



Massachusetts Family Institute

MFI Brief

HB 767

Americans don't surrender their freedoms by opening a family business. Supreme Court precedent affirms that all Americans, including business owners, must be free to live and work consistently with their beliefs, without fear of punishment by the government. Unfortunately, House Bill 767 would eliminate First Amendment protections for people of faith who own or operate small businesses.

This legislation specifically targets people of faith who own or operate a business and denies them the constitutional right to have their faith inform their work. For example, if a Christian baker could not in good faith design and prepare a wedding cake with two grooms on the top, or if a Muslim-owned printing company declined to make a "Go Crusaders!" sign for the Holy Cross football team, this bill would force them to violate their conscience or risk losing their business.

This is because H767 does two things. First, it says that businesses cannot use the faith of their owners as a defense against lawsuits, AND it says that any business owners who attempt to assert those First Amendment rights will be held PERSONALLY liable. What types of punishment would a small business owner face for not creating a product that was a violation of their faith? H767 would subject businesses and their owners to crushing fines and civil penalties - up to \$50,000 for repeated violations.

This is on top of damages for whatever "harm" the complainants would allege in these cases, as well as attorney fees for the costly litigation.

Because H767 forces business owners to forfeit their faith or risk losing their home and livelihood, it's bad for business. It's also bad law. If passed, this bill would be in clear violation of Supreme Court precedents.



H 767 also imposes an unconstitutional condition by requiring a corporation—and its officers—to give up exercising its constitutional rights to speech and religion in exchange for keeping the benefits of a corporation (limited liability for officers). Imagine if Massachusetts wanted to support wind power, so it passed a law prohibiting corporations from speaking against wind power—such as saying that it harms birds or that there are more environmentally friendly solutions. H767 does that to religious beliefs, telling a business that they can't speak in favor of religion when it comes to non-discrimination laws. It would be like telling a reporter that they can't assert the First Amendment as a defense in a lawsuit by a corrupt politician.

Business owners in Massachusetts shouldn't be forced to choose between living out their faith and providing for their family. **Please vote NO on H767.**

1. The government cannot target specific religious beliefs for punishment.

Church of Lukumi Babalu Aye, Inc. v. Hialeah, 508 U.S. 520, 533 (1993) (“[A] law targeting religious beliefs as such is never permissible”). That is exactly what H767 does. If a business merely tries to assert its religious beliefs as a defense against enforcement of federal or state law, then it is subject to punishment under this law.

2. Corporations can exercise the right to free speech.

Citizens United v. Fed. Election Comm'n, 558 U.S. 310, 342 (2010) (“The Court has recognized that First Amendment protection extends to corporations.”). Under H767, a business owner could not even do an interview where he says that the First Amendment protects his right to not be forced to create art, a custom wedding cake, etc. that would violate his religious beliefs.

VOTE “NO” ON HB 767