

Union Calendar No. 147

110TH CONGRESS
1ST SESSION

H. R. 2831

[Report No. 110-237]

To amend title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act of 1990, and the Rehabilitation Act of 1973 to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2007

Mr. GEORGE MILLER of California (for himself, Mr. HOYER, Ms. DeLAURO, Mr. ANDREWS, Ms. NORTON, Ms. WOOLSEY, Ms. SHEA-PORTER, Ms. HIRONO, Mrs. CAPPS, Mrs. MALONEY of New York, Ms. LINDA T. SÁNCHEZ of California, Mrs. MCCARTHY of New York, Mr. LOEBSACK, Ms. SLAUGHTER, Mr. VAN HOLLEN, Ms. MCCOLLUM of Minnesota, Mr. HINOJOSA, Mr. DAVIS of Illinois, Mr. KUCINICH, Mr. McDERMOTT, Mr. FARR, Ms. BERKLEY, Mr. NADLER, and Ms. CLARKE) introduced the following bill; which was referred to the Committee on Education and Labor

JULY 18, 2007

Additional sponsors: Mr. CLYBURN, Mr. CONYERS, Mr. SCOTT of Virginia, Mr. HOLT, Mr. ALLEN, Mr. BRALEY of Iowa, Ms. WASSERMAN SCHULTZ, Mr. DAVIS of Alabama, Mr. KILDEE, Mr. PAYNE, Mr. BISHOP of New York, Mr. HARE, Ms. JACKSON-LEE of Texas, Mr. DEFazio, Ms. SUTTON, Mr. MARSHALL, Mr. OBERSTAR, Mr. GRIJALVA, Mr. AL GREEN of Texas, Mr. ACKERMAN, Mr. YARMUTH, Mr. SESTAK, Mr. SERRANO, Mr. ELLISON, Mr. BUTTERFIELD, Mr. BERMAN, Mrs. CHRISTENSEN, Mr. ABERCROMBIE, Mr. BOSWELL, Ms. SCHAKOWSKY, Mr. HIGGINS, Mr. MORAN of Virginia, Mr. COHEN, Ms. SOLIS, Mr. JACKSON of Illinois, Ms. GIFFORDS, Mr. GONZALEZ, Mr. HODES, Mr. RANGEL, Mr. RUPPERSBERGER, Mr. DOGETT, Ms. KILPATRICK, Ms. CORRINE BROWN of Florida, Ms. MATSUI, Mr. PATRICK MURPHY of Pennsylvania, Mr. CUMMINGS, Mr. SCHIFF, Mr. SARBANES, Mr. RYAN of Ohio, Ms. LORETTA SANCHEZ of California, Mr. LARSON of Connecticut, Mr. MILLER

of North Carolina, Mr. GENE GREEN of Texas, Mrs. DAVIS of California, Mr. SIRES, Mr. JOHNSON of Georgia, Mr. POMEROY, Mr. TIERNEY, Mr. WILSON of Ohio, Mr. WATT, Mr. LEVIN, Mr. BRADY of Pennsylvania, Mr. SPRATT, Ms. WATSON, Mr. ROTHMAN, Mr. BARROW, Mrs. TAUSCHER, Ms. ZOE LOFGREN of California, Mr. BAIRD, and Mr. ALTMIRE

JULY 18, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 22, 2007]

A BILL

To amend title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act of 1990, and the Rehabilitation Act of 1973 to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Lilly Ledbetter Fair*
 5 *Pay Act of 2007”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds the following:*

8 *(1) The Supreme Court in Ledbetter v. Goodyear*
 9 *Tire & Rubber Co., No. 05–1074 (May 29, 2007), sig-*

1 nificantly impairs statutory protections against dis-
2 crimination in compensation that Congress estab-
3 lished and that have been bedrock principles of Amer-
4 ican law for decades. The Ledbetter decision under-
5 mines those statutory protections by unduly restrict-
6 ing the time period in which victims of discrimina-
7 tion can challenge and recover for discriminatory
8 compensation decisions or other practices, contrary to
9 the intent of Congress.

10 (2) The limitation imposed by the Court on the
11 filing of discriminatory compensation claims ignores
12 the reality of wage discrimination and is at odds
13 with the robust application of the civil rights laws
14 that Congress intended.

15 (3) With regard to any charges of discrimination
16 under any law, nothing in this Act is intended to
17 preclude or limit an aggrieved person's right to intro-
18 duce evidence of unlawful employment practices that
19 have occurred outside the time for filing a charge of
20 discrimination.

21 (4) This Act is not intended to change current
22 law treatment of when pension distributions are con-
23 sidered paid.

1 **SEC. 3. DISCRIMINATION IN COMPENSATION BECAUSE OF**
 2 **RACE, COLOR, RELIGION, SEX, OR NATIONAL**
 3 **ORIGIN.**

4 *Section 706(e) of the Civil Rights Act of 1964 (42*
 5 *U.S.C. 2000e-5(e)) is amended by adding at the end the*
 6 *following:*

7 *“(3)(A) For purposes of this section, an unlawful em-*
 8 *ployment practice occurs, with respect to discrimination in*
 9 *compensation in violation of this title, when a discrimina-*
 10 *tory compensation decision or other practice is adopted,*
 11 *when an individual becomes subject to a discriminatory*
 12 *compensation decision or other practice, or when an indi-*
 13 *vidual is affected by application of a discriminatory com-*
 14 *pensation decision or other practice, including each time*
 15 *wages, benefits, or other compensation is paid, resulting in*
 16 *whole or in part from such a decision or other practice.*

17 *“(B) In addition to any relief authorized by section*
 18 *1977a of the Revised Statutes (42 U.S.C. 1981a), liability*
 19 *may accrue and an aggrieved person may obtain relief as*
 20 *provided in subsection (g)(1), including recovery of back*
 21 *pay for up to two years preceding the filing of the charge,*
 22 *where the unlawful employment practices that have oc-*
 23 *curred during the charge filing period are similar or related*
 24 *to unlawful employment practices with regard to discrimi-*
 25 *nation in compensation that occurred outside the time for*
 26 *filing a charge.”.*

1 **SEC. 4. DISCRIMINATION IN COMPENSATION BECAUSE OF**
 2 **AGE.**

3 *Section 7(d) of the Age Discrimination in Employ-*
 4 *ment Act of 1967 (29 U.S.C. 626(d)) is amended—*

5 *(1) by redesignating paragraphs (1) and (2) as*
 6 *subparagraphs (A) and (B), respectively;*

7 *(2) by striking “(d)” and inserting “(d)(1)”;*

8 *(3) in the third sentence, by striking “Upon”*
 9 *and inserting the following:*

10 *“(2) Upon”; and*

11 *(4) by adding at the end the following:*

12 *“(3) For purposes of this section, an unlawful practice*
 13 *occurs, with respect to discrimination in compensation in*
 14 *violation of this Act, when a discriminatory compensation*
 15 *decision or other practice is adopted, when a person becomes*
 16 *subject to a discriminatory compensation decision or other*
 17 *practice, or when a person is affected by application of a*
 18 *discriminatory compensation decision or other practice, in-*
 19 *cluding each time wages, benefits, or other compensation is*
 20 *paid, resulting in whole or in part from such a decision*
 21 *or other practice.”.*

22 **SEC. 5. APPLICATION TO OTHER LAWS.**

23 *(a) AMERICANS WITH DISABILITIES ACT OF 1990.—*

24 *The amendment made by section 3 shall apply to claims*
 25 *of discrimination in compensation brought under title I*
 26 *and section 503 of the Americans with Disabilities Act of*

1 1990 (42 U.S.C. 12111 *et seq.*, 12203), pursuant to section
 2 107(a) of such Act (42 U.S.C. 12117(a)), which adopts the
 3 powers, remedies, and procedures set forth in section 706
 4 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5).

5 (b) *REHABILITATION ACT OF 1973.*—The amendments
 6 made by section 3 shall apply to claims of discrimination
 7 in compensation brought under sections 501 and 504 of the
 8 Rehabilitation Act of 1973 (29 U.S.C. 791, 794), pursuant
 9 to—

10 (1) sections 501(g) and 504(d) of such Act (29
 11 U.S.C. 791(g), 794(d)), respectively, which adopt the
 12 standards applied under title I of the Americans with
 13 Disabilities Act of 1990 for determining whether a
 14 violation has occurred in a complaint alleging em-
 15 ployment discrimination; and

16 (2) paragraphs (1) and (2) of section 505(a) of
 17 such Act (29 U.S.C. 794a(a)) (as amended by sub-
 18 section (c)).

19 (c) *CONFORMING AMENDMENTS.*—

20 (1) *REHABILITATION ACT OF 1973.*—Section
 21 505(a) of the Rehabilitation Act of 1973 (29 U.S.C.
 22 794a(a)) is amended—

23 (A) in paragraph (1), by inserting after
 24 “(42 U.S.C. 2000e–5 (f) through (k))” the fol-
 25 lowing: “(and the application of section

1 706(e)(3) (42 U.S.C. 2000e–5(e)(3)) to claims of
2 discrimination in compensation”); and

3 (B) in paragraph (2), by inserting after
4 “1964” the following: “(42 U.S.C. 2000d et seq.)
5 (and in subsections (e)(3) of section 706 of such
6 Act (42 U.S.C. 2000e–5), applied to claims of
7 discrimination in compensation)”.

8 (2) *CIVIL RIGHTS ACT OF 1964*.—Section 717 of
9 the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) is
10 amended by adding at the end the following:

11 “(f) Section 706(e)(3) shall apply to complaints of dis-
12 crimination in compensation under this section.”.

13 (3) *AGE DISCRIMINATION ACT OF 1967*.—Section
14 15(f) of the Age Discrimination in Employment Act
15 of 1967 (29 U.S.C. 633a(f)) is amended by striking
16 “of section” and inserting “of sections 7(d)(3) and”.

17 **SEC. 6. EFFECTIVE DATE.**

18 This Act, and the amendments made by this Act, take
19 effect as if enacted on May 28, 2007 and apply to all claims
20 of discrimination in compensation under title VII of the
21 Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Age
22 Discrimination in Employment Act of 1967 (29 U.S.C. 621
23 et seq.), title I and section 503 of the Americans with Dis-
24 abilities Act of 1990, and sections 501 and 504 of the Reha-

- 1 *ilitation Act of 1973, that are pending on or after that*
- 2 *date.*

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