

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
4 religious beliefs and moral convictions; providing for
5 judicial relief; amending the Wyoming Governmental Claims
6 Act; and providing for an effective date.

7

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

9

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

12

13

CHAPTER 22

14

GOVERNMENT NONDISCRIMINATION ACT

15

1 **9-22-101. Short title.**

2

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

5

6 **9-22-102. Definitions.**

7

8 (a) As used in this act:

9

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

15

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

21

22 (iii) "Person" includes an individual,
23 partnership, corporation, joint stock company or any other

1 association or entity, public or private. "Person" does not
2 include a hospital, clinic, hospice, nursing home or other
3 medical or residential custodial facility with respect to
4 visitation, recognition of a designated representative for
5 health care decision making or the provision of emergency
6 medical treatment necessary for treatment of an illness or
7 injury.

8

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

11

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

17

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

20

21 (ii) That "man" and "woman" mean an individual's
22 biological sex as objectively determined by anatomy and
23 genetics at the time of birth.

1

2 (b) As used in this section "discriminatory action"
3 means any action taken by the state to:

4

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

9

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

16

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

21

22 (iv) Disallow, deny or otherwise make
23 unavailable any deduction for state tax purposes any

1 charitable contribution made by or to a person referred to
2 in subsection (a) of this section;

3

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

10

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

13

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

22

23 **9-22-104. Judicial relief.**

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2 (a) A person may assert a violation or attempted
3 violation of this act as a claim or defense in a judicial
4 or administrative proceeding and if successful may obtain
5 compensatory damages, injunctive relief, declaratory relief
6 or any other appropriate relief, together with costs and
7 attorney's fees against the state. Any payment under this
8 section shall not exceed the limits provided by W.S.
9 1-39-118.

10

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

16

17 (c) The attorney general may bring an action for
18 injunctive or declaratory relief against any agency,
19 instrumentality or political subdivision of this state to
20 enforce compliance with this act. Nothing in this
21 subsection shall be construed to deny, impair or otherwise
22 affect any right or authority of the attorney general, the
23 state, or any agency, officer or employee of this state,

1 acting under any law other than this subsection, to
2 institute or intervene in any proceeding.

3

4 **9-22-105. Rules of construction.**

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

11

12 (b) The protection of free exercise of religious
13 beliefs and moral convictions afforded by this act are in
14 addition to the protections provided under federal law,
15 state law and the state and federal constitutions. Nothing
16 in this act shall be construed to preempt or repeal state
17 law that is equally or more protective of free exercise of
18 religious beliefs and moral convictions. Nothing in this
19 act shall be construed to narrow the meaning or application
20 of any state or federal law protecting free exercise of
21 religious beliefs and moral convictions. Nothing in this
22 act shall be construed to prevent the state or federal
23 government from providing, either directly or through a

1 person not seeking protection under this act, any benefit
2 or service authorized under law.

3

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

6

7 **1-39-104. Granting immunity from tort liability;**
8 **liability on contracts; exceptions.**

9

10 (a) A governmental entity and its public employees
11 while acting within the scope of duties are granted
12 immunity from liability for any tort except as provided by
13 W.S. 1-39-105 through 1-39-112 and limited by W.S.
14 1-39-121. Any immunity in actions based on a contract
15 entered into by a governmental entity is waived except to
16 the extent provided by the contract if the contract was
17 within the powers granted to the entity and was properly
18 executed and except as provided in W.S. 1-39-120(b) and
19 1-39-121. The claims procedures of W.S. 1-39-113 apply to
20 contractual claims against governmental entities. Nothing
21 in this section shall be deemed to provide immunity from
22 liability for a violation of the Government
23 Nondiscrimination Act, W.S. 9-22-101 through 9-22-105, and

1 the claims procedures of W.S. 1-39-113 shall not apply to
2 any claim for judicial relief under W.S. 9-22-104(a) or
3 (b).

4
5 **1-39-116. Exclusiveness of remedy.**

6
7 (a) Except as otherwise provided in W.S. 9-22-104(a)
8 and (b), the remedy against a governmental entity as
9 provided by this act is exclusive, and no other claim,
10 civil action or proceeding for damages, by reason of the
11 same transaction or occurrence which was the subject matter
12 of the original claim, civil action or proceeding may be
13 brought against the governmental entity. No rights of a
14 governmental entity to contribution, indemnity or
15 subrogation shall be impaired by this section. Nothing in
16 this section prohibits any proceedings for mandamus,
17 prohibition, habeas corpus, injunction or quo warranto.

18
19 **Section 3.** This act is effective July 1, 2017.

20
21 (END)