

Part 4 Miscellaneous

34A-1-401 Attorney general and county attorneys -- Duties.

If requested by the commission, the attorney general or any county or district attorney shall:

- (1) institute and prosecute the necessary actions or proceedings for the enforcement of any order of the commission or of any of the provisions of this title; or
- (2) defend any suit, action, or proceeding brought against the commission.

Renumbered and Amended by Chapter 375, 1997 General Session

34A-1-402 Publication of orders, rules, and rates.

- (1)
 - (a) The commission shall make available in proper form for distribution to the public, its orders and rules; and
 - (b) furnish the information made available under Subsection (1) to any person upon request.
- (2) The commission may in accordance with Section 63G-2-203 charge a fee for furnishing materials under this section.

Amended by Chapter 382, 2008 General Session

34A-1-403 Judgments in favor of commission -- Preference.

All judgments obtained in any action prosecuted by the commission or the state under this title shall have the same preference against the assets of the employer as claims for taxes.

Renumbered and Amended by Chapter 375, 1997 General Session

34A-1-404 Injunction prohibited.

- (1) An injunction may not be issued suspending or restraining:
 - (a) any order by the commission or decision under this title; or
 - (b) any action of the state auditor, state treasurer, attorney general, or the auditor or treasurer of any county, required to be taken by them or any of them by this title.
- (2) Notwithstanding Subsection (1), this section does not affect:
 - (a) any right or defense in any action brought by the commission or the state in pursuance of authority contained in this title; or
 - (b) the right any party of interest has to appeal a decision or final order of the commission.

Renumbered and Amended by Chapter 375, 1997 General Session

34A-1-405 Employer's records subject to examination -- Penalty.

- (1) A book, record, or payroll of an employer showing, or reflecting in any way upon the amount of the employer's wage expenditure shall always be open for inspection by the commission, or any of the commission's auditors, inspectors, or assistants, for the purpose of ascertaining:
 - (a) the correctness of the wage expenditure;
 - (b) the number of individuals employed; and
 - (c) other information as may be necessary for the uses and purposes of the commission in its administration of the law.

- (2)
 - (a) If an employer refuses to submit a book, record, or payroll for inspection, after being presented with written authority from the commission, the employer is liable for a penalty of \$100 for each offense.
 - (b) A penalty imposed under this section shall be:
 - (i) ordered under a civil action;
 - (ii) deposited into the Uninsured Employers' Fund created in Section 34A-2-704 to be used for a purpose specified in Section 34A-2-704; and
 - (iii) collected by the administrator of the Uninsured Employers' Fund in accordance with Section 34A-2-704.

Amended by Chapter 288, 2009 General Session

34A-1-406 Right of visitation.

- (1) The commissioner or the commissioner's designee may:
 - (a) enter any place of employment for the purpose of:
 - (i) collecting facts and statistics; or
 - (ii) examining the provisions made for the health and safety of the employees in the place of employment; and
 - (b) bring to the attention of every employer any law, or any final order or rule of the commission, and any failure on the part of the employer to comply with the law, rule, or final order.
- (2) An employer may not refuse to admit the commissioner or the commissioner's designee to the employer's place of employment.

Renumbered and Amended by Chapter 375, 1997 General Session

**34A-1-407 Investigation of places of employment -- Violations of rules or orders --
Temporary injunction.**

- (1)
 - (a) Upon complaint by any person that any employment or place of employment, regardless of the number of persons employed, is not safe for any employee or is in violation of state law, the commission shall refer the complaint for investigation and administrative action under:
 - (i) Chapter 2, Workers' Compensation Act;
 - (ii) Chapter 3, Utah Occupational Disease Act;
 - (iii) Chapter 5, Utah Antidiscrimination Act;
 - (iv) Chapter 6, Utah Occupational Safety and Health Act;
 - (v) Chapter 7, Safety; or
 - (vi) any combination of Subsections (1)(a)(i) through (v).
 - (b) Notwithstanding Subsection (1)(a) and Title 40, Chapter 2, Coal Mine Safety Act, for any Utah mine subject to the Federal Mine Safety and Health Act, the sole duty of the commission is to notify the appropriate federal agency of the complaint.
- (2) Notwithstanding any other penalty provided in this title, if any employer, after receiving notice, fails or refuses to obey the rules or order of the commission relative to the protection of the life, health, or safety of any employee, the district court of Utah is empowered, upon petition of the commission to issue, ex parte and without bond, a temporary injunction restraining the further operation of the employer's business.

Amended by Chapter 291, 2001 General Session

34A-1-408 Investigations through representatives.

- (1) For the purpose of making any investigation necessary for the implementation of this title with regard to any employment or place of employment, the commission may appoint, in writing, any competent person who is a resident of the state, as an agent, whose duties shall be prescribed in the written appointment.
- (2) In the discharge of the agent's duties, the agent shall have:
 - (a) every power of investigation granted in this title to the commission; and
 - (b) the same powers as a referee appointed by a district court with regard to taking evidence.
- (3) The commission may:
 - (a) conduct any number of the investigations contemporaneously through different agents; and
 - (b) delegate to the agents the taking of evidence bearing upon any investigation or hearing.
- (4) The recommendations made by the agents shall be advisory only and do not preclude the taking of further evidence or further investigation if the commission so orders.

Amended by Chapter 297, 2011 General Session

34A-1-409 Partial invalidity -- Saving clause.

Should any section or provision of this title be decided by the courts to be unconstitutional or invalid the same does not affect the validity of the title as a whole or any part of the title other than the part so decided to be unconstitutional.

Amended by Chapter 297, 2011 General Session