



Written by [Jack Kenny](#) on March 30, 2015

Pence Won't Say if New Law Protects Rights of Vendors to Refuse Service for Same-Sex Weddings

Indiana Gov. Mike Pence Sunday repeatedly refused to say whether his state's new religious freedom law would protect vendors who refuse to provide services for same-sex weddings. Appearing on ABC's *This Week*, Pence (shown) evaded, time and again, host George Stephanopoulos's direct questions on the subject. In discussing Indiana's Religious Freedom Restoration Act, which Pence signed into law last week, the governor said it was essentially the same as the federal law of the same name, signed by President Clinton in 1993, and an Illinois law President Obama voted for as a state senator. Stephanopoulos quoted one of the supporters of the legislation, Eric Miller of Advance America, who was present when Pence signed the bill.



"It will protect those who oppose [gay marriage](#)," Miller wrote, adding: "Christian bakers, florists and photographers should not be punished for refusing to participate in a homosexual marriage."

"So this is a yes or no question," Stephanopoulos said to Pence. "Is Advance America right when they say a florist in Indiana can now refuse to serve a gay couple without fear of punishment?"

"Well, let — let me explain to you," Pence began his reply, as he spoke about the bill empowering people, repeating that it is patterned after the federal law and talking about the First Amendment and freedom of religion. "This is not about discrimination," he insisted, before Stephanopoulos tried again.

"And so yes or no: If a florist in Indiana refuses to serve a gay couple at their wedding, is that legal now in Indiana?"

"George," Pence protested, "this is — this is where this debate has gone, with — with misinformation and frankly —

"It's just a question, sir." Stephanopoulos insisted. "Yes or no?"

"Well — well, this — there's been shameless rhetoric about my state and about this law and about its intention all over the Internet," Pence replied. "People are trying to make it about one particular issue. And now you're doing that, as well."

Stephanopoulos tried again with the question about the florist, but the closest Pence came to answering it was to say, "Tolerance is a two-way street."

"So when you say tolerance is a two way street," Stephanopoulos asked, "does that mean that Christians who want to refuse service or people of any other faith who want to refuse service to gays and lesbians, that it's now legal in the state of Indiana? That's the simple yes or no question."



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“George, the — the question here is if the — if there is a government action or a law that an individual believes impinges on their religious liberty, they have the opportunity to go to court, just as The Religious Freedom Restoration Act that Bill Clinton signed allowed them [to] go to court and the court would evaluate the circumstance under the standards articulated in this Act.”

Pence pointed out that 19 other states have similar laws. Religious freedom laws introduced in nine other states in 2014 either failed to pass or are still up for consideration. The Arkansas legislature passed such a bill to send to the governor on Friday. But Adam Talbot, a spokesman for the Human Rights Campaign, told CNN the laws of other states are “dramatically different in their scope and effect” from Indiana’s, which he called “the broadest and most dangerous law of its kind in the country.”

The law says government may not “substantially burden a person’s exercise of religion” and a person who believes his religious beliefs are being substantially burdened may use the law as a defense against a lawsuit. The question of what constitutes a “substantial burden” will likely be a subject for legions of litigators to dispute in a yet unknown number of suits involving a wide variety of individuals and businesses. Since sexual orientation is not a protected category in Indiana’s anti-discrimination law, critics claim the law could be used to protect owners of all sorts of businesses and public accommodation, including restaurants where a homosexual or lesbian couple might be refused service. According to CNN, similar laws in other states have been invoked by an Oklahoma policeman who refused to police a mosque, an officer in Salt Lake City who refused to police a “gay pride” parade, and a photographer in New Mexico in refusing service to a lesbian couple.

Pence said he would not support changing the law, but told the *Indianapolis Star* that he was working with legislators to add a section clarifying its purpose of the law and stating it is not intended to promote discrimination.

“This bill is not about discrimination,” Pence said. “And if I thought it was about discrimination I would have vetoed it.” He was asked by Stephanopoulos Sunday if he would “push for” amending Indiana law to add sexual orientation as category for protection under the state’s civil rights laws.

“I will not push for that,” Pence said. “That’s a — that’s not on my agenda and that’s not been the — that’s not been an objective of the people of the state of Indiana. And it doesn’t have anything to do with this law.”

Following Pence on *This Week*, President Obama’s Press Secretary Josh Earnest attempted to deflect the governor’s argument that the new Indiana law is essentially the same legislation that Obama voted for as a state senator in Illinois. “Look, if you have to go back two decades to try to justify something you are doing today, it may raise some questions about the wisdom of what you’re doing,” Earnest said. “Look, it should be easy for leaders in this country to stand up and say that it is wrong to discriminate against people just because of who they love.”

But opposition from the White House may be among the least of Indiana’s problems over the new law, as economic pressures threaten to overwhelm concerns about a businessperson’s religious freedom and rights of conscience. Several national companies have expressed opposition to the law, with some threatening to halt expansion plans in Indiana or leave the state entirely. Apple chief executive Tim Cook tweeted: “Apple is open for everyone. We are deeply disappointed in Indiana’s new law and calling on Arkansas Gov. to veto the similar #HB1228.”

Salesforce.com head Marc Benioff said his company would stop its travel to Indiana and help its



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employees move out of the state. Organizers of Gen Con, believed to be the largest gaming convention in the country, last week threatened to take their event, worth millions, if Pence signed the law. The mayors of San Francisco and Seattle issued statements announcing bans on the spending of public funds for employees to travel to Indiana. Seattle will also inspect city contracts to see if any are with businesses located in Indiana.

The National Collegiate Athletic Association, which has its headquarters in Indianapolis and this year's Final Four championship tournament there, said the new law could force it to consider leaving Indiana out of plans for future events. Former National Basketball Association star and current TV sports commentator Charles Barkley has even called on the NCAA to move this weekend's Final Four out of Indiana. Indianapolis Mayor Greg Ballard said the law "sends the wrong signal."

"We are a diverse city, and I want everyone who visits and lives in Indy to feel comfortable here," the mayor said.

The controversy brings to mind one that erupted over similar legislation passed by the Arizona legislature last year, when businesses threatened to boycott the state and the National Football League said it would consider moving this year's Super Bowl from Glendale, Arizona, to another state. Heads of more than 80 companies doing business in Arizona called on Republican Gov. Jan Brewer to veto the bill. So did major figures in the Republican Party, including the state's senior U.S. Senator and 2008 GOP presidential nominee John McCain and 2012 nominee Mitt Romney. Yielding to pressure, Brewer vetoed the bill.

The issue raises important questions about how far government may go in extending its antidiscrimination jurisdiction. Police officers may not refuse to police a mosque or a "gay pride" parade because they are public employees and people are entitled to police protection. But a florist or a wedding photographer is a private contractor who should be entitled to the same right to withhold his or her services as a customer has to do business with a different florist or photographer — or the same right as a private company has to take its business out of a state because the company's executives or board of directors object to one or more of the state's laws.

In 2012, a hairdresser in New Mexico dropped the state's governor, Susana Martinez, as a customer because the governor opposes same-sex "marriage." The hairdresser was not sued, nor was there a national outcry over "discrimination." Perhaps tolerance is not a "two-way street," after all.

If it is, the street might benefit from a better defense than Gov. Pence is willing to offer. If the governor cannot or will not say whether the law he just signed will protect a florist who refuses to accommodate a "gay" wedding, then what is the point of the law? He might have asked Stephanopoulos why the law shouldn't protect the freedom of the vendor as well as the freedom of the customer. It might have been interesting to hear the answer.



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