

1 **WAGE CLAIM AMENDMENTS**

2 1999 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Gerry A. Adair**

5 AN ACT RELATING TO LABOR; AMENDING PROVISIONS RELATED TO RETALIATION  
6 FOR FILING WAGE CLAIMS; AND MAKING TECHNICAL CORRECTIONS.

7 This act affects sections of Utah Code Annotated 1953 as follows:

8 AMENDS:

9 **34-28-19**, as last amended by Chapter 375, Laws of Utah 1997

10 *Be it enacted by the Legislature of the state of Utah:*

11 Section 1. Section **34-28-19** is amended to read:

12 **34-28-19. Retaliation prohibited -- Administrative process -- Enforcement --**

13 **Rulemaking.**

14 (1) For purposes of this section, "adverse action" means to discharge, threaten, or  
15 otherwise discriminate against an employee in any manner that affects the employee's employment,

16 including:

17 (a) compensation;

18 (b) terms of employment;

19 (c) conditions of employment;

20 (d) location of employment;

21 (e) promotions; or

22 (f) rights or privileges of employment.

23 [(1)] (2) An employer violates this chapter if the employer [~~discharges an employee;~~] takes  
24 or threatens to [discharge] take an adverse action against an employee because:

25 (a) the employee has filed a complaint or testified in a proceeding relative to the  
26 enforcement of this chapter;

27 (b) is about to file a complaint or testify in a proceeding relative to the enforcement of this

28 chapter; or

29 (c) the employer believes that the employee may file a complaint or testify in any  
30 proceeding relative to the enforcement of this chapter.

31 (3) (a) An employee claiming to be aggrieved by an adverse action of the employer in  
32 violation of Subsection (2) may file with the division a request for agency action.

33 (b) On receipt of a request for agency action under Subsection (3)(a), the division:

34 (i) shall conduct an adjudicative proceeding pursuant to Title 63, Chapter 46b,

35 Administrative Procedures Act; and

36 (ii) may attempt to reach a settlement between the parties through a settlement conference.

37 [~~(2)~~] (4) If [a violation has been determined,] the division [shall: (a)] determines that a  
38 violation has occurred, the division may require the employer to:

39 (a) cease and desist any retaliatory action; [and]

40 (b) [reach a resolution with the parties which shall] compensate the employee, which  
41 compensation may not exceed reimbursement for, and payment of, lost wages and benefits to the  
42 employee[-]; or

43 [~~(3) Failure to reach a resolution]~~

44 (c) do both (4)(a) and (b).

45 (5) The division may enforce this section in accordance with [Subsection (2) shall result  
46 in a full hearing before an administrative law judge in the Division of Adjudication. The decision  
47 of the administrative law judge may be appealed to the commissioner or Appeals Board in  
48 accordance with Title 34A, Chapter 1, Part 3, Adjudicative Proceedings] Section 34-28-9.

49 [~~(4)~~] (6) The commission shall adopt rules, as required, to implement this section.

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**Legislative Review Note**  
**as of 12-15-98 7:42 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**