

January 7, 2009

NAME
U.S. House of Representatives
OFFICE
Washington, D.C. 20510

Dear NAME:

Being committed to eliminating unlawful pay disparity in the workplace, we write to express our strong opposition to H.R. 11, the Ledbetter Fair Pay Act, because the overly expansive legislation would remove the necessary incentives for prompt identification and resolution of potential discrimination claims and increase the potential for frivolous litigation. Current law prohibits discrimination and provides protection for those employees who were unaware of unlawful discrimination at the time it occurred or in cases where an employer took action to conceal unlawful activity. While proponents claim that this bill simply restores the law as it existed before the Supreme Court's decision in *Ledbetter v. Goodyear Tire & Rubber Co*, H.R. 11 goes far beyond the scope of the issue raised in that decision. Therefore we ask that you vote against H.R. 11.

When Congress passed Title VII of the Civil Rights Act, the Age Discrimination in Employment Act and the Americans with Disabilities Act, it created limits on the period of time under which an individual may file a "charge of discrimination" with the Equal Employment Opportunity Commission (EEOC). The limits on the charge filing period promote early reporting of potential discrimination to the EEOC, rapid resolution of employment claims and quick remedial actions by employers where appropriate.

The time limitations also balance competing interests by providing individuals a reasonable time to file charges while preventing courts and employers from facing stale claims in which the facts are difficult to ascertain because evidence is lost, memories have faded and witnesses have disappeared or passed away. In short, the statutory timeline encourages employees and employers to address potential problems proactively in order to mitigate the impact of discrimination and promotes fairness and due process by providing effective opportunities to defend against allegations of unlawful discrimination.

In addition to undermining the balanced charge filing period, this legislation would go far beyond the scope of the *Ledbetter* decision and eliminate time limitations for claims of employment discrimination in most cases; not just allegations of pay discrimination. This expansive bill would also create a new cause of action for family members or others "affected by" the alleged discrimination while impacting vacation benefits, health care costs, pensions, life insurance and other forms of "compensation".

The net result of H.R. 11 for employers would be an influx of new frivolous claims at a time when unwarranted litigation is already an issue under current discrimination laws. The EEOC reported that it found "reasonable cause" in only 5.0% of the over 82,000 charges of discrimination that it received in FY2007 and found "no

cause” for discrimination in 59% of the charges (amounting to 42,979 “no cause” charges). A study of previous years yields similar results.

The undersigned represent a broad and diverse cross section of large and small employers in many sectors of the economy who strongly support equal employment opportunity and unequivocally oppose unlawful discrimination. We urge you to oppose H.R. 11 and seek alternative ways to accomplish our shared goals of eliminating discrimination in the workplace.

Thank you for your consideration.

Sincerely,

American Apparel & Footwear Association
American Bakers Association
American Hotel & Lodging Association
Associated Builders & Contractors, Inc.
Associated General Contractors
College and University Professional Association for Human Resources
Food Marketing Institute
HR Policy Association
Independent Electrical Contractors, Inc
International Foodservice Distributors Association
International Franchise Association
International Public Management Association for Human Resources
International Sleep Products Association
National Association of Convenience Stores
National Association of Manufacturers
National Association of Wholesaler-Distributors
National Council of Chain Restaurants
National Restaurant Association
NPES The Association for Suppliers of Printing, Publishing and Converting Technologies
National Precast Concrete Association
National Public Employer Labor Relations Association
National Retail Federation
National Roofing Contractors Association
Non-Ferrous Founders' Society
Printing Industries of America
Society for Human Resource Management
Textile Rental Services Association
U.S. Chamber of Commerce
Wisconsin Manufacturers and Commerce