

WAGE CLAIM AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Gerry A. Adair

AN ACT RELATING TO LABOR; AMENDING PROVISIONS RELATED TO RETALIATION FOR FILING WAGE CLAIMS; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

34-28-19, as last amended by Chapter 375, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34-28-19** is amended to read:

34-28-19. Retaliation prohibited -- Administrative process -- Enforcement --

Rulemaking.

(1) An employer violates this chapter if the employer discharges an employee, or threatens to discharge an employee because:

(a) the employee has filed a complaint or testified in a proceeding relative to the enforcement of this chapter;

(b) is about to file a complaint or testify in a proceeding relative to the enforcement of this chapter; or

(c) the employer believes that the employee may file a complaint or testify in any proceeding relative to the enforcement of this chapter.

(2) (a) An employee claiming to be aggrieved by an action of the employer in violation of Subsection (1) may file with the division a request for agency action.

(b) On receipt of a request for agency action under Subsection (2)(a), the division:

(i) shall conduct an adjudicative proceeding pursuant to Title 63, Chapter 46b,

Administrative Procedures Act; and

(ii) may attempt to reach a settlement between the parties through a settlement conference.

[(2)] (3) If [a violation has been determined,] the division [shall: (a)] determines that a violation has occurred, the division may require the employer to:

(a) cease and desist any retaliatory action; [and]

(b) [~~reach a resolution with the parties which shall~~] compensate the employee, which compensation may not exceed reimbursement for, and payment of, lost wages and benefits to the employee[-]; or

[~~(3) Failure to reach a resolution~~]

(c) do both (3)(a) and (b).

(4) The division may enforce this section in accordance with [~~Subsection (2) shall result in a full hearing before an administrative law judge in the Division of Adjudication. The decision of the administrative law judge may be appealed to the commissioner or Appeals Board in accordance with Title 34A, Chapter 1, Part 3, Adjudicative Proceedings~~] Subsections 34-28-9(3) and (4).

[~~(4)~~] (5) The commission shall adopt rules, as required, to implement this section.