

Tennessee RFRA Materials

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Tenn. Code Ann. §4-1-407 (free exercise of religion; burden by government)

(a)(5) “Government entity” means any branch, department, agency, commission or instrumentality of state government, any official or other person acting under color of state law or any political subdivision of the state;

(b) Except as provided in subsection (c), no government entity shall substantially burden a person's free exercise of religion even if the burden results from a rule of general applicability.

(c) No government entity shall substantially burden a person's free exercise of religion unless it demonstrates that application of the burden to the person is:

(1) Essential to further a compelling governmental interest; and

(2) The least restrictive means of furthering that compelling governmental interest.

(d)(1) Nothing in this section shall be construed to:

(A) Authorize any government entity to burden any religious belief; or

(B) Affect, interpret or in any way address those portions of article I, § 3 of the Constitution of Tennessee and the first amendment to the United States Constitution that prohibit laws respecting the establishment of religion.

Tenn. Code Ann. §4-1-407(a), which defines salient terms does not define “person.”

Pursuant to Tenn. Code Ann. §1-3-105 (19) “Person” includes a corporation, firm, company or association.

See Christ Church Pentecostal v. Tennessee Bd. of Equalization, 428 S.W.3d 800, 819-21 (Tenn.Ct.App. 2013) (holding, inter alia, that refusal to exempt church bookstore, café areas and fitness center from property taxation did not violate the Free Exercise Clause or Tenn. Code Ann. §4-1-407)

Joe Jarret, "Snakebit," 50 Tenn.B.J. 14 (Apr. 2014)

State ex rel. Swann v. Pack, 527 S.W.2d 99, 111 (Tenn. 1975) (holding that even under the "substantially stronger" provisions of Tenn. Const. art. I, §3 "a religious practice may be limited, curtailed or restrained to the point of outright prohibition, where it involves a clear and present danger to the interests of society;" the resolution turns on "balancing the interests between religious freedom and the preservation of the health, safety and morals of society;" necessarily, "[i]t is perforce . . . a vague and nebulous notion, defying the certainties of definition and the niceties of description."