

Chapter 1 Labor Commission Act

Part 1 General Provisions

34A-1-101 Title.

- (1) This title is known as the "Utah Labor Code."
- (2) This chapter is known as the "Labor Commission Act."

Enacted by Chapter 375, 1997 General Session

34A-1-102 Definitions.

Unless otherwise specified, as used in this title:

- (1) "Certified mail" means a method of mailing by any carrier that is accompanied by proof of delivery.
- (2) "Commission" means the Labor Commission created in Section 34A-1-103.
- (3) "Commissioner" means the commissioner of the commission appointed under Section 34A-1-201.

Amended by Chapter 156, 2018 General Session

34A-1-103 Labor Commission -- Creation -- Seal.

- (1) There is created the Labor Commission that has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in:
 - (a) this title; and
 - (b) unless otherwise specified, Title 34, Labor in General.
- (2) The commission may sue and be sued.
- (3)
 - (a) The commission shall have an official seal for the authentication of its orders. A description and impression of the seal shall be filed with the Division of Archives.
 - (b) A court in this state shall take judicial notice of the seal of the commission.

Enacted by Chapter 375, 1997 General Session

34A-1-104 Commission authority.

Within all other authority or responsibility granted to it by law, the commission may:

- (1) adopt rules when authorized by this title, or Title 34, Labor in General, in accordance with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (2) conduct adjudicative proceedings in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;
- (3) license agencies in accordance with this title or Title 34, Labor in General;
- (4) employ and determine the compensation of clerical, legal, technical, investigative, and other employees necessary to carry out its policymaking, regulatory, and enforcement powers, rights, duties, and responsibilities under this title or Title 34, Labor in General;
- (5) administer and enforce all laws for the protection of the life, health, and safety of employees;

- (6) ascertain and fix reasonable standards, and prescribe, modify, and enforce reasonable orders, for the adoption of safety devices, safeguards, and other means or methods of protection, to be as nearly uniform as possible, as necessary to carry out all laws and lawful orders relative to the protection of the life, health, and safety, of employees in employment and places of employment;
- (7) ascertain, fix, and order reasonable standards for the construction, repair, and maintenance of places of employment as shall make them safe;
- (8) investigate, ascertain, and determine reasonable classifications of persons, employments, and places of employment as necessary to carry out the purposes of this title or Title 34, Labor in General;
- (9) promote the voluntary arbitration, mediation, and conciliation of disputes between employers and employees;
- (10) ascertain and adopt reasonable standards and rules, prescribe and enforce reasonable orders, and take other actions appropriate for the protection of life, health, and safety of all persons with respect to all prospects, tunnels, pits, banks, open cut workings, quarries, strip mine operations, ore mills, and surface operations or any other mining operation, whether or not the relationship of employer and employee exists, but the commission may not assume jurisdiction or authority over adopted standards and regulations or perform any mining inspection or enforcement of mining rules and regulations so long as Utah's mining operations are governed by federal regulations;
- (11) develop processes to ensure that the commission responds to the full range of employee and employer clients; and
- (12) carry out the responsibilities assigned to it by statute.

Amended by Chapter 382, 2008 General Session

34A-1-105 Commission budget -- Reports from divisions.

- (1) The commission shall prepare and submit to the governor for inclusion in the governor's budget to be submitted to the Legislature, a budget of the commission's financial requirements needed to carry out its responsibilities as provided by law during the fiscal year following the Legislature's next annual general session.
- (2) The commissioner shall require a report from each of the divisions and offices of the commission, to aid in preparation of the commission budget.

Enacted by Chapter 375, 1997 General Session

34A-1-106 Fees.

- (1) Unless otherwise provided by statute, the commission may adopt a schedule of fees assessed for services provided by the commission by following the procedures and requirements of Section 63J-1-504.
- (2) The commission shall submit each fee established under this section to the Legislature for its approval as part of the commission's annual appropriations request.

Amended by Chapter 183, 2009 General Session

Part 2

Organization

34A-1-201 Commissioner -- Appointment -- Removal -- Compensation -- Qualifications -- Responsibilities -- Reports.

- (1)
 - (a) The chief administrative officer of the commission is the commissioner, who shall be appointed by the governor with the advice and consent of the Senate.
 - (b) The commissioner shall serve at the pleasure of the governor.
 - (c) The commissioner shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
 - (d) The commissioner shall be experienced in administration, management, and coordination of complex organizations.
- (2)
 - (a) The commissioner shall serve full-time.
 - (b)
 - (i) Except as provided in Subsection (2)(b)(ii), the commissioner may not:
 - (A) hold any other office of this state, another state, or the federal government except in an ex officio capacity; or
 - (B) serve on any committee of any political party.
 - (ii) Notwithstanding Subsection (2)(b)(i), the commissioner may:
 - (A) hold a nominal position or title if it is required by law as a condition for the state participating in an appropriation or allotment of any money, property, or service that may be made or allotted for the commission; or
 - (B) serve as the chief administrative officer of any division, office, or bureau that is established within the commission.
 - (iii) If the commissioner holds a position as permitted under Subsection (2)(b)(ii), the commissioner may not be paid any additional compensation for holding the position.
- (3) Before beginning the duties as a commissioner, an appointed commissioner shall take and subscribe the constitutional oath of office and file the oath with the Division of Archives.
- (4) The commissioner shall:
 - (a) administer and supervise the commission in compliance with Title 63A, Chapter 17, Utah State Personnel Management Act;
 - (b) approve the proposed budget of each division and the Appeals Board;
 - (c) approve all applications for federal grants or assistance in support of any commission program; and
 - (d) fulfill such other duties as assigned by the Legislature or as assigned by the governor that are not inconsistent with this title or Title 34, Labor in General.
- (5)
 - (a) The commissioner shall report annually to the Legislature and the governor concerning the operations of the commission and the programs that the commission administers.
 - (b) If federal law requires that a report to the governor or Legislature be given concerning the commission or a program administered by the commission, the commissioner or the commissioner's designee shall make that report.

Amended by Chapter 345, 2021 General Session

34A-1-202 Divisions and office -- Creation -- Duties -- Labor Relations Board, Appeals Board, councils, and panel.

- (1) There is created within the commission the following divisions and office:
 - (a) the Division of Industrial Accidents that shall administer the regulatory requirements of this title concerning industrial accidents and occupational disease;
 - (b) the Division of Occupational Safety and Health that shall administer the regulatory requirements of Chapter 6, Utah Occupational Safety and Health Act;
 - (c) the Division of Boiler and Elevator Safety that shall administer the regulatory requirements of Chapter 7, Safety;
 - (d) the Division of Antidiscrimination and Labor that shall administer the regulatory requirements of:
 - (i) Title 34, Labor in General, when specified by statute;
 - (ii) Chapter 5, Utah Antidiscrimination Act;
 - (iii) this title, when specified by statute; and
 - (iv) Title 57, Chapter 21, Utah Fair Housing Act;
 - (e) the Division of Adjudication that shall adjudicate claims or actions brought under this title; and
 - (f) the Utah Office of Coal Mine Safety created in Section 40-2-201.
- (2) In addition to the divisions created under this section, within the commission are the following:
 - (a) the Labor Relations Board created in Section 34-20-3;
 - (b) the Appeals Board created in Section 34A-1-205;
 - (c) the following program advisory councils:
 - (i) the workers' compensation advisory council created in Section 34A-2-107;
 - (ii) the Mine Safety Technical Advisory Council created in Section 40-2-203; and
 - (iii) the Coal Miner Certification Panel created in Section 40-2-204.
- (3) In addition to the responsibilities described in this section, the commissioner may assign to a division a responsibility granted to the commission by law.

Amended by Chapter 413, 2013 General Session

34A-1-203 Commissioner -- Jurisdiction over division directors -- Authority.

- (1) The commissioner has administrative jurisdiction over each division.
- (2) To effectuate greater efficiency and economy in the operations of the commission, the commissioner may:
 - (a) make changes in personnel and service functions in the divisions under the commissioner's administrative jurisdiction; and
 - (b) authorize designees to perform appropriate responsibilities.
- (3) To facilitate management of the commission, the commissioner may establish offices necessary to implement this title or to perform functions such as budgeting, planning, data processing, and personnel administration.

Enacted by Chapter 375, 1997 General Session

34A-1-204 Division directors -- Appointment -- Compensation -- Qualifications.

- (1) The chief officer of each division within the commission shall be a director, who shall serve as the executive and administrative head of the division.
- (2) A director shall be appointed by the commissioner with the concurrence of the governor and may be removed from that position at the will of the commissioner.

- (3) A director of a division shall receive compensation as provided by Title 63A, Chapter 17, Utah State Personnel Management Act.
- (4)
 - (a) A director of a division shall be experienced in administration and possess such additional qualifications as determined by the commissioner.
 - (b) In addition to the requirements imposed under Subsection (4)(a), the director of the Division of Adjudication shall be admitted to the practice of law in this state.

Amended by Chapter 345, 2021 General Session

34A-1-205 Appeals Board -- Chair -- Appointment -- Compensation -- Qualifications.

- (1)
 - (a) There is created the Appeals Board within the commission consisting of three members.
 - (b) The board may call and preside at adjudicative proceedings to review an order or decision that is subject to review by the Appeals Board under this title.
- (2)
 - (a) With the advice and consent of the Senate and in accordance with this section, the governor shall appoint:
 - (i) one member of the board to represent employers; and
 - (ii) one member of the board to represent employees.
 - (b) With the advice and consent of the Senate and in accordance with this section, the governor may appoint:
 - (i) one alternate member of the board to represent employers in the event that the member representing employers is unavailable; or
 - (ii) one alternate member of the board to represent employees in the event that the member representing employees is unavailable.
 - (c) In making the appointments described in this subsection, the governor shall:
 - (i) when appointing a member or alternate member to represent employers, consider nominations from employer organizations;
 - (ii) when appointing a member or alternate member to represent employees, consider nominations from employee organizations;
 - (iii) ensure that no more than two members belong to the same political party; and
 - (iv) ensure that an alternate member belongs to the same political party as the member for whom the alternate stands in.
 - (d) The governor shall, at the time of appointment or reappointment, make appointments to the board so that at least two of the members of the board are members of the Utah State Bar in good standing or resigned from the Utah State Bar in good standing.
- (3)
 - (a) The term of a member and an alternate member shall be six years beginning on March 1 of the year the member or alternate member is appointed, except that the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members and alternate members are staggered so that one member and alternate member is appointed every two years.
 - (b) The governor may remove a member or alternate member only for inefficiency, neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.
 - (c) A member or alternate member shall hold office until a successor is appointed and has qualified.

- (4) A member and alternate member shall be part-time and receive compensation as provided by Title 63A, Chapter 17, Utah State Personnel Management Act.
- (5)
 - (a) The chief officer of the board shall be the chair, who shall serve as the executive and administrative head of the board.
 - (b) The governor shall appoint and may remove at will the chair from the position of chair.
- (6) A majority of the board shall constitute a quorum to transact business.
- (7)
 - (a) The commission shall provide the Appeals Board necessary staff support, except as provided in Subsection (7)(b).
 - (b) At the request of the Appeals Board, the attorney general shall act as an impartial aid to the Appeals Board in outlining the facts and the issues.

Amended by Chapter 345, 2021 General Session

Part 3 Adjudicative Proceedings

34A-1-301 Commission jurisdiction and power.

The commission has the duty and the full power, jurisdiction, and authority to determine the facts and apply the law in this chapter or any other title or chapter it administers.

Renumbered and Amended by Chapter 375, 1997 General Session

34A-1-302 Presiding officers for adjudicative proceedings -- Subpoenas -- Independent judgment -- Consolidation -- Record -- Notice of order.

- (1)
 - (a) The commissioner shall authorize the Division of Adjudication to call, assign a presiding officer, and conduct hearings and adjudicative proceedings when an application for a proceeding is filed with the Division of Adjudication under this title.
 - (b) The director of the Division of Adjudication or the director's designee may issue subpoenas. Failure to respond to a properly issued subpoena may result in a contempt citation and offenders may be punished as provided in Section 78B-6-313.
 - (c) Witnesses subpoenaed under this section are allowed fees as provided by law for witnesses in the district court of the state. The witness fees shall be paid by the state unless the witness is subpoenaed at the instance of a party other than the commission.
 - (d) A presiding officer assigned under this section may not participate in any case in which the presiding officer is an interested party. Each decision of a presiding officer shall represent the presiding officer's independent judgment.
- (2) If, in the judgment of the presiding officer having jurisdiction of the proceeding the consolidation would not be prejudicial to any party, when the same or substantially similar evidence is relevant and material to the matters in issue in more than one proceeding, the presiding officer may:
 - (a) fix the same time and place for considering each matter;
 - (b) jointly conduct hearings;
 - (c) make a single record of the proceedings; and

- (d) consider evidence introduced with respect to one proceeding as introduced in the others.
- (3)
- (a) The commission shall keep a full and complete record of all adjudicative proceedings in connection with a disputed matter.
 - (b) All testimony at any hearing shall be recorded but need not be transcribed. If a party requests transcription, the transcription shall be provided at the party's expense.
 - (c) All records on appeals shall be maintained by the Division of Adjudication. The records shall include an appeal docket showing the receipt and disposition of the appeals.
- (4) A party in interest shall be given notice of the entry of a presiding officer's order or any order or award of the commission. The mailing of the copy of the order or award to the last-known address in the files of the commission of a party in interest and to the attorneys or agents of record in the case, if any, is considered to be notice of the order.
- (5) In any formal adjudicative proceeding, the presiding officer may take any action permitted under Section 63G-4-206.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session

34A-1-303 Review of administrative decision.

- (1) A decision entered by an administrative law judge under this title is the final order of the commission unless a further appeal is initiated:
- (a) under this title; and
 - (b) in accordance with the rules of the commission governing the review.
- (2)
- (a) Unless otherwise provided, a person who is entitled to appeal a decision of an administrative law judge under this title may appeal the decision by filing a motion for review with the Division of Adjudication.
 - (b)
 - (i) Unless a party in interest to the appeal requests in accordance with Subsection (3) that the appeal be heard by the Appeals Board, the commissioner shall hear the review in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
 - (ii) Subject to Subsection (2)(b)(iii), the decision of the commissioner is a final order of the commission unless within 30 days after the date the decision is issued further appeal is initiated pursuant to this section or Title 63G, Chapter 4, Administrative Procedures Act.
 - (iii) In the case of an award of permanent total disability benefits under Section 34A-2-413, the decision of the commissioner is a final order of the commission unless set aside by the court of appeals.
 - (c)
 - (i) If in accordance with Subsection (3) a party in interest to the appeal requests that the appeal be heard by the Appeals Board, the Appeals Board shall hear the review in accordance with:
 - (A) Section 34A-1-205; and
 - (B) Title 63G, Chapter 4, Administrative Procedures Act.
 - (ii) Subject to Subsection (2)(c)(iii), the decision of the Appeals Board is a final order of the commission unless within 30 days after the date the decision is issued further appeal is initiated pursuant to this section or Title 63G, Chapter 4, Administrative Procedures Act.

- (iii) In the case of an award of permanent total disability benefits under Section 34A-2-413, the decision of the Appeals Board is a final order of the commission unless set aside by the court of appeals.
- (d) The commissioner may transfer a motion for review to the Appeals Board for decision if the commissioner determines that the commissioner's ability to impartially decide the motion for review might reasonably be questioned.
- (3) A party in interest may request that an appeal be heard by the Appeals Board by filing the request with the Division of Adjudication:
 - (a) as part of the motion for review; or
 - (b) if requested by a party in interest who did not file a motion for review, within 20 days of the date the motion for review is filed with the Division of Adjudication.
- (4)
 - (a) On appeal, the commissioner or the Appeals Board may:
 - (i) affirm the decision of an administrative law judge;
 - (ii) modify the decision of an administrative law judge;
 - (iii) return the case to an administrative law judge for further action as directed; or
 - (iv) reverse the findings, conclusions, and decision of an administrative law judge.
 - (b) The commissioner or Appeals Board may not conduct a trial de novo of the case.
 - (c) The commissioner or Appeals Board may base its decision on:
 - (i) the evidence previously submitted in the case; or
 - (ii) on written argument or written supplemental evidence requested by the commissioner or Appeals Board.
 - (d) The commissioner or Appeals Board may permit the parties to:
 - (i) file briefs or other papers; or
 - (ii) conduct oral argument.
 - (e) The commissioner or Appeals Board shall promptly notify the parties to any proceedings before the commissioner or Appeals Board of its decision, including its findings and conclusions.
- (5)
 - (a) Each decision of a member of the Appeals Board shall represent the member's independent judgment.
 - (b) A member of the Appeals Board may not participate in any case in which the member is an interested party.
 - (c) If a member of the Appeals Board may not participate in a case because the member is an interested party, the two members of the Appeals Board that may hear the case shall assign an individual to participate as a member of the board in that case if the individual:
 - (i) is not an interested party in the case;
 - (ii) was not previously assigned to:
 - (A) preside over any proceeding related to the case; or
 - (B) take any administrative action related to the case; and
 - (iii) is representative of the following group that was represented by the member that may not hear the case under Subsection (5)(b):
 - (A) employers;
 - (B) employees; or
 - (C) the public.
 - (d) The two members of the Appeals Board may appoint an individual to participate as a member of the Appeals Board in a case if:
 - (i) there is a vacancy on the board at the time the Appeals Board hears the review of the case;

- (ii) the individual appointed meets the conditions described in Subsections (5)(c)(i) and (ii); and
 - (iii) the individual appointed is representative of the following group that was represented by the member for which there is a vacancy:
 - (A) employers;
 - (B) employees; or
 - (C) the public.
- (6) If an order is appealed to the court of appeals after the party appealing the order has exhausted all administrative appeals, the court of appeals has jurisdiction to:
- (a) review, reverse, remand, or annul any order of the commissioner or Appeals Board; or
 - (b) suspend or delay the operation or execution of the order of the commissioner or Appeals Board being appealed.

Amended by Chapter 192, 2014 General Session

34A-1-304 Definitions -- Rulemaking -- Electronic or similar methods of proceedings.

- (1) For purposes of this section:
- (a) "Deliver" means to serve, file, or otherwise provide a document.
 - (b) "Document" includes a notice, order, decision, or other document that is required or permitted by a relevant statute.
 - (c) "Relevant statute" means a provision of:
 - (i) this title;
 - (ii) Title 34, Labor in General, for which the commissioner has regulatory authority;
 - (iii) Title 40, Chapter 2, Coal Mine Safety Act; or
 - (iv) Title 57, Chapter 21, Utah Fair Housing Act.
- (2)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing adjudicative procedures under a relevant statute, including providing the form of a notice and the manner of serving a notice.
 - (b) Except as provided in this title and Title 63G, Chapter 4, Administrative Procedures Act, a rule made under this section is not required to conform to common law or statutory rules of evidence or other technical rules of procedure.
- (3) The rules made under this section shall protect the rights of the parties and include procedures to:
- (a) dispose of a case informally or expedite claims adjudication;
 - (b) narrow issues; and
 - (c) simplify the methods of proof at a hearing.
- (4) The commission may by rule permit a hearing or other adjudicative proceeding to be conducted, recorded, or published by an electronic means or similar method.
- (5) Notwithstanding whether a relevant statute requires that a document be delivered by mail or otherwise, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, permit a document to be delivered by electronic means pursuant to the rule.

Amended by Chapter 261, 2011 General Session

34A-1-305 Orders of commission -- Presumed lawful.

All orders of the commission within its jurisdiction shall be presumed reasonable and lawful until they are found otherwise in an action brought for that purpose, or until altered or revoked by the commission.

Renumbered and Amended by Chapter 375, 1997 General Session

34A-1-306 Orders not to be set aside on technicalities.

A substantial compliance with the requirements of this chapter shall be sufficient to give effect to the orders of the commission, and they may not be declared inoperative, illegal, or void for any omission of a technical nature.

Renumbered and Amended by Chapter 375, 1997 General Session

34A-1-307 Action permitted in adjudicative proceedings.

For the purposes mentioned in this title, the commission may take any action permitted:

- (1) if a formal adjudicative proceeding, under Section 63G-4-205 or 63G-4-206; or
- (2) if an informal adjudicative proceeding, under Section 63G-4-203.

Amended by Chapter 382, 2008 General Session

34A-1-308 Depositions.

The commission or any party may in any investigation cause depositions of witnesses residing within or without the state to be taken as in civil actions.

Renumbered and Amended by Chapter 375, 1997 General Session

34A-1-309 Add-on fees.

(1) As used in this section:

(a) "Carrier" means:

- (i) a workers' compensation insurance carrier;
- (ii) the Uninsured Employers' Fund, an employer that does not carry workers' compensation insurance; or
- (iii) a self-insured employer as defined in Section 34A-2-201.5.

(b) "Indemnity compensation" means a workers' compensation claim for indemnity benefits that arises from or may arise from a denial of a medical claim.

(c) "Medical claim" means a workers' compensation claim for medical expenses or recommended medical care.

(d) "Unconditional denial" means a carrier's denial of a medical claim:

- (i) after the carrier completes an investigation; or
- (ii) 90 days after the day on which the claim was submitted to the carrier.

(2)

(a) The commission may award an add-on fee to a claimant to be paid by the carrier if:

- (i) a medical claim is at issue;
- (ii) the carrier issues an unconditional denial of the medical claim;
- (iii) the claimant hires an attorney to represent the claimant during the formal adjudicative process before the commission;
- (iv) after the carrier issues the unconditional denial, the commission orders the carrier or the carrier agrees to pay the medical claim; and

- (v) any award of indemnity compensation in the case is less than \$5,000.
- (b) An award of an add-on fee under this section is in addition to:
 - (i) the amount awarded for the medical claim or indemnity compensation; and
 - (ii) any amount for attorney fees agreed upon between the claimant and the claimant's attorney.
- (c) An award under this section is governed by the law in effect at the time the claimant files an application for hearing with the Division of Adjudication.
- (d)
 - (i) Medical expenses awarded as part of a medical claim under this section shall be calculated in accordance with the amount the carrier is required to pay under the rules established by the commission under Subsection 34A-2-407(9).
 - (ii) If the medical expenses awarded under this section are not set forth in the rules described in Subsection 34A-2-407(9), the medical expenses shall be calculated based on the amount the carrier paid or is contractually required to pay to the medical provider, whichever is greater.
- (3) If the commission awards an add-on fee under this section, the commission shall award the add-on fee in the following amount:
 - (a) the lesser of 25% of the medical expenses the commission awards to the claimant or \$25,000, for a case that is resolved at the commission level;
 - (b) the lesser of 30% of the medical expenses the Utah Court of Appeals awards to the claimant or \$30,000, for a case that is resolved on appeal before the Utah Court of Appeals; or
 - (c) the lesser of 35% of the medical expenses that the Utah Supreme Court awards to the claimant or \$35,000, for a case that is resolved on appeal before the Utah Supreme Court.
- (4) If a court invalidates any portion of this section, the entire section is invalid.

Amended by Chapter 364, 2023 General Session

34A-1-310 Record of proceedings before commission.

A record shall be kept of all proceedings before the commission on any investigation in accordance with Section 34A-1-302.

Renumbered and Amended by Chapter 375, 1997 General Session

**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