

**HOUSE . . . . . No. 6345**

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**The Commonwealth of Massachusetts**

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HOUSE OF REPRESENTATIVES, October 17, 1996.

The committee on Rules, to whom was referred the Order (filed by Mr. DeLeo of Winthrop) relative to requesting the opinions of The Honorable The Justices of the Supreme Judicial Court on certain questions of law concerning An Act restoring religious freedom in the workplace (House, No. 6345), reports that the same ought to be adopted.

For the committee,

WILLIAM P. NAGLE, JR.

## The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Ninety-Six.

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*WHEREAS*, There is pending before the General Court a bill, Senate No. 2435, entitled “An Act Restoring Religious Freedom in the Workplace”, a copy of which is submitted herewith; and

*WHEREAS*, G.L. c. 151B, §4(1A) provides that the imposition of terms or conditions on an employee by an employer which would require the employee “. . . to violate, or forego the practice of, his creed or religion as required by that creed or religion . . .” is an unlawful practice; and

*WHEREAS*, This Honorable Court in *Pielech v. Massasoit Greyhound, Inc.* 423 Mass. 534 (1996) declared that said section 4(1A) violates the establishment clause of the First Amendment; and

*WHEREAS*, Senate No. 2435 amends said section 4(1A) by defining the words “creed or religion” to encompass “any sincerely held religious beliefs, without regard to whether such beliefs are approved, espoused, prescribed or required by any established church or other religious institution or organization”; and

*WHEREAS*, Said Senate No. 2435 in section 3 provides for the retroactive application of this bill; and

*WHEREAS*, Grave doubt exists as to the constitutionality of this bill if enacted into law; therefore be it

*ORDERED*, That the opinions of The Honorable The Justices of the Supreme Judicial Court be required by the House of Representatives to report the following important questions of law:—

1. Does Section 4(1A) of chapter 151B of the General Laws, as amended by section 2 of said Senate No. 2435 which defines the words “creed or religion”, as used in said subsection (1A), to encompass “any sincerely held religious beliefs, without regard to whether such beliefs are approved, espoused, prescribed or required by any established church or other religious institution or organization”, violate the establishment clause of the First Amendment to the United States Constitution and Article 2 of the Declaration of Rights of the Massachusetts Constitution?

2. Does Section 3 of said Senate No. 2435 providing for the retroactive application of said bill violate the due process clause of the Fourteenth Amendment to the United States Constitution and Articles 1, 10 and 12 of the Declaration of Rights of the Massachusetts Constitution?

Adopted.

ROBERT E. MACQUEEN,  
*Clerk of the House of Representatives.*

A true copy.

Attest:

