



November 15, 2010

The Honorable Harry Reid
Senate Majority Leader
United States Senate
S-221, U.S. Capitol
Washington, D.C. 20510

Dear Majority Leader Reid:

On behalf of the National Retail Federation, I am writing to urge you to oppose S. 3772, legislation that would greatly increase government involvement in pay decisions in businesses of all sizes and give trial lawyers an incentive to pursue unlimited litigation against America's business owners. Votes on S. 3772 will be considered a "key vote" by the National Retail Federation and the retail industry.

Retailers strongly oppose discrimination of all types. Sex discrimination in employment is no exception. Two federal laws protect employees from gender-based pay inequity: Title VII of Civil Rights Act of 1964 and the Equal Pay Act of 1963. Both laws have broad coverage, prohibit intentional gender-based pay discrimination and impose liability on employers for gender-pay differences, even where there is no evidence of intentional discrimination if the employer fails to justify the pay discrepancies.

However, S. 3772 would dramatically expand the Equal Pay Act to allow workers who claim they are the victims of gender-based wage discrimination to sue for unlimited compensatory and punitive damages. Moreover, its provisions would allow business owners to be sued if wage differentials exist due to local market rates, revenue production, or profitability. As a result, S. 3772 could effectively block retailers from considering issues such as store location and local economic conditions in setting wage rates.

Furthermore, the bill expedites class action lawsuits by requiring employees to "opt-out" of the class, effectively using size to force settlements against the Main Street businesses that will become its target. The legislation would also direct the EEOC to collect employee pay and compensation data from covered employers. Nothing in the bill would prevent this data from being publicly disclosed by the EEOC or made available through a Freedom of Information Act request.

Again, the National Retail Federation strongly urges you to oppose S. 3772, and will consider a vote on this legislation a key vote for the retail industry.

Sincerely,

Mallory Duncan
Senior Vice President, General Counsel

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