

Mr. PESTILLO. The chamber is very interested in the legislation before this committee as the only defense American industry now has against the low-wage companies abroad is technology and to fully utilize that technology we need qualified workers and we need to draw on the pool of older workers.

There is a problem in the employment of the older worker. Although there is no malice, there still is difficulty in finding employment for the older workers. There are reasons and there is fault on both parts, both of employers and employees.

The employers' difficulty is a matter of misconception. Again the feeling of the brittleness or lack of willingness to retrain on the part of the older worker. The difficulty with the older worker is his lack of marketing skills. He really doesn't know how to go about getting another job.

Unemployment is rather traumatic for him, it comes generally after a long period of employment; he has been out of the active work seeking job force for a long time. It takes readjustment, he has difficulty acclimating to the general lower-paying jobs available to him.

We feel research, public relations and promotion can cure this. The bill recognizes this and calls on the Secretary of Labor to do just that.

We favor a voluntary approach. We feel that penalties far often lead people to be artful in avoidance rather than active in compliance. Active participation by the employer groups is vitally necessary to achieve reasonable employment on the part of the older worker.

If it is the will of Congress to use civil and criminal penalties, we do suggest amendments. The most important one we have has been discussed at great length today and it concerns the pension plan. Covering workers under the pension plan raises actuarial problems, whereas unemployment and workman's compensation, these are matters covered by individual experience.

Costs of the latter two can be offset by longer-term employment so there the employer has some control. But not the health plans, these are fixed fees and are higher with respect to older workers.

Congressman Pucinski cited a figure of \$265, the Labor Department admits it would be at least \$100 in most cases and often it runs higher. We suggest the removal of the impediment to employment of older workers would be exclusion from life and health plans.

This committee is later going to conduct research into this area. We submit the proper approach would be to conduct the research first before imposing the impediment and then seeking ways to adjust it.

The substantial cost factor has been discussed. The language on page 6 of my statement is that we understand to have been agreed to by the subcommittee in the other body. The Secretary of Labor yesterday accepted it. In 15 of the first 20 States which adopted age discrimination laws they contain provisions excluding age discrimination in retirement plans. We think there is merit in it and it is our most substantial reservation about the bill.

Another thing concerns the discretion allowed the Secretary of Labor. We feel Congress should fix the age. Whether 45 or lower, we think Congress should do it. It is so substantial a matter and so fundamental we think it should be done here. I want to say if you take it to 40 you will find pressure from a great many women wanting it taken to 39.