

STATEMENT OF THE HONORABLE JOHN E. FOGARTY, M.C. IN SUPPORT OF HR 7734, a bill prohibiting discrimination because of age in the hiring and employment of persons, BEFORE THE JUDICIARY COMMITTEE OF THE U.S. HOUSE OF REPRESENTATIVES, MAY 5, 1960.

Statement in Support of HR 7734
86th Congress, 1st Session

Every worker, regardless of age, should have an equal opportunity for employment in accordance with his qualifications. There is great need for the Federal government, as well as State governments, to do everything possible to prevent discrimination in employment because of age and to assure equality of opportunity.

The widespread discrimination in existence is indicated by a study of job openings in seven areas made by the U. S. Department of Labor in cooperation with State employment security agencies in 1956, and published in the Department's report, "Counseling and Placement Services for Older Workers." A study of over 21,000 job openings which were filed in April 1956 with the public employment service, revealed that 58 percent had some age restriction, more than one-half (52 percent) barred workers 55 years of age or over, over two-fifths (41 percent) barred workers 45 or over, and one-fifth (20 percent) barred workers as young as 35 or over. It was also found that the age at which the problem begins to be serious was between 35 and 44, or around age 40. Surveys being made by various States in preparation for the White House Conference on Aging revealed continued existence of discrimination in employment because of age.

While the Federal government, particularly through the Department of Labor, has initiated special programs and activities to promote the employment of older workers, only modest inroads have thus far been made on the problem, as emphasis in hiring continues to be on the younger workers, generally under 35 years of age.

The Congress and the Federal government can lend a great deal of emphasis to the importance and desirability of eliminating age discrimination in hiring, by insuring that such restrictions are eliminated in all employment for which it is directly or indirectly responsible. A first step in this direction was taken by the Congress when it enacted in 1956 the Yates amendment to the Civil Service Act which bars age restrictions in Federal employment with certain exceptions. This policy can be further strengthened by enactment of HR 7734, prohibiting discrimination because of age in the hiring and employment of persons by Government Contractors.

In addition to its serving as a formal declaration of public policy, the Act would have the following advantages:

1. It would enable the Federal government to set an example of barring discrimination in employment which it supports through Federal funds.
2. The framework for its enforcement already exists in the President's Committee on Government Contracts.
3. It would not only require employers to consider job seekers according to their qualifications for work on public contracts, but would also tend to have them realistically examine hiring requirements with regard to their jobs generally.
4. Experience in hiring according to qualifications rather than by age should tend to overcome the misconceptions many employers have regarding productivity, flexibility, and cost of utilizing middle-aged and older workers.

5. Enforcement of this Act would insure that qualified older workers at least have an opportunity to have their qualifications considered rather than being arbitrarily rejected because of age.
6. Enforcement of this law would bring out any real or imaginary problems employers face in utilizing to the maximum extent middle-aged and older workers.

Enactment of this Act would not compel employers to hire personnel that do not meet performance requirements of their jobs, but rather to insure that qualified workers are not barred merely because of their happening to be at a certain age. It would insure, rather, consideration of a larger supply of potential workers and at the same time would insure fuller utilization of the manpower available.