

Senator Elizabeth Warren
Floor Speech on the Employment Non-Discrimination Act (ENDA)
November 6, 2013

Madam President, I rise today to speak about the importance of passing the Employment Nondiscrimination Act, a bill that I am proud to co-sponsor and to support.

It has taken us far too long to arrive at this day. For nearly forty years, Members of Congress have worked to pass legislation that would protect LGBT Americans from discrimination in the workplace.

Much has changed since Bella Abzug introduced the Equality Act of 1974. Equal marriage is now the law in fourteen states. Twenty-one states and the District of Columbia have enacted laws to protect against employment discrimination based on sexual orientation, and sixteen states and the District of Columbia also protect against gender identity discrimination. The Supreme Court has rejected DOMA, a law that legalized discrimination against same-sex spouses, by calling that law exactly what it was – unconstitutional.

In the private sector, a majority of Fortune 500 companies have adopted policies to protect workers from discrimination based on sexual orientation and gender identity, and polling data show that a majority of small businesses have similar policies in place. By nearly every measure, we have made progress in the long march toward equality.

And yet, in the face of all of this progress, nearly a half-century since Congress first enacted Title VII of the Civil Rights Act – prohibiting employment discrimination based on race, color, religion, sex and national origin – we still have not extended these basic federal protections to LGBT Americans. Let's not mince words here. The failure to treat all our citizens with the same dignity is shameful. In America, equal means equal.

Many have tried hard to reach this day, and our legislators from Massachusetts have long been leaders in the fight. Senator Ted Kennedy and Congressman Barney Frank both spent decades working on this issue. Senator Paul Tsongas from Massachusetts introduced the first Senate bill to prohibit employment discrimination against LGBT Americans all the way back in 1979.

But progress has been slow. The last time the full Senate voted on ENDA was seventeen years ago, when a version of the law championed by Senator Kennedy failed to pass by a single vote – 49 to 50 – back in 1996. In 2007, the House passed a version of ENDA introduced by Congressman Frank, but the bill made no progress in the Senate. Today, there are 55 cosponsors of ENDA in the Senate – Democrats and Republicans – representing the broad majority support for the bill, signaling that tremendous progress has been made.

It is all the more shameful that it has taken us this long to arrive at this day because Americans believe in equality. According to one survey, some 80% of Americans believe that it is already illegal to discriminate against workers based on their sexual orientation or gender identity. Unfortunately, however, this is one of the rare instances where the American people are giving Congress way too much credit, because the truth is – we haven't acted yet. And the consequences of Congressional inaction remain all too real for millions of LGBT Americans.

Despite the successful efforts in many states to pass nondiscrimination measures, Americans living in over half the country can still be discriminated against in the workplace based on sexual orientation or gender identity. And it happens. Between 15% and 43% of LGBT individuals have reported experiencing discrimination or harassment in the workplace.

A quarter of transgender Americans have reported being fired from a job due to their gender identity, and a whopping 90% have reported experiencing harassment and mistreatment. There's been a lot of progress toward a more inclusive nation, but for LGBT workers, a law to stop employment discrimination can't come fast enough.

The Employment Non-Discrimination Act pending in the Senate will protect LGBT individuals in the workplace, update the law to reflect what the vast majority of Americans already believe is the law, and help fulfill our constitutional responsibility to protect equality in this nation. ENDA doesn't provide any special rights to any particular groups of Americans. It does not compel any religious organization to change its views. It just creates a level playing field for LGBT workers; it makes sure that all workers are judged by the work they do, not by who they are or whom they love.

America is ready for this day. An overwhelming majority of voters, both Democrats and Republicans, support the enactment of this law. They know it reflects the values of our nation.

And America's businesses are ready too. Recent polling shows that a large majority of small businesses supports the Employment Nondiscrimination Act. As for big businesses, 88% of Fortune 500 companies have already implemented policies prohibiting discrimination against gays and lesbians in the workplace.

Raytheon, one of the nation's top defense contractors and a proud Massachusetts-based company, bars LGBT discrimination. One executive at Raytheon was quoted as saying that the organization's "culture of inclusion absolutely gives us a recruiting edge" when it comes to hiring the best and the brightest.

Shortly before his death, in March of 2009, Senator Kennedy joined with Senators Merkley, Collins, and Snowe in what would be his final attempt to push this bipartisan legislation over the finish line. At the time, Senator Kennedy eloquently explained his continuing support for the ENDA by noting that "the promise of America will never be fulfilled as long as justice is denied to even one among us."

Those words were true in 1974 when Bella Abzug introduced the Equality Act. Those words were true when the Senate came within one vote of passing ENDA in 1996. Those words were true when Senator Kennedy offered them in 2009. And those words are true today. The promise of America will never be fulfilled so long as justice is denied to even one among us.

We deal with a lot of different kinds of legislation in the Senate. This week we have a chance to vote on a law that is a measure of who we are as a people and what kind of world we want to build. I believe in a world where equal means equal, and that is why I will be voting to outlaw employment discrimination against my neighbors and my friends.

Senator Kennedy, Senator Tsongas, and Congresswoman Abzug, are no longer with us, but like so many others, they fought so hard to get us here – to get us one step closer to equality for all of us. It has taken us far too long to arrive at this day. But we are here now, and we are not going back.