

Part 2

Securing Workers' Compensation Benefits for Employees

34A-2-201 Employers to secure workers' compensation benefits for employees -- Methods.

An employer shall secure the payment of workers' compensation benefits for its employees by:

- (1) insuring, and keeping insured, the payment of this compensation with an insurer authorized under Title 31A, Insurance Code, to transact the business of workers' compensation insurance in this state; or
- (2) obtaining approval from the division in accordance with Section 34A-2-201.5 to pay direct compensation as a self-insured employer in the amount, in the manner, and when due as provided for in this chapter or Chapter 3, Utah Occupational Disease Act.

Amended by Chapter 363, 2017 General Session

34A-2-201.3 Direct payments prohibited except by self-insured employer.

- (1) An employer who is not a self-insured employer, as defined in Section 34A-2-201.5, may not pay a benefit provided for under this chapter and Chapter 3, Utah Occupational Disease Act, directly:
 - (a) to an employee; or
 - (b) for the employee.
- (2)
 - (a) Subject to Title 63G, Chapter 4, Administrative Procedures Act, if the division finds that an employer is violating or has violated Subsection (1), the division shall send written notice to the employer of the requirements of this section and Section 34A-2-201.
 - (b) The division shall send the notice described in Subsection (2)(a) to the last address on the records of the commission for the employer.
- (3)
 - (a) If, after the division mails the notice required by Subsection (2) to an employer, the employer again violates Subsection (1), the division may impose a penalty against the employer of up to \$1,000 for each violation.
 - (b) If, after the division imposes a penalty under Subsection (3)(a) against the employer, the employer again violates Subsection (1), the division may impose a penalty of up to \$5,000 for each violation.
- (4)
 - (a) The division shall deposit a penalty imposed under Subsection (3) into the Uninsured Employers' Fund created by Section 34A-2-704 to be used for the purposes of the Uninsured Employers' Fund specified in Section 34A-2-704.
 - (b) The administrator of the Uninsured Employers' Fund shall collect money required to be deposited into the Uninsured Employers' Fund under this Subsection (4) in accordance with Section 34A-2-704.
- (5) A penalty under this section is in addition to any other penalty imposed under this chapter or Chapter 3, Utah Occupational Disease Act, against an employer who fails to comply with Section 34A-2-201.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules to implement this section.

Amended by Chapter 288, 2009 General Session

34A-2-201.5 Self-insured employer -- Acceptable security -- Procedures.

(1) As used in this section:

(a) "Acceptable security" means one or more of the following:

- (i) cash;
- (ii) a surety bond issued:
 - (A) by a person acceptable to the division; and
 - (B) in a form approved by the division;
- (iii) an irrevocable letter of credit issued:
 - (A) by a depository institution acceptable to the division; and
 - (B) in a form approved by the division;
- (iv) a United States Treasury Bill;
- (v) a deposit in a depository institution that:
 - (A) has an office located in Utah; and
 - (B) is insured by the Federal Deposit Insurance Corporation; or
- (vi) a certificate of deposit in a depository institution that:
 - (A) has an office located in Utah; and
 - (B) is insured by the Federal Deposit Insurance Corporation.

(b) "Compensation" is as defined in Section 34A-2-102.

(c) "Depository institution" is as defined in Section 7-1-103.

(d) "Member of a public agency insurance mutual" means a political subdivision or public agency that is included within a public agency insurance mutual.

(e) "Public agency insurance mutual" is as defined in Section 31A-1-103.

(f) "Self-insured employer" means one of the following that is authorized by the division to pay direct workers' compensation benefits under Subsection (2):

- (i) an employer; or
- (ii) a public agency insurance mutual.

(2)

(a) If approved by the division as a self-insured employer in accordance with this section:

- (i) an employer may directly pay compensation in the amount, in the manner, and when due as provided for in this chapter and Chapter 3, Utah Occupational Disease Act; and
- (ii) a public agency insurance mutual may directly pay compensation:
 - (A) on behalf of the members of the public agency insurance mutual; and
 - (B) in the amount, in the manner, and when due as provided in this chapter and Chapter 3, Utah Occupational Disease Act.

(b) If an employer's or a public agency insurance mutual's application to directly pay compensation as a self-insured employer is approved by the division, the application is considered acceptance:

- (i) of the conditions, liabilities, and responsibilities imposed by this chapter and Chapter 3, Utah Occupational Disease Act, including the liability imposed pursuant to Subsection 34A-2-704(14);
- (ii) by:
 - (A) the employer; or
 - (B)
 - (I) the public agency insurance mutual; and
 - (II) the members of the public agency insurance mutual.

(c) The division's denial under this Subsection (2) of an application to directly pay compensation as a self-insured employer becomes a final order of the commission 30 calendar days from

the date of the denial unless within that 30 days the employer or the public agency insurance mutual that filed the application files an application for a hearing in accordance with Part 8, Adjudication.

- (3) To qualify as a self-insured employer, an employer or a public agency insurance mutual shall:
 - (a) submit a written application requesting to directly pay compensation as a self-insured employer;
 - (b) annually provide the division proof of the employer's or the public agency insurance mutual's ability to directly pay compensation in the amount, manner, and time provided by this chapter and Chapter 3, Utah Occupational Disease Act; and
 - (c) if requested by the division, deposit acceptable security in the amounts determined by the division to be sufficient to secure the employer's or the public agency insurance mutual's liabilities under this chapter and Chapter 3, Utah Occupational Disease Act.
- (4)
 - (a) Acceptable security deposited by a self-insured employer in accordance with Subsection (3)(c) shall be:
 - (i) deposited on behalf of the division by the self-insured employer with the state treasurer; and
 - (ii) withdrawn only upon written order of the division.
 - (b) The self-insured employer has no right, title, interest in, or control over acceptable security that is deposited in accordance with this section.
 - (c) If the division determines that the amount of acceptable security deposited in accordance with this section is in excess of that needed to secure payment of the self-insured employer's liability under this chapter and Chapter 3, Utah Occupational Disease Act, the division shall return the amount that is determined to be excess to the self-insured employer.
- (5)
 - (a) The division may at any time require a self-insured employer to:
 - (i) increase or decrease the amount of acceptable security required to be deposited under Subsection (3)(c); or
 - (ii) modify the type of acceptable security to be deposited under Subsection (3)(c).
 - (b)
 - (i) If the division requires a self-insured employer to take an action described in Subsection (5)(a), a perfected security interest is created in favor of the division in the assets of the self-insured employer to the extent necessary to pay any amount owed by the self-insured employer under this chapter and Chapter 3, Utah Occupational Disease Act, that cannot be paid by acceptable security deposited in accordance with this section.
 - (ii) The perfected security interest created in Subsection (5)(b)(i) ends when the self-insured employer complies with the division's request under Subsection (5)(a) to the satisfaction of the division.
- (6)
 - (a) If an employer or a public agency insurance mutual is approved under Subsection (2) to directly pay compensation as a self-insured employer, the division may revoke the employer's or the public agency insurance mutual's approval.
 - (b) The division's revocation of the employer's or the public agency insurance mutual's approval under Subsection (6)(a) becomes a final order of the commission 30 calendar days from the date of the revocation unless within that 30 days the employer or the public agency insurance mutual files an application for a hearing in accordance with Part 8, Adjudication.
- (7) If the division finds that a self-insured employer has failed to pay compensation that the self-insured employer was liable to pay under this chapter or Chapter 3, Utah Occupational Disease

Act, the division may use the acceptable security deposited and any interest earned on the acceptable security to pay:

- (a) the self-insured employer's liability under this chapter and Chapter 3, Utah Occupational Disease Act; and
 - (b) any costs, including legal fees, associated with the administration of the compensation incurred by:
 - (i) the division;
 - (ii) a surety;
 - (iii) an adjusting agency; or
 - (iv) the Uninsured Employers' Fund.
- (8)
- (a) If the division determines that the acceptable security deposited under Subsection (3)(c) should be available for payment of the self-insured employer's liabilities under Subsection (7), the division shall:
 - (i) determine the method of claims administration, which may include administration by:
 - (A) a surety;
 - (B) an adjusting agency;
 - (C) the Uninsured Employers' Fund; or
 - (D) any combination of Subsections (8)(a)(i)(A) through (C); and
 - (ii) audit the self-insured employer's liabilities under this chapter and Chapter 3, Utah Occupational Disease Act.
 - (b) The following shall cooperate in the division's audit under Subsection (8)(a)(ii) and provide any relevant information in its possession:
 - (i) the self-insured employer;
 - (ii) if the self-insured employer is a public agency insurance mutual, a member of the public agency insurance mutual;
 - (iii) any excess insurer;
 - (iv) any adjusting agency;
 - (v) a surety;
 - (vi) an employee of a self-insured employer if the employee makes a claim for compensation under this chapter or Chapter 3, Utah Occupational Disease Act; and
 - (vii) an employee of a member of a public agency insurance mutual that is approved as a self-insured employer under this section, if the employee makes a claim for compensation under this chapter or Chapter 3, Utah Occupational Disease Act.
- (9)
- (a) Payment by a surety is a full release of the surety's liability under the bond to the extent of that payment, and entitles the surety to full reimbursement by the principal or the principal's estate including reimbursement of:
 - (i) necessary attorney's fees; and
 - (ii) other costs and expenses.
 - (b) A payment, settlement, or administration of benefits made in good faith pursuant to this section by a surety, an adjusting agency, the Uninsured Employers' Fund, or this division is valid and binding as between:
 - (i)
 - (A) the surety;
 - (B) adjusting agency;
 - (C) the Uninsured Employers' Fund; or
 - (D) the division;

- (ii) the self-insured employer; and
 - (iii) if the self-insured employer is a public agency insurance mutual, the members of the public agency insurance mutual.
- (10)
- (a) The division shall resolve any dispute concerning:
 - (i) the depositing, renewal, termination, exoneration, or return of all or any portion of acceptable security deposited under this section;
 - (ii) any liability arising out of the depositing or failure to deposit acceptable security;
 - (iii) the adequacy of the acceptable security; or
 - (iv) the reasonableness of administrative costs under Subsection (7)(b), including legal fees.
 - (b) The division's decision under Subsection (10)(a) becomes a final order of the commission 30 calendar days from the date of the decision, unless within that 30 days the employer or public agency insurance mutual files an application for hearing in accordance with Part 8, Adjudication.

Amended by Chapter 71, 2002 General Session

34A-2-202 Assessment on self-insured employers including the state, counties, cities, towns, or school districts paying compensation direct.

- (1)
- (a)
 - (i) A self-insured employer, including a county, city, town, or school district, shall pay annually, on or before March 31, an assessment in accordance with this section and rules made by the commission under this section.
 - (ii) For purposes of this section, "self-insured employer" is as defined in Section 34A-2-201.5, except it includes the state if the state self-insures under Section 34A-2-203.
 - (b) The assessment required by Subsection (1)(a) is:
 - (i) to be collected by the State Tax Commission;
 - (ii) paid by the State Tax Commission into the state treasury as provided in Subsection 59-9-101(2); and
 - (iii) subject to the offset provided in Section 34A-2-202.5.
 - (c) The assessment under Subsection (1)(a) shall be based on a total calculated premium multiplied by the premium assessment rate established pursuant to Subsection 59-9-101(2).
 - (d) The total calculated premium, for purposes of calculating the assessment under Subsection (1)(a), shall be calculated by:
 - (i) multiplying the total of the standard premium for each class code calculated in Subsection (1)(e) by the self-insured employer's experience modification factor; and
 - (ii) multiplying the total under Subsection (1)(d)(i) by a safety factor determined under Subsection (1)(g).
 - (e) A standard premium shall be calculated by:
 - (i) multiplying the advisory loss cost for the year being considered, as filed with the insurance department pursuant to Section 31A-19a-406, for each applicable class code by 1.10 to determine the manual rate for each class code; and
 - (ii) multiplying the manual rate for each class code under Subsection (1)(e)(i) by each \$100 of the self-insured employer's covered payroll for each class code.
 - (f)
 - (i) Each self-insured employer paying compensation direct shall annually obtain the experience modification factor required in Subsection (1)(d)(i) by using:

- (A) the rate service organization designated by the insurance commissioner in Section 31A-19a-404; or
- (B) for a self-insured employer that is a public agency insurance mutual, an actuary approved by the commission.
- (ii) If a self-insured employer's experience modification factor under Subsection (1)(f)(i) is less than 0.50, the self-insured employer shall use an experience modification factor of 0.50 in determining the total calculated premium.
- (g) To provide incentive for improved safety, the safety factor required in Subsection (1)(d)(ii) shall be determined based on the self-insured employer's experience modification factor as follows:

EXPERIENCE MODIFICATION FACTOR	SAFETY FACTOR
Less than or equal to 0.90	0.56
Greater than 0.90 but less than or equal to 1.00	0.78
Greater than 1.00 but less than or equal to 1.10	1.00
Greater than 1.10 but less than or equal to 1.20	1.22
Greater than 1.20	1.44

- (h)
 - (i) A premium or premium assessment modification other than a premium or premium assessment modification under this section may not be allowed.
 - (ii) If a self-insured employer paying compensation direct fails to obtain an experience modification factor as required in Subsection (1)(f)(i) within the reasonable time period established by rule by the State Tax Commission, the State Tax Commission shall use an experience modification factor of 2.00 and a safety factor of 2.00 to calculate the total calculated premium for purposes of determining the assessment.
 - (iii) Before calculating the total calculated premium under Subsection (1)(h)(ii), the State Tax Commission shall provide the self-insured employer with written notice that failure to obtain an experience modification factor within a reasonable time period, as established by rule by the State Tax Commission:
 - (A) shall result in the State Tax Commission using an experience modification factor of 2.00 and a safety factor of 2.00 in calculating the total calculated premium for purposes of determining the assessment; and
 - (B) may result in the division revoking the self-insured employer's right to pay compensation direct.
 - (i) The division may immediately revoke a self-insured employer's certificate issued under Sections 34A-2-201 and 34A-2-201.5 that permits the self-insured employer to pay compensation direct if the State Tax Commission assigns an experience modification factor and a safety factor under Subsection (1)(h) because the self-insured employer failed to obtain an experience modification factor.
- (2) Notwithstanding the annual payment requirement in Subsection (1)(a), a self-insured employer whose total assessment obligation under Subsection (1)(a) for the preceding year was \$10,000 or more shall pay the assessment in quarterly installments in the same manner provided in Section 59-9-104 and subject to the same penalty provided in Section 59-9-104 for not paying or underpaying an installment.

(3)

- (a) The State Tax Commission shall have access to all the records of the division for the purpose of auditing and collecting any amounts described in this section.
 - (b) Time periods for the State Tax Commission to allow a refund or make an assessment shall be determined in accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.
- (4)
- (a) A review of appropriate use of job class assignment and calculation methodology may be conducted as directed by the division at any reasonable time as a condition of the self-insured employer's certification of paying compensation direct.
 - (b) The State Tax Commission shall make any records necessary for the review available to the commission.
 - (c) The commission shall make the results of any review available to the State Tax Commission.

Amended by Chapter 32, 2020 General Session

34A-2-202.5 Offset for occupational health and safety related donations.

- (1) As used in this section:
- (a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in Title 53H, Chapter 5, Part 2, Rocky Mountain Center for Occupational and Environmental Health.
 - (b) "Qualified donation" means a donation that is:
 - (i) cash;
 - (ii) given directly to an occupational health and safety center; and
 - (iii) given exclusively for the purpose of:
 - (A) supporting graduate level education and training in fields of:
 - (I) safety and ergonomics;
 - (II) industrial hygiene;
 - (III) occupational health nursing;
 - (IV) occupational injury prevention; and
 - (V) occupational medicine;
 - (B) providing continuing education programs for employers designed to promote workplace safety; and
 - (C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.
 - (c) "Self-insured employer" is a self-insured employer as defined in Section 34A-2-201.5 that is required to pay the assessment imposed under Section 34A-2-202.
- (2)
- (a) A self-insured employer may offset against the assessment imposed under Section 34A-2-202 an amount equal to the lesser of:
 - (i) the total of qualified donations made by the self-insured employer in the calendar year for which the assessment is calculated; and
 - (ii) .20% of the self-insured employer's total calculated premium calculated under Subsection 34A-2-202(1)(d) for the calendar year for which the assessment is calculated.
 - (b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).
- (3) An occupational health and safety center shall:
- (a) provide a self-insured employer a receipt for any qualified donation made by the self-insured employer to the occupational health and safety center; and

- (b) expend money received by a qualified donation:
 - (i) for the purposes described in Subsection (1)(b)(iii); and
 - (ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii).

Amended by Chapter 9, 2025 Special Session 1

34A-2-203 Payment of premiums for workers' compensation.

- (1) The state shall secure the payment of workers' compensation benefits for its employees:
 - (a) by:
 - (i) insuring, and keeping insured, the payment of this compensation with an insurer authorized under Title 31A, Insurance Code, to transact the business of workers' compensation insurance in this state; or
 - (ii) paying direct compensation as a self-insured employer in the amount, in the manner, and when due as provided for in this chapter or Chapter 3, Utah Occupational Disease Act;
 - (b) in accordance with Title 63A, Chapter 4, Risk Management; and
 - (c) subject to Subsection (2).
- (2)
 - (a) If the state determines to secure the payment of workers' compensation benefits for its employees by paying direct compensation as a self-insured employer in the amount, in the manner, and due as provided for in this chapter or Chapter 3, Utah Occupational Disease Act, the state is:
 - (i) exempt from Section 34A-2-202.5 and Subsection 34A-2-704(14); and
 - (ii) required to pay a premium assessment as provided in Section 34A-2-202.
 - (b) If the state chooses to pay workers' compensation benefits for its employees through insuring under Subsection (1)(a)(i), the state shall obtain that insurance in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

Amended by Chapter 363, 2017 General Session

34A-2-204 Compliance with chapter -- Notice to employees.

- (1) Each employer providing insurance, or electing directly to pay compensation to the employer's injured workers, or the dependents of the employer's killed employees, in accordance with this chapter and Chapter 3, Utah Occupational Disease Act, shall post in conspicuous places about the employer's place of business typewritten or printed notices stating, that:
 - (a) the employer has complied with this chapter and Chapter 3, Utah Occupational Disease Act, and all the rules of the commission made under this chapter and Chapter 3, Utah Occupational Disease Act; and
 - (b) if such is the case, the employer has been authorized by the division directly to compensate the employees or dependents.
- (2) The notice required in Subsection (1) when posted in accordance with Subsection (1), shall constitute sufficient notice to the employer's employees of the fact that the employer has complied with the law as to securing compensation to the employer's employees and their dependents.

Renumbered and Amended by Chapter 375, 1997 General Session

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

- (1)
- (a) An insurance carrier writing workers' compensation insurance coverage in this state or for this state, regardless of the state in which the policy is written, shall file notification of that coverage with the division or the division's designee within 30 days after the inception date of the policy in the form prescribed by the division.
 - (b) A policy described in Subsection (1)(a) is in effect from inception until canceled by filing with the division or the division's designee a notification of cancellation in the form prescribed by the division within 10 days after the cancellation of a policy.
 - (c) Failure to notify the division or its designee under Subsection (1)(b) results in the continued liability of the carrier until the date that notice of cancellation is received by the division or the division's designee.
 - (d) An insurance carrier described in this Subsection (1) shall make a filing within 30 days of:
 - (i) the reinstatement of a policy;
 - (ii) the changing or addition of a name or address of the insured; or
 - (iii) the merger of an insured with another entity.
 - (e) A filing under this section shall include:
 - (i) the name of the insured;
 - (ii) the principal business address;
 - (iii) any and all assumed name designations;
 - (iv) the address of all locations within this state where business is conducted; and
 - (v) all federal employer identification numbers or federal tax identification numbers.
- (2) Noncompliance with this section is grounds for revocation of an insurance carrier's certificate of authority in addition to the grounds specified in Title 31A, Insurance Code.
- (3)
- (a) The division may assess an insurer up to \$150 if the insurer fails to comply with this section.
 - (b) The division shall deposit an amount assessed under Subsection (3)(a) into the Uninsured Employers' Fund created in Section 34A-2-704 to be used for the purposes of the Uninsured Employer's Fund specified in Section 34A-2-704.
 - (c) The administrator of the Uninsured Employers' Fund shall collect money required to be deposited into the Uninsured Employers' Fund under this Subsection (3) in accordance with Section 34A-2-704.
- (4)
- (a) The notification of workers' compensation insurance coverage required to be filed under Subsection (1) is a protected record under Section 63G-2-305.
 - (b) The commission or any of its divisions may not disclose the information described in Subsection (4)(a) except as provided in:
 - (i) Title 63G, Chapter 2, Government Records Access and Management Act, for a protected record; or
 - (ii) Subsection (4)(c), notwithstanding whether Title 63G, Chapter 2, Government Records Access and Management Act, permits disclosure.
 - (c) The commission may disclose the information described in Subsection (4)(a) if:
 - (i) the information is disclosed on an individual case basis related to a single employer;
 - (ii) the information facilitates the:
 - (A) coverage of subcontractors by identifying the insurance carrier providing workers' compensation coverage for an employer;
 - (B) filing of a claim by an employee; or

- (C) payment of services rendered on an employee's claim by a medical practitioner; and
- (iii) promotes the purposes of this chapter or Chapter 3, Utah Occupational Disease Act.
- (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules concerning when information may be disclosed under Subsection (4)(c).

Amended by Chapter 288, 2009 General Session

34A-2-206 Furnishing information to division -- Employers' annual report -- Rights of division -- Examination of employers under oath -- Penalties.

- (1)
 - (a) Every employer shall furnish the division, upon request, all information required by it to carry out the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.
 - (b) In the month of July of each year every employer shall prepare and mail to the division a statement containing the following information:
 - (i) the number of persons employed during the preceding year from July 1, to June 30, inclusive;
 - (ii) the number of the persons employed at each kind of employment;
 - (iii) the scale of wages paid in each class of employment, showing the minimum and maximum wages paid; and
 - (iv) the aggregate amount of wages paid to all employees.
- (2)
 - (a) The information required under Subsection (1) shall be furnished in the form prescribed by the division.
 - (b) Every employer shall:
 - (i) answer fully and correctly all questions and give all the information sought by the division under Subsection (1); or
 - (ii) if unable to comply with Subsection (2)(b)(i), give to the division, in writing, good and sufficient reasons for the failure.
- (3)
 - (a) The division may require the information required to be furnished by this chapter or Chapter 3, Utah Occupational Disease Act, to be made under oath and returned to the division within the period fixed by it or by law.
 - (b) The division, or any person employed by the division for that purpose, shall have the right to examine, under oath, any employer, or the employer's agents or employees, for the purpose of ascertaining any information that the employer is required by this chapter or Chapter 3, Utah Occupational Disease Act, to furnish to the division.
- (4)
 - (a) The division may seek a penalty of not to exceed \$500 for each offense to be recovered in a civil action brought by the commission or the division on behalf of the commission against an employer who:
 - (i) within a reasonable time to be fixed by the division and after the receipt of written notice signed by the director or the director's designee specifying the information demanded and served by certified mail or personal service, refuses to furnish to the division:
 - (A) the annual statement required by this section; or
 - (B) other information as may be required by the division under this section; or
 - (ii) willfully furnishes a false or untrue statement.
 - (b) All penalties collected under Subsection (4)(a) shall be paid into:

- (i) the Employers' Reinsurance Fund created in Section 34A-2-702; or
- (ii) if the commissioner has made the notification described in Subsection 34A-2-702(7), the Uninsured Employers' Fund created in Section 34A-2-704.

Amended by Chapter 194, 2019 General Session

34A-2-207 Noncompliance -- Civil action by employees.

- (1)
 - (a) Employers who fail to comply with Section 34A-2-201 are not entitled to the benefits of this chapter or Chapter 3, Utah Occupational Disease Act, during the period of noncompliance, but shall be liable in a civil action to their employees for damages suffered by reason of personal injuries arising out of or in the course of employment caused by the wrongful act, neglect, or default of the employer or any of the employer's officers, agents, or employees, and also to the dependents or personal representatives of such employees when death results from such injuries.
 - (b) In any action described in Subsection (1)(a), the defendant may not use any of the following defenses:
 - (i) the fellow-servant rule;
 - (ii) assumption of risk; or
 - (iii) contributory negligence.
- (2) Proof of the injury shall constitute prima facie evidence of negligence on the part of the employer and the burden shall be upon the employer to show freedom from negligence resulting in the injury.
- (3) An employer who fails to comply with Section 34A-2-201 is subject to Sections 34A-2-208 and 34A-2-212.
- (4) In any civil action permitted under this section against the employer, the employee shall be entitled to necessary costs and a reasonable attorney fee assessed against the employer.

Amended by Chapter 302, 2025 General Session

34A-2-208 Right to compensation when employer fails to comply.

- (1) Any employee, or the employee's dependents if death has ensued, may, in lieu of proceeding against the employee's employer by civil action in the courts as provided in Section 34A-2-207, file an application with the Division of Adjudication for compensation in accordance with this chapter or Chapter 3, Utah Occupational Disease Act, when:
 - (a) the employee's employer failed to comply with Section 34A-2-201;
 - (b) the employee has been injured by accident arising out of or in the course of the employee's employment, wherever the injury occurred; and
 - (c) the injury described in Subsection (1)(b) was not purposely self-inflicted.
- (2) An application for compensation filed under Subsection (1) shall be treated by the commission, including for purposes of appeal to the commissioner or Appeals Board, as an application for hearing under Section 34A-2-801.
- (3)
 - (a) If an application for compensation is filed under Subsection (1), in accordance with Part 8, Adjudication, the commission shall determine the award due to:
 - (i) the injured employee; or
 - (ii) the employee's dependents in case death has ensued.

- (b) The employer shall pay the award determined under Subsection (3)(a) to the persons entitled to the compensation within 10 days after receiving notice from the commission of the amount of the award determined under Subsection (3)(a).

Renumbered and Amended by Chapter 375, 1997 General Session

34A-2-209 Employer's penalty for violation -- Notice of noncompliance -- Proof required -- Admissible evidence -- Criminal prosecution.

- (1)
 - (a)
 - (i) An employer who fails to comply, and every officer of a corporation or association that fails to comply, with Section 34A-2-201 is guilty of a class B misdemeanor.
 - (ii) Each day's failure to comply with Subsection (1)(a)(i) is a separate offense.
 - (b) If the division sends written notice of noncompliance by certified mail or personal service to the last-known address of an employer, a corporation, or an officer of a corporation or association, and the employer, corporation, or officer does not within 10 days of the day on which the notice is delivered provide to the division proof of compliance, the notice and failure to provide proof constitutes prima facie evidence that the employer, corporation, or officer is in violation of this section.
- (2)
 - (a) If the division has reason to believe that an employer is conducting business without securing the payment of compensation in a manner provided in Section 34A-2-201, the division may give notice of noncompliance by certified mail or personal service to the following at the last-known address of the following:
 - (i) the employer; or
 - (ii) if the employer is a corporation or association:
 - (A) the corporation or association; or
 - (B) the officers of the corporation or association.
 - (b) If an employer, corporation, or officer described in Subsection (2)(a) does not, within 10 days of the day on which the notice is delivered, provide to the division proof of compliance, the employer and every officer of an employer corporation or association is guilty of a class B misdemeanor.
 - (c) Each day's failure to comply with Subsection (2)(a) is a separate offense.
- (3) A fine, penalty, or money collected or assessed under this section shall be:
 - (a) deposited in the Uninsured Employers' Fund created by Section 34A-2-704;
 - (b) used for the purposes of the Uninsured Employers' Fund specified in Section 34A-2-704; and
 - (c) collected by the Uninsured Employers' Fund administrator in accordance with Section 34A-2-704.
- (4) A form or record kept by the division or its designee pursuant to Section 34A-2-205 is admissible as evidence to establish noncompliance under this section.
- (5) The commission or division on behalf of the commission may prosecute or request the attorney general or district attorney to prosecute a criminal action in the name of the state to enforce this chapter or Chapter 3, Utah Occupational Disease Act.

Amended by Chapter 156, 2018 General Session

34A-2-210 Power to bring suit for noncompliance.

- (1)

- (a) The commission or the division on behalf of the commission may maintain a suit in any court of the state to enjoin any employer, within this chapter or Chapter 3, Utah Occupational Disease Act, from further operation of the employer's business, when the employer fails to provide for the payment of benefits in one of the ways provided in Section 34A-2-201.
- (b) Upon a showing of failure to provide for the payment of benefits, the court shall enjoin the further operation of the employer's business until the payment of these benefits has been secured by the employer as required by Section 34A-2-201. The court may enjoin the employer without requiring bond from the commission or division.
- (2) If the division has reason to believe that an employer is conducting a business without securing the payment of compensation in one of the ways provided in Section 34A-2-201, the division may give the employer five days written notice by registered mail of the noncompliance and if the employer within the five days written notice does not remedy the default:
 - (a) the commission or the division on behalf of the commission may file suit under Subsection (1); and
 - (b) the court may, ex parte, issue without bond a temporary injunction restraining the further operation of the employer's business.

Amended by Chapter 363, 2017 General Session

34A-2-211 Notice of noncompliance to employer -- Enforcement power of division -- Penalty.

- (1)
 - (a) In addition to the remedies described in Section 34A-2-210, if the division has reason to believe that an employer is conducting business without securing the payment of benefits in accordance with Section 34A-2-201, the division shall deliver written notice of the noncompliance to the employer by certified mail or personal service to the employer's last-known address.
 - (b) If the employer does not demonstrate compliance with Section 34A-2-201 to the division within 15 days after the day on which the notice is delivered, the division shall issue an order requiring the employer to appear before the division and show cause why the employer should not be ordered to comply with Section 34A-2-201.
 - (c) If the division finds that an employer has failed to comply with Section 34A-2-201, the division shall require the employer to comply with Section 34A-2-201.
- (2)
 - (a) Except as provided in Subsection (2)(d), after the division makes a finding of noncompliance described in Subsection (1)(c), the division shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, and this Subsection (2), impose a penalty against the employer.
 - (b) Except as provided in Subsection (2)(e), a penalty imposed under Subsection (2)(a) shall be the greater of:
 - (i) \$1,000; or
 - (ii) three times the amount of the premium the employer would have paid for workers' compensation insurance based on the rate filing of the workers' compensation insurance carrier that provides workers' compensation insurance under Section 31A-22-1001, during the period of noncompliance.
 - (c) For purposes of Subsection (2)(b)(ii):
 - (i) the premium is calculated by applying rates and rate multipliers to the payroll basis under Subsection (2)(c)(ii), using the highest rated employee class code applicable to the employer's operations; and

- (ii) the payroll basis is 150% of the state's average weekly wage multiplied by the highest number of workers employed by the employer during the period of the employer's noncompliance multiplied by the number of weeks of the employer's noncompliance up to a maximum of 156 weeks.
 - (d) The division may waive the penalty described in this Subsection (2) if:
 - (i)
 - (A) the finding of noncompliance is the first finding of noncompliance against the employer under this section;
 - (B) the period of noncompliance was less than 180 days;
 - (C) the employer is currently in compliance with Section 34A-2-201; and
 - (D) no injury was reported to the division in accordance with Section 34A-2-407 during the period of noncompliance; or
 - (ii)
 - (A) the employer is a corporation;
 - (B) each employee of the corporation is an officer of the corporation; and
 - (C) the employer is currently in compliance with Section 34A-2-201.
 - (e)
 - (i) The division may reduce the penalty described in this Subsection (2) if:
 - (A) the finding of noncompliance is the first finding of noncompliance against the employer under this section;
 - (B) the employer is currently in compliance with Section 34A-2-201;
 - (C) no injury was reported to the division in accordance with Section 34A-2-407 during the period of noncompliance; and
 - (D) upon request from the division, the employer submits to the division the employer's payroll records related to the period of noncompliance.
 - (ii)
 - (A) The reduced penalty shall be an amount equal to the premium the employer would have paid for workers' compensation insurance based on the rate filing of the workers' compensation insurance carrier that provides workers' compensation insurance under Section 31A-22-1001, during the period of noncompliance.
 - (B) The division shall calculate the amount described in Subsection (2)(e)(ii)(A) using the payroll records described in Subsection (2)(e)(i)(D).
 - (f) The division may reinstate the full penalty amount against an employer if the Uninsured Employers' Fund is ordered to pay benefits for an injury that occurred but was not reported during the period of noncompliance for which the division waived or assessed a reduced penalty under this subsection.
- (3) A penalty imposed under Subsection (2) shall be:
- (a) deposited in the Uninsured Employers' Fund created by Section 34A-2-704;
 - (b) used for the purposes of the Uninsured Employers' Fund specified in Section 34A-2-704; and
 - (c) collected by the Uninsured Employers' Fund administrator in accordance with Section 34A-2-704.
- (4)
- (a) An employer who disputes a determination, imposition, or amount of a penalty imposed under Subsection (2) shall request a hearing before an administrative law judge within 30 days of the date of issuance of the administrative action imposing the penalty or the administrative action becomes a final order of the commission.

- (b) An employer's request for a hearing under Subsection (4)(a) shall specify the facts and grounds that are the basis of the employer's objection to the determination, imposition, or amount of the penalty.
- (c) An administrative law judge's decision under this Subsection (4) may be reviewed pursuant to Part 8, Adjudication.
- (5) An administrative action issued by the division under this section shall:
 - (a) be in writing;
 - (b) be sent by certified mail or personal service to the last-known address of the employer;
 - (c) state the findings and administrative action of the division; and
 - (d) specify its effective date, which may be:
 - (i) immediate; or
 - (ii) at a later date.
- (6) A final order of the commission under this section, upon application by the commission made on or after the effective date of the order to a court of general jurisdiction in any county in this state, may be enforced by an order to comply:
 - (a) entered ex parte; and
 - (b) without notice by the court.

Amended by Chapter 156, 2018 General Session

34A-2-212 Docketing awards in district court -- Enforcing judgment.

- (1)
 - (a) Except as provided in Subsection (3), an abstract of a final order of the commission providing an award may be filed under this chapter or Chapter 3, Utah Occupational Disease Act, in the office of the clerk of the district court of any county in the state when all administrative and appellate remedies are exhausted.
 - (b) The abstract shall be docketed in the judgment docket of the district court where the abstract is filed. The time of the receipt of the abstract shall be noted on the abstract by the clerk of the district court and entered in the docket.
 - (c) When filed and docketed under Subsections (1)(a) and (b), the order shall constitute a lien from the time of the docketing upon the real property of the employer situated in the county, for a period of eight years from the date of the order unless the award provided in the final order is satisfied during the eight-year period.
 - (d) The district court may issue an execution or a renewal on the order within the same time and in the same manner and with the same effect as if the order were a judgment issued by the district court.
- (2)
 - (a) If the employer was uninsured at the time of the injury, the county attorney for the county in which the applicant or the employer resides, depending on the district in which the final order is docketed, shall enforce the judgment when requested by the commission or division on behalf of the commission.
 - (b) In an action to enforce an order docketed under Subsection (1), reasonable attorney fees and court costs shall be allowed in addition to the award.
- (3) Unless stayed pursuant to Section 63G-4-405, or set aside by the court of appeals, a preliminary or final decision of the commissioner or Appeals Board awarding permanent total disability compensation under Section 34A-2-413 is enforceable by abstract filed in the office of the clerk of the district court of any county in the state.

Amended by Chapter 461, 2017 General Session