

S 815

Employment Non-Discrimination Act of 2013

Congress: 113 (2013–2015, Ended)

Chamber: Senate

Policy Area: Labor and Employment

Introduced: Apr 25, 2013

Current Status: Referred to the Subcommittee on the Constitution and Civil Justice.

Latest Action: Referred to the Subcommittee on the Constitution and Civil Justice. (Jan 8, 2014)

Official Text: <https://www.congress.gov/bill/113th-congress/senate-bill/815>

Sponsor

Name: Sen. Merkley, Jeff [D-OR]

Party: Democratic • **State:** OR • **Chamber:** Senate

Cosponsors (56 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Baldwin, Tammy [D-WI]	D · WI		Apr 25, 2013
Sen. Collins, Susan M. [R-ME]	R · ME		Apr 25, 2013
Sen. Harkin, Tom [D-IA]	D · IA		Apr 25, 2013
Sen. Kirk, Mark Steven [R-IL]	R · IL		Apr 25, 2013
Sen. Baucus, Max [D-MT]	D · MT		May 6, 2013
Sen. Bennet, Michael F. [D-CO]	D · CO		May 6, 2013
Sen. Blumenthal, Richard [D-CT]	D · CT		May 6, 2013
Sen. Boxer, Barbara [D-CA]	D · CA		May 6, 2013
Sen. Brown, Sherrod [D-OH]	D · OH		May 6, 2013
Sen. Coons, Christopher A. [D-DE]	D · DE		May 6, 2013
Sen. Cowan, William M. [D-MA]	D · MA		May 6, 2013
Sen. Feinstein, Dianne [D-CA]	D · CA		May 6, 2013
Sen. Franken, Al [D-MN]	D · MN		May 6, 2013
Sen. Gillibrand, Kirsten E. [D-NY]	D · NY		May 6, 2013
Sen. Hagan, Kay R. [D-NC]	D · NC		May 6, 2013
Sen. Hirono, Mazie K. [D-HI]	D · HI		May 6, 2013
Sen. Kaine, Tim [D-VA]	D · VA		May 6, 2013
Sen. Lautenberg, Frank R. [D-NJ]	D · NJ		May 6, 2013
Sen. Leahy, Patrick J. [D-VT]	D · VT		May 6, 2013
Sen. Levin, Carl [D-MI]	D · MI		May 6, 2013
Sen. McCaskill, Claire [D-MO]	D · MO		May 6, 2013
Sen. Mikulski, Barbara A. [D-MD]	D · MD		May 6, 2013
Sen. Murphy, Christopher [D-CT]	D · CT		May 6, 2013
Sen. Murray, Patty [D-WA]	D · WA		May 6, 2013
Sen. Reed, Jack [D-RI]	D · RI		May 6, 2013
Sen. Sanders, Bernard [I-VT]	I · VT		May 6, 2013
Sen. Schatz, Brian [D-HI]	D · HI		May 6, 2013
Sen. Shaheen, Jeanne [D-NH]	D · NH		May 6, 2013
Sen. Stabenow, Debbie [D-MI]	D · MI		May 6, 2013
Sen. Udall, Mark [D-CO]	D · CO		May 6, 2013
Sen. Udall, Tom [D-NM]	D · NM		May 6, 2013
Sen. Warner, Mark R. [D-VA]	D · VA		May 6, 2013
Sen. Warren, Elizabeth [D-MA]	D · MA		May 6, 2013
Sen. Whitehouse, Sheldon [D-RI]	D · RI		May 6, 2013
Sen. Cardin, Benjamin L. [D-MD]	D · MD		May 7, 2013
Sen. Heinrich, Martin [D-NM]	D · NM		May 7, 2013
Sen. Klobuchar, Amy [D-MN]	D · MN		May 7, 2013
Sen. Wyden, Ron [D-OR]	D · OR		May 7, 2013
Sen. Landrieu, Mary L. [D-LA]	D · LA		May 8, 2013
Sen. Menendez, Robert [D-NJ]	D · NJ		May 9, 2013
Sen. Begich, Mark [D-AK]	D · AK		May 15, 2013

Cosponsor	Party / State	Role	Date Joined
Sen. Durbin, Richard J. [D-IL]	D · IL		May 15, 2013
Sen. Schumer, Charles E. [D-NY]	D · NY		May 15, 2013
Sen. Casey, Robert P., Jr. [D-PA]	D · PA		May 16, 2013
Sen. Donnelly, Joe [D-IN]	D · IN		May 16, 2013
Sen. Tester, Jon [D-MT]	D · MT		May 22, 2013
Sen. Cantwell, Maria [D-WA]	D · WA		May 23, 2013
Sen. King, Angus S., Jr. [I-ME]	I · ME		Jun 3, 2013
Sen. Heitkamp, Heidi [D-ND]	D · ND		Jun 7, 2013
Sen. Carper, Thomas R. [D-DE]	D · DE		Jun 17, 2013
Sen. Reid, Harry [D-NV]	D · NV		Jun 18, 2013
Sen. Rockefeller, John D., IV [D-WV]	D · WV		Jun 18, 2013
Sen. Johnson, Tim [D-SD]	D · SD		Jun 25, 2013
Sen. Markey, Edward J. [D-MA]	D · MA		Sep 11, 2013
Sen. Nelson, Bill [D-FL]	D · FL		Oct 28, 2013
Sen. Booker, Cory A. [D-NJ]	D · NJ		Nov 4, 2013

Committee Activity

Committee	Chamber	Activity	Date
Committee on House Administration	House	Referred To	Nov 12, 2013
Education and Workforce Committee	House	Referred To	Nov 12, 2013
Health, Education, Labor, and Pensions Committee	Senate	Reported By	Sep 12, 2013
Judiciary Committee	House	Referred to	Jan 8, 2014
Oversight and Government Reform Committee	House	Referred To	Nov 12, 2013

Subjects & Policy Tags

Policy Area:

Labor and Employment

Related Bills

Bill	Relationship	Last Action
113 HRES 678	Related bill	Sep 17, 2014: Motion to Discharge Committee filed by Mr. Polis. Petition No: 113-11. (Discharge petition text with signatures.)
113 HRES 639	Related bill	Jun 23, 2014: Referred to the House Committee on Rules.
113 HR 1755	Identical bill	Jul 8, 2013: Referred to the Subcommittee on Workforce Protections.

Employment Non-Discrimination Act of 2013 - (Sec. 4) Prohibits covered entities (employers, employment agencies, labor organizations, or joint labor-management committees) from engaging in employment discrimination on the basis of an individual's actual or perceived sexual orientation or gender identity.

Declares that it shall be unlawful for an employer, because of an individual's actual or perceived sexual orientation or gender identity, to: (1) fail or refuse to hire, to discharge, or to otherwise discriminate with respect to the compensation, terms, conditions, or privileges of employment of such individual; or (2) limit, segregate, or classify employees or applicants in any way that would deprive any individual of employment or adversely affect an individual's status as an employee. Prohibits employment agencies, labor organizations, and training programs from engaging in similar practices that would adversely affect individuals based on such actual or perceived orientation or identity.

Specifies that such unlawful employment practices include actions based on the actual or perceived orientation or identity of a person with whom the individual associates.

Prohibits certain employment actions from being considered unlawful with respect to volunteers who receive no compensation.

Prohibits a covered entity from granting preferential treatment or implementing quotas on the basis of such actual or perceived orientation or identity.

Limits the claims authorized to be brought under this Act to disparate treatment claims (thereby specifying that disparate impact claims are not provided for under this Act).

Places the burden of proof on the complaining party to establish such an unlawful employment practice by demonstrating that sexual orientation or gender identity was a motivating factor for any employment practice, even though other factors also motivated the practice.

(Sec. 5) Prohibits a covered entity from discriminating against an individual who: (1) opposed such an unlawful employment practice; or (2) made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing under this Act.

(Sec. 6) Makes this Act inapplicable to corporations, associations, educational institutions or institutions of learning, or societies exempt from the religious discrimination provisions of the Civil Rights Act of 1964 (thereby establishing a religious employer's exemption).

Prohibits a federal agency, or any state or local agency that receives federal funding or financial assistance, from: (1) penalizing or withholding licenses, permits, certifications, accreditation, contracts, grants, guarantees, tax-exempt status, or any benefits or exemptions from an exempt religious employer; or (2) prohibiting a religious employer from participating in programs or activities sponsored by such agency.

Prohibits the religious employer's exemption and related requirements from invalidating any other federal, state, or local law or regulation that otherwise applies to a religious employer.

(Sec. 7) Makes this Act inapplicable to the relationship between the United States and members of the Armed Forces.

Declares that this Act does not repeal or modify any federal, state, territorial, or local law creating a special right or

preference concerning employment for a veteran.

(Sec. 8) Prohibits this Act from being construed to: (1) prohibit an employer from requiring an employee to adhere to reasonable dress or grooming standards, or (2) require the construction of new or additional facilities.

(Sec. 9) Prohibits the Equal Employment Opportunity Commission (EEOC) and the Secretary of Labor from compelling collection or requiring production of statistics from covered entities on actual or perceived sexual orientation or gender identity pursuant to this Act.

(Sec. 10) Provides for the administration and enforcement of this Act, including by giving the EEOC, Librarian of Congress, Attorney General (DOJ), and U.S. courts the same enforcement powers as they have under specified provisions of the Civil Rights Act of 1964, Government Employee Rights Act of 1991, Congressional Accountability Act of 1995, and other laws granting rights and protections to certain applicants and employees.

Prohibits an individual who files claims alleging an unlawful employment practice under this Act in addition to alleging an unlawful employment practice because of sex under the Civil Rights Act of 1964 from receiving double recovery under both Acts.

Authorizes the court, in a case in which sexual orientation or gender identity was proven to be a motivating factor but the respondent then demonstrates that the same action would have been taken in the absence of the impermissible motivating factor, to grant declaratory relief, injunctive relief, and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of the claim. Prohibits the court, in such an instance, from awarding damages or issuing an order requiring any admission, reinstatement, hiring, promotion, or payment.

(Sec. 11) Allows actions and proceedings, subject to exception, against the United States and the states. Declares that a state's receipt or use of federal financial assistance for specified programs or activities constitutes a waiver of sovereign immunity to a suit brought by an employee or applicant for employment of that program or activity. Prohibits punitive damages from being available in actions and proceedings against states or the United States and limits compensatory damages in such cases to the extent specifically authorized.

(Sec. 12) Permits a decisionmaker (other than the Attorney General) in an action or administrative proceeding under this Act to allow the prevailing party (other than the EEOC or the United States) a reasonable attorney's fee (including expert fees) as part of the costs, to the same extent as is permitted under specified civil and employee rights laws. Requires the EEOC and the United States to be liable for costs to the same extent as a private person.

(Sec. 13) Provides authority for amended employee notices to be posted in employee areas for purposes of this Act, but does not require the posting of a separate notice.

(Sec. 15) Prohibits this Act from invalidating or limiting the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other federal, state, or political subdivision laws.

Actions Timeline

- **Jan 8, 2014:** Referred to the Subcommittee on the Constitution and Civil Justice.
- **Nov 12, 2013:** Received in the House.
- **Nov 12, 2013:** Referred to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, Oversight and Government Reform, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
- **Nov 7, 2013:** Considered by Senate. (consideration: CR S7894-7909)
- **Nov 7, 2013:** Motion by Senator Reid to recommit to Senate Committee on Health, Education, Labor, and Pensions with instructions to report back forthwith with the following amendment (SA 2016) withdrawn in Senate. (consideration: CR S7902)
- **Nov 7, 2013:** The committee substitute as amended agreed to by Unanimous Consent. (consideration: CR S7902)
- **Nov 7, 2013:** Cloture on the bill invoked in Senate by Yea-Nay Vote. 64 - 34. Record Vote Number: 231. (consideration: CR S7902; text: CR S7902)
- **Nov 7, 2013:** Passed/agreed to in Senate: Passed Senate with an amendment by Yea-Nay Vote. 64 - 32. Record Vote Number: 232.(text: CR S7907-7909)
- **Nov 7, 2013:** Passed Senate with an amendment by Yea-Nay Vote. 64 - 32. Record Vote Number: 232. (text: CR S7907-7909)
- **Nov 7, 2013:** Message on Senate action sent to the House.
- **Nov 6, 2013:** Motion to proceed to consideration of measure agreed to in Senate by Unanimous Consent. (consideration: CR S7839)
- **Nov 6, 2013:** Measure laid before Senate by motion. (consideration: CR S7839-7841, S7846, S7864-7865; text of measure as reported in Senate: CR S7839-7841)
- **Nov 6, 2013:** Motion by Senator Reid to recommit to Senate Committee on Health, Education, Labor, and Pensions with instructions to report back forthwith with the following amendment (SA 2016) made in Senate. (consideration: CR S7841; text: CR S7841)
- **Nov 6, 2013:** Cloture motion on the bill presented in Senate. (consideration: CR S7864-7865; text: CR S7864)
- **Nov 5, 2013:** Motion to proceed to consideration of measure considered in Senate. (consideration: CR S7804-7814, S7814-7825)
- **Nov 4, 2013:** Motion to proceed to consideration of measure made in Senate. (consideration: CR S7783-7785, S7793-7794)
- **Nov 4, 2013:** Cloture on the motion to proceed to the measure invoked in Senate by Yea-Nay Vote. 61 - 30. Record Vote Number: 229. (consideration: CR S7794; text: CR S7794)
- **Oct 31, 2013:** Motion to proceed to consideration of measure made in Senate. (consideration: CR S7777)
- **Oct 31, 2013:** Cloture motion on the motion to proceed to the measure presented in Senate. (consideration: CR S7777; text: CR S7777)
- **Sep 12, 2013:** Committee on Health, Education, Labor, and Pensions. Reported by Senator Harkin with an amendment in the nature of a substitute. With written report No. 113-105. Additional views filed.
- **Sep 12, 2013:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 184.
- **Jul 10, 2013:** Committee on Health, Education, Labor, and Pensions. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Apr 25, 2013:** Introduced in Senate
- **Apr 25, 2013:** Read twice and referred to the Committee on Health, Education, Labor, and Pensions.