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AN ACT
RELATING TO EMPLOYMENT LAW; PROVIDING THAT NONDISCLOSURE
AGREEMENTS IN SEXUAL HARASSMENT, DISCRIMINATION OR
RETALIATION CASES ARE UNENFORCEABLE.

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

SECTION 1. WORKPLACE SEXUAL HARASSMENT, DISCRIMINATION
AND RETALIATION CLAIMS--NONDISCLOSURE AGREEMENTS AND CERTAIN
ACTIONS PROHIBITED.--

A. A private employer shall not, as a term of
employment, require an employee to sign a nondisclosure
provision of a settlement agreement relating to a claim of
sexual harassment, discrimination or retaliation in the
workplace brought by the employee or prevent the employee
from disclosing a claim of sexual harassment, discrimination
or retaliation occurring in the workplace or at a work-
related event coordinated by or through the employer.

B. This section does not prohibit a settlement
agreement between an employee or former employee alleging
sexual harassment, discrimination or retaliation from
containing confidentiality provisions. A confidentiality
provision is permitted when:

- (1) it relates to the monetary amount of a
settlement; or
- (2) at the employee's request, it prohibits

1 disclosure of facts that could lead to the identification of
2 the employee.

3 C. At the sole request of the employee, a
4 settlement agreement subject to this section may contain a
5 confidentiality provision that prevents the disclosure of
6 factual information related to the underlying sexual
7 harassment, discrimination or retaliation claim. The
8 provisions of this subsection shall not be construed to
9 prevent disclosure of information that is the subject of the
10 confidentiality provision if disclosure is required to be
11 made in a judicial, administrative or other governmental
12 proceeding pursuant to a valid subpoena or other applicable
13 order as otherwise required by law.

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

18 **SECTION 2. APPLICABILITY.**--The provisions of this act
19 apply to agreements entered into between a private employer
20 and an employee or former employee on or after May 20, 2020. HB 21/a