



April 27, 2009

United States Senate
Washington, DC 20510

Close the Wage Gap for Women - Support The Paycheck Fairness Act, S. 182

Dear Senator:

On behalf of the American Civil Liberties Union (ACLU), its over half a million members, fifty-three affiliates nationwide, and countless additional supporters and activists, we urge you to support S. 182, the Paycheck Fairness Act, a bill intended to finally secure equal pay for equal work for all American workers.

Tomorrow, April 28, 2009, we mark Equal Pay Day -- the day the average woman must work into 2009 in order to match a man's earnings in 2008. The day is an important reminder of the persistent wage gap and the urgent need to take action to ensure that women can receive equal pay for equal work.

At the beginning of this Congress, the House of Representatives overwhelmingly passed the Paycheck Fairness Act with bipartisan support. We hope the Senate will soon take up S. 182 and send the message that wage gaps unfairly based on gender are no longer tolerable.

The Next Step in Closing the Wage Gap: The Paycheck Fairness Act

The ACLU has long been a leader in the legal battles to ensure women's equality and is committed to ensuring that all women, especially our most vulnerable, are able to lead lives of economic self-sufficiency, to provide for themselves and their families, to work unhindered by gender discrimination, and to enjoy equal access to meaningful employment opportunities.

The ACLU applauds Congress and the Administration for moving quickly to enact the Lilly Ledbetter Fair Pay Act, a critical law preserving remedies for victims of wage discrimination. The Ledbetter law gives employees the ability to have their day in court in order to challenge an unlawful wage gap. However, it is the Paycheck Fairness Act that would give employees the tools they need to finally close the wage gap itself. Together, these acts can help to create a climate where wage discrimination is not tolerated and give the Administration the enforcement tools it needs to make real progress on pay equity.

The Paycheck Fairness Act would be a much needed update of the 45-year-old Equal Pay Act. Since becoming law, loopholes and weak remedies have made the Equal Pay Act less effective in combating wage discrimination. There should be little doubt that such improvements are necessary. According to the U.S. Census Bureau women who work full time still earn, on average, only 78 cents for every dollar men earn.¹ The statistics

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¹ See U.S. CENSUS BUREAU AND THE BUREAU OF LABOR STATISTICS, ANNUAL DEMOGRAPHIC SURVEY, TABLE PINC-05, WORK EXPERIENCE IN 2007 (August 2008), http://pubdb3.census.gov/macro/032008/perinc/new05_000.htm.

are even worse for women of color. Despite arguments to the contrary, this wage disparity is not simply a result of women's education levels² or life choices.³

The consequences of this discrimination are severe and predictable. The pay disparity forces single-mother households and families dependent on two wage earners to live on less than they rightfully deserve, while simultaneously reducing women's retirement earnings. In short, unfair pay disparities perpetuate women's economic dependence and deprive them of economic opportunity and equal protection of the laws. Moreover, women tend to be hurt first and worst during economic downturns.⁴ Due to rising unemployment rates, families are relying more than ever on women's income – making pay equity even more necessary, not only to families' economic security, but also to the nation's economic recovery.

Ensuring Equal Pay for Equal Work: Updating the Equal Pay Act

The Equal Pay Act of 1963 requires that men and women be given “equal pay for equal work” in the same place of business or establishment. Unfortunately, while its goals are critically important, the Equal Pay Act has not been able to achieve its promise of closing the wage gap because of limited enforcement tools and inadequate remedies.

The Paycheck Fairness Act would update the Equal Pay Act by taking several important steps toward remedying pay discrimination, including:

- requiring employers to demonstrate that wage differentials between men and women holding the same position and doing the same work stem from factors other than sex. The legislation clarifies acceptable reasons for differences in pay by requiring employers to demonstrate that wage gaps between men and women doing the same work have a business justification and are truly a result of factors other than sex.
- prohibiting retaliation against workers who inquire about their employers' wage practices or disclose their own wages. It is important to note, however, that employees with access to colleagues' wage information in the course of their work, such as human resources employees, may still be prohibited from sharing that information.
- permitting reasonable comparisons between employees within clearly defined geographical areas to determine fair wages.
- strengthening penalties for equal pay violations. The bill's measured approach levels the playing field by ensuring that women can obtain the same remedies as those subject to discrimination on the basis of race or national origin.
- authorizing additional training for EEOC staff to better identify and handle wage disputes. It would also require the U.S. Department of Labor to reinstate important activities, such as directing educational programs to assist women in the workforce, providing technical assistance to employers,

² See U.S. DEPARTMENT OF EDUCATION, NATIONAL CENTER FOR EDUCATION STATISTICS, 1993/2003 BACCALAUREATE AND BEYOND LONGITUDINAL STUDY, <http://nces.ed.gov/surveys/B&B/>.

³ BUREAU OF LABOR STATISTICS, EMPLOYMENT STATUS OF WOMEN BY PRESENCE AND AGE OF YOUNGEST CHILD, MARITAL STATUS, RACE, AND HISPANIC OF LATINO ETHNICITY (2004), <http://www.bls.gov/cps/wlf-table6-2005.pdf>.

⁴ See Dean Baker, *Unemployment Jumps to 6.1 Percent, Women Hit Hardest*, Jobs Byte, Center for Economic and Policy Research, Sept. 5, 2008, <http://www.cepr.net/index.php/data-bytes/jobs-bytes/unemployment-jumps-to-6.1-percent,-women-hit-hardest/>.

recognizing the achievements of businesses that address the wage gap, collecting wage-related data, and conducting and promoting research about pay disparities between men and women.

Conclusion

S. 182 is an important and reasonable approach in the effort to finally close the wage gap in the workplace. Especially in this economic climate, we need concrete and immediate action to improve the economic security of working families. At the end of the year, equally qualified men and women doing the same work must receive the same pay and Equal Pay Day must become a thing of the past. To help achieve this end, we urge you to support S. 182. If you have questions or need additional information, please contact Deborah J. Vagins at (202) 715-0816 or dvagins@dcaclu.org.

Sincerely,



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Director



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