

HB 542 - AS AMENDED BY THE SENATE

9Apr2021... 0623h  
05/27/2021 1712s

2021 SESSION

21-0726  
05/08

HOUSE BILL **542**

AN ACT relative to the protection of religious liberty.

SPONSORS: Rep. Ammon, Hills. 40; Rep. Kofalt, Hills. 4; Rep. O'Hara, Belk. 9

COMMITTEE: Judiciary

-----  
AMENDED ANALYSIS

This bill provides that, during a state of emergency, the state shall permit religious organizations to operate to the same degree as other organizations that provide essential services or are vital to public health and welfare.

-----  
---  
Explanation: Matter added to current law appears in **bold italics**.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

9Apr2021... 0623h  
05/27/2021 1712s 21-0726  
05/08

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT relative to the protection of religious liberty.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 New Chapter; Protection of Religious Liberty. Amend RSA by inserting after chapter 546-B the following new chapter:

CHAPTER 546-C  
PROTECTION OF RELIGIOUS LIBERTY

546-C:1 Definitions. In this chapter:

- I. "Exercise of religion" means the practice or observance of religion. It includes, but is not limited to, any action that is motivated by a sincerely held religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief.
- II. "Religious organization" means:

(a) A house of worship, including but not limited to churches, synagogues, mosques, shrines, and temples;

(b) A religious group, corporation, association, educational institution, ministry, order, society, or similar entity, regardless of whether it is integrated or affiliated with a church or other house of worship; or

(c) An officer, owner, employee, manager, religious leader, clergy, or minister of an entity or organization described in this paragraph.

III. "Religious service" means a meeting, gathering, or assembly of 2 or more persons organized by a religious organization for the purpose of worship, teaching, training, providing educational services, conducting religious rituals, or other activities that are deemed necessary by the religious organization for the exercise of religion.

IV. "State government" means:

(a) The state or a political subdivision of the state;

(b) Any agency of the state or of a political subdivision of the state, including a department, bureau, board, commission, council, court, or public institution of higher education;

(c) Any person acting under color of state law; and

(d) Any private person suing under or attempting to enforce a law, rule, or regulation adopted by the state or a political subdivision of the state.

V. "Substantial burden" means any action that directly or indirectly constrains, inhibits, curtails, or denies the exercise of religion by any person or compels any action contrary to a person's exercise of religion. It includes, but is not limited to, withholding benefits, assessing criminal, civil, or administrative penalties or damages, or exclusion from governmental programs or access to governmental facilities.

546-C:2 State of Emergency Protections.

I. Notwithstanding RSA 4:45 or any other provision of law to the contrary, during a state of emergency, the state government shall permit a religious organization to continue operating and to engage in religious services to the same or greater extent that other organizations or businesses that provide essential services that are necessary and vital to the health and welfare of the public are permitted to operate.

II. Nothing in this section shall prohibit the state government from requiring religious organizations to comply with neutral health, safety, or occupancy requirements issued by the state or federal government that are applicable to all organizations and businesses that provide essential services. Provided, however, that the state government shall not enforce any health, safety, or occupancy requirement that imposes a substantial burden on a religious service unless the state government demonstrates that applying the burden to the religious service in this particular instance is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

III. A religious organization may assert a violation of this section as a claim against the state government in any judicial or administrative proceeding or as a defense in any judicial or administrative proceeding without regard to whether the proceeding is brought by or in the name of the state government, any private person, or any other party.

IV. Any religious organization that successfully asserts a claim or defense under this section may recover appropriate relief including, but not limited to, injunctive relief, declaratory relief, compensatory damages, and costs and attorney fees.

2 Effective Date. This act shall take effect 60 days after its passage.