona, Mr. Mullin, Mr. Pompeo, Mr. Smith of Texas, Mr. Pittenger, Mr. Walberg, Mr. Jody B. Hice of Georgia, Mr. Marchant, Mr. Lipinski, Mr. Jordan, Mr. Palmer, Mr. Meadows, Mr. Allen, Mr. Huelskamp, Mr. Pitts, Mr. Graves of Georgia, Mr. Miller of Florida, Mr. Garrett, Mr. Fincher, Mr. Salmon, Mr. Westmoreland, Mr. Smith of New Jersey, Mr. Grothman, Mr. Harris, Mrs. Wagner, Mr. Weber of Texas, Mr. Fleming, Mr. Kelly of Pennsylvania, Mr. Babin, Mr. Yoho, Mr. Chaffetz, Mr. Fortenberry, Mr. Palazzo, Mr. Carter of Texas, Mr. Rouzer, Mrs. Black, Mr. Brat, Mr. Mooney of West Virginia, Mr. Gosar, Mr. Bishop of Utah, Mrs. Love, Mr. Gowdy, Mr. Aderholt, and Mr. Stewart) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prevent discriminatory treatment of any person on the basis of views held with respect to marriage.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “First Amendment De-
fense Act”.

SEC. 2. FINDINGS.

Congress finds the following:

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

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

(3) Nevertheless, in 2015, when asked whether
a religious school could lose its tax-exempt status for
opposing same-sex marriage, the Solicitor General of
the United States represented to the United States
Supreme Court that “[i]t’s certainly going to be an
issue”.

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

(5) Laws that protect the free exercise of reli-
gious beliefs and moral convictions about marriage
will encourage private citizens and institutions to
demonstrate tolerance for those beliefs and convic-
tions and therefore contribute to a more respectful,
diverse, and peaceful society.

SEC. 3. PROTECTION OF THE FREE EXERCISE OF RELI-
GIOUS BELIEFS AND MORAL CONVICTIONS.

(a) IN GENERAL.—Notwithstanding any other provi-
sion of law, the Federal Government shall not take any
discriminatory action against a person, wholly or partially
on the basis that such person believes or acts in accord-
ance with a religious belief or moral conviction that mar-
riage is or should be recognized as the union of one man
and one woman, or that sexual relations are properly re-
served to such a marriage.

(b) DISCRIMINATORY ACTION DEFINED.—As used in
subsection (a), a discriminatory action means any action
taken by the Federal Government to—
(1) alter in any way the Federal tax treatment of, or cause any tax, penalty, or payment to be assessed against, or deny, delay, or revoke an exemption from taxation under section 501(a) of the Internal Revenue Code of 1986 of, any person referred to in subsection (a);

(2) disallow a deduction for Federal tax purposes of any charitable contribution made to or by such person;

(3) withhold, reduce, exclude, terminate, or otherwise deny any Federal grant, contract, subcontract, cooperative agreement, loan, license, certification, accreditation, employment, or other similar position or status from or to such person;

(4) withhold, reduce, exclude, terminate, or otherwise deny any benefit under a Federal benefit program from or to such person; or

(5) otherwise discriminate against such person.

(c) ACCREDITATION; LICENSURE; CERTIFICATION.—
The Federal Government shall consider accredited, licensed, or certified for purposes of Federal law any person that would be accredited, licensed, or certified, respectively, for such purposes but for a determination against such person wholly or partially on the basis that the person believes or acts in accordance with a religious belief.
or moral conviction that marriage is or should be recognized as the union of one man and one woman, or that sexual relations are properly reserved to such a marriage.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert an actual or threatened violation of this Act as a claim or defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, or any other appropriate relief against the Federal Government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under Article III of the Constitution.

(b) ADMINISTRATIVE REMEDIES NOT REQUIRED.—Notwithstanding any other provision of law, an action under this section may be commenced, and relief may be granted, in a United States district court without regard to whether the person commencing the action has sought or exhausted available administrative remedies.

(c) ATTORNEYS’ FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting “the First Amendment Defense Act,” after “the Religious Land Use and Institutionalized Persons Act of 2000,”.

(d) AUTHORITY OF UNITED STATES TO ENFORCE THIS ACT.—The Attorney General may bring an action
for injunctive or declaratory relief against an independent
establishment described in section 104(1) of title 5, United
States Code, or an officer or employee of that independent
establishment, to enforce compliance with this Act. Nothing
in this subsection shall be construed to deny, impair,
or otherwise affect any right or authority of the Attorney
General, the United States, or any agency, officer, or em-
ployee of the United States, acting under any law other
than this subsection, to institute or intervene in any pro-
ceeding.

SEC. 5. RULES OF CONSTRUCTION.

(a) Broad Construction.—This Act shall be con-
strued in favor of a broad protection of free exercise of
religious beliefs and moral convictions, to the maximum
extent permitted by the terms of this Act and the Con-
stitution.

(b) No Preemption, Repeal, or Narrow Con-
struction.—Nothing in this Act shall be construed to
preempt State law, or repeal Federal law, that is equally
or more protective of free exercise of religious beliefs and
moral convictions. Nothing in this Act shall be construed
to narrow the meaning or application of any State or Fed-
eral law protecting free exercise of religious beliefs and
moral convictions. Nothing in this Act shall be construed
to prevent the Federal Government from providing, either
directly or through a person not seeking protection under this Act, any benefit or service authorized under Federal law.

(c) SEVERABILITY.—If any provision of this Act or any application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. DEFINITIONS.

In this Act:

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

(2) FEDERAL GOVERNMENT.—The term “Federal Government” includes each authority of any branch of the Government of the United States.

(3) PERSON.—The term “person” means a person as defined in section 1 of title 1, United States Code, and includes any such person regardless of religious affiliation or lack thereof, and regardless of for-profit or nonprofit status.

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