# 2024 EMPLOYMENT LAW UPDATE



#### **OVERVIEW**

#### **STATUTES**

- HB396:WORKPLACE DISCRIMINATION AMENDMENTS
- HB460: GOVERNMENT EMPLOYEE CONSCIENCE PROTECTION AMENDMENTS.
- HB55: EMPLOYMENT CONFIDENTIALITY AMENDMENTS

#### CASE LAW

- MOLDROW V. ST. LOUIS, 601 U.S. \_\_\_\_ (2024)
- CHRISTENSEN V. LABOR COMMISSION, 2023 UT APP 100

#### REGULATORY UPDATES

- FTC'S NON-COMPETE CLAUSE RULE
- UPDATED EEOC ANTI-DISCRIMINATION GUIDANCE
- DOL EXPANDED OVERTIME PROTECTIONS

### HB396: WORKPLACE DISCRIMINATION AMENDMENTS

- EMPLOYERS MAY NOT COMPEL AN EMPLOYEE TO ENGAGE IN "RELIGIOUSLY OBJECTIONABLE EXPRESSION" (CAN INCLUDE SCHEDULING)
- EXCEPTION IF WOULD CAUSE AN UNDUE BURDEN TO THE EMPLOYER BY SUBSTANTIALLY INTERFERING WITH THE EMPLOYER'S:
  - CORE MISSION; OR
  - ABILITY TO PROVIDE TRAINING AND SAFETY INSTRUCTION FOR THE JOB.
- TO RECEIVE THE ACCOMMODATION, THE EMPLOYEE MUST AFFIRMATIVELY REQUEST IT.



## HB460: GOVERNMENT EMPLOYEE CONSCIENCE PROTECTION AMENDMENTS



- VERY SIMILAR TO HB396, BUT EXCLUSIVELY APPLICABLE TO GOVERNMENT EMPLOYERS.
- GOVERNMENTAL ENTITY CAN'T DENY REASONABLE REQUEST TO NOT PERFORM A CERTAIN TASK IF IT CONFLICTS WITH THE EMPLOYEE'S "SINCERELY HELD RELIGIOUS BELIEFS OR CONSCIENCE."
- NUMEROUS EXCEPTIONS FOR UNDUE HARDSHIP, SAFETY OR TRAINING INSTRUCTIONS, FIRST RESPONDERS' DUTIES TO PROTECT THE PUBLIC, ETC.
- THE EMPLOYEE MUST SUBMIT A WRITTEN REQUEST AND EXPLAIN WHY THE TASK CONFLICTS WITH THEIR BELIEFS OR CONSCIENCE.
- GOVERNMENTAL ENTITIES CAN ESTABLISH POLICIES FOR MAKING THE REQUEST.

### HB55: EMPLOYMENT CONFIDENTIALITY AMENDMENTS

- LIMITED IMPACT FOR GOVERNMENTAL EMPLOYERS BECAUSE OF GRAMA.
- NONDISCLOSURE AND NON-DISPARAGEMENT CLAUSES REGARDING SEXUAL MISCONDUCT, AS A CONDITION OF EMPLOYMENT, ARE AGAINST PUBLIC POLICY AND ARE VOID AND UNENFORCEABLE.
- ALSO APPLIES TO SETTLEMENT AGREEMENTS.
- RETROACTIVE APPLICATION TO JANUARY 1, 2023.



### MOLDROW V. ST. LOUIS, 601 U.S. \_\_\_\_\_ (2024)



- FEMALE POLICE OFFICER WAS TRANSFERRED TO A NEW POSITION BECAUSE THE NEW DIVISION COMMANDER WANTED TO REPLACE HER WITH A MALE POLICE OFFICER
- HER RANK AND PAY REMAINED THE SAME, BUT SHE NO LONGER WORKED WITH HIGH-RANKING OFFICIALS, LOST ACCESS TO A TAKE-HOME VEHICLE, AND HAD A LESS REGULAR SCHEDULE THAT INCLUDED WEEKEND SHIFTS.
- THE COURT HELD THIS WAS ENOUGH HARM TO SUPPORT A TITLE VII DISCRIMINATION CLAIM AND ADOPTED A "SOME HARM" STANDARD RATHER THAN USING A SIGNIFICANCE TEST.

### CHRISTENSEN V. LABOR COMMISSION, 2023 UT APP 100



- FOR UTAH ANTIDISCRIMINATION ACT (UAA) RETALIATION CLAIMS, THE CONTINUATION OF PRE-COMPLAINT BEHAVIOR MAY STILL BE RETALIATORY; LOOK FOR "CAUSAL CONNECTION" STILL.
- THE UAA DOES NOT PROVIDE FOR RECOVERY OF NONECONOMIC DAMAGES.
- OTHERWISE, ECONOMIC DAMAGES UNDER THE UAA, INCLUDING ATTORNEYS' FEES, ARE BROADLY AVAILABLE.

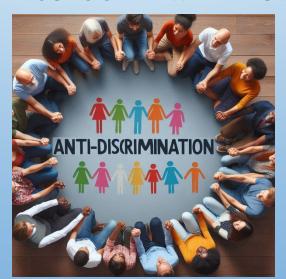
#### FTC'S NON-COMPETE CLAUSE RULE

- NON-COMPETE CLAUSES WITH WORKERS ARE UNENFORCEABLE AS "UNFAIR METHODS OF COMPETITION."
- EFFECTIVE SEPTEMBER 4, 2024; NON-COMPETES
  PRIOR TO THAT DATE WILL BECOME
  UNENFORCEABLE EXCEPT WITH SENIOR
  EXECUTIVES.



### UPDATED EEOC ANTI-DISCRIMINATION GUIDANCE

- MOSTLY CLARIFICATION AND NEW EXAMPLES OF EXISTING RULES.
- NEW POTENTIAL GROUNDS FOR DISCRIMINATION CLAIMS:
  - GENDER IDENTITY;
  - MISGENDERING; AND
  - USE OF PRONOUNS INCONSISTENT WITH KNOWN GENDER IDENTITY.



### DOL EXPANDED OVERTIME PROTECTIONS

- JULY 1, 2024 MINIMUM SALARY FOR OVERTIME EXEMPTION INCREASED FROM \$35,568 TO \$43,888.
- ON JULY 1, 2025, MINIMUM SALARY WILL INCREASE TO \$58,656.



#### QUESTIONS?

