House Bill No. HB0135

Government Nondiscrimination Act.

Sponsored by: Representative(s) Steinmetz, Wilson and Winters and Senator(s) Barnard and Meier

A BILL

for

1 AN ACT relating to the administration of government;
2 establishing the Government Nondiscrimination Act;
3 providing for the protection of the free exercise of religious beliefs and moral convictions; providing for judicial relief; amending the Wyoming Governmental Claims Act; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 9-22-101 through 9-22-105 are created to read:

CHAPTER 22

GOVERNMENT NONDISCRIMINATION ACT

This act may be cited as the "Government Nondiscrimination Act."


(a) As used in this act:

(i) "Benefit program" means any program administered or funded by the state of Wyoming, or by any person on behalf of the government of this state, that provides cash, payments, grants, contracts, loans or in-kind assistance;

(ii) "Government of this state" means the state of Wyoming or any of its branches, agencies, boards, commissions, departments, instrumentalities, institutions or political subdivisions and includes any person acting under color of state law;

(iii) "Person" includes an individual, partnership, corporation, joint stock company or any other
association or entity, public or private. "Person" does not include a hospital, clinic, hospice, nursing home or other medical or residential custodial facility with respect to visitation, recognition of a designated representative for health care decision making or the provision of emergency medical treatment necessary for treatment of an illness or injury.

9-22-103. Protection of the free exercise of religious beliefs and moral convictions.

(a) Notwithstanding any other provision of law, the government of this state shall not take any discriminatory action against a person, wholly or partially on the basis that the person believes or acts in accordance with a religious belief or moral conviction that:

(i) Marriage is or should be recognized as the union of one (1) man and one (1) woman; or

(ii) That "man" and "woman" mean an individual's biological sex as objectively determined by anatomy and genetics at the time of birth.
(b) As used in this section "discriminatory action" means any action taken by the state to:

(i) Alter in any way the tax treatment of, or cause any tax, penalty or payment to be assessed against, or deny, delay or revoke an exemption from taxation of, any person referred to in subsection (a) of this section;

(ii) Withhold, reduce, exclude, terminate or otherwise deny any state grant, contract, subcontract, cooperative agreement, loan, license, certification, accreditation, employment or other similar position or status from or to any person referred to in subsection (a) of this section;

(iii) Withhold, reduce, exclude, terminate or otherwise deny any benefit under a benefit program from or to any person referred to in subsection (a) of this section;

(iv) Disallow, deny or otherwise make unavailable any deduction for state tax purposes any
charitable contribution made by or to a person referred to in subsection (a) of this section;

(v) Withhold, reduce, exclude, terminate or otherwise deny access or an entitlement of a person referred to in subsection (a) of this section to any state property, facility, educational institution, charitable fundraising campaign or speech forum, including traditional, limited and nonpublic forums; or

(vi) Otherwise discriminate against any person referred to in subsection (a) of this section.

(c) The government of this state shall consider accredited, licensed or certified for purposes of state law any person who would be accredited, licensed or certified, respectively, but for a determination against the person wholly or partially on the basis that the person believes or acts in accordance with a religious belief or moral conviction that marriage is or should be recognized as the union of one (1) man and one (1) woman.

(a) A person may assert a violation or attempted violation of this act as a claim or defense in a judicial or administrative proceeding and if successful may obtain compensatory damages, injunctive relief, declaratory relief or any other appropriate relief, together with costs and attorney's fees against the state. Any payment under this section shall not exceed the limits provided by W.S. 1-39-118.

(b) Notwithstanding any other provision of law, an action under this section may be commenced, and relief may be granted, without regard to whether the person commencing the action has sought or exhausted available administrative remedies.

(c) The attorney general may bring an action for injunctive or declaratory relief against any agency, instrumentality or political subdivision of this state to enforce compliance with this act. Nothing in this subsection shall be construed to deny, impair or otherwise affect any right or authority of the attorney general, the state, or any agency, officer or employee of this state,
acting under any law other than this subsection, to
institute or intervene in any proceeding.


(a) This act shall be construed in favor of a broad
protection of free exercise of religious beliefs and moral
convictions, to the maximum extent permitted by the terms
of this act and the constitutions of this state and the
United States.

(b) The protection of free exercise of religious
beliefs and moral convictions afforded by this act are in
addition to the protections provided under federal law,
state law and the state and federal constitutions. Nothing
in this act shall be construed to preempt or repeal state
law that is equally or more protective of free exercise of
religious beliefs and moral convictions. Nothing in this
act shall be construed to narrow the meaning or application
of any state or federal law protecting free exercise of
religious beliefs and moral convictions. Nothing in this
act shall be construed to prevent the state or federal
government from providing, either directly or through a
person not seeking protection under this act, any benefit or service authorized under law.

Section 2. W.S. 1-39-104(a) and 1-39-116(a) are amended to read:

1-39-104. Granting immunity from tort liability; liability on contracts; exceptions.

(a) A governmental entity and its public employees while acting within the scope of duties are granted immunity from liability for any tort except as provided by W.S. 1-39-105 through 1-39-112 and limited by W.S. 1-39-121. Any immunity in actions based on a contract entered into by a governmental entity is waived except to the extent provided by the contract if the contract was within the powers granted to the entity and was properly executed and except as provided in W.S. 1-39-120(b) and 1-39-121. The claims procedures of W.S. 1-39-113 apply to contractual claims against governmental entities. Nothing in this section shall be deemed to provide immunity from liability for a violation of the Government Nondiscrimination Act, W.S. 9-22-101 through 9-22-105, and
the claims procedures of W.S. 1-39-113 shall not apply to
any claim for judicial relief under W.S. 9-22-104(a) or
(b).


(a) Except as otherwise provided in W.S. 9-22-104(a)
and (b), the remedy against a governmental entity as
provided by this act is exclusive, and no other claim,
civil action or proceeding for damages, by reason of the
same transaction or occurrence which was the subject matter
of the original claim, civil action or proceeding may be
brought against the governmental entity. No rights of a
governmental entity to contribution, indemnity or
subrogation shall be impaired by this section. Nothing in
this section prohibits any proceedings for mandamus,
prohibition, habeas corpus, injunction or quo warranto.

Section 3. This act is effective July 1, 2017.