

Bill would counter Supreme Court age bias ruling

October 6 2009, By SAM HANANEL , Associated Press Writer

(AP) -- Democrats in Congress are trying to counter another Supreme Court decision on employment discrimination, this time taking aim at a ruling that makes it harder for older workers to prove age bias.

A measure introduced Tuesday would effectively reverse a 5-4 decision from earlier this year that said workers must show age was the decisive factor in a demotion or layoff.

Previously, older workers had to show that age was just one factor in the employment decision. Critics of the ruling by the court's conservative majority say it means older workers now face a higher burden of proving their claim than those alleging race, sex, national origin or religious discrimination.

"This extremely high burden radically undermines older workers' ability to hold employers accountable," said Iowa Sen. Tom Harkin, chairman of the Senate Health, Education, Labor and Pensions Committee.

Harkin introduced the bill at a news conference joined by Jack Gross, the losing plaintiff in the Supreme Court case. Harkin said the timing of the court's decision in *Gross v. FBL Financial* is even more troubling considering unemployment figures for workers 55 and older are at an all-time high.

Judiciary Committee chairman Patrick Leahy, D-Vt., said the court's decision is already having a "ripple effect" in lower courts interpreting

other anti-discrimination laws.

In response to another high court ruling earlier this year, Congress passed a bill that gives workers more time to take their pay discrimination cases to court. The Lilly Ledbetter Fair Pay Act - the first measure that President Barack Obama signed into law - countered a 2007 Supreme Court decision that said workers had only 180 days to file pay-discrimination lawsuits.

"The same [Supreme Court](#) responsible for the backward ruling against Lilly Ledbetter has now thrown another legal barrier in front of hardworking older Americans," said California Rep. George Miller, chairman of the House Education and Labor Committee.

The age discrimination measure also has the strong backing of the AARP.

"We're also talking about fairness, plain and simple," said AARP executive vice president Nancy LeaMond. "We should be making it harder for employers to discriminate against workers, not easier."

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