



September 2, 2009

U.S. House of Representatives
Washington, D.C. 20515

Dear Representative:

On behalf of the millions of families represented by Focus on the Family, I urge you to oppose H.R. 2981, the Employment Non-Discrimination Act (ENDA). By enshrining “sexual orientation” and “gender identity” as protected categories in employment law, ENDA will harm American businesses and jeopardize the historically protected First Amendment freedom of religious expression.

ENDA is a litigation minefield and a direct threat to religious liberty in the workplace. Employers are required by Title VII of the Civil Rights Act to accommodate their employees’ religious freedom, and most religious faiths oppose the practice or endorsement of homosexuality or “transgenderism.” However, ENDA will require employers to police the workplace to eliminate viewpoints contrary to the promotion of homosexuality and “transgenderism” so as to avoid “hostile work environment” claims. That means ENDA will inevitably create workplace conflict among employees. What will happen when homosexual or “transgender” employees object to: religious articles on employees’ desks; water cooler discussions about biblical morality; Bible verses taped to cubicle walls; fliers on company bulletin boards advertising discussions concerning traditional marriage? This is already happening in states and municipalities with ENDA-type laws and many of these cases are in litigation.

There is no hard evidence to prove a history of widespread and systematic employment discrimination against homosexual or “transgender” individuals. Even two of ENDA’s largest proponents – the Human Rights Campaign and the ACLU – can produce little more than a handful of anecdotal stories to support the claims of the discrimination they seek to protect against. Congress should not enact a federal remedy in the absence of such evidence. Moreover, sexual orientation and “gender identity” should not be equated with race, color, gender or national origin. Homosexuals, bisexuals and “transgender” people have never been counted as 3/5 of a person, forced to drink from separate water fountains, made to ride at the back of a bus, or denied the right to vote.





There is, however, evidence that employers and employees across the country have been unduly burdened by the inevitable conflict between “sexual orientation rights” and religious freedom caused by ENDA-type policies. I’ve included with this letter examples of such harm.

ENDA will also increase compliance costs for businesses—costs that small business can ill- afford, particularly during this economic downturn. Employers will be forced to consult legal counsel in order to upgrade their employment manuals, policies and procedures and train human resource staff to understand and comply with these confusing new employment discrimination categories. While many homosexuals have come to the conclusion that they were “born gay,” there exists a significant minority of homosexuals and bisexuals who recognize that sexual orientation is quite fluid. How can a business be expected to avoid discriminating against categories of individuals that are potentially ever-changing and based on subjective self-identification?

I urge you to carefully consider the far-reaching, negative ramifications of ENDA outlined in this letter and to vote no if this bill comes to floor. Focus on the Family will score the final vote on ENDA.

Sincerely,

A handwritten signature in black ink that reads "Tom Minnery".

Tom Minnery
Senior Vice President
Government and Public Policy
Focus on the Family

