~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE AMENDMENT ADOPTED

April 6, 2022

**H. 3105**

Introduced by Reps. Yow, Burns, Chumley, Magnuson, McCravy, Wooten, Fry, B. Cox, May, Haddon, Long, Gilliam, Forrest, Nutt, Trantham, Oremus, McGarry, Bennett, Jones, Thayer, Hiott, Willis, Huggins, Hixon, McCabe, Dabney, B. Newton, Bryant, Elliott, M.M. Smith, Pope, D.C. Moss, Ballentine, Lucas, Crawford, Erickson, Bradley, T. Moore, Wheeler, Herbkersman, W. Newton, Martin, Taylor and Davis

S. Printed 4/6/22--S.

Read the first time March 17, 2021.

**A** **BILL**

TO AMEND CHAPTER 32, TITLE 1, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE “SOUTH CAROLINA RELIGIOUS FREEDOM ACT”, SO AS TO PROVIDE THAT RELIGIOUS SERVICES ARE DEEMED AN ESSENTIAL SERVICE DURING A STATE OF EMERGENCY AND MUST BE ALLOWED TO CONTINUE OPERATING THROUGHOUT THE STATE OF EMERGENCY.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 1 of the 1976 Code is amended by adding:

“CHAPTER 33

Protection of the Exercise of Religion During a State of Emergency

Section 1‑33‑10. For purposes of this chapter:

(1) ‘Discriminatory action’ means any action undertaken by the State to:

(a) alter in any way the tax treatment of a religious organization, or cause any tax, fine, civil or criminal penalty, payment, damages award, or injunction to be assessed against a religious organization;

(b) deny, delay, revoke, or otherwise make unavailable an exemption from taxation for a religious organization; or

(c) withhold, reduce, exclude, terminate, materially alter the terms or conditions of, or otherwise make unavailable or deny any grant, contract, scholarship, license, accreditation, certification, entitlement, or other benefit under any government program.

(2) ‘Exercise of religion’ means the exercise of religion as protected under the First Amendment to the United States Constitution, Article I, Section 2 of the State Constitution, and Title 1, Chapter 32, of the South Carolina Code of Laws.

(3) ‘Religious organization’ includes, but is not limited to, houses of worship, religious ministries, organizations, social agencies, groups, corporations, educational institutions and other entities whose principal purpose is the study, practice, or advancement of religion and their officers, owners, clergy, religious leaders, and ministers.

(4) ‘Religious services’ means a meeting, gathering, or assembly of two 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.

(5) ‘State’ means the State of South Carolina and any political subdivision of the State and includes a branch, department, agency, board, commission, instrumentality, entity, or officer, employee, official of the State or a political subdivision of the State, or any other person acting under color of law or suing under or attempting to enforce a state law, rule, or regulation.

(6) ‘State of emergency’ means any declaration or proclamation issued under the authority of state law that an emergency has occurred including, but not limited to:

(a) a proclamation of emergency issued by the Governor pursuant to Section 1‑3‑420;

(b) a declaration of emergency issued by the Governor pursuant to Section 25‑1‑440;

(c) a declaration of emergency issued by a county governing body pursuant to Section 4‑9‑130; and

(d) a declaration of emergency issued by a municipal governing body pursuant to Section 5‑7‑250.

Section 1‑33‑20. (A) During a state of emergency, religious services are deemed an essential service and are considered necessary and vital to the health and welfare of the public.

(B) The State may not limit the ability of a religious organization to continue operating and to engage in religious services during a state of emergency to a greater extent than it limits operations or services of other organizations or businesses that provide essential services.

(C) The State may require a religious organization to comply with neutral health, safety, or occupancy requirements during a state of emergency that:

(1) are applicable to all organizations or businesses providing essential services; and

(2) do not impose a substantial burden on religious services, unless the State demonstrates that the burden is necessary to further a compelling state interest and is the least restrictive means of furthering that interest.

(D) The State may not take any discriminatory action against a religious organization on the basis that the organization is religious, operates or seeks to operate during a state of emergency, and engages in the exercise of religion.

Section 1‑33‑30. A religious organization may assert a violation of this title as a claim or defense in a judicial proceeding. If the religious organization prevails in such a proceeding, the court must award attorney’s fees and costs and may award other appropriate relief including, but not limited to, injunctive relief, declaratory relief, and compensatory damages for pecuniary and nonpecuniary losses.

Section 1‑33‑40. (A) This chapter applies to all state and local laws and ordinances and the implementation of those laws and ordinances, whether statutory or otherwise, and whether adopted before or after the effective date of this act.

(B) Nothing in this chapter may be construed to authorize the State to burden any religious belief.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words thereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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