

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 427

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE FREE EXERCISE OF RELIGION; AMENDING SECTION 73-402, IDAHO
2 CODE, TO PROVIDE THAT A PERSON WHOSE EXERCISE OF RELIGION IS BURDENED
3 IN VIOLATION OF SPECIFIED LAW MAY OBTAIN APPROPRIATE RELIEF AGAINST ANY
4 PERSON RELYING UPON ANY GOVERNMENT ACTION, ENACTMENT OR LAW THAT BUR-
5 DENS A PERSON'S EXERCISE OF RELIGION.
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7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 73-402, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 73-402. FREE EXERCISE OF RELIGION PROTECTED. (1) Free exercise of re-
11 ligion is a fundamental right that applies in this state, even if laws, rules
12 or other government actions are facially neutral.

13 (2) Except as provided in subsection (3) of this section, government
14 shall not substantially burden a person's exercise of religion even if the
15 burden results from a rule of general applicability.

16 (3) Government may substantially burden a person's exercise of reli-
17 gion only if it demonstrates that application of the burden to the person is
18 both:

19 (a) Essential to further a compelling governmental interest;

20 (b) The least restrictive means of furthering that compelling govern-
21 mental interest.

22 (4) A person whose ~~religious~~ exercise of religion is burdened in vio-
23 lation of this section may assert that violation as a claim or defense in a
24 judicial proceeding and obtain appropriate relief against a government or
25 against any person relying upon any government action, enactment or law that
26 burdens a person's exercise of religion. A party who prevails in any action
27 to enforce this chapter against a government shall recover attorney's fees
28 and costs.

29 (5) In this section, the term "substantially burden" is intended solely
30 to ensure that this chapter is not triggered by trivial, technical or de min-
31 imis infractions.