

1 **UTAH OCCUPATIONAL SAFETY AND HEALTH**

2 **ACT AMENDMENTS**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Ed P. Mayne**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah Occupational Safety and Health Act to address time lines
10 for reporting.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies the time within which an employer shall provide notice of an occurrence;
- 14 ▶ clarifies reference to compensable occupational disease; and
- 15 ▶ makes technical changes.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **34A-6-301**, as last amended by Chapter 46, Laws of Utah 2001

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

25 Section 1. Section **34A-6-301** is amended to read:

26 **34A-6-301. Inspection and investigation of workplace, worker injury, illness, or**
27 **complaint -- Warrants -- Attendance of witnesses -- Recordkeeping by employers --**



28 **Employer and employee representatives -- Request for inspection -- Compilation and**
29 **publication of reports and information -- Rules.**

30 (1) (a) The division or its representatives, upon presenting appropriate credentials to
31 the owner, operator, or agent in charge, may:

32 (i) enter without delay at reasonable times any workplace where work is performed by
33 an employee of an employer;

34 (ii) inspect and investigate during regular working hours and at other reasonable times
35 in a reasonable manner, any workplace, worker injury, occupational disease, or complaint and
36 all pertinent methods, operations, processes, conditions, structures, machines, apparatus,
37 devices, equipment, and materials in the workplace; and

38 (iii) question privately any such employer, owner, operator, agent, or employee.

39 (b) The division, upon an employer's refusal to permit an inspection, may seek a
40 warrant under Section 77-23-211.

41 (2) (a) The division or its representatives may require the attendance and testimony of
42 witnesses and the production of evidence under oath.

43 (b) Witnesses shall receive fees and mileage in accordance with Section 78-46-28.

44 (c) (i) If any person fails or refuses to obey an order of the division to appear, any
45 district court within the jurisdiction of which such person is found, or resides or transacts
46 business, upon the application by the division, shall have jurisdiction to issue to any person an
47 order requiring that person to:

48 (A) appear to produce evidence if, as, and when so ordered~~[-]; and [to]~~

49 (B) give testimony relating to the matter under investigation or in question~~[-and any]~~.

50 (ii) Any failure to obey [such] an order of the court described in this Subsection (2)(c)
51 may be punished by the court as a contempt.

52 (3) (a) The commission shall make rules in accordance with Title 63, Chapter 46a,
53 Utah Administrative Rulemaking Act, requiring employers:

54 (i) to keep records regarding activities related to this chapter considered necessary for
55 enforcement or for the development of information about the causes and prevention of
56 occupational accidents and diseases; and ~~[requiring employers]~~

57 (ii) through posting of notices or other means, to inform employees of their rights and
58 obligations under this chapter including applicable standards.

59 (b) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
60 Administrative Rulemaking Act, requiring employers to keep records regarding any
61 work-related death and injury and any occupational disease as ~~[follows:]~~ provided in this
62 Subsection (3)(b).

63 (i) Each employer shall investigate or cause to be investigated all work-related injuries
64 and occupational diseases and any sudden or unusual occurrence or change of conditions that
65 pose an unsafe or unhealthful exposure to employees.

66 (ii) Each employer shall, within ~~[12]~~ eight hours of occurrence, notify the division of
67 any:

68 (A) work-related fatality;

69 (B) disabling, serious, or significant injury; ~~[and]~~ or

70 (C) occupational disease incident.

71 (iii) (A) Each employer shall file a report with the Division of Industrial Accidents
72 within seven days after the occurrence of an injury or occupational disease, after the employer's
73 first knowledge of the occurrence, or after the employee's notification of the same, in the form
74 prescribed by the Division of Industrial Accidents, of any work-related fatality or any
75 work-related injury or occupational disease resulting in:

76 (I) medical treatment~~[-];~~;

77 (II) loss of consciousness~~[-];~~;

78 (III) loss of work~~[-];~~;

79 (IV) restriction of work~~[-];~~ or

80 (V) transfer to another job.

81 (B) (I) Each employer shall file a subsequent report with the Division of Industrial
82 Accidents of any previously reported injury or occupational disease that later resulted in death.

83 (II) The subsequent report shall be filed with the Division of Industrial Accidents
84 within seven days following the death or the employer's first knowledge or notification of the
85 death.

86 (iv) A report is not required for minor injuries, such as cuts or scratches that require
87 first-aid treatment only, unless a treating physician files, or is required to file, the Physician's
88 Initial Report of Work Injury or Occupational Disease with the Division of Industrial
89 Accidents.

90 (v) A report is not required;
 91 (A) for occupational diseases that manifest after the employee is no longer employed
 92 by the employer with which the exposure occurred~~;~~; or

93 (B) where the employer is not aware of an exposure occasioned by the employment
 94 which results in ~~[an]~~ a compensable occupational disease as defined by Section 34A-3-103.

95 ~~[(iv)]~~ (vi) Each employer shall provide the employee with:

- 96 (A) a copy of the report submitted to the Division of Industrial Accidents; and
- 97 (B) a statement, as prepared by the Division of Industrial Accidents, of the employee's
- 98 rights and responsibilities related to the industrial injury or occupational disease.

99 ~~[(v)]~~ (vii) Each employer shall maintain a record in a manner prescribed by the
 100 commission of all work-related fatalities or work-related injuries and of all occupational
 101 diseases resulting in:

- 102 (A) medical treatment;
- 103 (B) loss of consciousness;
- 104 (C) loss of work;
- 105 (D) restriction of work; or
- 106 (E) transfer to another job.

107 ~~[(vi)]~~ (viii) The commission shall make rules in accordance with Title 63, Chapter 46a,
 108 Utah Administrative Rulemaking Act, to implement this Subsection (3)(b) consistent with
 109 nationally recognized rules or standards on the reporting and recording of work-related injuries
 110 and occupational diseases.

111 (c) (i) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
 112 Administrative Rulemaking Act, requiring employers to keep records regarding exposures to
 113 potentially toxic materials or harmful physical agents required to be measured or monitored
 114 under Section 34A-6-202.

115 (ii) (A) The rules made under Subsection (3)(c)(i) shall provide for employees or their
 116 representatives:

- 117 (I) to observe the measuring or monitoring; and
- 118 (II) to have access to the records ~~[thereof]~~ of the measuring or monitoring, and to
- 119 records that indicate their exposure to toxic materials or harmful agents.

120 (B) Each employer shall promptly notify employees being exposed to toxic materials or

121 harmful agents in concentrations that exceed prescribed levels and inform any such employee
122 of the corrective action being taken.

123 (4) Information obtained by the division shall be obtained with a minimum burden
124 upon employers, especially those operating small businesses.

125 (5) A representative of the employer and a representative authorized by employees
126 shall be given an opportunity to accompany the division's authorized representative during the
127 physical inspection of any workplace. If there is no authorized employee representative, the
128 division's authorized representative shall consult with a reasonable number of employees
129 concerning matters of health and safety in the workplace.

130 (6) (a) (i) (A) Any employee or representative of employees who believes that a
131 violation of an adopted safety or health standard exists that threatens physical harm, or that an
132 imminent danger exists, may request an inspection by giving notice to the division's authorized
133 representative of the violation or danger. The notice shall be:

134 (I) in writing, setting forth with reasonable particularity the grounds for notice[;]; and

135 (II) signed by the employee or representative of employees.

136 (B) A copy of the notice shall be provided the employer or the employer's agent no
137 later than at the time of inspection.

138 (C) Upon request of the person giving notice, the person's name and the names of
139 individual employees referred to in the notice shall not appear in the copy or on any record
140 published, released, or made available pursuant to Subsection (7).

141 (ii) (A) If upon receipt of the notice the division's authorized representative determines
142 there are reasonable grounds to believe that a violation or danger exists, the authorized
143 representative shall make a special inspection in accordance with this section as soon as
144 practicable to determine if a violation or danger exists.

145 (B) If the division's authorized representative determines there are no reasonable
146 grounds to believe that a violation or danger exists, the authorized representative shall notify
147 the employee or representative of the employees in writing of that determination.

148 (b) (i) Prior to or during any inspection of a workplace, any employee or representative
149 of employees employed in the workplace may notify the division or its representative of any
150 violation of a standard that they have reason to believe exists in the workplace.

151 (ii) The division shall[;];

152 (A) by rule, establish procedures for informal review of any refusal by a representative
153 of the division to issue a citation with respect to any alleged violation; and

154 (B) furnish the employees or representative of employees requesting review a written
155 statement of the reasons for the division's final disposition of the case.

156 (7) (a) The division may compile, analyze, and publish, either in summary or detailed
157 form, all reports or information obtained under this section, subject to the limitations set forth
158 in Section 34A-6-306.

159 (b) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
160 Administrative Rulemaking Act, necessary to carry out its responsibilities under this chapter,
161 including rules for information obtained under this section, subject to the limitations set forth
162 in Section 34A-6-306.

163 (8) Any employer who refuses or neglects to make reports, to maintain records, or to
164 file reports with the commission as required by this section is guilty of a class C misdemeanor
165 and subject to citation under Section 34A-6-302 and a civil assessment as provided under
166 Section 34A-6-307, unless the commission finds that the employer has shown good cause for
167 submitting a report later than required by this section.

Legislative Review Note
as of 1-6-04 9:10 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0096

Utah Occupational Safety and Health Act Amendments

20-Jan-04

10:58 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst