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**HOUSE BILL 2631**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Klippert, Taylor, and Scott

AN ACT Relating to preventing discriminatory treatment by government of a person or entity based on beliefs and practices held with regard to marriage as the union between one man and one woman; adding new sections to chapter 49.60 RCW; adding a new section to chapter 19.86 RCW; creating new sections; prescribing penalties; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  This act may be known and cited as the Washington state protection of the free exercise of religious beliefs and rights of conscience regarding marriage as the union of one man and one woman act.

NEW SECTION. **Sec.**  A new section is added to chapter 49.60 RCW to read as follows:

(1) The legislature finds the following:

(a) The fundamental rights of religious exercise and freedom of conscience are rights that existed long before the United States and the state of Washington were founded, and such rights are expressly recognized and protected by both the federal and state Constitutions.

(b) Individuals and entities must be able to act lawfully upon their sincerely held religious or philosophical beliefs without government coercion, intrusion, interference, or discrimination.

(c) It is self-evident that rights explicitly recognized and protected in the federal and state Constitutions supersede rights contained only in codified law or judicial opinions, especially when such law or opinions impose a burden on the exercise of manifest constitutional rights.

(d) Rights protected by the Constitution must be zealously protected from government incursion by any branch of government whether legislative, executive, or judicial, as a compelling state interest of the highest order.

(e) People and organizations throughout this country and state have a broad spectrum of sincerely held beliefs and practices regarding the institution of marriage, and government shall not disparage, marginalize, or discriminate against persons or entities based on beliefs or practices regarding marriage as the union of one man and one woman.

(2) The legislature intends by this act to recognize, protect, and further the constitutionally protected rights of all individuals and entities of any faith tradition or heritage, religious belief, philosophical tenet, matter of conscience, or practice regarding marriage as the union of one man and one woman, consistent with the law, and to ensure government does not attempt to force individuals or entities to accept, comply with, or conform to another person's or entity's faith tradition or heritage, religious belief, philosophical tenet, matter of conscience, or practice regarding marriage as the union of one man and one woman.

NEW SECTION. **Sec.**  A new section is added to chapter 49.60 RCW to read as follows:

An individual or entity has the constitutionally and statutorily recognized and protected right to choose whether or not to provide services or goods related to the solemnization or celebration of marriage if such marriage is contrary to the individual's or entity owner's sincerely held religious belief, philosophical tenet, matter of conscience, or practice regarding the institution of marriage as the union of one man and one woman.

NEW SECTION. **Sec.**  A new section is added to chapter 19.86 RCW to read as follows:

An individual or entity has the constitutionally and statutorily recognized and protected right to choose whether or not to provide services or goods related to the solemnization or celebration of marriage if such marriage is contrary to the individual's or entity owner's sincerely held religious belief, philosophical tenet, matter of conscience, or practice regarding the institution of marriage as the union of one man and one woman.

NEW SECTION. **Sec.**  A new section is added to chapter 49.60 RCW to read as follows:

(1) Notwithstanding any other provision of law, the state shall not take any discriminatory action against a person or entity, in whole or in part, directly or indirectly, on the basis that such person or entity believes or acts in accordance with a religious belief or moral conviction regarding the institution of marriage as the union of one man and one woman.

(2) For purposes of this section, "discriminatory action" means any action taken by the state to:

(a) 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 or entity protected under this section;

(b) Disallow a deduction for tax purposes of any charitable contribution made to or by any person or entity protected under this section;

(c) Withhold, reduce, exclude, terminate, or otherwise deny any grant, contract, subcontract, cooperative agreement, loan, license, certification, accreditation, employment, or other similar position or status from or to any person or entity protected under this section;

(d) Withhold, reduce, exclude, terminate, or otherwise deny any benefit under a state benefit program from or to any person or entity protected under this section; or

(e) Otherwise discriminate against any person or entity protected under this section.

(3) The state shall consider accredited, licensed, or certified for purposes of state law any person or entity protected under this section that would be accredited, licensed, or certified, respectively, for such purposes but for a determination against such person, in whole or in part, directly or indirectly, on the basis that the person believes or acts in accordance with a religious belief or moral conviction regarding the institution of marriage as the union of one man and one woman.

NEW SECTION. **Sec.**  A new section is added to chapter 49.60 RCW to read as follows:

For purposes of this act the following apply:

(1) A person or entity has standing to assert and may assert an actual or threatened violation of this act by the state as a claim or defense in any judicial or administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, or any other appropriate relief against the state.

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

(3) The court, in its discretion, may allow the prevailing party or entity, other than the state, a reasonable attorneys' fee as part of the costs awarded to the prevailing party.

(4) The attorney general may bring an action for injunctive or declaratory relief against the state for the purpose of enforcing this act. Nothing in this subsection may be construed to deny, impair, or otherwise affect any right or authority of the attorney general or other agency of the state, acting under any law other than this subsection, to institute or intervene in any proceeding.

NEW SECTION. **Sec.**  A new section is added to chapter 49.60 RCW to read as follows:

(1) This act must 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 federal and state Constitutions.

(2) Nothing in this act may be construed to preempt any state or federal law that is equally or more protective of free exercise of religious beliefs and moral convictions.

(3) Nothing in this act may be construed to narrow the meaning or application of any state or federal law protecting free exercise of religious beliefs and moral convictions.

(4) Nothing in this act may be construed to prevent the state from providing, either directly or through a person or entity not seeking protection under this act, any benefit or service authorized under state or federal law.

NEW SECTION. **Sec.**  A new section is added to chapter 49.60 RCW to read as follows:

The definitions in this section apply throughout this act unless the context clearly requires otherwise.

(1) "Lawfully" or "consistent with the law" means any act that does not otherwise constitute a crime, an act of licentiousness, or an act inconsistent with the peace and safety of the state.

(2) "Man" and "woman" means male or female as determined genetically or biologically.

(3) "Person" or "entity" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, or other legal or commercial entity, and includes any such person or entity regardless of religious affiliation or lack thereof and regardless of for-profit or nonprofit status. The term does not include the state.

(4) "State" means the state of Washington and any political subdivision of the state, including any agency, officer, employee, or agent thereof.

NEW SECTION. **Sec.**  This act applies retroactively to any action or claim based on a violation of chapter 49.60 or 19.86 RCW that was filed on or after December 6, 2012, in which an order by the highest court of appeal has not been issued or become final and binding as of July 31, 2016.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**