

1 AN ACT relating to restoring religious liberty.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔ Section 1. KRS 446.350 is amended to read as follows:

4 **(1) As used in this section:**

5 **(a) "Government action" means the implementation or application of any law,**
6 **including but not limited to state and local laws, ordinances, rules,**
7 **regulations, and policies, or other action by the Commonwealth or any**
8 **political subdivision of the Commonwealth, or any city, county, urban-**
9 **county government, charter county government, consolidated local**
10 **government, unified local government, municipality, instrumentality, or**
11 **public official authorized by law in the Commonwealth; and**

12 **(b) 1. "Substantially burden" means the taking of any action that curtails or**
13 **denies the right to act or the right to refuse to act in a manner**
14 **motivated by a sincerely held religious belief; and**

15 **2. As used in this subsection, "action" includes but is not limited to:**

16 **a. Withholding benefits;**

17 **b. Assessing criminal, civil, or administrative penalties; or**

18 **c. Excluding from governmental programs or access to**
19 **governmental facilities.**

20 **(2)** Government **action** shall not substantially burden a person's freedom of religion.
21 The right to act or refuse to act in a manner motivated by a sincerely held religious
22 belief may not be substantially burdened unless **it is proven**~~[the government proves]~~
23 by clear and convincing evidence that **the government**~~[it]~~ has:

24 **(a)** A compelling governmental interest in infringing the specific act or refusal to
25 act; and~~[has]~~

26 **(b)** Used the least restrictive means to further that interest~~[. A "burden" shall~~
27 ~~include indirect burdens such as withholding benefits, assessing penalties, or~~

1 ~~an exclusion from programs or access to facilities].~~

2 (3) Except as provided in subsection (4) of this section, a person whose religious
3 exercise has been substantially burdened in violation of this section may assert
4 that violation as a claim or defense in a judicial or administrative proceeding and
5 obtain appropriate relief, which shall include costs and attorney's fees.

6 (4) This statute applies to all government action whether adopted before or after the
7 effective date of this Act. State laws enacted after the effective date of this Act are
8 subject to this section unless this statute is explicitly excluded. This section shall
9 not be construed to authorize any government action to burden any religious
10 belief.

11 (5) If any provision of this section or its application to any person or circumstance is
12 held invalid, the invalidity shall not affect other provisions or applications of the
13 section that can be given effect without the invalid provision or application, and
14 to this end the provisions of this section are severable.

15 (6) Exclusively for the purposes of this section, sovereign and governmental
16 immunity are waived.