

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0145.01 Esther van Mourik x4215

HOUSE BILL 16-1123

HOUSE SPONSORSHIP

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House Committees

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A BILL FOR AN ACT

101 **CONCERNING AN EXEMPTION FROM PUBLIC ACCOMMODATIONS LAW**
102 **REQUIREMENTS FOR CERTAIN RELIGIOUSLY AFFILIATED**
103 **PERSONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 2 of the bill grants an exemption to clergy, ministers, and religiously affiliated organizations from any requirement to participate in religious or other ceremonies, including marriage, that would conflict with their sincerely held religious beliefs. The bill does this by amending the public accommodations laws to specify that for the purpose of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

solemnization of any marriage or religious ceremony or for providing services, accommodations, facilities, goods, or privileges related to the solemnization of any marriage or religious ceremony, "place of public accommodation" does not include a place principally used by a religious organization, an organization supervised or controlled by a religious organization, or an organization with a connection to a religious organization. Section 2 of the bill further amends the public accommodations laws to specify that for the purpose of the solemnization of any marriage or religious ceremony or for providing services, accommodations, facilities, goods, or privileges related to the solemnization of any marriage or religious ceremony, "person" does not include a clergy member, a minister, or an individual acting within the scope of his or her employment with a religious organization, an organization supervised or controlled by a religious organization, or an organization with a connection to a religious organization. The bill specifies that a refusal to provide services by a clergy member, a minister, or an individual associated with a religious organization is not the basis for a civil or criminal action or any other action by this state or political subdivision of this state.

Section 3 of the bill amends the city and county sales tax ordinance laws to require a city and county to include the state exemption for charitable organizations in their sales tax ordinances.

Sections 4 through 7 of the bill specify in certain tax laws that the tax exempt status of an organization exempt from taxation under federal tax law may not be withheld if the organization, or an employee acting within the scope of that employment, chooses not to solemnize any marriage or religious ceremony or provide services, accommodations, facilities, goods, or privileges for a purpose related to the solemnization of any marriage or religious ceremony if the action would cause the organization to violate a sincerely held religious belief.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Section 4 of article II of the Colorado constitution states that
5 "No person shall be required to attend or support any ministry or place of
6 worship, religious sect or denomination against his consent." Despite this
7 clear language, clergy members, ministers, and individuals associated
8 with religious organizations are not protected under existing law. This act

1 is therefore necessary to protect the interests of the clergy members,
2 ministers, and individuals associated with religious organizations in
3 Colorado who do not wish to act against his or her consent.

4 (b) During the April 2015 oral argument in *Obergefell v. Hodges*,
5 135 S. Ct. 2584 (2015), solicitor general Donald B. Verrilli, Jr., admitted
6 that if the United States supreme court found a constitutional right to
7 same-sex marriage, the decision in the 1983 *Bob Jones University v.*
8 *United States*, 461 U.S. 574 (1983), case revoking federal tax-exempt
9 status to a Christian university that banned interracial dating is "certainly
10 going to be an issue". This act is therefore necessary to protect the tax
11 status of religious organizations in Colorado.

12 **SECTION 2.** In Colorado Revised Statutes, 24-34-601, **amend**
13 (1); and **add** (1.5) as follows:

14 **24-34-601. Discrimination in places of public accommodation**
15 **- definition.** (1) As used in this part 6, "place of public accommodation"
16 means any place of business engaged in any sales to the public and any
17 place offering services, facilities, privileges, advantages, or
18 accommodations to the public, including but not limited to any business
19 offering wholesale or retail sales to the public; any place to eat, drink,
20 sleep, or rest, or any combination thereof; any sporting or recreational
21 area and facility; any public transportation facility; a barber shop,
22 bathhouse, swimming pool, bath, steam or massage parlor, gymnasium,
23 or other establishment conducted to serve the health, appearance, or
24 physical condition of a person; a campsite or trailer camp; a dispensary,
25 clinic, hospital, convalescent home, or other institution for the sick,
26 ailing, aged, or infirm; a mortuary, undertaking parlor, or cemetery; an
27 educational institution; or any public building, park, arena, theater, hall,

1 auditorium, museum, library, exhibit, or public facility of any kind
2 whether indoor or outdoor. "Place of public accommodation" ~~shall~~ DOES
3 not include a church, synagogue, mosque, or other place that is principally
4 used for religious purposes, AND FOR THE PURPOSE OF THE
5 SOLEMNIZATION OF ANY MARRIAGE OR RELIGIOUS CEREMONY OR FOR
6 PROVIDING SERVICES, ACCOMMODATIONS, FACILITIES, GOODS, OR
7 PRIVILEGES RELATED TO THE SOLEMNIZATION OF ANY MARRIAGE OR
8 RELIGIOUS CEREMONY, DOES NOT INCLUDE A PLACE PRINCIPALLY USED BY
9 A RELIGIOUS ORGANIZATION, AN ORGANIZATION SUPERVISED OR
10 CONTROLLED BY A RELIGIOUS ORGANIZATION, OR AN ORGANIZATION WITH
11 A CONNECTION TO A RELIGIOUS ORGANIZATION.

12 (1.5) AS USED IN THIS PART 6, FOR THE PURPOSE OF THE
13 SOLEMNIZATION OF ANY MARRIAGE OR RELIGIOUS CEREMONY OR FOR
14 PROVIDING SERVICES, ACCOMMODATIONS, FACILITIES, GOODS, OR
15 PRIVILEGES RELATED TO THE SOLEMNIZATION OF ANY MARRIAGE OR
16 RELIGIOUS CEREMONY, "PERSON" DOES NOT INCLUDE A CLERGY MEMBER,
17 A MINISTER, OR AN INDIVIDUAL ACTING WITHIN THE SCOPE OF HIS OR HER
18 EMPLOYMENT WITH A RELIGIOUS ORGANIZATION, AN ORGANIZATION
19 SUPERVISED OR CONTROLLED BY A RELIGIOUS ORGANIZATION, OR AN
20 ORGANIZATION WITH A CONNECTION TO A RELIGIOUS ORGANIZATION. A
21 REFUSAL TO PROVIDE SERVICES, ACCOMMODATIONS, FACILITIES, GOODS,
22 OR PRIVILEGES BY A CLERGY MEMBER, A MINISTER, OR AN INDIVIDUAL
23 ACTING WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT WITH A RELIGIOUS
24 ORGANIZATION, AN ORGANIZATION SUPERVISED OR CONTROLLED BY A
25 RELIGIOUS ORGANIZATION, OR AN ORGANIZATION WITH A CONNECTION TO
26 A RELIGIOUS ORGANIZATION IS NOT THE BASIS FOR A CIVIL OR CRIMINAL
27 CAUSE OF ACTION OR ANY OTHER ACTION BY THE STATE OR A POLITICAL

1 SUBDIVISION OF THE STATE.

2 **SECTION 3.** In Colorado Revised Statutes, 29-2-105, **repeal** (1)
3 (d) (I) (E); and **add** (11) as follows:

4 **29-2-105. Contents of sales tax ordinances and proposals -**
5 **repeal.** (1) The sales tax ordinance or proposal of any incorporated town,
6 city, or county adopted pursuant to this article shall be imposed on the
7 sale of tangible personal property at retail or the furnishing of services,
8 as provided in paragraph (d) of this subsection (1). Any countywide or
9 incorporated town or city sales tax ordinance or proposal shall include the
10 following provisions:

11 (d) (I) A provision that the sale of tangible personal property and
12 services taxable pursuant to this article shall be the same as the sale of
13 tangible personal property and services taxable pursuant to section
14 39-26-104, C.R.S., except as otherwise provided in this paragraph (d).
15 The sale of tangible personal property and services taxable pursuant to
16 this article shall be subject to the same sales tax exemptions as those
17 specified in part 7 of article 26 of title 39, C.R.S.; except that the sale of
18 the following may be exempted from a town, city, or county sales tax only
19 by the express inclusion of the exemption either at the time of adoption
20 of the initial sales tax ordinance or resolution or by amendment thereto:

21 (E) ~~The exemption for sales by a charitable organization specified~~
22 ~~in section 39-26-718 (1) (b), C.R.S.;~~

23 (11) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
24 CONTRARY, A STATUTORY OR HOME RULE CITY AND COUNTY, CITY, OR
25 COUNTY MAY NOT WITHHOLD THE TAX EXEMPT STATUS OF A CHURCH,
26 SYNAGOGUE, MOSQUE, OR OTHER PLACE THAT IS PRINCIPALLY USED FOR
27 RELIGIOUS PURPOSES, OR OF AN ORGANIZATION EXEMPT FROM TAXATION

1 UNDER SECTIONS 39-3-106 AND 39-26-718, C.R.S., OR SECTION 501 (c) (3)
2 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, IF
3 THE ORGANIZATION, OR AN EMPLOYEE ACTING WITHIN THE SCOPE OF THAT
4 EMPLOYMENT, CHOOSES NOT TO SOLEMNIZE ANY MARRIAGE OR RELIGIOUS
5 CEREMONY OR PROVIDE SERVICES, ACCOMMODATIONS, FACILITIES, GOODS,
6 OR PRIVILEGES FOR A PURPOSE RELATED TO THE SOLEMNIZATION OF ANY
7 MARRIAGE OR RELIGIOUS CEREMONY IF THE ACTION WOULD CAUSE THE
8 ORGANIZATION TO VIOLATE A SINCERELY HELD RELIGIOUS BELIEF.

9 **SECTION 4.** In Colorado Revised Statutes, 39-3-106, **add** (4) as
10 follows:

11 **39-3-106. Property - religious purposes - exemption -**
12 **legislative declaration.** (4) NOTWITHSTANDING ANY PROVISION OF THIS
13 SECTION TO THE CONTRARY, THE TAX EXEMPT STATUS OF PROPERTY
14 DESCRIBED IN SUBSECTION (1) OF THIS SECTION, AND THE TAX EXEMPT
15 STATUS OF PROPERTY OWNED BY AN ORGANIZATION EXEMPT FROM
16 TAXATION UNDER SECTION 501 (c) (3) OF THE FEDERAL "INTERNAL
17 REVENUE CODE OF 1986", AS AMENDED, MAY NOT BE WITHHELD IF THE
18 ORGANIZATION, OR AN EMPLOYEE ACTING WITHIN THE SCOPE OF THAT
19 EMPLOYMENT, CHOOSES NOT TO SOLEMNIZE ANY MARRIAGE OR RELIGIOUS
20 CEREMONY OR PROVIDE SERVICES, ACCOMMODATIONS, FACILITIES, GOODS,
21 OR PRIVILEGES FOR A PURPOSE RELATED TO THE SOLEMNIZATION OF ANY
22 MARRIAGE OR RELIGIOUS CEREMONY IF THE ACTION WOULD CAUSE THE
23 ORGANIZATION TO VIOLATE A SINCERELY HELD RELIGIOUS BELIEF.

24 **SECTION 5.** In Colorado Revised Statutes, **add** 39-21-102.5 as
25 follows:

26 **39-21-102.5. Religious freedom.** NOTWITHSTANDING ANY
27 PROVISION OF THIS ARTICLE TO THE CONTRARY, INCLUDING THE SCOPE OF

1 THE ARTICLE SET FORTH IN SECTION 39-21-102, THE TAX EXEMPT STATUS
2 OF A CHURCH, SYNAGOGUE, MOSQUE, OR OTHER PLACE THAT IS
3 PRINCIPALLY USED FOR RELIGIOUS PURPOSES, OR OF AN ORGANIZATION
4 EXEMPT FROM TAXATION UNDER SECTION 39-26-718 OR SECTION 501 (c)
5 (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED,
6 MAY NOT BE WITHHELD IF THE ORGANIZATION, OR AN EMPLOYEE ACTING
7 WITHIN THE SCOPE OF THAT EMPLOYMENT, CHOOSES NOT TO SOLEMNIZE
8 ANY MARRIAGE OR RELIGIOUS CEREMONY OR PROVIDE SERVICES,
9 ACCOMMODATIONS, FACILITIES, GOODS, OR PRIVILEGES FOR A PURPOSE
10 RELATED TO THE SOLEMNIZATION OF ANY MARRIAGE OR RELIGIOUS
11 CEREMONY IF THE ACTION WOULD CAUSE THE ORGANIZATION TO VIOLATE
12 A SINCERELY HELD RELIGIOUS BELIEF.

13 **SECTION 6.** In Colorado Revised Statutes, 39-26-102, **amend**
14 (2.5) as follows:

15 **39-26-102. Definitions.** As used in this article, unless the context
16 otherwise requires:

17 (2.5) "Charitable organization" means any entity organized and
18 operated exclusively for religious (SUCH AS A CHURCH, SYNAGOGUE,
19 MOSQUE, OR OTHER PLACE PRINCIPALLY USED FOR RELIGIOUS PURPOSES),
20 charitable, scientific, testing for public safety, literary, or educational
21 purposes, or to foster national or international amateur sports competition
22 (but only if no part of its activities involve the provision of athletic
23 facilities or equipment), or for the prevention of cruelty to children or
24 animals, no part of the net earnings of which inures to the benefit of any
25 private shareholder or individual, no substantial part of the activities of
26 which is carrying on propaganda, or otherwise attempting, to influence
27 legislation, and which does not participate in, or intervene in (including

1 the publishing or distributing of statements), any political campaign on
2 behalf of any candidate for public office, or any veterans' organization
3 registered under section 501 (c) (19) of the "Internal Revenue Code of
4 1986", as amended, for the purpose of sponsoring a special event,
5 meeting, or other function in the state of Colorado so long as such event,
6 meeting, or function is not part of such organization's regular activities in
7 the state. NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (2.5)
8 TO THE CONTRARY, THE TAX EXEMPT STATUS OF AN ORGANIZATION
9 EXEMPT FROM TAXATION UNDER SECTION 39-26-718 OR SECTION 501 (c)
10 (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED,
11 MAY NOT BE WITHHELD IF THE ORGANIZATION, OR AN EMPLOYEE ACTING
12 WITHIN THE SCOPE OF THAT EMPLOYMENT, CHOOSES NOT TO SOLEMNIZE
13 ANY MARRIAGE OR RELIGIOUS CEREMONY OR PROVIDE SERVICES,
14 ACCOMMODATIONS, FACILITIES, GOODS, OR PRIVILEGES FOR A PURPOSE
15 RELATED TO THE SOLEMNIZATION OF ANY MARRIAGE OR RELIGIOUS
16 CEREMONY IF THE ACTION WOULD CAUSE THE ORGANIZATION TO VIOLATE
17 A SINCERELY HELD RELIGIOUS BELIEF.

18 **SECTION 7.** In Colorado Revised Statutes, 39-26-718, **add** (2)
19 as follows:

20 **39-26-718. Charitable organizations - association or**
21 **organization of parents and teachers of public school students.**

22 (2) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
23 CONTRARY, THE TAX EXEMPT STATUS OF AN ORGANIZATION EXEMPT FROM
24 TAXATION UNDER THIS SECTION OR UNDER SECTION 501 (c) (3) OF THE
25 FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, MAY NOT
26 BE WITHHELD IF THE ORGANIZATION, OR AN EMPLOYEE ACTING WITHIN THE
27 SCOPE OF THAT EMPLOYMENT, CHOOSES NOT TO SOLEMNIZE ANY

1 MARRIAGE OR RELIGIOUS CEREMONY OR PROVIDE SERVICES,
2 ACCOMMODATIONS, FACILITIES, GOODS, OR PRIVILEGES FOR A PURPOSE
3 RELATED TO THE SOLEMNIZATION OF ANY MARRIAGE OR RELIGIOUS
4 CEREMONY IF THE ACTION WOULD CAUSE THE ORGANIZATION TO VIOLATE
5 A SINCERELY HELD RELIGIOUS BELIEF.

6 **SECTION 8. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2016 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.