

## Part 1 General Provisions

### **34A-6-101 Title.**

This chapter is known as the "Utah Occupational Safety and Health Act."

Renumbered and Amended by Chapter 375, 1997 General Session

### **34A-6-103 Definitions -- Unincorporated entities -- Joint employers -- Franchisors.**

(1) As used in this chapter:

- (a) "Administrator" means the director of the Division of Occupational Safety and Health.
- (b) "Amendment" means such modification or change in a code, standard, rule, or order intended for universal or general application.
- (c) "Commission" means the Labor Commission.
- (d) "Division" means the Division of Occupational Safety and Health.
- (e) "Employee" includes any person suffered or permitted to work by an employer.
- (f) "Employer" means:
  - (i) the state;
  - (ii) a county, city, town, and school district in the state; and
  - (iii) a person, including a public utility, having one or more workers or operatives regularly employed in the same business, or in or about the same establishment, under any contract of hire.
- (g) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.
- (h) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- (i) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- (j) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- (k) "Hearing" means a proceeding conducted by the commission.
- (l) "Imminent danger" means a danger exists which reasonably could be expected to cause an occupational disease, death, or serious physical harm immediately, or before the danger could be eliminated through enforcement procedures under this chapter.
- (m) "National consensus standard" means any occupational safety and health standard or modification:
  - (i) adopted by a nationally recognized standards-producing organization under procedures where it can be determined by the administrator and division that persons interested and affected by the standard have reached substantial agreement on its adoption;
  - (ii) formulated in a manner which affords an opportunity for diverse views to be considered; and
  - (iii) designated as such a standard by the secretary of the United States Department of Labor.
- (n) "Person" means the general public, one or more individuals, partnerships, associations, corporations, legal representatives, trustees, receivers, and the state and its political subdivisions.
- (o) "Publish" means publication in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (p) "Secretary" means the secretary of the United States Department of Labor.
- (q) "Standard" means an occupational health and safety standard or group of standards which requires conditions, or the adoption or use of one or more practices, means, methods,

operations, or processes, reasonably necessary to provide safety and healthful employment and places of employment.

- (r) "Unincorporated entity" means an entity organized or doing business in the state that is not:
    - (i) an individual;
    - (ii) a corporation; or
    - (iii) publicly traded.
  - (s) "Variance" means a special, limited modification or change in the code or standard applicable to the particular establishment of the employer or person petitioning for the modification or change.
  - (t) "Workplace" means any place of employment.
- (2)
- (a) For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.
  - (b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:
    - (i) is an active manager of the unincorporated entity;
    - (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or
    - (iii) is not subject to supervision or control in the performance of work by:
      - (A) the unincorporated entity; or
      - (B) a person with whom the unincorporated entity contracts.
  - (c) As part of the rules made under Subsection (2)(b), the commission may define:
    - (i) "active manager";
    - (ii) "directly or indirectly holds at least an 8% ownership interest"; and
    - (iii) "subject to supervision or control in the performance of work."
- (3) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.
- (4)
- (a) For purposes of this chapter, a franchisor is not considered to be an employer of:
    - (i) a franchisee; or
    - (ii) a franchisee's employee.
  - (b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (4) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

Amended by Chapter 370, 2016 General Session

**34A-6-104 Administration of chapter -- Selection of administrator -- Powers and duties of commission -- Application of chapter and exceptions.**

- (1) Administration of this chapter is vested in the commission and the division. The commission:

- (a) is vested with jurisdiction and supervision over every workplace in this state and is empowered to administer all laws and lawful orders to ensure that every employee in this state has a workplace free of recognized hazards;
  - (b) through the administrator, shall carry out the state plan and this chapter, provided that the administrator is a person with at least five years experience or training in the field of industrial safety and health;
  - (c) shall make, establish, promulgate and enforce all necessary and reasonable rules and provisions to carry this chapter into effect except when the division is authorized by this chapter to make rules; and
  - (d) may in its discretion administer oaths, take depositions, subpoena witnesses, compel production of documents, books, and accounts in any inquiry, investigation, hearing, or proceeding in any part of this state.
- (2) This chapter shall apply to all workplaces in the state except that nothing in this chapter shall apply to:
- (a) working conditions of employees with respect to which federal agencies and other state agencies acting under section 274 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2021, exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health; or
  - (b) any workplace or employer not subject to the provisions of the federal Williams-Steiger Occupational Safety and Health Act of 1970 and any amendments to that act or any regulations promulgated under that act.

Amended by Chapter 13, 1998 General Session

#### **34A-6-105 Procedures -- Adjudicative proceedings.**

The commission, the division, and the administrator shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in any adjudicative proceedings that they conduct under this chapter.

Amended by Chapter 382, 2008 General Session

#### **34A-6-107 Research and related activities.**

- (1)
- (a) The division, after consultation with other appropriate agencies, shall conduct, directly or by grants or contracts, whether federal or otherwise, research, experiments, and demonstrations in the area of occupational safety and health, including studies of psychological factors involved in innovative methods, techniques, and approaches for dealing with occupational safety and health problems.
  - (b)
    - (i) The division, to comply with its responsibilities under this section, and to develop needed information regarding toxic substances or harmful physical agents, may make rules requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents reasonably believed to endanger the health or safety of employees.
    - (ii) The division may establish programs for medical examinations and tests necessary for determining the incidence of occupational diseases and the susceptibility of employees to the diseases.

- (iii) Nothing in this chapter authorizes or requires a medical examination, immunization, or treatment for persons who object on religious grounds, except when necessary for the protection of the health or safety of others.
  - (iv) Any employer who is required to measure and record employee exposure to substances or physical agents as provided under Subsection (1)(b) may receive full or partial financial or other assistance to defray additional expense incurred by measuring and recording as provided in this Subsection (1)(b).
- (c)
- (i) Following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, the division shall determine whether any substance normally found in a workplace has toxic effects in the concentrations used or found, and shall submit its determination both to employers and affected employees as soon as possible.
  - (ii) The division shall immediately take action necessary under Section 34A-6-202 or 34A-6-305 if the division determines that:
    - (A) any substance is toxic at the concentrations used or found in a workplace; and
    - (B) the substance is not covered by an occupational safety or health standard promulgated under Section 34A-6-202.
- (2) The division may inspect and question employers and employees as provided in Section 34A-6-301, to carry out its functions and responsibilities under this section.
  - (3) The division is authorized to enter into contracts, agreements, or other arrangements with appropriate federal or state agencies, or private organizations to conduct studies about its responsibilities under this chapter. In carrying out its responsibilities under this subsection, the division shall cooperate with the Department of Health and Human Services and the Department of Environmental Quality to avoid any duplication of efforts under this section.
  - (4) Information obtained by the division under this section shall be disseminated to employers and employees and organizations of them.

Amended by Chapter 240, 2024 General Session

**34A-6-108 Collection, compilation, and analysis of statistics.**

- (1) The division shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. The program may cover all employments whether subject to this chapter but may not cover employments excluded by Subsection 34A-6-104(2). The division shall compile accurate statistics on work injuries and occupational diseases.
- (2) The division may use the functions imposed by Subsection (1) to:
  - (a) promote, encourage, or directly engage in programs of studies, information, and communication concerning occupational safety and health statistics;
  - (b) assist agencies or political subdivisions in developing and administering programs dealing with occupational safety and health statistics; and
  - (c) arrange, through assistance, for the conduct of research and investigations which give promise of furthering the objectives of this section.
- (3) The division may, with the consent of any state agency or political subdivision of the state, accept and use the services, facilities, and employees of state agencies or political subdivisions of the state, with or without reimbursement, to assist it in carrying out its functions under this section.

- (4) On the basis of the records made and kept under Subsection 34A-6-301(3), employers shall file reports with the division in the form and manner prescribed by the division.
- (5) Agreements between the United States Department of Labor and Utah pertaining to the collection of occupational safety and health statistics already in effect on July 1, 1973, remain in effect until superseded.

Amended by Chapter 297, 2011 General Session

**34A-6-109 Educational and training programs.**

- (1) The division, after consultation with other appropriate agencies, shall conduct, directly or by assistance:
  - (a) educational programs to provide an adequate supply of qualified personnel to carry out the purpose of this chapter; and
  - (b) informational programs on the importance of adequate safety and health equipment.
- (2)
  - (a) The division is authorized to conduct, directly or by assistance, training for personnel engaged in work related to its responsibilities under this chapter.
  - (b) The division shall ensure that any training described in Subsection (2)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements.
- (3) The division shall:
  - (a) establish and supervise programs for the education and training of employers and employees for recognition, avoidance, and prevention of unsafe or unhealthful working conditions;
  - (b) consult and advise employers and employees about effective means for prevention of any work-related injury or occupational disease; and
  - (c) provide safety and health workplace surveys.

Amended by Chapter 200, 2018 General Session

**34A-6-110 Requirements of other laws not limited or repealed -- Worker's compensation or rights under other laws with respect to employment injuries not affected.**

- (1) Nothing in this chapter is deemed to limit or repeal requirements imposed by statute or otherwise recognized by law.
- (2) Nothing in this chapter shall be construed or held to supersede or in any manner affect workers' compensation or enlarge or diminish or affect the common-law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, occupational or other diseases, or death of employees arising out of, or in the course of employment.

Renumbered and Amended by Chapter 375, 1997 General Session

**34A-6-111 Federal aid.**

The commission may make application for, receive, administer, and expend any federal aid for the administration of any of the provisions of this chapter.

Renumbered and Amended by Chapter 375, 1997 General Session