

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2831
OFFERED BY MR. GEORGE MILLER OF
CALIFORNIA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Lilly Ledbetter Fair
3 Pay Act of 2007”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) The Supreme Court in *Ledbetter v. Good-*
7 *year Tire & Rubber Co.*, No. 05-1074 (May 29,
8 2007), significantly impairs statutory protections
9 against discrimination in compensation that Con-
10 gress established and that have been bedrock prin-
11 ciples of American law for decades. The *Ledbetter*
12 decision undermines those statutory protections by
13 unduly restricting the time period in which victims
14 of discrimination can challenge and recover for dis-
15 criminatory compensation decisions or other prac-
16 tices, contrary to the intent of Congress.

1 (2) The limitation imposed by the Court on the
2 filing of discriminatory compensation claims ignores
3 the reality of wage discrimination and is at odds
4 with the robust application of the civil rights laws
5 that Congress intended.

6 (3) With regard to any charges of discrimina-
7 tion under any law, nothing in this Act is intended
8 to preclude or limit an aggrieved person's right to
9 introduce evidence of unlawful employment practices
10 that have occurred outside the time for filing a
11 charge of discrimination.

12 (4) This Act is not intended to change current
13 law treatment of when pension distributions are con-
14 sidered paid.

15 **SEC. 3. DISCRIMINATION IN COMPENSATION BECAUSE OF**
16 **RACE, COLOR, RELIGION, SEX, OR NATIONAL**
17 **ORIGIN.**

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

21 “(3)(A) For purposes of this section, an unlawful em-
22 ployment practice occurs, with respect to discrimination
23 in compensation in violation of this title, when a discrimi-
24 natory compensation decision or other practice is adopted,
25 when an individual becomes subject to a discriminatory

1 compensation decision or other practice, or when an indi-
2 vidual is affected by application of a discriminatory com-
3 pensation decision or other practice, including each time
4 wages, benefits, or other compensation is paid, resulting
5 in whole or in part from such a decision or other practice.

6 “(B) In addition to any relief authorized by 1977a
7 of the Revised Statutes (42 U.S.C. 1981a), liability may
8 accrue and an aggrieved person may obtain relief as pro-
9 vided in section (g)(1), including recovery of back pay for
10 up to two years preceding the filing of the charge, where
11 the unlawful employment practices that have occurred
12 during the charge filing period are similar or related to
13 unlawful employment practices with regard to discrimina-
14 tion in compensation that occurred outside the time for
15 filing a charge.”.

16 **SEC. 4. DISCRIMINATION IN COMPENSATION BECAUSE OF**
17 **AGE.**

18 Section 7(d) of the Age Discrimination Act of 1967
19 (29 U.S.C. 626(d)) is amended—

20 (1) in the first sentence—

21 (A) by redesignating paragraphs (1) and
22 (2) as subparagraphs (A) and (B), respectively;
23 and

24 (B) by striking “(d)” and inserting
25 “(d)(1)”;

1 (2) in the third sentence, by striking “Upon”
2 and inserting the following:

3 “(2) Upon”; and

4 (3) by adding at the end the following:

5 “(3) For purposes of this section, an unlawful prac-
6 tice occurs, with respect to discrimination in compensation
7 in violation of this Act, when a discriminatory compensa-
8 tion decision or other practice is adopted, when a person
9 becomes subject to a discriminatory compensation decision
10 or other practice, or when a person is affected by applica-
11 tion of a discriminatory compensation decision or other
12 practice, including each time wages, benefits, or other
13 compensation is paid, resulting in whole or in part from
14 such a decision or other practice.”.

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

16 (a) AMERICANS WITH DISABILITIES ACT OF 1990.—
17 The amendment made by section 3 shall apply to claims
18 of discrimination in compensation brought under title I
19 and section 503 of the Americans with Disabilities Act of
20 1990 (42 U.S.C. 12111 et seq., 12203), pursuant to sec-
21 tion 107(a) of such Act (42 U.S.C. 12117(a)), which
22 adopts the powers, remedies, and procedures set forth in
23 section 706 of the Civil Rights Act of 1964 (42 U.S.C.
24 2000e-5).

1 (b) REHABILITATION ACT OF 1973.—The amend-
2 ments made by section 3 shall apply to claims of discrimi-
3 nation in compensation brought under sections 501 and
4 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791,
5 794), pursuant to—

6 (1) sections 501(g) and 504(d) of such Act (29
7 U.S.C. 791(g), 794(d)), respectively, which adopt
8 the standards applied under title I of the Americans
9 with Disabilities Act of 1990 for determining wheth-
10 er a violation has occurred in a complaint alleging
11 employment discrimination; and

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

15 (c) CONFORMING AMENDMENTS.—

16 (1) REHABILITATION ACT OF 1973.—Section
17 505(a) of the Rehabilitation Act of 1973 (29 U.S.C.
18 794a(a)) is amended—

19 (A) in paragraph (1), by inserting after
20 “(42 U.S.C. 2000e-5 (f) through (k))” the fol-
21 lowing: “(and the application of section
22 706(e)(3) (42 U.S.C. 2000e-5(e)(3)) to claims
23 of discrimination in compensation)”;

24 (B) in paragraph (2), by inserting after
25 “1964” the following: “(42 U.S.C. 2000d et

1 seq.) (and in subsections (e)(3) of section 706
2 of such Act (42 U.S.C. 2000e-5), applied to
3 claims of discrimination in compensation)’’.

4 (2) CIVIL RIGHTS ACT OF 1964.—Section 717 of
5 the Civil Rights Act of 1964 (42 U.S.C. 2000e-16)
6 is amended by adding at the end the following

7 “(f) Section 706(e)(3) shall apply to complaints of
8 discrimination in compensation under this section.’’.

9 (3) AGE DISCRIMINATION ACT OF 1967.—Sec-
10 tion 15(f) of the Age Discrimination in Employment
11 Act of 1967 (29 U.S.C. 633a(f)) is amended by
12 striking “of section” and inserting “of sections
13 7(d)(3) and”.

14 **SEC. 6. EFFECTIVE DATE.**

15 This Act, and the amendments made by this Act, take
16 effect as if enacted on May 28, 2007 and apply to all
17 claims of discrimination in compensation under title VII
18 of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.),
19 the Age Discrimination in Employment Act of 1967 (29
20 U.S.C. 621 et seq.), title I and section 503 of the Ameri-
21 cans with Disabilities Act of 1990, and sections 501 and
22 504 of the Rehabilitation Act of 1973, that are pending
23 on or after that date.