

**Statement of Chairman George Miller
Committee on Education & Labor
Consideration of H.R. 3685
The Employment Non-Discrimination Act of 2007
October 18, 2007**

Today, the Committee will consider H.R. 3685, the Employment Non-Discrimination Act, which will bar employers from discriminating against their employees on the basis of sexual orientation.

The legislation ensures that employment decisions are based on merit and performance, not prejudice.

Today will mark the first vote ever taken on the Employment Non-Discrimination Act in the House of Representatives since such nondiscrimination legislation was first introduced in 1975.

It never should have taken over 30 years to get to this point, but I am proud that we are considering this important civil rights legislation today.

No federal law addresses discrimination based on sexual orientation. Thirty states permit employers to make critical employment decisions based solely on an employee's sexual orientation.

In those 30 states, employers can fire, refuse to hire, demote, or refuse to promote employees on the basis of sexual orientation alone.

Last month, the Health, Employment, Labor and Pensions Subcommittee heard testimony from Michael Carney, a highly decorated police officer.

Officer Carney was initially denied the opportunity to return to his job with the Springfield, Massachusetts Police Department because he is gay. Fortunately, Massachusetts is not one of the 30 states to deny these basic rights to gay workers, and Officer Carney was eventually able to return to his job.

That was not the case for Brooke Waites, who also testified at the hearing. Ms. Waites was fired from her job in telecommunications after her employer discovered that she is a lesbian. Since the state of Texas allows employers to

fire workers based on sexual orientation, Ms. Waites had no recourse. She could not get her job back.

It is hard to believe that otherwise fully qualified, bright and capable individuals are being denied employment or fired from their jobs for these completely non-work related reasons. This is profoundly unfair and, indeed, un-American.

Unless we act to outlaw this discrimination, untold numbers of American workers will continue to go to work each day with the legitimate fear that they could be fired and wind up unable to provide for themselves or their families.

That is why it is essential that Congress act to protect the rights of all workers, regardless of sexual orientation.

Specifically, the Employment Non-Discrimination Act:

- Extends employment nondiscrimination protections to gay, lesbian, bisexual and heterosexual people;
- Prohibits employers, employment agencies and labor unions from using an individual's sexual orientation as the basis for employment decisions, such as hiring, firing, promotion, or compensation;
- Prohibits employers from subjecting an individual to different standards or treatment based on that individual's sexual orientation;
- Provides the same procedures for grievances as Title VII employment discrimination claims, but somewhat more limited remedies than those permitted under Title VII and the Americans with Disabilities Act;
- Exempts religious organizations from coverage under the Act;
- Covers businesses with fifteen or more employees, as well as employees in the public sector; and

- Does not allow for quotas or preferential treatment and does not allow the Equal Employment Opportunity Commission to collect statistics on sexual orientation or gender identity or compel employers to collect such statistics.

A 2007 Human Rights Campaign survey found that 90 percent of Fortune 500 Companies have already adopted sexual orientation non-discrimination policies. Indeed, many major American companies – including General Mills, Cisco Systems, Kaiser Permanente, Microsoft, Citibank, Morgan Stanley, and Time Warner – have expressed their strong support for legislation that outlaws discrimination on the basis of sexual orientation.

I am encouraged to see that these businesses have proactively adopted policies to ensure they are able to attract and retain the best, most-qualified employees.

While this is an encouraging trend, our entire workforce and our nation's competitiveness will benefit from making sure that every state and all large workplaces are covered.

I would like to recognize the leadership of Representatives Barney Frank and Tammy Baldwin over these many years on the Employment Non-Discrimination Act. It is because of their tireless efforts that we are finally here today.

Finally, I would like to express my deep gratitude to the many individuals and organizations around the country that have long advocated for legislation to guard against discrimination on the basis of sexual orientation and gender identity.

I understand their disappointment that this legislation does not include protections for workers on the basis of gender identity. I believe that the step we are taking today will lay the foundation for passing these additional protections in the future, and I urge proponents of gender identity protections to keep up the fight.

I strongly support the legislation we are considering today and I urge my colleagues to vote for it.

Thank you.