

**MOTION TO RECOMMIT THE BILL (H.R.  
2694), WITH INSTRUCTIONS  
OFFERED BY M . \_\_\_\_\_**

M . \_\_\_\_\_ moves to recommit the bill (H.R. 2694) to the Committee on Education and Labor with instructions to report the bill back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Pregnant Workers  
3 Fairness Act”.

**4 SEC. 2. NONDISCRIMINATION WITH REGARD TO REASON-  
5 ABLE ACCOMMODATIONS RELATED TO PREG-  
6 NANCY.**

7 It shall be an unlawful employment practice for a cov-  
8 ered entity to—

9 (1) not make reasonable accommodations to the  
10 known limitations related to the pregnancy, child-  
11 birth, or related medical conditions of a qualified  
12 employee, unless such covered entity can dem-  
13 onstrate that the accommodation would impose an

1 undue hardship on the operation of the business of  
2 such covered entity;

3 (2) require a qualified employee affected by  
4 pregnancy, childbirth, or related medical conditions  
5 to accept an accommodation other than any reason-  
6 able accommodation arrived at through the inter-  
7 active process referred to in section 5(7);

8 (3) deny employment opportunities to a quali-  
9 fied employee if such denial is based on the need of  
10 the covered entity to make reasonable accommoda-  
11 tions to the known limitations related to the preg-  
12 nancy, childbirth, or related medical conditions of a  
13 qualified employee;

14 (4) require a qualified employee to take leave,  
15 whether paid or unpaid, if another reasonable ac-  
16 commodation can be provided to the known limita-  
17 tions related to the pregnancy, childbirth, or related  
18 medical conditions of a qualified employee; or

19 (5) take adverse action in terms, conditions, or  
20 privileges of employment against a qualified em-  
21 ployee on account of the employee requesting or  
22 using a reasonable accommodation to the known lim-  
23 itations related to the pregnancy, childbirth, or re-  
24 lated medical conditions of the employee.

1 **SEC. 3. REMEDIES AND ENFORCEMENT.**

2 (a) EMPLOYEES COVERED BY TITLE VII OF THE  
3 CIVIL RIGHTS ACT OF 1964.—

4 (1) IN GENERAL.—The powers, remedies, and  
5 procedures provided in sections 705, 706, 707, 709,  
6 710, and 711 of the Civil Rights Act of 1964 (42  
7 U.S.C. 2000e–4 et seq.) to the Commission, the At-  
8 torney General, or any person alleging a violation of  
9 title VII of such Act (42 U.S.C. 2000e et seq.) shall  
10 be the powers, remedies, and procedures this Act  
11 provides to the Commission, the Attorney General,  
12 or any person, respectively, alleging an unlawful em-  
13 ployment practice in violation of this Act against an  
14 employee described in section 5(3)(A) except as pro-  
15 vided in paragraphs (2) and (3) of this subsection.

16 (2) COSTS AND FEES.—The powers, remedies,  
17 and procedures provided in subsections (b) and (c)  
18 of section 722 of the Revised Statutes (42 U.S.C.  
19 1988) shall be the powers, remedies, and procedures  
20 this Act provides to the Commission, the Attorney  
21 General, or any person alleging such practice.

22 (3) DAMAGES.—The powers, remedies, and pro-  
23 cedures provided in section 1977A of the Revised  
24 Statutes (42 U.S.C. 1981a), including the limita-  
25 tions contained in subsection (b)(3) of such section  
26 1977A, shall be the powers, remedies, and proce-

1       dures this Act provides to the Commission, the At-  
2       torney General, or any person alleging such practice  
3       (not an employment practice specifically excluded  
4       from coverage under section 1977A(a)(1) of the Re-  
5       vised Statutes).

6       (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-  
7       COUNTABILITY ACT OF 1995.—

8             (1) IN GENERAL.—The powers, remedies, and  
9       procedures provided in the Congressional Account-  
10      ability Act of 1995 (2 U.S.C. 1301 et seq.) to the  
11      Board (as defined in section 101 of such Act (2  
12      U.S.C. 1301)) or any person alleging a violation of  
13      section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1))  
14      shall be the powers, remedies, and procedures this  
15      Act provides to the Board or any person, respec-  
16      tively, alleging an unlawful employment practice in  
17      violation of this Act against an employee described  
18      in section 5(3)(B), except as provided in paragraphs  
19      (2) and (3) of this subsection.

20            (2) COSTS AND FEES.—The powers, remedies,  
21      and procedures provided in subsections (b) and (c)  
22      of section 722 of the Revised Statutes (42 U.S.C.  
23      1988) shall be the powers, remedies, and procedures  
24      this Act provides to the Board or any person alleg-  
25      ing such practice.

1           (3) DAMAGES.—The powers, remedies, and pro-  
2           cedures provided in section 1977A of the Revised  
3           Statutes (42 U.S.C. 1981a), including the limita-  
4           tions contained in subsection (b)(3) of such section  
5           1977A, shall be the powers, remedies, and proce-  
6           dures this Act provides to the Board or any person  
7           alleging such practice (not an employment practice  
8           specifically excluded from coverage under section  
9           1977A(a)(1) of the Revised Statutes).

10           (4) OTHER APPLICABLE PROVISIONS.—With re-  
11           spect to a claim alleging a practice described in  
12           paragraph (1), title III of the Congressional Ac-  
13           countability Act of 1995 (2 U.S.C. 1381 et seq.)  
14           shall apply in the same manner as such title applies  
15           with respect to a claim alleging a violation of section  
16           201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

17           (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE  
18           3, UNITED STATES CODE.—

19           (1) IN GENERAL.—The powers, remedies, and  
20           procedures provided in chapter 5 of title 3, United  
21           States Code, to the President, the Commission, the  
22           Merit Systems Protection Board, or any person al-  
23           leging a violation of section 411(a)(1) of such title  
24           shall be the powers, remedies, and procedures this  
25           Act provides to the President, the Commission, the

1 Board, or any person, respectively, alleging an un-  
2 lawful employment practice in violation of this Act  
3 against an employee described in section 5(3)(C), ex-  
4 cept as provided in paragraphs (2) and (3) of this  
5 subsection.

6 (2) COSTS AND FEES.—The powers, remedies,  
7 and procedures provided in subsections (b) and (c)  
8 of section 722 of the Revised Statutes (42 U.S.C.  
9 1988) shall be the powers, remedies, and procedures  
10 this Act provides to the President, the Commission,  
11 the Board, or any person alleging such practice.

12 (3) DAMAGES.—The powers, remedies, and pro-  
13 cedures provided in section 1977A of the Revised  
14 Statutes (42 U.S.C. 1981a), including the limita-  
15 tions contained in subsection (b)(3) of such section  
16 1977A, shall be the powers, remedies, and proce-  
17 dures this Act provides to the President, the Com-  
18 mission, the Board, or any person alleging such  
19 practice (not an employment practice specifically ex-  
20 cluded from coverage under section 1977A(a)(1) of  
21 the Revised Statutes).

22 (d) EMPLOYEES COVERED BY GOVERNMENT EM-  
23 PLOYEE RIGHTS ACT OF 1991.—

24 (1) IN GENERAL.—The powers, remedies, and  
25 procedures provided in sections 302 and 304 of the

1 Government Employee Rights Act of 1991 (42  
2 U.S.C. 2000e–16b; 2000e–16c) to the Commission  
3 or any person alleging a violation of section  
4 302(a)(1) of such Act (42 U.S.C. 2000e–16b(a)(1))  
5 shall be the powers, remedies, and procedures this  
6 Act provides to the Commission or any person, re-  
7 spectively, alleging an unlawful employment practice  
8 in violation of this Act against an employee de-  
9 scribed in section 5(3)(D), except as provided in  
10 paragraphs (2) and (3) of this subsection.

11 (2) COSTS AND FEES.—The powers, remedies,  
12 and procedures provided in subsections (b) and (c)  
13 of section 722 of the Revised Statutes (42 U.S.C.  
14 1988) shall be the powers, remedies, and procedures  
15 this Act provides to the Commission or any person  
16 alleging such practice.

17 (3) DAMAGES.—The powers, remedies, and pro-  
18 cedures provided in section 1977A of the Revised  
19 Statutes (42 U.S.C. 1981a), including the limita-  
20 tions contained in subsection (b)(3) of such section  
21 1977A, shall be the powers, remedies, and proce-  
22 dures this Act provides to the Commission or any  
23 person alleging such practice (not an employment  
24 practice specifically excluded from coverage under  
25 section 1977A(a)(1) of the Revised Statutes).

1 (e) EMPLOYEES COVERED BY SECTION 717 OF THE  
2 CIVIL RIGHTS ACT OF 1964.—

3 (1) IN GENERAL.—The powers, remedies, and  
4 procedures provided in section 717 of the Civil  
5 Rights Act of 1964 (42 U.S.C. 2000e–16) to the  
6 Commission, the Attorney General, the Librarian of  
7 Congress, or any person alleging a violation of that  
8 section shall be the powers, remedies, and proce-  
9 dures this Act provides to the Commission, the At-  
10 torney General, the Librarian of Congress, or any  
11 person, respectively, alleging an unlawful employ-  
12 ment practice in violation of this Act against an em-  
13 ployee described in section 5(3)(E), except as pro-  
14 vided in paragraphs (2) and (3) of this subsection.

15 (2) COSTS AND FEES.—The powers, remedies,  
16 and procedures provided in subsections (b) and (c)  
17 of section 722 of the Revised Statutes (42 U.S.C.  
18 1988) shall be the powers, remedies, and procedures  
19 this Act provides to the Commission, the Attorney  
20 General, the Librarian of Congress, or any person  
21 alleging such practice.

22 (3) DAMAGES.—The powers, remedies, and pro-  
23 cedures provided in section 1977A of the Revised  
24 Statutes (42 U.S.C. 1981a), including the limita-  
25 tions contained in subsection (b)(3) of such section



1 1977A, shall be the powers, remedies, and proce-  
2 dures this Act provides to the Commission, the At-  
3 torney General, the Librarian of Congress, or any  
4 person alleging such practice (not an employment  
5 practice specifically excluded from coverage under  
6 section 1977A(a)(1) of the Revised Statutes).

7 (f) PROHIBITION AGAINST RETALIATION.—

8 (1) IN GENERAL.—No person shall discriminate  
9 against any employee because such employee has op-  
10 posed any act or practice made unlawful by this Act  
11 or because such employee made a charge, testified,  
12 assisted, or participated in any manner in an inves-  
13 tigation, proceeding, or hearing under this Act.

14 (2) PROHIBITION AGAINST COERCION.—It shall  
15 be unlawful to coerce, intimidate, threaten, or inter-  
16 fere with any individual in the exercise or enjoyment  
17 of, or on account of such individual having exercised  
18 or enjoyed, or on account of such individual having  
19 aided or encouraged any other individual in the exer-  
20 cise or enjoyment of, any right granted or protected  
21 by this Act.

22 (3) REMEDY.—The remedies and procedures  
23 otherwise provided for under this section shall be  
24 available to aggrieved individuals with respect to vio-  
25 lations of this subsection.

1 (g) LIMITATION.—Notwithstanding subsections  
2 (a)(3), (b)(3), (c)(3), (d)(3), and (e)(3), if an unlawful em-  
3 ployment practice involves the provision of a reasonable  
4 accommodation pursuant to this Act or regulations imple-  
5 menting this Act, damages may not be awarded under sec-  
6 tion 1977A of the Revised Statutes (42 U.S.C. 1981a) if  
7 the covered entity demonstrates good faith efforts, in con-  
8 sultation with the employee with known limitations related  
9 to pregnancy, childbirth, or related medical conditions who  
10 has informed the covered entity that accommodation is  
11 needed, to identify and make a reasonable accommodation  
12 that would provide such employee with an equally effective  
13 opportunity and would not cause an undue hardship on  
14 the operation of the covered entity.

15 **SEC. 4. RULEMAKING.**

16 Not later than 2 years after the date of enactment  
17 of this Act, the Commission shall issue regulations in an  
18 accessible format in accordance with subchapter II of  
19 chapter 5 of title 5, United States Code, to carry out this  
20 Act. Such regulations shall provide examples of reasonable  
21 accommodations addressing known limitations related to  
22 pregnancy, childbirth, or related medical conditions.

23 **SEC. 5. DEFINITIONS.**

24 As used in this Act—

1 (1) the term “Commission” means the Equal  
2 Employment Opportunity Commission;

3 (2) the term “covered entity”—

4 (A) has the meaning given the term “re-  
5 spondent” in section 701(n) of the Civil Rights  
6 Act of 1964 (42 U.S.C. 2000e(n)); and

7 (B) includes—

8 (i) an employer, which means a per-  
9 son engaged in industry affecting com-  
10 merce who has 15 or more employees as  
11 defined in section 701(b) of title VII of the  
12 Civil Rights Act of 1964 (42 U.S.C.  
13 2000e(b)), subject to the applicability to  
14 religious employment as set forth in sec-  
15 tion 702(a) of title VII of the Civil Rights  
16 Act of 1964 (42 U.S.C. 2000e-1(a));

17 (ii) an employing office, as defined in  
18 section 101 of the Congressional Account-  
19 ability Act of 1995 (2 U.S.C. 1301) and  
20 section 411(c) of title 3, United States  
21 Code;

22 (iii) an entity employing a State em-  
23 ployee described in section 304(a) of the  
24 Government Employee Rights Act of 1991  
25 (42 U.S.C. 2000e-16c(a)); and

1 (iv) an entity to which section 717(a)  
2 of the Civil Rights Act of 1964 (42 U.S.C.  
3 2000e-16(a)) applies;

4 (3) the term “employee” means—

5 (A) an employee (including an applicant),  
6 as defined in section 701(f) of the Civil Rights  
7 Act of 1964 (42 U.S.C. 2000e(f));

8 (B) a covered employee (including an ap-  
9 plicant), as defined in section 101 of the Con-  
10 gressional Accountability Act of 1995 (2 U.S.C.  
11 1301);

12 (C) a covered employee (including an appli-  
13 cant), as defined in section 411(c) of title 3,  
14 United States Code;

15 (D) a State employee (including an appli-  
16 cant) described in section 304(a) of the Govern-  
17 ment Employee Rights Act of 1991 (42 U.S.C.  
18 2000e-16c(a)); or

19 (E) an employee (including an applicant)  
20 to which section 717(a) of the Civil Rights Act  
21 of 1964 (42 U.S.C. 2000e-16(a)) applies;

22 (4) the term “person” has the meaning given  
23 such term in section 701(a) of the Civil Rights Act  
24 of 1964 (42 U.S.C. 2000e(a));

1           (5) the term “known limitation” means physical  
2           or mental condition related to, affected by, or arising  
3           out of pregnancy, childbirth, or related medical con-  
4           ditions that the employee or employee’s representa-  
5           tive has communicated to the employer whether or  
6           not such condition meets the definition of disability  
7           specified in section 3 of the Americans with Disabil-  
8           ities Act of 1990 (42 U.S.C. 12102);

9           (6) the term “qualified employee” means an  
10          employee or applicant who, with or without reason-  
11          able accommodation, can perform the essential func-  
12          tions of the employment position, except that an em-  
13          ployee or applicant shall be considered qualified if—

14                 (A) any inability to perform an essential  
15                 function is for a temporary period;

16                 (B) the essential function could be per-  
17                 formed in the near future; and

18                 (C) the inability to perform the essential  
19                 function can be reasonably accommodated; and

20          (7) the terms “reasonable accommodation” and  
21          “undue hardship” have the meanings given such  
22          terms in section 101 of the Americans with Disabil-  
23          ities Act of 1990 (42 U.S.C. 12111) and shall be  
24          construed as such terms are construed under such  
25          Act and as set forth in the regulations required by

1 this Act, including with regard to the interactive  
2 process that will typically be used to determine an  
3 appropriate reasonable accommodation.

4 **SEC. 6. WAIVER OF STATE IMMUNITY.**

5 A State shall not be immune under the 11th Amend-  
6 ment to the Constitution from an action in a Federal or  
7 State court of competent jurisdiction for a violation of this  
8 Act. In any action against a State for a violation of this  
9 Act, remedies (including remedies both at law and in eq-  
10 uity) are available for such a violation to the same extent  
11 as such remedies are available for such a violation in an  
12 action against any public or private entity other than a  
13 State.

14 **SEC. 7. RELATIONSHIP TO OTHER LAWS.**

15 Nothing in this Act shall be construed to invalidate  
16 or limit the powers, remedies, and procedures under any  
17 Federal law or law of any State or political subdivision  
18 of any State or jurisdiction that provides greater or equal  
19 protection for individuals affected by pregnancy, child-  
20 birth, or related medical conditions.

21 **SEC. 8. SEVERABILITY.**

22 If any provision of this Act or the application of that  
23 provision to particular persons or circumstances is held  
24 invalid or found to be unconstitutional, the remainder of

1 this Act and the application of that provision to other per-  
2 sons or circumstances shall not be affected.

