

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5233

To amend title VII of the Civil Rights Act of 1964 with respect to religious accommodation in employment.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 1994

Mr. NADLER (for himself, Mr. SCHUMER, Mr. SAXTON, Mr. LIPINSKI, Mrs. MALONEY, Mr. ENGEL, Mr. HASTINGS, Mr. CARDIN, and Mr. OWENS) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend title VII of the Civil Rights Act of 1964 with respect to religious accommodation in employment.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Workplace Religious  
5 Freedom Act of 1994”.

6 **SEC. 2. AMENDMENT.**

7 Section 701(j) of the Civil Rights Act of 1964 (42  
8 U.S.C. 2000e(j)) is amended—

9 (1) by inserting “(1)” after “(j)”,

1           (2) by inserting “, after initiating and engaging  
2           in an affirmative and bona fide effort,” after “un-  
3           able”, and

4           (3) by adding at the end the following:

5           “(2) For purposes of paragraph (1), an accommoda-  
6           tion by the employer shall not be deemed to be reasonable  
7           if—

8           “(A) such accommodation does not remove the  
9           conflict between employment requirements and the  
10          employee’s religious observance or practice; or

11          “(B)(i) the employee or prospective employee  
12          demonstrates to the employer the availability of an  
13          alternative accommodation less onerous to the em-  
14          ployee that may be made by the employer without  
15          undue hardship on the conduct of the employer’s  
16          business; and

17          “(ii) the employer refuses to make such accom-  
18          modation.

19          “(3) It shall not be a defense to a claim of unlawful  
20          employment practice for failure to provide a reasonable ac-  
21          commodation that such accommodation would be in viola-  
22          tion of a bona fide seniority system if, in order for the  
23          employer to reasonably accommodate to such observance  
24          or practice—

1           “(A) an adjustment is made in the employee’s  
2 work hours (including an adjustment that requires  
3 the employee to work overtime in order to avoid  
4 working at a time that abstention from work is nec-  
5 essary to satisfy religious requirements), shift, or job  
6 assignment, that would not be available to any em-  
7 ployee but for such accommodation; or

8           “(B) the employee and any other employee vol-  
9 untarily exchange shifts or job assignments, or vol-  
10 untarily make some other arrangement between or  
11 among them.

12           “(4) As used in this subsection, the term ‘undue  
13 hardship’ means an action requiring significant difficulty  
14 or expense. For purposes of determining whether an action  
15 requires significant difficulty or expense—

16           “(A) the identifiable cost of the accommodation  
17 in relation to the size and operating cost of the em-  
18 ployer; and

19           “(B) the number of individuals who will need a  
20 particular accommodation to a religious observance  
21 or practice;

22 shall be included in the consideration of other factors.

23           “(5) An employer shall not be required to pay pre-  
24 mium wages for work performed during hours to which  
25 such premium wages would ordinarily be applicable, if

1 work is performed during such hours only to accommodate  
2 religious requirements of an employee.”.

3 **SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

4 (a) EFFECTIVE DATE.—Except as provided in sub-  
5 section (b), this Act and the amendments made by section  
6 2 shall take effect on the date of the enactment of this  
7 Act.

8 (b) APPLICATION OF AMENDMENTS.—The amend-  
9 ments made by section 2 shall not apply with respect to  
10 conduct occurring before the date of the enactment of this  
11 Act.

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