

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

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Gerry A. Adair**

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

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

10 AMENDS:

11 **34A-2-205**, as renumbered and amended by Chapter 375, Laws of Utah 1997

12 **63-2-304**, as last amended by Chapter 234, Laws of Utah 1997

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

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

15 **34A-2-205. Notification of workers' compensation insurance coverage to division --**
16 **Cancellation requirements -- Penalty for violation.**

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

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

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

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

- 28 (i) the reinstatement of a policy;
- 29 (ii) the changing or addition of a name or address of the insured; or
- 30 (iii) the merger of an insured with another entity.

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

- 32 (i) the name of the insured;
- 33 (ii) the principal business address;
- 34 (iii) any and all assumed name designations;
- 35 (iv) the address of all locations within this state where business is conducted; and
- 36 (v) all federal employer identification numbers or federal tax identification numbers.

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

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

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

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

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

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

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

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

51 (ii) the information facilitates the:

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

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

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

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

57 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
58 commission shall make rules concerning when information may be disclosed under Subsection

59 (4)(c).

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

61 **63-2-304. Protected records.**

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

63 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has
64 provided the governmental entity with the information specified in Section 63-2-308;

65 (2) commercial information or nonindividual financial information obtained from a person
66 if:

67 (a) disclosure of the information could reasonably be expected to result in unfair
68 competitive injury to the person submitting the information or would impair the ability of the
69 governmental entity to obtain necessary information in the future;

70 (b) the person submitting the information has a greater interest in prohibiting access than
71 the public in obtaining access; and

72 (c) the person submitting the information has provided the governmental entity with the
73 information specified in Section 63-2-308;

74 (3) commercial or financial information acquired or prepared by a governmental entity to
75 the extent that disclosure would lead to financial speculations in currencies, securities, or
76 commodities that will interfere with a planned transaction by the governmental entity or cause
77 substantial financial injury to the governmental entity or state economy;

78 (4) records the disclosure of which could cause commercial injury to, or confer a
79 competitive advantage upon a potential or actual competitor of, a commercial project entity as
80 defined in Subsection 11-13-3(3);

81 (5) test questions and answers to be used in future license, certification, registration,
82 employment, or academic examinations;

83 (6) records the disclosure of which would impair governmental procurement proceedings
84 or give an unfair advantage to any person proposing to enter into a contract or agreement with a
85 governmental entity, except that this subsection does not restrict the right of a person to see bids
86 submitted to or by a governmental entity after bidding has closed;

87 (7) records that would identify real property or the appraisal or estimated value of real or
88 personal property, including intellectual property, under consideration for public acquisition before
89 any rights to the property are acquired unless:

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

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

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

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

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

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

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

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

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

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

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

116 (d) reasonably could be expected to disclose the identity of a source who is not generally
117 known outside of government and, in the case of a record compiled in the course of an
118 investigation, disclose information furnished by a source not generally known outside of
119 government if disclosure would compromise the source; or

120 (e) reasonably could be expected to disclose investigative or audit techniques, procedures,

121 policies, or orders not generally known outside of government if disclosure would interfere with
122 enforcement or audit efforts;

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

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

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

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

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

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

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

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

143 (18) records of communications between a governmental entity and an attorney
144 representing, retained, or employed by the governmental entity if the communications would be
145 privileged as provided in Section 78-24-8;

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

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

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

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

159 (22) drafts, unless otherwise classified as public;

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

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

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

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

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

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

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

182 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,

183 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
184 recommendations in these areas;

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

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

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

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

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

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

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

207 (a) the donor requests anonymity in writing;

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

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

214 (38) a notification of workers' compensation insurance coverage described in Section
215 34A-2-205; and
216 [(38)] (39) the following records of a public institution of education, which have been
217 developed, discovered, or received by or on behalf of faculty, staff, employees, or students of the
218 institution: unpublished lecture notes, unpublished research notes and data, unpublished
219 manuscripts, creative works in process, scholarly correspondence, and confidential information
220 contained in research proposals. Nothing in this subsection shall be construed to affect the
221 ownership of a record.

Legislative Review Note
as of 1-28-00 2:09 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel