

**13-2-6 Enforcement powers.**

- (1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division shall have authority to convene administrative hearings, issue cease and desist orders, and impose fines under all the chapters identified in Section 13-2-1.
- (2) Any person who intentionally violates a final cease and desist order entered by the division of which the person has notice is guilty of a third degree felony.
- (3) If the division has reasonable cause to believe that any person is engaged in violating any chapter listed in Section 13-2-1, the division may promptly issue the alleged violator a citation signed by the division's director or the director's designee.
  - (a) Each citation shall be in writing and shall:
    - (i) set forth with particularity the nature of the violation, including a reference to the statutory or administrative rule provision being violated;
    - (ii) state that any request for review of the citation shall be made in writing and be received by the division no more than 10 days following issuance;
    - (iii) state the consequences of failing to make a timely request for review; and
    - (iv) state all other information required by Subsection 63G-4-201(2).
  - (b) In computing any time period prescribed by this section, the following days may not be included:
    - (i) the day a citation is issued by the division;
    - (ii) the day the division received a request for review of a citation;
    - (iii) Saturdays and Sundays; and
    - (iv) a legal holiday set forth in Subsection 63G-1-301(1)(a).
  - (c) If the recipient of a citation makes a timely request for review, within 10 days of receiving the request, the division shall convene an adjudicative proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
  - (d)
    - (i) If the presiding officer finds that there is not substantial evidence that the recipient violated a chapter listed in Section 13-2-1 at the time the citation was issued, the citation may not become final, and the division shall immediately vacate the citation and promptly notify the recipient in writing.
    - (ii) If the presiding officer finds there is substantial evidence that the recipient violated a chapter listed in Section 13-2-1 at the time the citation was issued, the citation shall become final and the division may enter a cease and desist order against the recipient.
  - (e) A citation issued under this chapter may be personally served upon any person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure. A citation also may be served by first-class mail, postage prepaid.
  - (f) If the recipient fails to make a timely request for review, the citation shall become the final order of the division. The period to contest the citation may be extended by the director for good cause shown.
  - (g) If the chapter violated allows for an administrative fine, after a citation becomes final, the director may impose the administrative fine.
- (4)
  - (a) A person violating a chapter identified in Section 13-2-1 is subject to the division's jurisdiction if:
    - (i) the violation or attempted violation is committed either wholly or partly within the state;
    - (ii) conduct committed outside the state constitutes an attempt to commit a violation within the state; or

- (iii) transactional resources located within the state are used by the offender to directly or indirectly facilitate a violation or attempted violation.
- (b) As used in this section, "transactional resources" means:
  - (i) any mail drop or mail box, whether or not located on the premises of a United States Post Office;
  - (ii) any telephone or facsimile transmission device;
  - (iii) any internet connection by a resident or inhabitant of this state with either a resident or nonresident maintained internet site;
  - (iv) any business office or private residence used for a business-related purpose;
  - (v) any account with or services of a financial institution;
  - (vi) the services of a common or private carrier; or
  - (vii) the use of any city, county, or state asset or facility, including any road or highway.
- (5) The director or the director's designee, for the purposes outlined in any chapter administered by the division, may administer oaths, issue subpoenas, compel the attendance of witnesses, and compel the production of papers, books, accounts, documents, and evidence.

Amended by Chapter 378, 2010 General Session