

113TH CONGRESS
2D SESSION

S. 2605

To preserve religious freedom and a woman's access to contraception.

IN THE SENATE OF THE UNITED STATES

JULY 15, 2014

Ms. AYOTTE (for herself, Mr. McCONNELL, Mrs. FISCHER, Mr. BURR, Mr. CHAMBLISS, Mr. CORNYN, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. ISAKSON, Mr. McCAIN, Mr. PORTMAN, Mr. RISCH, Mr. THUNE, Mr. WICKER, and Mr. JOHANNIS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To preserve religious freedom and a woman's access to
contraception.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preserving Religious
5 Freedom and a Woman’s Access to Contraception Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Instead of restricting Americans' religious
2 freedoms, Congress should preserve a woman's abil-
3 ity to make contraceptive decisions for herself.

4 (2) The freedom of religion is the first freedom
5 listed in the First Amendment to the Constitution of
6 the United States, and Congress has a strong inter-
7 est in protecting the free exercise of religion for
8 Americans of all faiths.

9 (3) The Religious Freedom Restoration Act of
10 1993 was signed by President Clinton on November
11 16, 1993, after passing the House of Representa-
12 tives unanimously and passing the Senate with the
13 votes of 97 Senators, including 16 currently serving
14 Senators and the Vice President.

15 (4) Title VII of the Civil Rights Act of 1964
16 provides important protections against discrimina-
17 tion on the basis of race, color, religion, sex, or na-
18 tional origin.

19 (5) The Health Insurance Portability and Ac-
20 countability Act and amendments made by that Act
21 establish comprehensive protections to ensure that
22 any medications used by or prescribed for an indi-
23 vidual are not disclosed to an employer in its capac-
24 ity as an employer.

1 (6) The Food and Drug Administration has
2 found a number of contraceptives to be proven safe
3 and effective at preventing pregnancies as well as in
4 managing certain medical conditions.

5 (7) There are 5 programs, including the Med-
6 icaid program, carried out by the Department of
7 Health and Human Services that provide access to
8 contraception for low-income women.

9 (8) Federal and State government spending for
10 contraceptive services totaled \$2,370,000,000 in fis-
11 cal year 2010 and the Medicaid program financed
12 75 percent of government spending for family plan-
13 ning.

14 (9) More than 19,000,000 women were eligible
15 for government-supported contraceptive services in
16 2010.

17 (10) Even before Obamacare mandated that
18 employers fully subsidize employees' contraception,
19 women had wide access to Food and Drug Adminis-
20 tration-approved contraception and such contracep-
21 tion was covered by insurance at over 85 percent of
22 large businesses.

23 (11) Now, Obamacare's various requirements
24 cause an unprecedented intrusion of government
25 mandates into Americans' personal health care deci-

1 sions, including unprecedented Federal mandates
2 that employers become involved in those decisions,
3 and the individual mandate, which requires individ-
4 uals to purchase health insurance or pay a penalty.

5 (12) Obamacare has created an enormous dis-
6 ruption in the personal health insurance options of
7 millions of Americans whose health insurance plans
8 were cancelled or whose preferred doctors were not
9 included in their new health insurance plan net-
10 works.

11 (13) The Congressional Budget Office estimates
12 that Obamacare could reduce employment by the
13 equivalent of 2,000,000 jobs over the next 10 years.

14 (14) One of Obamacare's mandates places
15 2,600,000 Americans, nearly two-thirds of them
16 women, at risk of having their hours and wages re-
17 duced, according to the Hoover Institution.

18 (15) Obamacare's cuts to the Medicare Advan-
19 tage program and other regulatory actions could re-
20 duce the average benefit for women who rely on the
21 program by \$1,538 per year, or 13 percent.

22 (16) Obamacare's payroll tax increase creates
23 an inequitable tax penalty for married working
24 women.

1 (17) Obamacare places limitations on health
2 savings accounts, flexible spending accounts, and
3 other consumer-directed health savings vehicles,
4 which help approximately 17,400,000 Americans to
5 save for their own health expenses, including contra-
6 ceptives.

7 (18) The current Administration has granted
8 discretionary compliance waivers from Obamacare to
9 a variety of for-profit businesses, unions, and other
10 organizations.

11 (19) To date, the Department of Health and
12 Human Services has granted more than 1,000 indi-
13 vidual waiver requests for employers and insurers,
14 excusing the employers and insurers from compli-
15 ance with various aspects of the law.

16 **SEC. 3. SENSE OF THE SENATE.**

17 It is the sense of the Senate that the Food and Drug
18 Administration should study whether contraceptives that
19 are available with a prescription, on the date of enactment
20 of this Act, would be safe and effective for adults if avail-
21 able without a prescription.

22 **SEC. 4. EMPLOYEE PROTECTION.**

23 Notwithstanding any other provision of law, an em-
24 ployer who is engaged in interstate commerce may not
25 prohibit an employee from purchasing, pursuant to State

1 prescribing and dispensing laws, a drug or medical device,
2 including a contraceptive, that is regulated by the Food
3 and Drug Administration.

4 **SEC. 5. EMPOWERING EMPLOYEES TO MAKE HEALTH**
5 **CHOICES.**

6 (a) NO LIMITATIONS BASED ON WHETHER A DRUG
7 IS PRESCRIBED.—Section 9003 of the Patient Protection
8 and Affordable Care Act (Public Law 111–148), and the
9 amendments made by such section, are repealed, and the
10 Internal Revenue Code of 1986 shall be applied as if such
11 section, and amendments, had never been enacted.

12 (b) NO LIMITATIONS ON HEALTH FSAS.—Sections
13 9005 and 10902 of the Patient Protection and Affordable
14 Care Act (Public Law 111–148) and section 1403 of the
15 Health Care and Education Reconciliation Act of 2010
16 (Public Law 111–152), and the amendments made by
17 such sections, are repealed, and the Internal Revenue
18 Code of 1986 shall be applied as if such section, and
19 amendments, had never been enacted.

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