

**WORKERS' COMPENSATION - PROOF OF
COVERAGE INFORMATION DISCLOSURE**

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Gerry A. Adair

AN ACT RELATING TO LABOR; PROVIDING THAT PROOF OF COVERAGE INFORMATION IS PROTECTED; PROVIDING LIMITED DISCLOSURE; PROVIDING RULEMAKING; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

34A-2-205, as renumbered and amended by Chapter 375, Laws of Utah 1997

63-2-304, as last amended by Chapter 234, Laws of Utah 1997

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

Section 1. Section **34A-2-205** is amended to read:

34A-2-205. Notification of workers' compensation insurance coverage to division -- Cancellation requirements -- Penalty for violation.

(1) (a) Every insurance carrier writing workers' compensation insurance coverage in this state or for this state, regardless of the state in which the policy is written, shall file notification of that coverage with the division or its designee within 30 days after the inception date of the policy in the form prescribed by the division. [~~These policies will be~~]

(b) A policy described in Subsection (1)(a) is in effect from inception until canceled by filing with the division or its designee a notification of cancellation in the form prescribed by the division within ten days after the cancellation of a policy.

~~[(b)]~~ (c) Failure to notify the division or its designee under Subsection (1)~~[(a)]~~(b) will result in the continued liability of the carrier until the date that notice of cancellation is received by the division or its designee.

~~[(c)]~~ (d) Filings shall be made within 30 days of:

(i) the reinstatement of a policy;

(ii) the changing or addition of a name or address of the insured; or

(iii) the merger of an insured with another entity.

~~[(4)]~~ (e) All filings under this section shall include:

(i) the name of the insured;

(ii) the principal business address;

(iii) any and all assumed name designations;

(iv) the address of all locations within this state where business is conducted; and

(v) all federal employer identification numbers or federal tax identification numbers.

(2) Noncompliance with this section is grounds for revocation of an insurance carrier's certificate of authority in addition to the grounds specified in Title 31A, Insurance Code.

(3) The division may assess an insurer up to \$150, payable to the Uninsured Employers' Fund, if the insurer fails to comply with this section.

(4) (a) The notification of workers' compensation insurance coverage required to be filed under Subsection (1) is a protected record under Section 63-2-304.

(b) The commission or any of its divisions may not disclose the information described in Subsection (4)(a) except as provided in:

(i) Title 63, Chapter 2, Government Records Access and Management Act, for a protected record; or

(ii) Subsection (4)(c), notwithstanding whether Title 63, Chapter 2, Government Records Access and Management Act, permits disclosure.

(c) The commission may disclose the information described in Subsection (4)(a) if:

(i) the information is disclosed on an individual case basis related to a single employer;

(ii) the information facilitates the:

(A) coverage of subcontractors by identifying the insurance carrier providing workers' compensation coverage for an employer;

(B) filing of a claim by an employee; or

(C) payment of services rendered on an employee's claim by a medical practitioner; and

(iii) promotes the purposes of this chapter or Chapter 3, Utah Occupational Disease Act.

(d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

commission shall make rules concerning when information may be disclosed under Subsection (4)(c).

Section 2. Section **63-2-304** is amended to read:

63-2-304. Protected records.

The following records are protected if properly classified by a governmental entity:

- (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63-2-308;
- (2) commercial information or nonindividual financial information obtained from a person if:
 - (a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;
 - (b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and
 - (c) the person submitting the information has provided the governmental entity with the information specified in Section 63-2-308;
- (3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;
- (4) records the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-3(3);
- (5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;
- (6) records the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except that this subsection does not restrict the right of a person to see bids submitted to or by a governmental entity after bidding has closed;
- (7) records that would identify real property or the appraisal or estimated value of real or

personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information outweighs the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property; or

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property;

(8) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access outweighs the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(9) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally

known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(10) records the disclosure of which would jeopardize the life or safety of an individual;

(11) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental record-keeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(12) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(13) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(14) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(15) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(16) records prepared by or on behalf of a governmental entity solely in anticipation of litigation that are not available under the rules of discovery;

(17) records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of a governmental entity concerning litigation;

(18) records of communications between a governmental entity and an attorney representing, retained, or employed by the governmental entity if the communications would be privileged as

provided in Section 78-24-8;

(19) personal files of a legislator, including personal correspondence to or from a member of the Legislature, but not correspondence that gives notice of legislative action or policy;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) for purposes of this subsection, a "Request For Legislation" submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator submits the "Request For Legislation" with a request that it be maintained as a protected record until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about collective bargaining or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of a public institution of higher education regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-7;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including a public institution of higher education, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this subsection; and

(c) except for public institutions of higher education, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of his immediate family, or any entity owned or controlled by the donor or his immediate family; ~~and~~

(38) a notification of workers' compensation insurance coverage described in Section 34A-2-205; and

~~[(38)]~~ (39) the following records of a public institution of education, which have been developed, discovered, or received by or on behalf of faculty, staff, employees, or students of the institution: unpublished lecture notes, unpublished research notes and data, unpublished manuscripts, creative works in process, scholarly correspondence, and confidential information contained in research proposals. Nothing in this subsection shall be construed to affect the ownership of a record.