

Gay Marriage Debate Takes New Twist in Oregon: Religious Exemption

Oregon voters will likely face two questions about **gay marriage** when they go to the ballot this year: whether to become the 18th state to let same-sex couples wed, and whether the state should be the first to allow florists, cake makers and others to refuse to participate in these weddings on religious grounds.

The ballot initiatives set up what some activists have said is the next frontier in the marriage debate—as more states move to extend marriage rights to same-sex couples, those who object on religious grounds want a legal right to opt out.

“This is not a sideshow issue,” said James Esseks of the American Civil Liberties Union, referring to the Oregon ballot initiative and the coming debate over religious exemption. “This is going to be the issue that we fight about for the next 10 years, at least, in the (lesbian, gay, bisexual and transgender) rights movement.”

In Oregon and 20 other states, it is illegal to discriminate against people because of their sexual orientation. The Oregon initiative, which is still awaiting formal approval and could face legal challenges, would create an exemption to that protection.

Several states are considering similar legislation. In South Dakota, a bill was introduced this month that would allow businesses to refuse same-sex wedding-related services.

Teresa Harke, whose group Friends of Religious Freedom proposed Oregon’s religious exemption referendum, said that as the marriage debate continues, guarantees are needed to ensure

those on both sides of the issue are treated fairly.

"We wanted to make sure that, no matter which way marriage is defined in Oregon, that folks who hold a view based on their faith that marriage is between one man and one woman are not going to be discriminated against or be silenced for declining to participate in same-sex weddings," she said.

Oregon pollster Tim Hibbitts said he expected a close vote on the marriage referendum but had not yet polled the religious exemption question.

'Right of Conscience'

Oregon's ballot initiative was inspired by an incident last year when Sweet Cakes by Melissa, a bakery in the Portland suburb of Gresham, refused to bake a wedding cake for a lesbian couple because of the owners' objections to **same-sex marriage**.

The couple, Rachel Cryer and Laurel Bowman, filed a complaint and, in January, labor investigators ruled the bakery had violated Oregon's nondiscrimination law. Sweet Cakes, which was inundated with angry emails and phone calls, lost a significant amount of business and was forced to relocate.

Cryer and Bowman declined to be interviewed, as did Sweet Cakes' owners, Aaron and Melissa Klein.

"I think it just made everybody realize that there may not be the right protections in place," said Harke.

Similar cases have unfolded across the country. A florist in Washington state, a Colorado bakery and a New Jersey event space have all cited religious objections in refusing to provide service to same-sex wedding and partnership ceremonies.

Last August, New Mexico's highest court ruled an event photographer's refusal on religious grounds to shoot a same-

sex couple's commitment ceremony amounted to illegal discrimination. The court likened Elane Photography's refusal to a company declining to photograph an interracial wedding.

"They want a special privilege and a special license to discriminate against gay people in business," said Esseks. He called religious exemptions a "Plan B" strategy to "carve out a space where gay people's equality does not affect the way these other folks live their daily lives."

But Jordan Lorence, a lawyer with the conservative Alliance Defending Freedom, who represents Elane Photography, said the **First Amendment** protects the right of people not to endorse messages with which they disagree.

"The right of conscience protects all Americans," he said.

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