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HOUSE BILL 126

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO EMPLOYMENT; PROHIBITING NONDISCLOSURE AND
NONDISPARAGEMENT AGREEMENTS; AMENDING A SECTION OF THE NMSA
1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 50-4-36 NMSA 1978 (being Laws 2020,
Chapter 16, Section 1) is amended to read:

"50-4-36. WORKPLACE SEXUAL HARASSMENT, DISCRIMINATION AND
RETALIATION CLAIMS--NONDISCLOSURE AND NONDISPARAGEMENT
AGREEMENTS [~~AND~~]--CERTAIN ACTIONS PROHIBITED.--

A. A private employer shall not: [~~as a term of~~
~~employment~~]

(1) require [~~an~~] a prospective, current or
former employee or an independent contractor to sign a
nondisclosure or nondisparagement provision of a settlement

.232802.2

1 agreement relating to a claim of sexual harassment,
2 discrimination or retaliation in the workplace brought by the
3 employee; or

4 (2) prevent the employee from disclosing a
5 claim of sexual harassment, discrimination or retaliation
6 [occurring].

7 B. A claim of sexual harassment, discrimination or
8 retaliation may have occurred:

9 (1) in the workplace or at a work-related
10 event coordinated by or through the employer; or

11 (2) between employees or between an employer
12 and an employee, whether occurring on or off the employment
13 premises.

14 ~~[B.]~~ C. This section does not prohibit a settlement
15 agreement between ~~[an employee or former employee]~~ a
16 prospective, current or former employee or an independent
17 contractor and a private employer alleging sexual harassment,
18 discrimination or retaliation from containing confidentiality
19 provisions. A confidentiality provision is only permitted
20 ~~[when]~~ to pertain to:

21 (1) ~~[it relates to]~~ the monetary amount of a
22 settlement; or

23 (2) at the prospective, current or former
24 employee's or independent contractor's request, ~~[it prohibits]~~
25 the disclosure of facts that could lead to the identification

1 of the employee or independent contractor.

2 ~~[G. At the sole request of the employee, a~~
3 ~~settlement agreement subject to this section may contain a~~
4 ~~confidentiality provision that prevents the disclosure of~~
5 ~~factual information related to the underlying sexual~~
6 ~~harassment, discrimination or retaliation claim.]~~

7 D. The provisions of this ~~[subsection]~~ section
8 shall not be construed to prevent disclosure of information
9 that is the subject of the confidentiality provision if
10 disclosure is required to be made in a judicial, administrative
11 or other governmental proceeding pursuant to a valid subpoena
12 or other applicable order as otherwise required by law.

13 ~~[D.]~~ E. Except as provided in Subsections ~~[B and]~~ C
14 and D of this section, a confidentiality provision in a
15 settlement agreement subject to this section is void and
16 unenforceable as a matter of law."