

1 HB108
2 147747-1
3 By Representative Greer
4 RFD: Insurance
5 First Read: 05-FEB-13
6 PFD: 02/01/2013

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8 SYNOPSIS: This bill would create The Religious Liberty
9 Act of 2013.

10 With certain exceptions, this bill would
11 provide that a religiously affiliated or motivated
12 employer shall not be required to provide
13 contraceptive or abortifacient drugs, devices, or
14 methods to its employees directly, through any
15 insurance policy or in any other way, and may
16 require its insurer to provide an insurance policy
17 without coverage for contraceptive or abortifacient
18 drugs, devices, or methods because providing or
19 paying for coverage of these drugs, devices, or
20 methods is contrary to the beliefs of the
21 religiously affiliated or motivated employer
22 offering the plan.

23 Additionally, no provision of this bill
24 shall be construed to authorize a religiously
25 affiliated or motivated employer to obtain an
26 employee's protected health information or to
27 violate the federal Health Insurance Portability

1 and Accountability Act of 1996, or any federal
2 regulations adopted pursuant to that act.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 Related to insurance coverage; to create The
9 Religious Liberty Act of 2013; to provide, with certain
10 exceptions, that a religiously affiliated or motivated
11 employer shall not be required to provide contraceptive or
12 abortifacient drugs, devices, or methods to its employees
13 directly, through any insurance policy or in any other way,
14 and may require its insurer to provide an insurance policy
15 without coverage for contraceptive or abortifacient drugs,
16 devices, or methods because providing or paying for coverage
17 of these drugs, devices, or methods is contrary to the beliefs
18 of the religiously affiliated or motivated employer offering
19 the plan; and to provide that no provision of this bill shall
20 be construed to authorize a religiously affiliated or
21 motivated employer to obtain an employee's protected health
22 information or to violate the federal Health Insurance
23 Portability and Accountability Act of 1996, or any federal
24 regulations adopted pursuant to that act.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. This act may be known and shall be cited
27 as The Religious Liberty Act of 2013.

1 Section 2. The Legislature finds as follows:

2 (1) The Tenth Amendment to the United States
3 Constitution reserves to the states powers to regulate on
4 behalf of their citizens.

5 (2) The First Amendment to the United States
6 Constitution protects the fundamental right of freedom of
7 religion of the citizens of the United States.

8 (3) The Alabama Religious Freedom Amendment,
9 Amendment 622 to the Constitution of Alabama of 1901, now
10 appearing as Section 3.01 of the Official Recompilation of the
11 Constitution of Alabama of 1901, as amended, protects the free
12 exercise of religion rights of Alabama citizens by prohibiting
13 the government from burdening a person's freedom of religion
14 unless it is in furtherance of a compelling governmental
15 interest and is done in the least restrictive means.

16 (4) As a benefit to its citizens, the Alabama
17 Legislature has provided through Title 10A, Code of Alabama
18 1975, choice of entities through which Alabama citizens may
19 conduct their business and nonprofit activities.

20 (5) The majority of these entities are owned by
21 individuals as closely held entities which provide the
22 benefits and protections inherent to the choice of a business
23 or nonprofit entity.

24 (6) By choosing to operate through an entity, a
25 citizen does not abandon protected constitutional rights,
26 including religious beliefs.

1 (7) Religious beliefs dictate to the conscience of
2 citizens a code of ethics and conduct, whether personal or
3 business, and no law shall require a citizen to abandon those
4 beliefs because he or she is operating as an entity in
5 conformity with Alabama law.

6 (8) There is no legal authority that precludes the
7 State of Alabama from protecting the religious beliefs of its
8 citizens, even when they may conduct business through an
9 entity.

10 (9) A citizen may not be required to choose between
11 using an entity for lawful reasons and his or her religious
12 beliefs.

13 (10) With the expansion of health care requirements
14 in federal and state law, issues related to contraception and
15 abortion burden the religious beliefs of individuals and
16 business entities as employers in Alabama.

17 (11) While legal requirements for health care are
18 important, no government has a compelling interest that
19 requires a citizen to violate his or her religious beliefs
20 regarding contraception and abortion.

21 Section 3. It is the purpose of the Alabama
22 Legislature to provide protection to Alabama employers, as
23 entities, from being required in violation of their religious
24 beliefs to provide contraceptive and abortifacient health care
25 services, including through insurance programs that may be
26 provided by insurers through either voluntary or mandated
27 insurance coverage requirements.

1 Section 4. For the purposes of this act, the
2 following words and phrases shall have the following meanings:

3 (1) CONTRACEPTIVE OR ABORTIFACIENT DRUGS, DEVICES,
4 OR METHODS. Oral, implant, diaphragm, or injectible drugs,
5 intrauterine devices, prescription barrier methods, and
6 emergency contraceptives and abortifacients; and
7 consultations, examinations, procedures, and medical services
8 related to the use of prescription contraceptive or
9 abortifacient methods to prevent or terminate pregnancies.

10 (2) HEALTH CARE PROVIDER. A person who is licensed,
11 certified, registered, or otherwise authorized by the law of
12 this state to administer or provide health care in the
13 ordinary course of business or in the practice of a
14 profession.

15 (3) INSURER. Every person engaged as indemnitor,
16 surety, or contractor in the business of entering into
17 contracts of insurance. For purposes of this definition, the
18 term "person" shall be defined as an individual, insurer,
19 exchange, company, corporation, association, organization,
20 Lloyd's insurer, society, reciprocal insurer, or
21 interinsurance exchange, partnership, syndicate, business
22 trust, corporation, and every legal entity.

23 (4) INSURANCE POLICY. A written contract of, or
24 written agreement for, or effecting, insurance, by whatever
25 name called, and includes all clauses, riders, endorsements,
26 and papers attached, or issued and delivered for attachment
27 thereto and made a part thereof.

1 (5) ENTITY. Any business or nonprofit entity as
2 defined by Title 10A, Code of Alabama 1975, as amended.

3 (6) RELIGIOUSLY AFFILIATED OR MOTIVATED EMPLOYER. An
4 entity that meets either of the following:

5 a. Any entity that is operated as a church,
6 ministry, or other organization with religious tenets,
7 objectives or motivations.

8 b. Any entity that has 10 or less shareholders,
9 members, or partners who have religious beliefs which oppose
10 contraceptive or abortifacient drugs, devices, or methods.

11 Section 5. (a) A religiously affiliated or motivated
12 employer shall not be required to provide contraceptive or
13 abortifacient drugs, devices, or methods to its employees
14 directly, through any insurance policy, or in any other way.

15 (b) A religiously affiliated or motivated employer
16 may require its insurer to provide an insurance policy without
17 coverage for contraceptive or abortifacient drugs, devices, or
18 methods because providing or paying for coverage of these
19 drugs, devices, or methods is contrary to the beliefs of the
20 religiously affiliated or motivated employer offering the
21 plan.

22 (c) If a religiously affiliated or motivated
23 employer objects to providing coverage for contraceptive or
24 abortifacient drugs, devices, or methods, the employer shall
25 file with its insurer a written affidavit stating its
26 objection. On receipt of the affidavit, the insurer shall
27 issue to the religiously affiliated or motivated employer an

1 insurance policy that excludes coverage for contraceptive or
2 abortifacient drugs, devices, or methods. The insurer shall
3 retain the affidavit for the duration of the insurance policy
4 and any renewals of the insurance policy.

5 (d) This section shall not exclude coverage for
6 contraceptive or abortifacient drugs, devices, or methods
7 ordered by a health care provider with prescriptive authority
8 for medical indications other than for contraceptive or
9 abortion purposes. In these cases, however, a religiously
10 affiliated or motivated employer may require the employee to
11 first pay for the prescription and then submit a claim to the
12 insurer along with evidence that the prescription is not for a
13 purpose covered by the objection filed pursuant to subsection
14 (b). An insurer may charge an administrative fee for handling
15 claims under this subsection.

16 Section 6. No provision of this act shall be
17 construed to authorize a religiously affiliated or motivated
18 employer to obtain an employee's protected health information
19 or to violate Public Law 104-191, the Health Insurance
20 Portability and Accountability Act of 1996, or any federal
21 regulations adopted pursuant to that act.

22 Section 7. The provisions of this act are severable.
23 If any part of this act is declared invalid or
24 unconstitutional, that declaration shall not affect the part
25 which remains.

1 Section 8. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.