

PUBLIC LAW 103-344 [H.R. 4230]; October 6, 1994

AMERICAN INDIAN RELIGIOUS FREEDOM ACT  
AMENDMENTS OF 1994

For Legislative History of Act, see Report for P.L. 103-344 in  
U.S.C.C. & A.N. Legislative History Section.

An Act to amend the American Indian Religious Freedom Act to  
provide for the traditional use of peyote by Indians for religious  
purposes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Indian Religious Free-  
dom Act Amendments of 1994".

SEC. 2. TRADITIONAL INDIAN RELIGIOUS USE OF THE PEYOTE  
SACRAMENT.

The Act of August 11, 1978 (42 U.S.C. 1996), commonly referred  
to as the "American Indian Religious Freedom Act", is amended  
by adding at the end thereof the following new section:

"SEC. 3. (a) The Congress finds and declares that--

"(1) for many Indian people, the traditional ceremonial  
use of the peyote cactus as a religious sacrament has for cen-  
turies been integral to a way of life, and significant in  
perpetuating Indian tribes and cultures;

"(2) since 1965, this ceremonial use of peyote by Indians  
has been protected by Federal regulation;

"(3) while at least 28 States have enacted laws which  
are similar to, or are in conformance with, the Federal regula-  
tion which protects the ceremonial use of peyote by Indian  
religious practitioners, 22 States have not done so, and this  
lack of uniformity has created hardship for Indian people who  
participate in such religious ceremonies;

"(4) the Supreme Court of the United States, in the case  
of *Employment Division v. Smith*, 494 U.S. 872 (1990), held  
that the First Amendment does not protect Indian practitioners  
who use peyote in Indian religious ceremonies, and also raised  
uncertainty whether this religious practice would be protected  
under the compelling State interest standard; and

"(5) the lack of adequate and clear legal protection for  
the religious use of peyote by Indians may serve to stigmatize  
and marginalize Indian tribes and cultures, and increase the  
risk that they will be exposed to discriminatory treatment.

"(b)(1) Notwithstanding any other provision of law, the use,  
possession, or transportation of peyote by an Indian for bona fide  
traditional ceremonial purposes in connection with the practice  
of a traditional Indian religion is lawful, and shall not be prohibited  
by the United States or any State. No Indian shall be penalized  
or discriminated against on the basis of such use, possession or

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transportation, including, but not limited to, denial of otherwise applicable benefits under public assistance programs.

"(2) This section does not prohibit such reasonable regulation and registration by the Drug Enforcement Administration of those persons who cultivate, harvest, or distribute peyote as may be consistent with the purposes of this Act.

"(3) This section does not prohibit application of the provisions of section 481.111(a) of Vernon's Texas Health and Safety Code Annotated, in effect on the date of enactment of this section, insofar as those provisions pertain to the cultivation, harvest, and distribution of peyote.

"(4) Nothing in this section shall prohibit any Federal department or agency, in carrying out its statutory responsibilities and functions, from promulgating regulations establishing reasonable limitations on the use or ingestion of peyote prior to or during the performance of duties by sworn law enforcement officers or personnel directly involved in public transportation or any other safety-sensitive positions where the performance of such duties may be adversely affected by such use or ingestion. Such regulations shall be adopted only after consultation with representatives of traditional Indian religions for which the sacramental use of peyote is integral to their practice. Any regulation promulgated pursuant to this section shall be subject to the balancing test set forth in section 3 of the Religious Freedom Restoration Act (Public Law 103-141; 42 U.S.C. 2000bb-1).

"(5) This section shall not be construed as requiring prison authorities to permit, nor shall it be construed to prohibit prison authorities from permitting, access to peyote by Indians while incarcerated within Federal or State prison facilities.

"(6) Subject to the provisions of the Religious Freedom Restoration Act (Public Law 103-141; 42 U.S.C. 2000bb-1), this section shall not be construed to prohibit States from enacting or enforcing reasonable traffic safety laws or regulations.

"(7) Subject to the provisions of the Religious Freedom Restoration Act (Public Law 103-141; 42 USC 2000bb-1), this section does not prohibit the Secretary of Defense from promulgating regulations establishing reasonable limitations on the use, possession, transportation, or distribution of peyote to promote military readiness, safety, or compliance with international law or laws of other countries. Such regulations shall be adopted only after consultation with representatives of traditional Indian religions for which the sacramental use of peyote is integral to their practice.

"(c) For purposes of this section--

"(1) the term 'Indian' means a member of an Indian tribe;

"(2) the term 'Indian tribe' means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special programs and services provide by the United States to Indians because of their status as Indians;

"(3) the term 'Indian religion' means any religion--

"(A) which is practiced by Indians; and

"(B) the origin and interpretation of which is from within a traditional Indian culture or community; and

"(4) the term 'State' means any State of the United States and any political subdivision thereof.

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"(d) Nothing in this section shall be construed as abrogating, diminishing, or otherwise affecting--

"(1) the inherent rights of any Indian tribe;

"(2) the rights, express or implicit, of any Indian tribe which exist under treaties, Executive orders, and laws of the United States;

"(3) the inherent right of Indians to practice their religions; and

"(4) the right of Indians to practice their religions under any Federal or State law.".

Approved October 6, 1994.