

**AMENDMENT TO H.R. 2647, AS REPORTED**  
**OFFERED BY MR. POLIS OF COLORADO**

At the end of subtitle C of title V (page 134, after line 24), add the following new section:

1 **SEC. 524. ESTABLISHMENT OF ARMED FORCES POLICY OF**  
2 **NONDISCRIMINATION BASED ON SEXUAL ORI-**  
3 **ENTATION.**

4 (a) REPEAL OF 1993 DISCRIMINATORY POLICY CON-  
5 CERNING HOMOSEXUALITY IN THE ARMED FORCES.—

6 The following provisions of law are repealed:

7 (1) Section 654 of title 10, United States Code.

8 (2) Subsections (b), (c), and (d) of section 571  
9 of the National Defense Authorization Act for Fiscal  
10 Year 1994 (10 U.S.C. 654 note).

11 (b) ESTABLISHMENT OF NONDISCRIMINATORY POL-  
12 ICY.—

13 (1) IN GENERAL.—Chapter 37 of title 10,  
14 United States Code, is amended by adding at the  
15 end the following new section:

16 **“SEC. 656. POLICY OF NONDISCRIMINATION BASED ON SEX-**  
17 **UAL ORIENTATION.**

18 **“(a) POLICY.—**The Secretary of Defense, and the  
19 Secretary of Homeland Security with respect to the Coast

1 Guard when it is not operating as a service in the Navy,  
2 may not discriminate on the basis of sexual orientation  
3 against any member of the Armed Forces or against any  
4 person seeking to become a member of the Armed Forces.

5 “(b) DISCRIMINATION ON BASIS OF SEXUAL ORI-  
6 ENTATION.—For purposes of this section, discrimination  
7 on the basis of sexual orientation is—

8 “(1) in the case of a member of the Armed  
9 Forces, the taking of any personnel or administra-  
10 tive action (including any action relating to pro-  
11 motion, demotion, evaluation, selection for an award,  
12 selection for a duty assignment, transfer, or separa-  
13 tion) in whole or in part on the basis of sexual ori-  
14 entation; and

15 “(2) in the case of a person seeking to become  
16 a member of the Armed Forces, denial of accession  
17 into the Armed Forces in whole or in part on the  
18 basis of sexual orientation.

19 “(c) PERSONNEL AND ADMINISTRATIVE POLICIES  
20 AND ACTION.—The Secretary of Defense, and the Sec-  
21 retary of Homeland Security with respect to the Coast  
22 Guard when it is not operating as a service in the Navy,  
23 may not establish, implement, or apply any personnel or  
24 administrative policy, or take any personnel or administra-  
25 tive action (including any policy or action relating to pro-

1 motions, demotions, evaluations, selections for awards, se-  
2 lections for duty assignments, transfers, or separations)  
3 in whole or in part on the basis of sexual orientation.

4       “(d) RULES AND POLICIES REGARDING CONDUCT.—  
5 Nothing in this section prohibits the Secretary of Defense,  
6 and the Secretary of Homeland Security with respect to  
7 the Coast Guard when it is not operating as a service in  
8 the Navy, from prescribing or enforcing regulations gov-  
9 erning the conduct of members of the Armed Forces if  
10 the regulations are designed and applied without regard  
11 to sexual orientation.

12       “(e) RE-ACCESSION OF OTHERWISE QUALIFIED  
13 PERSONS PERMITTED.—Any person separated from the  
14 Armed Forces for homosexuality, bisexuality, or homo-  
15 sexual conduct in accordance with laws and regulations  
16 in effect before the date of the enactment of this section,  
17 if otherwise qualified for re-accession into the Armed  
18 Forces, shall not be prohibited from re-accession into the  
19 Armed Forces on the sole basis of such separation.

20       “(f) SEXUAL ORIENTATION.—In this section, the  
21 term ‘sexual orientation’ means heterosexuality, homosex-  
22 uality, or bisexuality, whether the orientation is real or  
23 perceived, and includes statements and consensual sexual  
24 conduct manifesting heterosexuality, homosexuality, or bi-  
25 sexuality.”.

1 (2) CLERICAL AMENDMENTS.—The table of sections  
2 at the beginning of such chapter is amended—

3 (A) by striking the item relating to section 654;

4 and

5 (B) by adding at the end the following new  
6 item:

“656. Policy of nondiscrimination based on sexual orientation in the Armed  
Forces.”.

7 (c) CONFORMING AMENDMENTS.—Title 10, United  
8 States Code, is amended as follows:

9 (1) Section 481 is amended—

10 (A) In subsection (a)(2), by inserting “, in-  
11 cluding sexual orientation discrimination,” after  
12 “discrimination” in subparagraphs (C) and (D);  
13 and

14 (B) in subsection (c), by inserting “and  
15 sexual orientation-based” after “gender-based”  
16 both places it appears.

17 (2) Section 983(a)(1) is amended by striking  
18 “(in accordance with section 654 of this title and  
19 other applicable Federal laws)”.

20 (3) Section 1034(i)(3) is amended by inserting  
21 “sexual orientation,” after “sex,”.

22 (d) BENEFITS.—Nothing in this section, or the  
23 amendments made by this section, shall be construed to  
24 require the furnishing of dependent benefits in violation

1 of section 7 of title 1, United States Code (relating to the  
2 definitions of “marriage” and “spouse” and referred to  
3 as the “Defense of Marriage Act”).

4 (e) NO PRIVATE CAUSE OF ACTION FOR DAMAGES.—

5 Nothing in this section, or the amendments made by this  
6 section, shall be construed to create a private cause of ac-  
7 tion for damages.

8 (f) REGULATIONS.—

9 (1) IN GENERAL.—Not later than 90 days after  
10 the date of the enactment of this Act, the Secretary  
11 of Defense shall revise Department of Defense regu-  
12 lations, and shall issue such new regulations as may  
13 be necessary, to implement section 656 of title 10,  
14 United States Code, as added by subsection 4(b).  
15 The Secretary of Defense shall further direct the  
16 Secretary of each military department to revise reg-  
17 ulations of that military department in accordance  
18 with such section 656 not later than 180 days after  
19 the date of the enactment of this Act. Such revisions  
20 shall include the following:

21 (A) Revision of all equal opportunity and  
22 human relations regulations, directives, and in-  
23 structions to add sexual orientation non-  
24 discrimination to the Department of Defense

1 Equal Opportunity policy and to related human  
2 relations training programs.

3 (B) Revision of Department of Defense  
4 and military department personnel regulations  
5 to eliminate procedures for involuntary dis-  
6 charges based on sexual orientation.

7 (C) Revision of Department of Defense  
8 and military department regulations governing  
9 victims' advocacy programs to include sexual  
10 orientation discrimination among the forms of  
11 discrimination for which members of the Armed  
12 Forces and their families may seek assistance.

13 (2) REGULATION OF CONDUCT.—The Secretary  
14 of Defense, and the Secretary of Homeland Security  
15 with respect to the Coast Guard when it is not oper-  
16 ating as a service in the Navy, shall ensure that reg-  
17 ulations governing the personal conduct of members  
18 of the Armed Forces shall be written and enforced  
19 without regard to sexual orientation.

20 (3) DEFINITION.—In this subsection, the term  
21 “sexual orientation” has the meaning given that  
22 term in section 656(f) of title 10, United States  
23 Code, as added by subsection (b).

