

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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The Honorable Bobby Scott
Chairman
Committee on Education and Labor
U. S. House of Representatives
Washington, DC 20515

The Honorable Virginia Foxx
Ranking Member
Committee on Education and Labor
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Scott and Ranking Member Foxx:

The U.S. Chamber of Commerce opposes pay discrimination and firmly supports equal employment opportunity and strong enforcement of the Equal Pay Act (EPA) and Title VII of the Civil Rights Act of 1964. However, the Chamber opposes H.R. 7, the "Paycheck Fairness Act," because it would undermine efforts to combat pay discrimination by conflating discriminatory practices with other non-discriminatory factors that result in legitimate pay disparities.

Factors such as experience, education, location, and shift work can and often do result in pay differentials between employees employed by the same business in similar positions. Current law recognizes that these are legitimate, non-discriminatory distinctions. H.R. 7 would impose a new multi-factor test that includes a vague "business necessity" test that would effectively eliminate the ability of an employer to make compensation decisions based on such factors. As a result, employees will not be compensated based on the attributes they bring to the job and their actual contributions to their employer.

H.R. 7 would also for the first time allow for compensatory and punitive damages. The EPA is a strict liability statute that requires no employer intent to act unlawfully for a violation to be found. If an employee is the victim of intentional discrimination, then he or she should bring a claim under Title VII of the Civil Rights Act of 1964, where punitive and compensatory damages (capped at certain levels) are available.

This bill would also modify existing rules concerning collective actions, making it easier for plaintiffs' attorneys to mount class action suits by reducing the criteria necessary for employees to join a class. While a potential boon to the trial bar, these changes are likely to result in more frivolous litigation rather than appropriate enforcement against actual gender-based pay discrimination.

This bill also would make several regulatory changes at the Labor Department related to equal employment opportunity requirements for federal contractors. Re-imposing the flawed Equal Opportunity Survey and requiring use of dubious statistical models for determining whether employers engage in systematic compensation discrimination would do nothing to combat discrimination and instead would waste both enforcement and employer resources.

The Chamber strongly opposes H.R. 7 and urges the Committee not to approve this bill.

Sincerely,



Neil L. Bradley

cc: Members of the Committee on Education and Labor