



EMPLOYMENT NON-DISCRIMINATION ACT

H.R. 1755; S. 815

The Problem

Qualified, hardworking Americans are denied job opportunities, fired or otherwise discriminated against just because they are lesbian, gay, bisexual or transgender (LGBT). There is no federal law that consistently protects LGBT individuals from employment discrimination; there are no state laws in 29 states that explicitly prohibit discrimination based on sexual orientation, and in 33 states that do so based on gender identity. As a result, LGBT people face serious discrimination in employment, including being fired, being denied a promotion and experiencing harassment on the job.

What is the Employment Non-Discrimination Act?

The Employment Non-Discrimination Act (ENDA) would provide basic protections against workplace discrimination on the basis of sexual orientation or gender identity. ENDA simply affords to all Americans basic employment protection from discrimination based on irrational prejudice. The bill is closely modeled on existing civil rights laws, including Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act. The bill explicitly prohibits preferential treatment and quotas and does not permit disparate impact suits. In addition, it exempts small businesses, religious organizations and the military.

States' Experiences and Corporate Support

Twenty-one states and the District of Columbia have passed laws prohibiting employment discrimination based on sexual orientation, and 17 states and D.C. also prohibit discrimination based on gender identity. Although these laws provide important protections, according to a 2002 General Accounting Office (GAO) report, relatively few complaints of discrimination based on sexual orientation have been filed in these states.

Hundreds of companies have enacted policies protecting their lesbian, gay, bisexual and transgender employees. As of April 2013, 434 (88 percent) of the Fortune 500 companies had implemented non-discrimination policies that include sexual orientation, and 282 (57 percent) had policies that include gender identity.

What is the Current Status of the Bill?

ENDA was introduced in the 113th Congress in the House by Reps. Jared Polis (D-CO) and Ileana Ros-Lehtinen (R-FL) and in the Senate by Sen. Mark Kirk (R-IL) and Sen. Jeff Merkley (D-OR) as well as Sens. Tammy Baldwin (D-WI), Susan Collins (R-ME) and Tom Harkin (D-IA) on April 25, 2013. ENDA was approved by the Senate Health, Education, Labor and Pensions Committee on July 10, 2013, by a bipartisan vote of 15-7.