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Indiana's Religious Freedom Restoration Act is Undemocratic and Bad For Business

Indiana's Religious Freedom Restoration Act goes against the very notion of freedom upon which our nation was founded and it has a chilling effect on capitalism.

Richmond, VA – March 31, 2015 – In the past 10 years, 37 states and Washington, D.C. have legalized same-sex marriages. The United States Supreme Court is expected to definitively rule on the marriage equality issue this June. Despite this breathtaking progress, a host of religious liberty bills are cropping up in state legislatures across the nation that would effectively legalize discrimination against the LGBT community—a demographic whose purchasing power exceeds \$835 billion and that boasts a \$100 billion tourism industry.

Much has been said about Indiana's Religious Freedom Restoration Act, or RFRA, in recent days. It is important to note that although Indiana's RFRA shares the same name as the federal Religious Freedom Restoration Act signed by President Clinton in 1993 and similarly named statutes in 19 other states, it is a very different piece of legislation. Constitutional law professor Garret Epps wrote in [The Atlantic](#) that unlike the federal RFRA and other state statutes, Indiana's law explicitly allows any for-profit business to assert a right to "the free exercise of religion," thereby granting for-profit corporations the same "free exercise" rights that individuals and churches enjoy. Even more remarkable is that Indiana's statute explicitly makes a business' "free exercise" right a defense against a private lawsuit by another person, rather than simply against actions brought by the government. In short, Indiana's RFRA explicitly allows businesses to use the law against civil rights suits brought by individuals. Professor Epps concluded, "this new statute hints most strongly that it is there to be used as a means of excluding gays and same-sex couples from accessing employment, housing, and public accommodations on the same terms as other people."

Indiana's Governor Mike Pence has staunchly defended the law that opens the door for individuals and companies to refuse actions that impose a "substantial burden" on their religious beliefs. Advocates for religious freedom bills say they do not urge discrimination against individual gay people. However, Bob Witeck, President of Witeck Communications, pointed out in a recent [CNBC piece](#), "The targets of the current crop of bills are same-sex couples wishing to be respected equally wherever they shop, plan their wedding, choose to live, seek medical care, and decide whether to have and raise their own children."

National equality groups, chambers of commerce, corporate CEOs, and celebrities have spoken out against Indiana's RFRA. In response to Indiana's statute, Connecticut Governor Dannel Malloy and Washington Governor Jay Inslee, along with a host of city mayors, have banned state and city-funded travel to Indiana. Angie's List declared its Indianapolis expansion cancelled.

Yesterday the [Richmond Times-Dispatch](#) reported that Virginia Governor Terry McAuliffe declared, "As the governor of the Commonwealth of Virginia, one of my top responsibilities is to work every single day to grow and attract new jobs and businesses to our state. In light of that responsibility and recent events in Indiana, I would like to welcome you to take advantage of Virginia's open, inclusive, and thriving business environment."

Governor McAuliffe has a long history of working with the LGBT community as his administration seeks to "foster a more inclusive and welcoming Commonwealth." Earlier this year, McAuliffe appointed a historic LGBT Tourism Task Force charged with making Virginia more open and welcoming for LGBT tourists. During his opening remarks at the first meeting of the LGBT Tourism Task Force Virginia's Secretary of the Commonwealth, Levar Stoney, said, "We can't build a new Virginia economy without new Virginia values." Three of McAuliffe's appointees include Amy-Sarah Marshall, the President of the [Charlottesville Pride Community Network](#), Jesse LaVancher, the Chief Operating Officer of the [Virginia Gay & Lesbian Chamber of Commerce](#) ("VGLCC"), and Bob Witeck, President of Witeck Communications.

“Ultimately, this debate isn’t about where you stand on the issue of LGBT civil rights or religious freedom; this is about believing in a civil society where no one’s freedom should harm someone else’s,” says Marshall. “I think the Governor and other representatives understand that companies and people looking to relocate to Virginia consider our treatment of the LGBT community as a key indicator for our inclusivity in general, and use that as a determinant for where they choose to do business. We don’t want to have the kind of reputation Indiana is gaining for itself.”

LaVancher echoed Marshall’s sentiments: “Indiana’s new law goes against the very notion of freedom and free enterprise that this nation was founded upon. Market research demonstrates that the LGBT community is fiercely loyal and highly lucrative. Passing a law that is blatantly discriminatory in nature is not only contrary to liberty, it erects barriers to free commerce that undermines capitalism and the American way of life.”

When the VGLCC formally launches this June it will have offices in Northern Virginia, Central Virginia and the Charlottesville region. By partnering with regional pride organizations, the VGLCC will bring a statewide economic voice to regions that already have strong LGBT and business communities. “We have been hoping to find a way to highlight LGBT-friendly businesses here in Charlottesville, along with a method for encouraging businesses to learn what it means to offer safe spaces to LGBT customers, Marshall says. “Partnering with the VGLCC is the perfect opportunity to do that, not just locally, but throughout the state and beyond.”

“The best and smartest businesses are those who welcome any potential customer with open arms; and laws like the RFRA in Indiana (the name of which is terribly ironic) and the even further-reaching HB 1414 that we narrowly avoided in Virginia just this January, go against not only the interests of any successful business in the state, but also the core values of a free nation,” said Brian Reach, President of [NOVA Pride](#), co-President of [VA Pride](#), and Director of Communications for VGLCC. “It is up to not only LGBT citizens, but all citizens – and the business community as a whole – to unify around core values of equality and inclusion; this is why I am proud to be a part of the Virginia Gay and Lesbian Chamber of Commerce, which seeks to diversify and strengthen Virginia’s economy by uniting the Commonwealth’s LGBT business community and integrating that dynamic demographic into the broader marketplace.”

Justin Ayars, President & CEO of the VGLCC says, “Virginia’s LGBT business community and its allies deserve a unified voice in our increasingly diverse 21st century marketplace. I am excited to welcome our partners in Northern Virginia and Charlottesville into the VGLCC family when we launch in June. As our organization continues to grow, we will connect diverse communities together through shared values and the language of economics. By uniting Virginia’s LGBT business community, as well as its allies, and integrating that historically underserved demographic into the broader marketplace, the VGLCC will continue its mission of diversifying and strengthening Virginia’s economy.”

Bob Witeck believes the VGLCC is the right vehicle for Virginia to continue the Governor’s charge: “The VGLCC is a crossroads for everyone who believes that opportunity is built on shared values, trust, ingenuity, innovation and hard work – and I’d add one more idea, friendships. If the VGLCC succeeds, many of us will be wide-eyed participants in, not just observers of, creating jobs, starting and growing businesses, and expanding options for our entire economy. What could be more promising than that?”

Returning to the subject of Indiana’s RFRA, Garret Epps, a contributing editor for *The Atlantic* summed it up best: Being required to serve those we dislike is a painful price to pay for the privilege of running a business; but the pain exclusion inflicts on its victims, and on society, are far worse than the discomfort the faithful may suffer at having to open their businesses to all.” Or, as Thomas Jefferson stated, “I would rather be exposed to the inconveniences attending too much liberty than to those attending too small a degree of it.”

Established in 2014 and launching in the spring of 2015, the VGLCC seeks to diversify and strengthen Virginia’s economy by uniting the Commonwealth’s LGBT business community and integrating that dynamic demographic into the broader marketplace. Through the guiding principles of advocacy, collaboration and education, the VGLCC aims to promote economic equality by serving as the nonpartisan voice of Virginia’s LGBT entrepreneurs, innovators, job creators and their allies. In short, the VGLCC’s objective is to effectively weave the story of the LGBT community into the evolving narrative of Virginia’s diverse 21st century economy.

