



## No on HB427: Unnecessary and Costly Law Jeopardizes Business Interests in the State

HB427 Religion, Free Exercise of

The ACLU is an ardent defender of religious freedom. We strongly believe that all Americans have the absolute right to believe whatever we want about God, faith, and religion. We also have the right to act on our religious beliefs, unless those actions harm others.

- **HB427 is simply unnecessary.** Idaho already has a law that requires courts to closely examine significant burdens on religious exercise—by the government. **This law, on the other hand, will allow private individuals to use religion against other private individuals or businesses. This may become a nightmare for employers and business throughout our state, who may face a no-win situation. For example:**
  - **Contract:** A and B enter into a contract. B says that it cannot uphold certain agreed-upon terms because they violate B's religious beliefs. When A sues to enforce the contract, can B now invoke this RFRA to defend its refusal to abide by the contractual terms?
  - **Torts:** A sues B for negligence. B says that it was not being negligent, but that its actions were required by its religious beliefs. Can B now use this RFRA to defend its conduct?
  - **Ability to Conduct Business:** A customer refuses to sign a loan agreement, citing his religious beliefs. When the bank refuses to lend to him, could he sue under this RFRA since Idaho state laws require a signature for contracts to be enforceable? *Note: this is not a speculative example. There is at least one case in Florida where a plaintiff voiced a religious objection to signing legal documents and sued under a state RFRA. Toca v. State, 834 So. 2d 204, 205 (Fla. Dist. Ct. App. 2002)*
  - This poorly-written law may require a private party to show that enforcing a contract, for example, is the least restrictive means of furthering a compelling governmental interest – a very difficult standard to meet.
- **HB427 creates unintended consequences.**

It is important to remember that longstanding laws in Idaho make it illegal for businesses to discriminate based on characteristics such as sex, race, disability or religion. **This law, on the other hand, may conflict with, and even undo, longstanding nondiscrimination laws. This may once again make Idaho a haven for religious extremists and hate groups. For example:**

  - Independent contractors serving the public are not be able to refuse service, housing or education to someone based on their age, religion, race or disability. This law could allow landlords to claim their religion says they shouldn't rent apartments to a Jewish couple or a restaurant owner to claim his religion won't let him serve African-Americans.

- Currently businesses can't hang a sign on their doors saying "Whites Only" they can't hang a sign on their door saying "Able Bodied People Only." We are all entitled to our religious beliefs, but not to discriminate against other people.
- Religious liberty is a fundamental part of our country that is why it is protected within the Constitution and the Idaho Human Rights Act. The existing laws and protections allow us all to have "sincerely held religious beliefs" without subjecting others to beliefs that may be in conflict.

There are already existing protections in state and federal law that prevent government from unduly burdening people's religious beliefs and that protect people's religious beliefs in the private employment context. This is a "solution" to a non-existent problem.

Ultimately, this bill is not about protecting freedom of religion and aims to convince the public to care about an issue that is not a problem. Laws defending religious practice and freedom are already on the books. Idaho already has a RFRA and laws that allow religious defenses in the professional license and religious land use contexts. In the end, it will only create a legal and bureaucratic mess during a time that Idaho businesses need to operate, without a constant threat of litigation, and grow our economy and divide community members in ways we have not seen in years.

For these reasons, we strongly urge a 'No' vote on HB427.