

## General Facts about Religious Freedom Restoration Acts (RFRA)

In a bipartisan effort, RFRA was signed into federal law in 1993 in response to the U.S. Supreme Court decision in *Employment Div., Ore. Dept. of Human Res. v. Smith* of 1990, a ruling which had lowered the bar for protecting religious liberty claims. RFRA effectively limits the reach of government interference in the free exercise of religion.

The federal RFRA only applies to federal laws. It does not apply to state laws and state policies. Therefore, over 20 states have passed state versions of RFRA, and judges in 13 additional states have affirmed RFRA-based protections for their states' citizens. All the states that border Georgia - Florida, Tennessee, South Carolina, and Alabama - have state RFRA. Georgia also needs to pass RFRA to protect religious liberty.

RFRA was written to protect the free exercise of religion, particularly from it being impacted by laws or policies that appear neutral toward religion, yet have negative repercussions on religious liberty, such as the Affordable Care Act. RFRA restores the highest standard of judicial review for religious liberty claims, the same standard that been used prior to the 1990 *Oregon v. Smith* ruling. RFRA's restoration of this strict scrutiny standard ensures that government cannot substantially burden the free exercise of religion without compelling justification of the highest order and that government must use the least restrictive means to accomplish its objective. Thus, Hobby Lobby won its religious liberty claim against the federal health care law that mandated employers to include abortion-inducing drugs in insurance plans.

RFRA ensures that all religious faiths are treated equally under the law and greatly helps prevent discrimination against religious people. RFRA is supported by the nation's largest faith communities: Catholic, Baptist, Evangelical, Mormon, and Orthodox Jewish.

Religious freedom litigators explain that RFRA's greatest practical value is in litigation *avoidance*: it gives religious people and institutions much greater bargaining power in dealing with government bureaucrats and the attorneys who advise them. In the absence of RFRA, bureaucracies almost always have the advantage. RFRA instead puts the burden on government to justify actions that infringe on religious liberty and to use the least restrictive means available. However, RFRA is not a guarantee that those making a religious claim will win their case. RFRA merely provides firm statutory language upon which a robust defense against government action can be mounted.

The political left has generally turned against RFRA due to their fears that it could conflict with their other political priorities. For example, LGBT rights groups are now generally opposed to RFRA because they want sexual freedom to trump religious freedom. Most abortion rights activists are also generally opposed to RFRA since the Hobby Lobby ruling of the U.S. Supreme Court struck down a portion of the Health and Human Services abortion drug and contraception mandate in the Affordable Care Act. Global businesses generally oppose RFRA and bring their heavy lobbying expertise to bear upon government leaders. In Georgia, this list has included businesses such as Home Depot, Coca-Cola, and Delta Airlines to name a few - leading members of the Georgia Chamber of Commerce.

As the State of Indiana saw, opponents take extreme positions against RFRA and create many false arguments against the legislation. Religious liberty is unpopular with those who want a monopoly for their ideology. Do not be fooled by arguments from the left that RFRA will create discrimination. Instead, RFRA protects religious citizens from government discrimination and from bully tactics that seek to coerce religious believers to conform to secular views.

Religious liberty is a cornerstone of all liberty. It is a basic human right. Americans are stewards of this great blessing. Our nation was founded on the principles of freedom, and the free exercise of religion has always been recognized as an active, vibrant part of all society. RFRA honors religious diversity. Without RFRA and other laws specifically addressing the right of religious expression in the marketplace and the public square, the courts may soon begin interpreting the First Amendment to apply only to the free exercise of religion within the confines of houses of worship and other religious ministries. For a nation that has been the world's best steward of religious liberty, if we don't protect religious liberty here, what will that mean for the rest of the world?

For more, visit [www.georgiareligiousfreedom.com](http://www.georgiareligiousfreedom.com).

## **RFRA's Can Help Protect . . .**

Churches, synagogues, and other houses of worship when local government actions deny permits to use or build facilities on unequal terms with secular structures.

Home-based churches and Bible study groups that face eviction on unequal terms with large gatherings (like parties) who meet in homes for secular purposes.

Church ministries who have faced bans by local governments on ministries that help ex-prisoners or feed the homeless.

Pharmacists who wish not to be forced to fill prescriptions for drugs that cause abortion and other medical professionals who wish not to participate in surgical abortions.

Public school students who face discipline for refusing school assignments that they consider blasphemous.

Public school students who face discipline for wearing religious symbols or other religious garb to school.

Orthodox Jews whose religion forbids postmortem desecration of the body from being forced into routine mandatory autopsies.

University students who want to exercise their freedom of association in religious clubs on campus.

University students who want to complete their courses of study without fear that their religious viewpoints will interfere with their grades or with their chosen degree programs.

Home school parents who have religious objections to onerous state regulations on the education of their children.

Religious adoption services which adhere to religious guidelines for choosing the proper families to adopt children.

## **Regarding Georgia and RFRA Last Year**

During the 2014 Georgia General Assembly, Senator Josh McKoon authored SB 377, a state RFRA which passed the Senate Judiciary Committee. The bill was slated to come out of the Rules Committee onto the Senate floor for a vote, but lobbyists representing several big companies that are headquartered in Georgia met with the Rules Chairman to ask him to hold the bill. He held the bill, which meant that the process had to begin anew in 2015 because 2014 was the end of the two-year session.

In addition, Rep. Sam Teasley authored a similar bill in the House, HB 1023. However, a hearing room filled with a standing-room crowd of Georgia Equality activists, a LGBT lobbyist organization, ended the bill's chances.

## **Regarding Georgia and RFRA in 2015**

Sen. Josh McKoon sponsored SB 129, which passed the Senate and awaits action in the House next year. The bill currently sits in the House Judiciary Committee. Rep. Sam Teasley also authored a House version of the bill, HB 218, but it has not received a hearing.