

PAYMENT OF WAGES AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Scott K. Jenkins

This act modifies provisions in the Labor in General Title related to prohibited retaliation. This act makes technical changes.

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

AMENDS:

34-28-19, as last amended by Chapter 52, Laws of Utah 1999

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

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

34-28-19. Retaliation prohibited -- Administrative process -- Enforcement -- Rulemaking.

(1) ~~(a)~~ (a) An employer violates this chapter if the employer ~~[discharges an employee, or threatens to discharge an employee]~~ takes an action described in Subsection (1)(b) against an employee because:

~~[(a)]~~ (i) the employee ~~[has filed]~~ files a complaint or ~~[testified]~~ testifies in a proceeding relative to the enforcement of this chapter;

~~[(b)]~~ (ii) the employee is ~~[about]~~ going to file a complaint or testify in a proceeding relative to the enforcement of this chapter; or

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

(b) Subsection (1)(a) applies to the following actions of an employer:

(i) the discharge of an employee;

(ii) the demotion of an employee; or

(iii) any other form of retaliation against an employee in the terms, privileges, or conditions of employment.

(2) (a) An employee claiming to be aggrieved by an action of the employer in violation of Subsection (1) may file with the division a request for agency action.

(b) On receipt of a request for agency action under Subsection (2)(a), the division:

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

Administrative Procedures Act; and

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

(3) If the division determines that a violation has occurred, the division may require the employer to:

(a) cease and desist any retaliatory action;

(b) compensate the employee, which compensation may not exceed reimbursement for, and payment of, lost wages and benefits to the employee; or

(c) do both (3)(a) and (b).

(4) The division may enforce this section in accordance with Subsections 34-28-9(3) and (4).

(5) [~~The~~] In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall adopt rules, as required, to implement this section.