

KEY VOTE ALERT!



Congressional & Public Affairs
U.S. Chamber of Commerce
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TO THE MEMBERS OF THE UNITED STATES SENATE:

The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, strongly urges you to oppose H.R. 2831, the "Ledbetter Fair Pay Act," which is expected to be considered by the full Senate this week. This legislation would amend Title VII of the Civil Rights Act of 1964 and several other antidiscrimination laws to effectively abolish the statute of limitations in many cases.

H.R. 2831 is purported to overturn the Supreme Court's recent decision in *Ledbetter v. Goodyear Tire & Rubber Co.*, which rejected the "paycheck theory" of compensation discrimination that would permit claims to be filed many years after an alleged act of discrimination occurs. The Chamber believes the *Ledbetter* decision is a common sense result that should be supported.

Regardless of how the *Ledbetter* decision is viewed, H.R. 2831 is not limited to reversing the decision and has far broader implications. Indeed, by applying the paycheck rule broadly, it is possible that claims could be filed decades after an allegedly discriminatory act occurred. By applying the rule to pension annuities as well, a cause of action could arise decades after the individual ceased to work for the employer. Additionally, H.R. 2831 is not limited to cases of intentional discrimination, but would also apply to cases based on the theory of disparate impact, which, with respect to compensation claims has, until now, been consistently rejected by the federal courts. Subjecting employers to such claims would literally lead to an explosion of litigation second guessing legitimate employment and personnel decisions. Nor is it clear how an employer would defend itself from such a claim without the ability to go back in time and make the types of robust statistical analyses necessary for a defense. Another example of the bill's overreach is language suggesting that anyone "affected by" discrimination could bring a claim. Proponents of H.R. 2831 indicated, during committee markup in the House, that family members, not just an employee, would have standing to file a claim; if true, this would be a radical expansion of Title VII that would make cases even more difficult to settle.

These are just a few of the many complex and important issues raised by this bill. **For these reasons, the Chamber strongly urges you to oppose H.R. 2831 and may consider votes on, or in relation to, this issue in our annual *How They Voted* scorecard.**

Sincerely,

R. Bruce Josten