

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?

