

- 57 (a) inscribed on a tangible medium; or
 58 (b) (i) received or stored in an electronic or other medium; and
 59 (ii) retrievable in perceivable form.

60 Section 2. Section **34-46-301** is amended to read:

61 **34-46-301. Investigations -- Complaints -- Sanctions -- Rulemaking.**

62 (1) The division may investigate an alleged violation of this chapter.

63 (2) (a) An individual claiming to be aggrieved by an action of an employer in violation
 64 of this chapter may file with the division a request for agency action.

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

66 (i) shall conduct an adjudicative proceeding pursuant to Title 63G, Chapter 4,
 67 Administrative Procedures Act; and

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

70 (3) (a) If the division determines that a violation has occurred[;]:

71 (i) in violation of Part 2, Requirements Related to Information, the division may order
 72 that the employer:

73 [(i)] (A) cease and desist the action;

74 [(ii)] (B) pay a fine to the division of up to \$500 for a violation, regardless of the
 75 number of applicants affected by the violation; or

76 [(iii)] (C) comply with a combination of Subsections (3)(a)(i)(A) and [(ii)] (B); or

77 (ii) in violation of Part 4, Prohibition on Inquiry into Compensation History, the

78 division shall ~~Ĥ→ [order that the employer pay a penalty of] ←Ĥ~~ :

79 (A) for the first offense ~~Ĥ→ [; \$1,000; and] , issue a warning; ←Ĥ~~

80 (B) for the second ~~Ĥ→ [or subsequent] ←Ĥ~~ offense, ~~Ĥ→ [\$5,000.] order that the~~
 80a ~~employer pay a penalty of \$500; and~~

80b ~~(C) for the third or subsequent offense, order that the employer pay a penalty of~~
 80c ~~\$1,500. ←Ĥ~~

81 (b) The division shall:

82 (i) retain ~~Ĥ→ [40%] 50% ←Ĥ~~ of a penalty payment described in Subsection (3)(a)(ii); and

83 (ii) pay ~~Ĥ→ [60%] 50% ←Ĥ~~ of a penalty payment described in Subsection (3)(a)(ii) to the

83a aggrieved

84 individual.

85 [(b)] (c) Money [~~received~~] the division retains under this section shall be deposited as a
 86 dedicated credit to the division to pay for the costs of administering this chapter.

87 (4) The commission may make rules in accordance with Title 63G, Chapter 3, Utah

88 Administrative Rulemaking Act, regarding:

89 (a) ~~[the process to file a written complaint with the division; and]~~ procedures under this
90 chapter;

91 (b) the terms defined in Section 34-46-102[-]; and

92 (c) the amount of a penalty imposed under Subsection (3)(a)(ii).

93 (5) Either party may file with the Division of Adjudication created in Section
94 34A-1-202 a written request for review of an order issued under Subsection (3), in accordance
95 with:

96 (a) Section 63G-4-301; and

97 (b) Title 34A, Chapter 1, Part 3, Adjudicative Proceedings.

98 (6) (a) The commission may employ counsel, appoint a representative, or request the
99 attorney general, or the county attorney for the county in which the final order is filed and
100 docketed, to represent the commission on any appeal or to enforce any judgment related to an
101 order under this section.

102 (b) If employed by or representing the commission outside the administrative process,
103 the counsel the commission employs, the attorney general, or the county representing the
104 commission, shall be awarded:

105 (i) reasonable attorney fees; and

106 (ii) costs for:

107 (A) appeals when the commission prevails; and

108 (B) judgment enforcement proceedings.

109 Section 3. Section ~~34-46-401~~ is enacted to read:

110 **Part 4. Prohibition on Inquiry into Compensation History**

111 **34-46-401. Prohibited inquiry.**

112 (1) An employer may not seek information regarding an applicant's compensation
113 history from the applicant ~~H→~~ [or anyone connected with] , ~~←H~~ the applicant's current or former
113a employer ~~H→~~ , or an employee of the applicant's current or former employer ~~←H~~ .

114 (2) This section does not apply to any compensation history available to the public
115 under federal or state law.

116 (3) Nothing in this section prohibits an applicant from voluntarily disclosing the
117 applicant's compensation history to a prospective employer.