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April 14, 2021

Dear Representative:

On behalf of NFIB, the nation's leading small business advocacy organization, I write in opposition to H.R. 7, the *Paycheck Fairness Act*. **H.R. 7 will be considered an NFIB Key Vote for the 117th Congress.**

NFIB believes this legislation will create significant problems for small business owners. H.R. 7 will make legitimate business-related pay differences difficult to defend in court, invites frivolous lawsuits against small business owners, and prohibits common hiring practices that help small businesses identify qualified employees.

This legislation will make it nearly impossible for a small employer to defend against claims where an "alternative employment practice" exists. Even if a small employer were to demonstrate that a legitimate factor such as education, training, or experience accounted for a wage differential, an employee could claim that an "alternative employment practice" exists at a larger employer that the smaller employer refused to adopt. For example, an employee of a small, local hardware store would be able to sue an employer for refusing to adopt a business practice that a much larger company uses to address wage discrepancies. A small business may have legitimate reasons for not adopting the practices of a large business. However, if an employee can prove that the independent business refused to adopt the "alternative employment practice" of a large competitor, the small business automatically loses the suit. By allowing unlimited compensatory and punitive damages in equal pay lawsuits, the legislation will also invite frivolous lawsuits against small businesses.

This legislation also prohibits an employer from asking a prospective employee about wage history and prohibits an employer from utilizing wage history in determining wages. A person's written resume is only one aspect of the application process; a person's salary history is another essential part of gauging professional growth and development. If the needs of a prospective employee and the wants of a business do not match, the prospective employee and the business should be able to discern this discrepancy sooner rather than later to avoid wasting each party's time and energy. By eliminating salary history, the hiring process becomes less precise and more difficult for small employers.

NFIB strongly opposes H.R. 7, the *Paycheck Fairness Act*, and will consider the legislation as an NFIB Key Vote for the 117th Congress.

Sincerely,

A handwritten signature in black ink that reads "Kevin Kuhlman". The signature is written in a cursive, slightly slanted style.

Kevin Kuhlman
Vice President, Federal Government Relations
NFIB