SUPREME COURT OF COLORADO 101 West Colfax Avenue, Suite 800 Denver, Colorado 80203 Original Proceeding Pursuant to C.R.S. § 1-40-107(2) Appeal from the Ballot Title Board In the Matter of the Title, Ballot Title, and Submission Claus for Proposed Initiative 2011-2012 #93 ("Religious Practices") **Petitioners: TOM MINNERY and MICHAEL J. NORTON,** **v.** **Respondents: BRAD CLARK and ERIN YOURTZ,** **and** **Ballot Title Setting Board: SUZANNE STAIERT; DANIEL DOMENICO; and JASON GELENDAR.**	FILED IN THE SUPREME COURT OF THE STATE OF COLORADO ▲ COURT USE ONLY ▲
ATTORNEY FOR PETITIONERS TOM MINNERY and MICHAEL J. NORTON: Michael J. Norton, No. 6430 Senior Counsel, Alliance Defense Fund 7951 E. Maplewood Avenue, Suite 100 Greenwood Village, CO 80111 Phone Number: (480) 388-8163 FAX Number: (303) 694-0703 E-mail: mjnorton@telladf.org	Case Number: 12SA128

PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2011-2012 #93 (RELIGIOUS PRACTICES)

COME NOW the Petitioners Tom Minnery and Michael J. Norton, by and through their attorney Michael J. Norton, Senior Counsel, Alliance Defense Fund, and respectfully petition this Court, pursuant to C.R.S. § 1-40-107(2), to review the actions of

SPAT

the Ballot Title Setting Board (herein "Title Board") with respect to the title, ballot, title, and submission clause for proposed Initiative 2011-2012 #93 ("Religious Practices") (herein "Initiative #93).

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative #93

Proponents Brad Clark and Erin Yourtz (herein "Proponents") proposed Initiative #93. A review and comment hearing was held before representatives of the Offices of Legislative Council and Legislative Legal Services as required by law. Thereafter, the Proponents submitted the original, amended, and final versions of the proposed Initiative #93 to the Secretary of State so that a ballot title could be set.

A Title Board hearing was held on April 18, 2012 to evaluate both whether proposed Initiative #93 contained a single subject and, to the extent that it did, set a title. At that hearing, the Title Board determined that proposed Initiative #93 contained a single subject and set a title.

On April 24, 2012, Petitioners filed a Motion for Rehearing and alleged, among other things, violations of the single subject requirement and that the ballot title was misleading, inaccurate, and not representative of the true intent of the Proponents. The rehearing was held on April 26, 2012 at which time the Title Board substantially modified the title of proposed Initiative #93 but otherwise denied Petitioners' Motion for Rehearing.

B. Jurisdiction

Petitioners are entitled to a review before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioners timely filed their Motion for Rehearing before the Title

Board. In addition, Petitioners timely filed this Petition for Review within five (5) days from the date of the Title Board's hearing on the Motion for Rehearing. C.R.S. § 1-40-107(2).

As required by C.R.S. § 1-40-107(2), attached to this Petition for Rehearing are certified copies of: (1) the initiative filed by the Proponents; (2) the title and the submission clause set by the Title Board; (3) the Motion for Rehearing filed by the Petitioners; and (4) the ruling on the Motion for Rehearing. Thus, this matter is properly before this Court.

GROUNDS FOR APPEAL

In violation of Colo. Const., art. V, § 1(5.5), and C.R.S. § 1-40-106.5, proposed Initiative #93, as approved by the Title Board, violates the single subject requirement.

In addition, the title set by the Title Board is misleading, inaccurate, and not representative of the true intent of the Proponents and the meaning of proposed Initiative #93, does not unambiguously state the principles of the provisions to be added to the Constitution, and will lead to voter confusion.

The following is an advisory list of issues to be addressed in Petitioners' brief:

1. The Title Board erred in finding that proposed Initiative #93 comprised a single subject, as it clearly contains multiple subjects, to wit: "right to act", "refusal to act", defining religious practices as "right to act"/"refusal to act" " in the privacy of a person's home or in the privacy of a religious organization's established place of worship", and excluding from the definition of religious practices "those practices that conflict with one's religious beliefs in a manner that would interfere with the government's

ability to protect individuals and groups against any form of discrimination that is prohibited by state or local law, protect the health, safety, or welfare of individuals or groups . . ."

2. The Title Board erred by setting a confusing title that is misleading, inaccurate, and not representative of the true intent of the Proponents and the meaning of proposed Initiative #93 and fails to inform voters that its true purpose is to define religious practices (i.e., exercise of religion) as those acts or conduct (i.e., refusal to act) which are exercised in "the privacy of a person's home" or in "the privacy of a religious organization's established place of worship."
3. Proposed Initiative #93, if passed, would violate the U.S. Const., Amend. I.

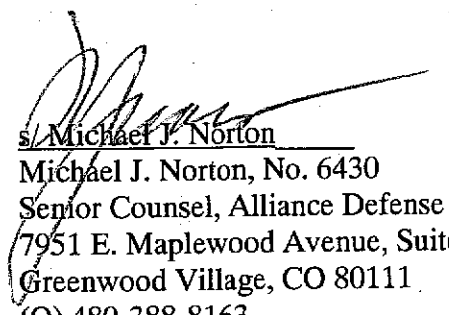
PRAYER FOR RELIEF

Petitioners respectfully request that, after consideration of the parties' brief, this Court determine:

1. That the title set for proposed Initiative #93 comprises multiple subjects and/or that proposed Initiative #93 is misleading, inaccurate, and not representative of the true intent of the Proponents;
2. That the actions of the Title Board are invalid; and
3. That the Proponents be prohibited from proceeding with proposed Initiative #93 until such time as Petitioners correct the issues presented in this Petition for Review.

DATED this 27th day of April, 2012.

FOR THE PETITIONERS:



s/ Michael J. Norton
Michael J. Norton, No. 6430
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Greenwood Village, CO 80111
(O) 480-388-8163
(F) 303-694-0703
Email: mjnorton@telladf.org

CERTIFICATE OF SERVICE

The undersigned certifies that on May 1, 2012, a true and correct copy of the foregoing was placed in the United States mail, first-class, postage prepaid, to:

Honorable Maurice G. Knaizer
Office of the Colorado Attorney General
1525 Sherman Street, 7th Floor
Denver, Colorado 80203

Mark G. Grueskin, Esq.
Heizer Paul Grueskin LLP
2401 15th Street, Suite 300
Denver, Colorado 80202

Brad Clark
1700 Bassett #1807
Denver, CO 80202

Erin Yourtz
2561 South St. Paul Street
Denver, Co 80210

/s/ Marilyn Kuipers

Marilyn Kuipers
Legal Assistant to Mr. Norton

STATE OF COLORADO

DEPARTMENT OF STATE

CERTIFICATE

I, SCOTT GESSLER, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2011-2012 #93 'Religious Practices'".....

IN TESTIMONY WHEREOF I have unto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this 30th day of April, 2012.

SECRETARY OF STATE

Ballot Title Setting Board

Proposed Initiative 2011-2012 #93[1]

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning governmental burdens on freedom of religion, and, in connection therewith, defining "right to act" and "refusal to act" as a person's or religious organization's ability, in the privacy of a person's home or any place established as a site for religious exercise, to act or not act consistently with sincerely held religious beliefs; but providing that "right to act" and "refusal to act" do not include action or inaction that would interfere with a compelling governmental interest or with the government's ability to protect individuals and groups against discrimination prohibited by state or local law, to protect the health, safety or welfare of individuals or groups, or to prohibit the use of public funds that would violate the constitution.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning governmental burdens on freedom of religion, and, in connection therewith, defining "right to act" and "refusal to act" as a person's or religious organization's ability, in the privacy of a person's home or any place established as a site for religious exercise, to act or not act consistently with sincerely held religious beliefs; but providing that "right to act" and "refusal to act" do not include action or inaction that would interfere with a compelling governmental interest or with the government's ability to protect individuals and groups against discrimination prohibited by state or local law, to protect the health, safety or welfare of individuals or groups, or to prohibit the use of public funds that would violate the constitution?

Hearing April 18, 2012:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 6:00 p.m.

Rehearing April 26, 2012:
Motion for rehearing denied except to the extent that the Board made changes to the title.
Hearing adjourned 2:30 p.m.

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[1] Unofficially captioned **"Religious Practices"** by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

In re Ballot Title and Submission Clause for 2011-2012 Initiative # 93 ("Religious Practices")

MOTION FOR REHEARING

COME NOW the Objectors Tom Minnery and Michael J. Norton, registered electors of the state of Colorado, by and through Michael J. Norton of the Alliance Defense Fund, and, pursuant to C.R.S. § 1-40-107, state that they are not satisfied with the April 18, 2012 decisions of the Ballot Title Setting Board (herein the "Title Board") that 2011-2012 Initiative # 93, as proposed and preliminarily approved by the Title Board, comprises a single subject and/or that the title set is fair and accurately expresses the true meaning and intent of this measure. In support hereof, Objectors state:

1. As proposed, 2011-2012 Initiative # 93 violates the single subject requirement of Colo. Const., art. V, § 1(5.5), including, but not limited to:

   A. 2011-2012 Initiative # 93, and particularly the phrases "right to act" and "refusal to act", as defined in 2011-2012 Initiative # 93, are so indefinite as to lack a single subject.

   B. The measure coils in the folds of a person's "right to act" and/or "refusal to act" broad, undefined, confusing, inconsistent, and unlimited exceptions, including, without limitation:
      a. "The ability to engage in religious practices or reject those practices that conflict with one's religious beliefs in a manner that would interfere with the government's ability to protect individuals and groups against any form of discrimination that is prohibited by state or local law";
      b. "The ability to engage in religious practices or reject those practices that conflict with one's religious beliefs in a manner that would interfere with the government's ability to . . . protect the health, safety, or welfare of individuals or groups";
      c. "The ability to engage in religious practices or reject those practices that conflict with one's religious beliefs in a manner that would interfere with the government's ability to . . . protect against the use of pu8blic funds in violation of Section 7 of Article 9 and Section 34 of Article 5 of this Constitution".

2. In violation of C.R.S. § 1-40-106(3)(b), the Title Board did not provide a fair or accurate ballot title for 2011-2012 Initiative # 93; rather, the ballot title is misleading, inaccurate, and not representative of the true intent of the Proponents.

   A. The title as designated and fixed by the Title Board at its April 18, 2012 hearing is as follows:

An amendment to the Colorado constitution concerning governmental burdens on freedom of religion; and, in connection therewith, providing for a person or a religious organization's "right to act" and "refusal to act" in connection with religious practice as long as such action or inaction does not interfere with a compelling governmental interest; excluding from "right to act" and "refusal to act" those religious practices that interfere with the government's ability to protect individuals and groups against discrimination prohibited by state or local law, to protect the health, safety or welfare of individuals or groups, or to prohibit the use of public funds that would violate the constitution; and defining the right to act and the refusal to act as the ability to engage in religious practices or reject practices that conflict with one's religious beliefs in one's home or in any place established to be a site for religious exercise." (emphasis added).

B. 2011-2012 Initiative # 93 defines "right to act" and/or "refusal to act" as, subject to some broad exceptions, "the ability to engage in religious practices or to reject practices that conflict with one's religious beliefs, in one's home or any place a person or religious organization establishes to his or its satisfaction to be a **site** for worship, prayer, or other religious exercise . . ." (emphasis added).

C. The standard dictionary definition of **"site"**, as a noun, is (i) the position or location of a town, building, etc., especially as to its environment; and (ii) the area or exact plot of ground on which anything is, has been, or is to be located.

D. The World English Dictionary defines **"site"**, as a noun, as (i)(a) the piece of land where something was, is, or is intended to be located: a building site; archaeological site; (b) (as modifier): site office; or (2) an internet location where information relating to a specific subject or group of subjects can be accessed.

E. When questioned by the members of the Title Board about what was meant by the phrases "in one's home" or "a site for worship, prayer, or other religious exercise", the attorney and only witness for the Proponents of 2011-2012 Initiative # 93 first responded that he could not say what might qualify as "a **site**" for religious exercise. When pressed by the members of the Title Board, the attorney and only witness for the Proponents of 2011-2012 Initiative # 93, then testified that, for a faithful Jew wearing a yarmulke, the Jewish worldview instructed that the "site for worship, prayer, or other religious exercise" was, for a faithful Jew and with regard to a faithful Jew's "right to act" and/or "refusal to act", the specific physical location, whether public or private, where the faithful Jew happened to be at the moment. The attorney and only witness for the Proponents of 2011-2012 Initiative # 93 further testified that a faithful Jew wearing a yarmulke in a public park would, if motivated by a sincerely held religious belief, be engaged in religious activity in "a site for worship, prayer, or other religious exercise" and thus would have, pursuant to 2011-2012 Initiative # 93, the "right to act" and/or "refusal to act" in any such physical location, whether such location is public or private.

F. Clearly, the definition propounded by the attorney and only witness for the Proponents of 2011-2012 Initiative # 93 during his testimony conflicts with the plain language of 2011-2012 Initiative # 93 as a result of which Title Board did not provide a fair or accurate ballot title for 2011-2012 Initiative # 93 and the ballot title is misleading, inaccurate, and not representative of the true intent of the Proponents.

G. It is probable that all other worldviews, secular or sectarian, agree. In this regard, to followers of Jesus, one's "established place of worship" is the entire world, not the confines of one's own home or church.

H. By way of example, the Christian worldview is similar to what, according to the testimony of the attorney and only witness for the Proponents of 2011-2012 Initiative # 93, constitutes the Jewish worldview's "established place of worship". Jesus instructs His faithful followers to carry out His commands not in the confines of one's own home or in the confines of a church building, but throughout the world, as, for example, where:

   a. In Matthew 28:18-20, called The Great Commission, Jesus said: **"All authority has been given to Me in heaven and on earth. Go therefore and make disciples of all the nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, teaching them to observe all things that I have commanded you; and lo, I am with you always, even to the end of the age"**
   b. In Mark 16:15, Jesus said: **"Go into all the world and preach the gospel to every creature."**

I. If "site for worship, prayer, or other religious exercise" means the world, as the attorney and only witness for the Proponents of 2011-2012 Initiative # 93 testified to the Title Board that it meant, the ballot title is either misleading, inaccurate, and/or not representative of the true intent of the Proponents in violation of C.R.S. § 1-40-106(3)(b) for, by what appears to be clear language, 2011-2012 Initiative # 93 limits "the right to act" and the "refusal to act" as the ability to engage in religious practices or reject practices "in the privacy of a person's home" or "in the privacy of a religious organization's established place of worship."

3. 2011-2012 Initiative # 93, proposed according to the witness for the Proponents of 2011-2012 Initiative # 93 in response to 2011-2012 Initiative # 78, would result in governmental conduct that would conflict with and be in violation of the First Amendment to the United States Constitution and Title 42 U.S.C. § 1883 et seq.

   A. By way of background, 2011-2012 Initiative # 78 would assure that the so-called compelling state interest test, codified as to federal government actions in the Religious Freedom Restoration Act ("RFRA"), 42 U.S.C. 2000bb, et seq., would apply to Colorado state and local government actions.

a. For decades, beginning with the principal cases of *Sherbert v. Verner*, 374 U.S. 398 (1963), and *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and their progeny, First Amendment free exercise of religion jurisprudence was well-settled: no law that burdened the free exercise of religion would be upheld unless a compelling state interest justified the substantial infringement of free exercise rights. *See Sherbert*, 374 U.S. at 406; *Yoder*, 406 U.S. at 214.

b. Under these cases, courts applied what is called "strict scrutiny" to assure that federal and state/local government action that negatively impacted or burdened a person's sincerely held religious belief was justified by a compelling state interest achieved by the least restrictive means available. *See*, e.g., *Fraternal Order of Police v. City of Newark*, 170 F.3d 359 (3rd Cir. 1999); *United States v. Lee*, 455 U.S. 252 (1982). This high level of protection is appropriate for what has been called our "first freedom." *See*, e.g., *Diaz v. Collins*, 872 F.Supp. 353, 357 (E.D. Tex. 1994). *See also* Michael W. McConnell, *Why is Religious Liberty the 'First Freedom'?*, 21 Cardozo L. Rev. 1243 (2000).

c. In 1990, the United States Supreme Court modified this well-settled body of law when it decided *Employment Division v. Smith*, 494 U.S. 872 (1990). In *Smith* and its progeny, the Court held that, with some exceptions, challenges to the constitutionality of laws on free exercise of religion grounds that are facially neutral toward religion and generally applicable are not subject to this "compelling interest" test.

d. After *Smith*, the only time a law would be struck down as in violation of the First Amendment Religion Clauses was if the law specifically targeted religion for discriminatory treatment or if the violation of religious liberty is combined with a violation of another right, usually a violation of a free speech right.

e. Thus, after *Smith*, so-called "neutral" laws, i.e., those that do not directly mention or target religion, such as: employment non-discrimination laws, accommodation laws, professional licensing laws, abortion-producing drug mandates, zoning laws, etc., would usually be upheld, if such laws were: (a) generally applicable, i.e., applied to everyone; and (b) neutral in its application, i.e., applied to everyone the same.

f. When the *Smith* decision was announced in 1990, the reaction was overwhelmingly negative. Congress and many states moved to enact legislation to restore the pre-*Smith* balance that protected free exercise of religion by requiring both a compelling interest and that the law be narrowly tailored, and that the courts subject such infringements to the exacting "strict scrutiny" standard. Congress correctly saw the *Smith* decision as a dramatic departure from the Supreme Court's long history of jurisprudence in the field of free exercise claims. In direct response to the Court's *Smith* decision, congress enacted the Religious Freedom Restoration Act ("RFRA"), 42 U.S.C. 2000bb, et seq. The bill, passed in 1993, was signed into law by President Clinton.

g. RFRA was a deliberate and conscious expression of Congress' will that religious freedoms only be overcome by "those interests of the highest order and those not

otherwise served." *Rader v. Johnston*, 924 F.Supp. 1540, 1556 (D. Neb. 1996). RFRA, originally applicable to both federal government and state government action, prohibits governments from substantially burdening a person's exercise of religion, unless the government "demonstrates that the application of the burden to the person" represents the least restrictive means of advancing a compelling interest. 42 U.S.C. Section 2000bb-1(b); *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 423 (2006).

h. Under RFRA, the party alleging that a law violates its rights must first demonstrate that its exercise of religion has been substantially burdened. If it does so, the government is then required to demonstrate that it has a compelling interest and that the law is the least restrictive means of furthering that interest. Moreover, where a facially neutral statute is enacted to target the activities of a religion, the law is subject to strict scrutiny. *See Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993).[1]

i. In *City of Boerne v. Flores*, 521 U.S. 507 (1997), the U. S. Supreme Court, ruling that the law exceeded Congress' authority under the Section 5 enforcement provisions of the Fourteenth Amendment to the Constitution, held that the Federal RFRA could not be applied to the states. In response, individual states began to enact their own RFRAs to restore the protection of strict scrutiny in evaluating laws that burden the exercise of religion. At least fifteen states have enacted state RFRAs or constitutional amendments that reject the *Smith* standard.[2]

j. In addition to those states that have enacted RFRAs, several states have interpreted their state constitutions to require the pre-*Smith* compelling interest standard. Eleven state supreme courts have interpreted their states' constitutions to require strict scrutiny of laws that place a substantial burden on the free exercise of religion, effectively incorporating the pre-*Smith* standard into their state constitutions.[3]

k. The Colorado Religious Freedom Amendment would assure that the pre-*Smith* "compelling interest" standard applies of state and local governments that negatively impact how we believe and the way that belief plays out in our daily lives. Colorado courts have applied essentially this same "compelling interest" test. It

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[1] In *Church of Lukumi Babalu Aye, Inc.*, the Court unanimously struck down a municipal regulatory scheme that created exemptions for non-religious slaughter of animals while prohibiting the same conduct done for religious purposes. The Court determined that the law was not neutral and generally applicable and, therefore, it must meet the "compelling interest/least restrictive means" test despite *Smith*. *Church of Lukumi Babalu Aye, Inc.*, 508 U.S. at 531-537. In *Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission*, 132 S.Ct. 694, 706-707 (2012), the Court again unanimously limited *Smith's* scope and exempted religious employers from generally applicable nondiscrimination laws in hiring decisions regarding ministerial employees.

[2] Alabama, Arizona, Connecticut, Florida, Idaho, Illinois, Louisiana, Missouri, New Mexico, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, and Texas.

[3] Alaska, Hawaii, Indiana, Maine, Massachusetts, Michigan, Minnesota, New York, Ohio, Washington, and Wisconsin.

would assure that the case of *Engraff v. Indus. Comm'n*, 678 P.2d 564 (Colo. App. 1983) remains the law in Colorado. *Engraff* held that "If the state burdens the free exercise of religion, it must do so in the least restrictive manner and to achieve a compelling government interest. 678 P.2d at 567.

B. 2011-2012 Initiative # 78 would enshrine and protect Coloradans' original and unalienable religious freedoms set forth in the U.S. Constitution and in our State Constitution from being further diminished by governmental actions.

C. 2011-2012 Initiative # 93 would result in governmental conduct that would conflict with and be in violation of the First Amendment to the United States Constitution and Title 42 U.S.C. § 1883 et seq.

WHEREFORE, through counsel, the Objectors plead as aforesaid and respectfully request that this matter be set for rehearing pursuant to C.R.C. § 1-40-107(1).

DATED this 24th day of April, 2012.

ALLIANCE DEFENSE FUND

Michael J. Norton, Senior Counsel

Objectors' addresses:
Tom Minnery, 8655 Explorer Drive, Colorado Springs, CO 80920Michael J. Norton, 7951 E. Maplewood Avenue, #100, Greenwood Village, CO 80111

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of April, 2012, a copy of this Motion for Rehearing was sent to the designated representatives and their counsel by U.S. Mail, first class, postage prepaid, as follows:

Brad Clark
1700 Bassett #1807
Denver, CO 80202

Erin Yourtz
2561 South St. Paul Street
Denver, CO 80210

Mark G. Grueskin, Esq. (via U.S. Mail and Email: mgrueskin@hpgfirm.com)
Heizer Paul Grueskin LLP
2401 15th Street, Suite 300
Denver, CO 80202

Marilyn Kuipers, Legal Assistant

2011-2012 #15

FINAL

S.WARD
2:30P.M.

Be it enacted by the voters of the State of Colorado:

In the constitution of the state of Colorado, **amend** section 4 to article II as follows:

Section 4. Religious freedom. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the good order, peace or safety of the state. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent. Nor shall any preference be given by law to any religious denomination or mode of worship. IN ASSESSING WHETHER GOVERNMENT HAS BURDENED FREEDOM OF RELIGION, A PERSON'S OR A RELIGIOUS ORGANIZATION'S RIGHT TO ACT IN A MANNER MOTIVATED BY A SINCERELY HELD RELIGIOUS BELIEF IS THE ABILITY TO ENGAGE IN RELIGIOUS PRACTICES IN THE PRIVACY OF A PERSON'S HOME OR IN THE PRIVACY OF A RELIGIOUS ORGANIZATION'S ESTABLISHED PLACE OF WORSHIP. SIMILARLY, A PERSON'S OR A RELIGIOUS ORGANIZATION'S REFUSAL TO ACT IN A MANNER MOTIVATED BY A SINCERELY HELD RELIGIOUS BELIEF IS THE ABILITY TO REJECT RELIGIOUS PRACTICES IN THE PRIVACY OF A PERSON'S HOME OR IN THE PRIVACY OF A RELIGIOUS ORGANIZATION'S ESTABLISHED PLACE OF WORSHIP. THE "RIGHT TO ACT" AND THE "REFUSAL TO ACT" REFER, RESPECTIVELY, TO THE ABILITY TO ENGAGE IN RELIGIOUS PRACTICES OR TO REJECT PRACTICES THAT CONFLICT WITH ONE'S RELIGIOUS BELIEFS, IN ONE'S HOME OR ANY PLACE A PERSON OR RELIGIOUS ORGANIZATION ESTABLISHES TO HIS OR ITS SATISFACTION TO BE A SITE FOR WORSHIP, PRAYER, OR OTHER RELIGIOUS EXERCISE, PROVIDED THAT THE RIGHT TO ACT OR REFUSAL TO ACT WOULD NOT INTERFERE WITH A COMPELLING GOVERNMENTAL INTEREST. THE "RIGHT TO ACT" AND THE "REFUSAL TO ACT" DO NOT REFER TO, AND THUS DO NOT INCLUDE, THE ABILITY TO ENGAGE IN RELIGIOUS PRACTICES OR REJECT THOSE PRACTICES THAT CONFLICT WITH ONE'S RELIGIOUS BELIEFS IN A MANNER THAT WOULD INTERFERE WITH THE GOVERNMENT'S ABILITY TO PROTECT INDIVIDUALS AND GROUPS AGAINST ANY FORM OF DISCRIMINATION THAT IS PROHIBITED BY STATE OR LOCAL LAW, PROTECT THE HEALTH, SAFETY, OR WELFARE OF INDIVIDUALS OR GROUPS, OR PROTECT AGAINST THE USE OF PUBLIC FUNDS IN VIOLATION OF SECTION 7 OF ARTICLE 9 AND SECTION 34 OF ARTICLE 5 OF THIS CONSTITUTION.

2011-2012 #93

RECEIVED
APR 06 2012
ELECTIONS/LICENSING
SECRETARY OF STATE

S. WARD
2:30 P.M.

Be it enacted by the voters of the State of Colorado:

In the constitution of the state of Colorado, amend section 4 to ~~Section 4 of~~ article II as follows: ~~of the Colorado Constitution is amended to read:~~

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Section 4. Religious freedom. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the good order, peace or safety of the state. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent. Nor shall any preference be given by law to any religious denomination or mode of worship. IN ASSESSING WHETHER GOVERNMENT HAS BURDENED FREEDOM OF RELIGION, A PERSON'S OR A RELIGIOUS ORGANIZATION'S RIGHT TO ACT IN A MANNER MOTIVATED BY A SINCERELY HELD RELIGIOUS BELIEF IS THE ABILITY TO ENGAGE IN RELIGIOUS PRACTICES IN THE PRIVACY OF A PERSON'S HOME OR IN THE PRIVACY OF A RELIGIOUS ORGANIZATION'S ESTABLISHED PLACE OF WORSHIP. SIMILARLY, A PERSON'S OR A RELIGIOUS ORGANIZATION'S REFUSAL TO ACT IN A MANNER MOTIVATED BY A SINCERELY HELD RELIGIOUS BELIEF IS THE ABILITY TO REJECT RELIGIOUS PRACTICES IN THE PRIVACY OF A PERSON'S HOME OR IN THE PRIVACY OF A RELIGIOUS ORGANIZATION'S ESTABLISHED PLACE OF WORSHIP. THE "RIGHT TO ACT" AND THE "REFUSAL TO ACT" REFER, RESPECTIVELY, TO THE ABILITY TO ENGAGE IN RELIGIOUS PRACTICES OR TO REJECT PRACTICES THAT CONFLICT WITH ONE'S RELIGIOUS BELIEFS, IN ONE'S HOME OR ANY PLACE A PERSON OR RELIGIOUS ORGANIZATION ESTABLISHES TO HIS OR ITS SATISFACTION TO BE A SITE FOR WORSHIP, PRAYER, OR OTHER RELIGIOUS EXERCISE, PROVIDED THAT THE RIGHT TO ACT OR REFUSAL TO ACT WOULD NOT INTERFERE WITH A COMPELLING GOVERNMENTAL INTEREST. THE "RIGHT TO ACT" AND THE "REFUSAL TO ACT" DO NOT REFER TO, AND THUS DO NOT INCLUDE, THE ABILITY TO ENGAGE IN RELIGIOUS PRACTICES OR REJECT THOSE PRACTICES THAT CONFLICT WITH ONE'S RELIGIOUS BELIEFS IN A MANNER THAT WOULD INTERFERE WITH THE GOVERNMENT'S ABILITY TO PROTECT INDIVIDUALS AND GROUPS AGAINST ANY FORM OF DISCRIMINATION THAT IS PROHIBITED BY STATE OR LOCAL LAW, PROTECT THE HEALTH, SAFETY, OR WELFARE OF INDIVIDUALS OR GROUPS, OR PROTECT AGAINST THE USE OF PUBLIC FUNDS IN VIOLATION OF SECTION 7 OF ARTICLE 9 AND SECTION 34 OF ARTICLE 5 OF THIS CONSTITUTION.

2011-2012 #13

Religious Practices

RECEIVED
APR 06 2012
ELECTIONS/LICENSING
SECRETARY OF STATE

SWARD
2:30 P.M.

Be it enacted by the voters of the State of Colorado:

Section 4 of article II of the Colorado Constitution is amended to read:

Section 4. Religious freedom. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the good order, peace or safety of the state. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent. Nor shall any preference be given by law to any religious denomination or mode of worship. IN ASSESSING WHETHER GOVERNMENT HAS BURDENED FREEDOM OF RELIGION, A PERSON'S OR A RELIGIOUS ORGANIZATION'S RIGHT TO ACT IN A MANNER MOTIVATED BY A SINCERELY HELD RELIGIOUS BELIEF IS THE ABILITY TO ENGAGE IN RELIGIOUS PRACTICES IN THE PRIVACY OF A PERSON'S HOME OR IN THE PRIVACY OF A RELIGIOUS ORGANIZATION'S ESTABLISHED PLACE OF WORSHIP. SIMILARLY, A PERSON'S OR A RELIGIOUS ORGANIZATION'S REFUSAL TO ACT IN A MANNER MOTIVATED BY A SINCERELY HELD RELIGIOUS BELIEF IS THE ABILITY TO REJECT RELIGIOUS PRACTICES IN THE PRIVACY OF A PERSON'S HOME OR IN THE PRIVACY OF A RELIGIOUS ORGANIZATION'S ESTABLISHED PLACE OF WORSHIP.

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