

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

1615 H STREET, N.W.  
WASHINGTON, D.C. 20062-2000  
202/463-5310

March 19, 2015

The Honorable Lamar Alexander  
United States Senate  
Washington, DC 20510

The Honorable John Kline  
U.S. House of Representatives  
Washington, DC 20515

Dear Senator Alexander and Representative Kline:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, supports S. 620 and H.R. 1189, the "Preserving Employee Wellness Programs Act," and applauds you and the bill's cosponsors for introducing this important legislation.

This bill would clarify current law allowing for workplace wellness programs that encourage employee participation through financial incentives. The Chamber has long championed the adoption, expansion, and diversification of workplace wellness plans and believes that this vital legislation would ensure that both employers and employees continue to benefit from these popular workplace programs.

Building upon existing law that ensures that wellness programs do not discriminate, the Affordable Care Act (ACA) expressly endorses employer wellness programs as a means to improve both employee health and reduce health care costs. The ACA and its implementing regulations specifically allow employers to use limited financial incentives to encourage employee engagement in workplace wellness plans. Unfortunately, the Equal Employment Opportunity Commission (EEOC) has recently challenged employers, claiming that in certain circumstances, such financial incentives violate the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA). To date, EEOC has not issued any guidance to employers to help resolve the existing confusion.

EEOC's actions have created tremendous uncertainty among employers who have gone to great lengths to ensure that their wellness programs are compliant with the ACA. This bill would help to ease this uncertainty by specifically verifying that wellness programs that conform to the requirements set forth in the ACA are also lawful under ADA and GINA. Significantly, this bill would do nothing to limit EEOC's ability to investigate and pursue claims of discrimination, even when they involve workplace wellness programs.

The Chamber thanks you for introducing S. 620 and H.R. 1189, the "Preserving Employee Wellness Programs Act," and urges Congress to enact legislation that reaffirms the

law with regard to these popular workplace benefit programs. The Chamber appreciates your continuing efforts to promote certainty in the law, and looks forward to working with you and your colleagues to pass this critical legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with the first name "R." and last name "Josten" being more prominent.

R. Bruce Josten

cc: Members of the United States Congress