

If Democrats Controlled the House...

A Weekly Taste of Their Legislative Agenda

September 28, 2012



What sort of legislation might Democrats enact if they control the House? There is little need to speculate—just look at what they are introducing this Congress while in the minority. Below is another example of a bill the Democrats might try to move if given the opportunity.

Proposal: H.R. 2659, the Access to Birth Control Act

Sponsor: Rep. Carolyn B. Maloney (D-NY)

Summary: This legislation would require pharmacies that normally stock contraception to either always provide these contraceptives immediately, including from an employee who has a moral objection, or, if out of stock, to re-order the contraceptives in an expedited manner. The pharmacy would also be required (regardless of any employee's moral objection) to offer customers assistance in locating contraceptives at other stores, including competitors. Violation of this law would result in a penalty of \$1,000 per day of noncompliance.

Problems with the Bill: It is important to point out that the question here is *not* whether contraception should be legal (which it is); therefore this bill does not seek to change the legal status of contraception. Instead this legislation would micromanage the practices of private businesses in determining how to behave when they are temporarily sold out of a product. What is more, it could have the effect of actively forcing an individual to sell a product even if he or she might have a moral or religious objection to selling.

The clearest effect of this law is that the federal government would regulate pharmacy actions upon being out of stock of contraception. Specifically it would require pharmacies to assist customers in finding another store which offers their product if they are out of stock. If this is considered within the legitimate role of a limited federal government, then the term "limited" must be virtually meaningless.

Unnecessary government usurpation of power over private action directly inhibits the freedoms of individual Americans, and this case is no different—federal bureaucrats have no right to govern the restocking practices of a private company, or to force them to assist customers receiving services from another store. The undefined Constitutional basis of this legislation aside, even if the federal government had the authority to pass this law it should still not do so; American economic freedoms are no trifle to be casually thrown away by an overbearing government.

However, violating economic liberty is not the only problem inherent in this bill. In the name of enhancing rights, this legislation could instead run roughshod over religious freedoms as well. For example, if an employee for the pharmacy is alone on duty at the time and is asked for contraceptives to which he/she is morally opposed, the government would require the employee to sell the product or help the customer locate them elsewhere. One does not need to agree with this person's religious faith in order to agree that the government would be overstepping its proper role in this scenario. The government should not be in the business of requiring privately employed workers to sell or locate a product which violates their deeply-held religious convictions. Potential customers can choose to go elsewhere with their business if they disagree with store or employee practices; it is not the government's right to step in and force this decision.

This legislation attacks basic economic liberties and ignores freedom of conscience, and as a result should not be considered for federal action.

Reminder: RSC staffers and interns are encouraged to send other examples of questionable legislation to Rick.Eberstadt@mail.house.gov.