

Why Businesses Should Not Be Allowed to Invoke Religious Exemptions

» Author

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» Research Question Addressed

Should there be a religious exemption for secular businesses from public accommodation statutes that protect prospective patrons from discrimination on the basis of sexual orientation?

» Primary Findings

The research concludes the perceived threat to religious liberty by public accommodation statutes prohibiting discrimination against members of the LGBTQ+ community is exaggerated. In addition, the consequences of granting exemptions would be harmful to members of the LGBTQ+ community. State-sanctioned discrimination is contrary to the fundamental principles of justice and equality underlying the U.S. legal system.

» Relevant Sectors

Government
Public policy
Religious organizations
Retail

» Keywords

Free exercise
Public accommodations
Religious exemptions





» Highlights

Religious exemptions for commercial activities create problems in the case of vital services. Furthermore, exemptions create a two-tier society that cannot be eradicated by marketplace pressure alone. The market-based argument ignores the fact that many for-profit corporations engage in actions that are inconsistent with profit maximization based upon the religious beliefs of management. For instance, Hobby Lobby and Chick-fil-A — two businesses that forego sales by choosing not to open on Sundays — take actions inconsistent with profit maximization.

» Topic Overview

Even while public opinion polls indicate shifting attitudes toward homosexuality and greater social acceptance of the LGBTQ+ community, the American court system continues to see petitions for religious exemptions that would allow businesses to decline service to customers on the basis of their sexual identity.

» Implications for Sustainable Business

It is important for businesses to ensure their practices are in conformity with public accommodation laws. Public accommodation statutes cannot be expected to eliminate disagreements or craft perfect solutions to conflicts between religious and LGBTQ+ rights. What public accommodation statutes do is set fair terms for the market. An outcome that recognizes the rights of everyone to full and equal participation in the marketplace is such a fair term.

» Link to Article

Dhooge, L. J. (2015). [Public accommodation statutes and sexual orientation: Should there be a religious exemption for secular businesses?](#) . *William & Mary Journal of Women and the Law* 21(2), 319-378.

» Related Links

Dhooge, L. (2016). [Public accommodation statutes, sexual orientation and religious liberty: Free access or free exercise?](#) *Florida Journal of Law and Public Policy*, 27, 1-59.

Dhooge, L. (2017). [The equivalence of religion and conscience.](#) *Notre Dame Journal of Law, Ethics, and Public Policy*, 31, 253-292.

Dhooge, L. (2017). [The impact of state religious freedom restoration acts: An analysis of the interpretive case law.](#) *Wake Forest Law Review*, 52, 101-172.