

Representative Rex P. Shipp proposes the following substitute bill:

WORKERS' COMPENSATION COVERAGE AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rex P. Shipp

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to workers' compensation coverage.

Highlighted Provisions:

This bill:

- ▶ provides that, under certain circumstances, a partnership, sole proprietorship, or a certain limited liability company may elect not to provide workers' compensation coverage for as many as three minor employees under certain circumstances;
- ▶ amends provisions regarding employers in relation to a minor for whom a partnership, sole proprietorship, or limited liability company obtains a waiver; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-2-102, as last amended by Laws of Utah 2019, Chapter 121

34A-2-103, as last amended by Laws of Utah 2017, Chapter 363



- 26 [34A-2-104](#), as last amended by Laws of Utah 2019, Chapter 299
- 27 [34A-2-704](#), as last amended by Laws of Utah 2019, Chapters 136 and 194
- 28 [34A-2-1003](#), as last amended by Laws of Utah 2017, Chapter 146
- 29 [34A-2-1004](#), as last amended by Laws of Utah 2017, Chapter 146
- 30 [34A-2-1005](#), as enacted by Laws of Utah 2011, Chapter 328

31

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

33 Section 1. Section [34A-2-102](#) is amended to read:

34 **34A-2-102. Definition of terms.**

35 (1) As used in this chapter:

36 (a) "Average weekly wages" means the average weekly wages as determined under
37 Section [34A-2-409](#).

38 (b) "Award" means a final order of the commission as to the amount of compensation
39 due:

- 40 (i) an injured employee; or
- 41 (ii) a dependent of a deceased employee.

42 (c) "Compensation" means the payments and benefits provided for in this chapter or
43 Chapter 3, Utah Occupational Disease Act.

44 (d) (i) "Decision" means a ruling of:

- 45 (A) an administrative law judge; or
- 46 (B) in accordance with Section [34A-2-801](#):
 - 47 (I) the commissioner; or
 - 48 (II) the Appeals Board.

49 (ii) "Decision" includes:

50 (A) an award or denial of a medical, disability, death, or other related benefit under this
51 chapter or Chapter 3, Utah Occupational Disease Act; or

52 (B) another adjudicative ruling in accordance with this chapter or Chapter 3, Utah
53 Occupational Disease Act.

54 (e) "Director" means the director of the division, unless the context requires otherwise.

55 (f) "Disability" means an administrative determination that may result in an entitlement
56 to compensation as a consequence of becoming medically impaired as to function. Disability

57 can be total or partial, temporary or permanent, industrial or nonindustrial.

58 (g) "Division" means the Division of Industrial Accidents.

59 (h) "First responder" means:

60 (i) a law enforcement officer, as defined in Section 53-13-103;

61 (ii) an emergency medical technician, as defined in Section 26-8c-102;

62 (iii) an advanced emergency medical technician, as defined in Section 26-8c-102;

63 (iv) a paramedic, as defined in Section 26-8c-102;

64 (v) a firefighter, as defined in Section 34A-3-113;

65 (vi) a dispatcher, as defined in Section 53-6-102; or

66 (vii) a correctional officer, as defined in Section 53-13-104.

67 (i) "Minor" means an individual who is less than 18 years of age.

68 ~~(j)~~ (j) "Impairment" is a purely medical condition reflecting an anatomical or
69 functional abnormality or loss. Impairment may be either temporary or permanent, industrial
70 or nonindustrial.

71 ~~(j)~~ (k) "Order" means an action of the commission that determines the legal rights,
72 duties, privileges, immunities, or other interests of one or more specific persons, but not a class
73 of persons.

74 ~~(k)~~ (l) (i) "Personal injury by accident arising out of and in the course of
75 employment" includes an injury caused by the willful act of a third person directed against an
76 employee because of the employee's employment.

77 (ii) "Personal injury by accident arising out of and in the course of employment" does
78 not include a disease, except as the disease results from the injury.

79 ~~(l)~~ (m) "Safe" and "safety," as applied to employment or a place of employment,
80 means the freedom from danger to the life or health of employees reasonably permitted by the
81 nature of the employment.

82 (2) As used in this chapter and Chapter 3, Utah Occupational Disease Act:

83 (a) "Brother or sister" includes a half brother or sister.

84 (b) "Child" includes:

85 (i) a posthumous child; or

86 (ii) a child legally adopted prior to an injury.

87 Section 2. Section 34A-2-103 is amended to read:

88 **34A-2-103. Employers enumerated and defined -- Regularly employed --**
89 **Statutory employers -- Exceptions.**

90 (1) (a) The state, and each county, city, town, and school district in the state are
91 considered employers under this chapter and Chapter 3, Utah Occupational Disease Act.

92 (b) For the purposes of the exclusive remedy in this chapter and Chapter 3, Utah
93 Occupational Disease Act, prescribed in Sections 34A-2-105 and 34A-3-102, the state is
94 considered to be a single employer and includes any office, department, agency, authority,
95 commission, board, institution, hospital, college, university, or other instrumentality of the
96 state.

97 (2) (a) Subject to the other provisions of this section, each person, including each
98 public utility and each independent contractor, who regularly employs one or more workers or
99 operatives in the same business, or in or about the same establishment, under any contract of
100 hire, express or implied, oral or written, is considered an employer under this chapter and
101 Chapter 3, Utah Occupational Disease Act.

102 (b) As used in this Subsection (2):

103 (i) "Independent contractor" means any person engaged in the performance of any work
104 for another who, while so engaged, is:

105 (A) independent of the employer in all that pertains to the execution of the work;

106 (B) not subject to the routine rule or control of the employer;

107 (C) engaged only in the performance of a definite job or piece of work; and

108 (D) subordinate to the employer only in effecting a result in accordance with the
109 employer's design.

110 (ii) "Regularly" includes all employments in the usual course of the trade, business,
111 profession, or occupation of the employer, whether continuous throughout the year or for only a
112 portion of the year.

113 (3) (a) The client under a professional employer organization agreement regulated
114 under Title 31A, Chapter 40, Professional Employer Organization Licensing Act:

115 (i) is considered the employer of a covered employee; and

116 (ii) subject to Section 31A-40-209, shall secure workers' compensation benefits for a
117 covered employee by complying with Subsection 34A-2-201(1) and commission rules.

118 (b) The division shall promptly inform the Insurance Department if the division has

119 reason to believe that a professional employer organization is not in compliance with
120 Subsection 34A-2-201(1) and commission rules.

121 (4) A domestic employer who does not employ one employee or more than one
122 employee at least 40 hours per week is not considered an employer under this chapter and
123 Chapter 3, Utah Occupational Disease Act.

124 (5) (a) As used in this Subsection (5):

125 (i) (A) "Agricultural employer" means a person who employs agricultural labor as
126 defined in Subsections 35A-4-206(1) and (2) and does not include employment as provided in
127 Subsection 35A-4-206(3).

128 (B) Notwithstanding Subsection (5)(a)(i)(A), only for purposes of determining who is a
129 member of the employer's immediate family under Subsection (5)(a)(ii), if the agricultural
130 employer is a corporation, partnership, or other business entity, "agricultural employer" means
131 an officer, director, or partner of the business entity.

132 (ii) "Employer's immediate family" means:

133 (A) an agricultural employer's:

134 (I) spouse;

135 (II) grandparent;

136 (III) parent;

137 (IV) sibling;

138 (V) child;

139 (VI) grandchild;

140 (VII) nephew; or

141 (VIII) niece;

142 (B) a spouse of any person provided in Subsections (5)(a)(ii)(A)(II) through (VIII); or

143 (C) an individual who is similar to those listed in Subsection (5)(a)(ii)(A) or (B) as
144 defined by rules of the commission.

145 (iii) "Nonimmediate family" means a person who is not a member of the employer's
146 immediate family.

147 (b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an
148 agricultural employer is not considered an employer of a member of the employer's immediate
149 family.

150 (c) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an
151 agricultural employer is not considered an employer of a nonimmediate family employee if:

152 (i) for the previous calendar year the agricultural employer's total annual payroll for all
153 nonimmediate family employees was less than \$8,000; or

154 (ii) (A) for the previous calendar year the agricultural employer's total annual payroll
155 for all nonimmediate family employees was equal to or greater than \$8,000 but less than
156 \$50,000; and

157 (B) the agricultural employer maintains insurance that covers job-related injuries of the
158 employer's nonimmediate family employees in at least the following amounts:

159 (I) \$300,000 liability insurance, as defined in Section 31A-1-301; and

160 (II) \$5,000 for health care benefits similar to benefits under health care insurance as
161 defined in Section 31A-1-301.

162 (d) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an
163 agricultural employer is considered an employer of a nonimmediate family employee if:

164 (i) for the previous calendar year the agricultural employer's total annual payroll for all
165 nonimmediate family employees is equal to or greater than \$50,000; or

166 (ii) (A) for the previous year the agricultural employer's total payroll for nonimmediate
167 family employees was equal to or exceeds \$8,000 but is less than \$50,000; and

168 (B) the agricultural employer fails to maintain the insurance required under Subsection
169 (5)(c)(ii)(B).

170 (6) An employer of agricultural laborers or domestic servants who is not considered an
171 employer under this chapter and Chapter 3, Utah Occupational Disease Act, may come under
172 this chapter and Chapter 3, Utah Occupational Disease Act, by complying with:

173 (a) this chapter and Chapter 3, Utah Occupational Disease Act; and

174 (b) the rules of the commission.

175 (7) (a) (i) As used in this Subsection (7)(a), "employer" includes any of the following
176 persons that procures work to be done by a contractor notwithstanding whether or not the
177 person directly employs a person:

178 (A) a sole proprietorship;

179 (B) a corporation;

180 (C) a partnership;

181 (D) a limited liability company; or

182 (E) a person similar to one described in Subsections (7)(a)(i)(A) through (D).

183 (ii) If an employer procures any work to be done wholly or in part for the employer by
184 a contractor over whose work the employer retains supervision or control, and this work is a
185 part or process in the trade or business of the employer, the contractor, all persons employed by
186 the contractor, all subcontractors under the contractor, and all persons employed by any of
187 these subcontractors, are considered employees of the original employer for the purposes of
188 this chapter and Chapter 3, Utah Occupational Disease Act.

189 (b) Any person who is engaged in constructing, improving, repairing, or remodeling a
190 residence that the person owns or is in the process of acquiring as the person's personal
191 residence may not be considered an employee or employer solely by operation of Subsection
192 (7)(a).

193 (c) A partner in a partnership or an owner of a sole proprietorship is not considered an
194 employee under Subsection (7)(a) if the employer who procures work to be done by the
195 partnership or sole proprietorship obtains and relies on either:

196 (i) a valid certification of the partnership's or sole proprietorship's compliance with
197 Section 34A-2-201 indicating that the partnership or sole proprietorship secured the payment of
198 workers' compensation benefits pursuant to Section 34A-2-201; or

199 (ii) if a partnership or sole proprietorship with no employees other than a partner of the
200 partnership or owner of the sole proprietorship, a workers' compensation coverage waiver
201 issued pursuant to Part 10, Workers' Compensation Coverage Waivers Act, stating that:

202 (A) the partnership or sole proprietorship is customarily engaged in an independently
203 established trade, occupation, profession, or business; and

204 (B) the partner or owner personally waives the partner's or owner's entitlement to the
205 benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the
206 partnership or sole proprietorship.

207 (d) A director or officer of a corporation is not considered an employee under
208 Subsection (7)(a) if the director or officer is excluded from coverage under Subsection
209 34A-2-104(4).

210 (e) A contractor or subcontractor is not an employee of the employer under Subsection
211 (7)(a), if the employer who procures work to be done by the contractor or subcontractor obtains

212 and relies on either:

213 (i) a valid certification of the contractor's or subcontractor's compliance with Section
214 34A-2-201; or

215 (ii) if a partnership, corporation, or sole proprietorship with no employees other than a
216 partner of the partnership, officer of the corporation, or owner of the sole proprietorship, a
217 workers' compensation coverage waiver issued pursuant to Part 10, Workers' Compensation
218 Coverage Waivers Act, stating that:

219 (A) the partnership, corporation, or sole proprietorship is customarily engaged in an
220 independently established trade, occupation, profession, or business; and

221 (B) the partner, corporate officer, or owner personally waives the partner's, corporate
222 officer's, or owner's entitlement to the benefits of this chapter and Chapter 3, Utah
223 Occupational Disease Act, in the operation of the partnership's, corporation's, or sole
224 proprietorship's enterprise under a contract of hire for services.

225 (f) (i) For purposes of this Subsection (7)(f), "eligible employer" means a person who:

226 (A) is an employer; and

227 (B) procures work to be done wholly or in part for the employer by a contractor,
228 including:

229 (I) all persons employed by the contractor;

230 (II) all subcontractors under the contractor; and

231 (III) all persons employed by any of these subcontractors.

232 (ii) Notwithstanding the other provisions in this Subsection (7), if the conditions of
233 Subsection (7)(f)(iii) are met, an eligible employer is considered an employer for purposes of
234 Section 34A-2-105 of the contractor, subcontractor, and all persons employed by the contractor
235 or subcontractor described in Subsection (7)(f)(i)(B).

236 (iii) Subsection (7)(f)(ii) applies if the eligible employer:

237 (A) under Subsection (7)(a) is liable for and pays workers' compensation benefits as an
238 original employer under Subsection (7)(a) because the contractor or subcontractor fails to
239 comply with Section 34A-2-201;

240 (B) (I) secures the payment of workers' compensation benefits for the contractor or
241 subcontractor pursuant to Section 34A-2-201;

242 (II) procures work to be done that is part or process of the trade or business of the

243 eligible employer; and

244 (III) does the following with regard to a written workplace accident and injury
245 reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

246 (Aa) adopts the workplace accident and injury reduction program;

247 (Bb) posts the workplace accident and injury reduction program at the work site at
248 which the eligible employer procures work; and

249 (Cc) enforces the workplace accident and injury reduction program according to the
250 terms of the workplace accident and injury reduction program; or

251 (C) (I) obtains and relies on:

252 (Aa) a valid certification described in Subsection (7)(c)(i) or (7)(e)(i);

253 (Bb) a workers' compensation coverage waiver described in Subsection (7)(c)(ii) or
254 (7)(e)(ii); or

255 (Cc) proof that a director or officer is excluded from coverage under Subsection
256 34A-2-104(4);

257 (II) is liable under Subsection (7)(a) for the payment of workers' compensation benefits
258 if the contractor or subcontractor fails to comply with Section 34A-2-201;

259 (III) procures work to be done that is part or process in the trade or business of the
260 eligible employer; and

261 (IV) does the following with regard to a written workplace accident and injury
262 reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

263 (Aa) adopts the workplace accident and injury reduction program;

264 (Bb) posts the workplace accident and injury reduction program at the work site at
265 which the eligible employer procures work; and

266 (Cc) enforces the workplace accident and injury reduction program according to the
267 terms of the workplace accident and injury reduction program.

268 (g) A minor employee of a partnership, a sole proprietorship, or a limited liability
269 company, if the limited liability company is taxed as a partnership or sole proprietorship, is not
270 considered an employee under Subsection (7)(a), if the employer who procures work to be done
271 by the partnership, sole proprietorship, or limited liability company obtains and relies on either:

272 (i) a valid certification of the partnership, sole proprietorship, or limited liability
273 company's compliance with Section 34A-2-201, indicating that the partnership, sole

274 proprietorship, or limited liability company secured the payment of workers' compensation
275 benefits in accordance with Section 34A-2-201; or

276 (ii) a workers' compensation coverage waiver issued under Subsection 34A-2-1003(2).

277 (8) (a) For purposes of this Subsection (8), "unincorporated entity" means an entity
278 organized or doing business in the state that is not:

279 (i) an individual;

280 (ii) a corporation; or

281 (iii) publicly traded.

282 (b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an
283 unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah
284 Construction Trades Licensing Act, is presumed to be the employer of each individual who
285 holds, directly or indirectly, an ownership interest in the unincorporated entity.

286 Notwithstanding Subsection (7)(c) and Subsection 34A-2-104(3), the unincorporated entity
287 shall provide the individual who holds the ownership interest workers' compensation coverage
288 under this chapter and Chapter 3, Utah Occupational Disease Act, unless the presumption is
289 rebutted under Subsection (8)(c).

290 (c) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3,
291 Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption
292 under Subsection (8)(b) for an individual by establishing by clear and convincing evidence that
293 the individual:

294 (i) is an active manager of the unincorporated entity;

295 (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated
296 entity; or

297 (iii) is not subject to supervision or control in the performance of work by:

298 (A) the unincorporated entity; or

299 (B) a person with whom the unincorporated entity contracts.

300 (d) As part of the rules made under Subsection (8)(c), the commission may define:

301 (i) "active manager";

302 (ii) "directly or indirectly holds at least an 8% ownership interest"; and

303 (iii) "subject to supervision or control in the performance of work."

304 (9) (a) As used in this Subsection (9), "home and community based services" means

305 one or more of the following services provided to an individual with a disability or to the
306 individual's family that helps prevent the individual with a disability from being placed in a
307 more restrictive setting:

- 308 (i) respite care;
- 309 (ii) skilled nursing;
- 310 (iii) nursing assistant services;
- 311 (iv) home health aide services;
- 312 (v) personal care and attendant services;
- 313 (vi) other in-home care, such as support for the daily activities of the individual with a
314 disability;

315 (vii) specialized in-home training for the individual with a disability or a family
316 member of the individual with a disability;

317 (viii) specialized in-home support, coordination, and other supported living services;
318 and

319 (ix) other home and community based services unique to the individual with a
320 disability or the family of the individual with a disability that help prevent the individual with a
321 disability from being placed in a more restrictive setting.

322 (b) Notwithstanding Subsection (4) and subject to Subsection (9)(c), an individual with
323 a disability or designated representative of the individual with a disability is considered an
324 employer under this chapter and Chapter 3, Utah Occupational Disease Act, of an individual
325 who provides home and community based services if the individual with a disability or
326 designated representative of the individual with a disability:

327 (i) employs the individual to provide home and community based services for seven
328 hours per week or more; and

329 (ii) pays the individual providing the home and community based services from state or
330 federal money received by the individual with a disability or designated representative of the
331 individual with a disability to fund home and community based services, including through a
332 person designated by the Secretary of the Treasury in accordance with Section 3504, Internal
333 Revenue Code, as a fiduciary, agent, or other person who has the control, receipt, custody, or
334 disposal of, or pays the wages of, the individual providing the home and community based
335 services.

336 (c) The state and federal money received by an individual with a disability or
337 designated representative of an individual with a disability shall include the cost of the workers'
338 compensation coverage required by this Subsection (9) in addition to the money necessary to
339 fund the home and community based services that the individual with a disability or family of
340 the individual with a disability is eligible to receive so that the home and community based
341 services are not reduced in order to pay for the workers' compensation coverage required by
342 this Subsection (9).

343 (10) (a) For purposes of this Subsection (10), "federal executive agency" means an
344 executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

345 (b) For purposes of determining whether two or more persons are considered joint
346 employers under this chapter or Chapter 3, Utah Occupational Disease Act, an administrative
347 ruling of a federal executive agency may not be considered a generally applicable law unless
348 that administrative ruling is determined to be generally applicable by a court of law, or adopted
349 by statute or rule.

350 (11) (a) As used in this Subsection (11):

351 (i) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

352 (ii) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

353 (iii) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

354 (b) For purposes of this chapter, a franchisor is not considered to be an employer of:

355 (i) a franchisee; or

356 (ii) a franchisee's employee.

357 (c) With respect to a specific claim for relief under this chapter made by a franchisee or
358 a franchisee's employee, this Subsection (11) does not apply to a franchisor under a franchise
359 that exercises a type or degree of control over the franchisee or the franchisee's employee not
360 customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks
361 and brand.

362 Section 3. Section 34A-2-104 is amended to read:

363 **34A-2-104. "Employee," "worker," and "operative" defined -- Specific**
364 **circumstances -- Exemptions.**

365 (1) As used in this chapter and Chapter 3, Utah Occupational Disease Act, "employee,"
366 "worker," and "operative" mean:

- 367 (a) (i) an elective or appointive officer and any other person:
- 368 (A) in the service of:
- 369 (I) the state;
- 370 (II) a county, city, or town within the state; or
- 371 (III) a school district within the state;
- 372 (B) serving the state, or any county, city, town, or school district under:
- 373 (I) an election;
- 374 (II) appointment; or
- 375 (III) any contract of hire, express or implied, written or oral; and
- 376 (ii) including:
- 377 (A) an officer or employee of the state institutions of learning; and
- 378 (B) a member of the Utah National Guard or Utah State Defense Force while on state
- 379 active duty; and
- 380 (b) a person in the service of any employer, as defined in Section [34A-2-103](#), who
- 381 employs one or more workers or operatives regularly in the same business, or in or about the
- 382 same establishment:
- 383 (i) under any contract of hire:
- 384 (A) express or implied; and
- 385 (B) oral or written;
- 386 (ii) including aliens and minors, whether legally or illegally working for hire; and
- 387 (iii) not including any person whose employment:
- 388 (A) is casual; and
- 389 (B) not in the usual course of the trade, business, or occupation of the employee's
- 390 employer.
- 391 (2) (a) Unless a lessee provides coverage as an employer under this chapter and
- 392 Chapter 3, Utah Occupational Disease Act, any lessee in mines or of mining property and each
- 393 employee and sublessee of the lessee shall be:
- 394 (i) covered for compensation by the lessor under this chapter and Chapter 3, Utah
- 395 Occupational Disease Act;
- 396 (ii) subject to this chapter and Chapter 3, Utah Occupational Disease Act; and
- 397 (iii) entitled to the benefits of this chapter and Chapter 3, Utah Occupational Disease

398 Act, to the same extent as if the lessee, employee, or sublessee were employees of the lessor
399 drawing the wages paid employees for substantially similar work.

400 (b) The lessor may deduct from the proceeds of ores mined by the lessees an amount
401 equal to the insurance premium for that type of work.

402 (3) (a) (i) Except as provided in Subsection (3)(b), a partnership or sole proprietorship
403 may elect to include any partner of the partnership or owner of the sole proprietorship as an
404 employee of the partnership or sole proprietorship under this chapter and Chapter 3, Utah
405 Occupational Disease Act.

406 (ii) If a partnership or sole proprietorship makes an election under Subsection (3)(a),
407 the partnership or sole proprietorship shall serve written notice upon its insurance carrier
408 naming the persons to be covered.

409 (iii) A partner of a partnership or owner of a sole proprietorship may not be considered
410 an employee of the partner's partnership or the owner's sole proprietorship under this chapter or
411 Chapter 3, Utah Occupational Disease Act, until the notice described in Subsection (3)(a)(ii) is
412 given.

413 (iv) For premium rate making, the insurance carrier shall assume the salary or wage of
414 the partner or sole proprietor electing coverage under Subsection (3)(a)(i) to be 100% of the
415 state's average weekly wage.

416 (b) A partner of a partnership or an owner of a sole proprietorship is an employee of
417 the partnership or sole proprietorship under this chapter and Chapter 3, Utah Occupational
418 Disease Act, if:

419 (i) the partnership or sole proprietorship:

420 (A) is a motor carrier; and

421 (B) employs at least one individual who is not a partner or an owner; and

422 (ii) the partner or owner personally operates a motor vehicle for the motor carrier.

423 (4) (a) Except as provided in Subsection (4)(g), a corporation may elect not to include
424 any director or officer of the corporation as an employee under this chapter and Chapter 3, Utah
425 Occupational Disease Act.

426 (b) If a corporation makes an election under Subsection (4)(a), the corporation shall
427 serve written notice naming the individuals who are directors or officers to be excluded from
428 coverage:

429 (i) upon its insurance carrier, if any; or

430 (ii) upon the commission if the corporation is self-insured or has no employee other
431 than the one or more directors or officers being excluded.

432 (c) A corporation may exclude no more than five individuals who are directors or
433 officers under Subsection (4)(b)(ii).

434 (d) An exclusion under this Subsection (4) is subject to Subsection 34A-2-103(7)(d).

435 (e) A director or officer of a corporation is considered an employee under this chapter
436 and Chapter 3, Utah Occupational Disease Act, until the notice described in Subsection (4)(b)
437 is given.

438 (f) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah
439 Administrative Rulemaking Act, regarding the form of the notice described in Subsection
440 (4)(b)(ii), including a requirement to provide documentation, if any.

441 (g) Subsection (4)(a) does not apply to a director or an officer of a motor carrier if the
442 director or officer personally operates a motor vehicle for the motor carrier.

443 (5) (a) Subject to Subsection (5)(b), the following entities may elect not to include as
444 an employee under this chapter and Chapter 3, Utah Occupational Disease Act, as many as
445 three minors the entity employs:

446 (i) a partnership;

447 (ii) a sole proprietorship; or

448 (iii) a limited liability company that pays federal income tax as either a partnership or
449 sole proprietorship.

450 (b) An entity may only make the election described in Subsection (5)(a) if:

451 (i) (A) in the partnership, there are only two partners and the partners are legally
452 married to each other;

453 (B) in the sole proprietorship, there is only one owner; or

454 (C) in the limited liability company:

455 (I) there are only two members and the members are legally married to each other; or

456 (II) there is only one member;

457 (ii) the entity employs no employee other than:

458 (A) a minor for whom the entity makes the election described in Subsection (5)(a);

459 (B) if a sole proprietorship, the owner's legal spouse; or

460 (C) if a limited liability company with a single member, the member's legal spouse;
461 (iii) each employed minor is a child of:
462 (A) a partner of the partnership;
463 (B) the owner of the sole proprietorship; or
464 (C) a member of the limited liability company;
465 (iv) the entity carries for each minor health insurance coverage that:
466 (A) meets the minimum coverage standard that applies to employer-sponsored health
467 plans under the Patient Protection and Affordable Care Act, Public Law 111-148; and
468 (B) covers work-related injuries; and
469 (v) the entity obtains a waiver in accordance with Section [34A-2-1004](#).
470 (c) A minor a partnership, sole proprietorship, or limited liability company employs as
471 described in this Subsection (5) is considered an employee under this chapter and Chapter 3,
472 Utah Occupational Disease Act, until the insurance coverage described in Subsection (5)(b)(iv)
473 is in effect.

474 ~~(5)~~ (6) As used in this chapter and Chapter 3, Utah Occupational Disease Act,
475 "employee," "worker," and "operative" do not include:

476 (a) a sales agent or associate broker, as defined in Section [61-2f-102](#), who performs
477 services in that capacity for a principal broker if:

478 (i) substantially all of the sales agent's or associate broker's income for services is from
479 real estate commissions; and

480 (ii) the sales agent's or associate broker's services are performed under a written
481 contract that provides that:

482 (A) the real estate agent is an independent contractor; and

483 (B) the sales agent or associate broker is not to be treated as an employee for federal
484 income tax purposes;

485 (b) an offender performing labor under Section [64-13-16](#) or [64-13-19](#), except as
486 required by federal statute or regulation;

487 (c) an individual who for an insurance producer, as defined in Section [31A-1-301](#),
488 solicits, negotiates, places, or procures insurance if:

489 (i) substantially all of the individual's income from those services is from insurance
490 commissions; and

491 (ii) the services of the individual are performed under a written contract that states that
492 the individual:

493 (A) is an independent contractor;

494 (B) is not to be treated as an employee for federal income tax purposes; and

495 (C) can derive income from more than one insurance company; or

496 (d) subject to Subsections [~~(6)~~] (7), (8) and [~~(8)~~] (9), an individual who:

497 (i) (A) owns a motor vehicle; or

498 (B) leases a motor vehicle to a motor carrier;

499 (ii) personally operates the motor vehicle described in Subsection [~~(5)~~] (6)(d)(i);

500 (iii) operates the motor vehicle described in Subsection [~~(5)~~] (6)(d)(i) under a written
501 agreement with the motor carrier that states that the individual operates the motor vehicle as an
502 independent contractor; and

503 (iv) (A) provides to the motor carrier at the time the written agreement described in
504 Subsection [~~(5)~~] (6)(d)(iii) is executed or as soon after the execution as provided by the
505 commission, a copy of a workers' compensation coverage waiver issued pursuant to Part 10,
506 Workers' Compensation Coverage Waivers Act, to the individual; and

507 (B) provides to the motor carrier at the time the written agreement described in
508 Subsection [~~(5)~~] (6)(d)(iii) is executed or as soon after the execution as provided by an insurer,
509 proof that the individual is covered by occupational accident related insurance with the
510 coverage and benefit limits listed in Subsection [~~(7)~~] (8)(c).

511 [~~(6)~~] (7) An individual described in Subsection [~~(5)~~] (6)(d) may become an employee
512 under this chapter and Chapter 3, Utah Occupational Disease Act, if the employer of the
513 individual complies with:

514 (a) this chapter and Chapter 3, Utah Occupational Disease Act; and

515 (b) commission rules.

516 [~~(7)~~] (8) As used in this section:

517 (a) "Motor carrier" means a person engaged in the business of transporting freight,
518 merchandise, or other property by a commercial vehicle on a highway within this state.

519 (b) "Motor vehicle" means a self-propelled vehicle intended primarily for use and
520 operation on the highways, including a trailer or semitrailer designed for use with another
521 motorized vehicle.

522 (c) "Occupational accident related insurance" means insurance that provides the
523 following coverage at a minimum aggregate policy limit of \$1,000,000 for all benefits paid,
524 including medical expense benefits, for an injury sustained in the course of working under a
525 written agreement described in Subsection [~~(5)~~] (6)(d)(iii):

- 526 (i) disability benefits;
- 527 (ii) death benefits; and
- 528 (iii) medical expense benefits, which include:
 - 529 (A) hospital coverage;
 - 530 (B) surgical coverage;
 - 531 (C) prescription drug coverage; and
 - 532 (D) dental coverage.

533 [~~(8)~~] (9) For an individual described in Subsection [~~(5)~~] (6)(d):

534 (a) if the individual is not covered by a workers' compensation policy, the individual
535 shall obtain:

- 536 (i) occupational accident related insurance; and
- 537 (ii) a waiver in accordance with Part 10, Workers' Compensation Coverage Waivers
538 Act; and

539 (b) the commission shall verify the existence of occupational accident insurance
540 coverage with the coverage and benefit limits listed in Subsection [~~(7)~~] (8)(c) before the
541 commission may issue a workers' compensation coverage waiver to the individual pursuant to
542 Part 10, Workers' Compensation Coverage Waivers Act.

543 Section 4. Section **34A-2-704** is amended to read:

544 **34A-2-704. Uninsured Employers' Fund.**

545 (1) (a) There is created an Uninsured Employers' Fund. The Uninsured Employers'
546 Fund has the purpose of assisting in the payment of workers' compensation benefits to a person
547 entitled to the benefits, if:

- 548 (i) that person's employer:
 - 549 (A) is individually, jointly, or severally liable to pay the benefits; and
 - 550 (B) (I) becomes or is insolvent;
 - 551 (II) appoints or has appointed a receiver; or
 - 552 (III) otherwise does not have sufficient funds, insurance, sureties, or other security to

553 cover workers' compensation liabilities; and

554 (ii) the employment relationship between that person and the person's employer is
555 localized within the state as provided in Subsection (20).

556 (b) The Uninsured Employers' Fund succeeds to money previously held in the Default
557 Indemnity Fund.

558 (c) If it becomes necessary to pay benefits, the Uninsured Employers' Fund is liable for
559 the obligations of the employer set forth in this chapter and Chapter 3, Utah Occupational
560 Disease Act, with the exception of a penalty on those obligations.

561 (2) (a) Money for the Uninsured Employers' Fund shall be deposited into the Uninsured
562 Employers' Fund in accordance with this chapter and Subsection 59-9-101(2).

563 (b) The commissioner shall appoint an administrator of the Uninsured Employers'
564 Fund.

565 (c) (i) The state treasurer is the custodian of the Uninsured Employers' Fund.

566 (ii) The administrator shall make provisions for and direct distribution from the
567 Uninsured Employers' Fund.

568 (3) Reasonable costs of administering the Uninsured Employers' Fund or other fees
569 required to be paid by the Uninsured Employers' Fund may be paid from the Uninsured
570 Employers' Fund.

571 (4) The state treasurer shall:

572 (a) receive workers' compensation premium assessments from the State Tax
573 Commission; and

574 (b) invest the Uninsured Employers' Fund to ensure maximum investment return for
575 both long and short term investments in accordance with Section 34A-2-706.

576 (5) (a) The administrator may employ, retain, or appoint counsel to represent the
577 Uninsured Employers' Fund in a proceeding brought to enforce a claim against or on behalf of
578 the Uninsured Employers' Fund.

579 (b) If requested by the commission, the following shall aid in the representation of the
580 Uninsured Employers' Fund:

581 (i) the attorney general; or

582 (ii) the city attorney, or county attorney of the locality in which:

583 (A) an investigation, hearing, or trial under this chapter or Chapter 3, Utah

584 Occupational Disease Act, is pending;

585 (B) the employee resides; or

586 (C) an employer:

587 (I) resides; or

588 (II) is doing business.

589 (c) (i) Notwithstanding Title 63A, Chapter 3, Part 5, Office of State Debt Collection,
590 the administrator shall provide for the collection of money required to be deposited in the
591 Uninsured Employers' Fund under this chapter and Chapter 3, Utah Occupational Disease Act.

592 (ii) To comply with Subsection (5)(c)(i), the administrator may:

593 (A) take appropriate action, including docketing an award in a manner consistent with
594 Section 34A-2-212; and

595 (B) employ counsel and other personnel necessary to collect the money described in
596 Subsection (5)(c)(i).

597 (6) To the extent of the compensation and other benefits paid or payable to or on behalf
598 of an employee or the employee's dependents from the Uninsured Employers' Fund, the
599 Uninsured Employers' Fund, by subrogation, has the rights, powers, and benefits of the
600 employee or the employee's dependents against the employer failing to make the compensation
601 payments.

602 (7) (a) The receiver, trustee, liquidator, or statutory successor of an employer meeting a
603 condition listed in Subsection (1)(a)(i)(B) is bound by a settlement of a covered claim by the
604 Uninsured Employers' Fund.

605 (b) A court with jurisdiction shall grant a payment made under this section a priority
606 equal to that to which the claimant would have been entitled in the absence of this section
607 against the assets of the employer meeting a condition listed in Subsection (1)(a)(i)(B).

608 (c) The expenses of the Uninsured Employers' Fund in handling a claim shall be
609 accorded the same priority as the liquidator's expenses.

610 (8) (a) The administrator shall periodically file the information described in Subsection
611 (8)(b) with the receiver, trustee, or liquidator of:

612 (i) an employer that meets a condition listed in Subsection (1)(a)(i)(B);

613 (ii) a public agency insurance mutual, as defined in Section 31A-1-103, that meets a
614 condition listed in Subsection (1)(a)(i)(B); or

- 615 (iii) an insolvent insurance carrier.
- 616 (b) The information required to be filed under Subsection (8)(a) is:
- 617 (i) a statement of the covered claims paid by the Uninsured Employers' Fund; and
- 618 (ii) an estimate of anticipated claims against the Uninsured Employers' Fund.
- 619 (c) A filing under this Subsection (8) preserves the rights of the Uninsured Employers'
- 620 Fund for claims against the assets of the employer that meets a condition listed in Subsection
- 621 (1)(a)(i)(B).
- 622 (9) When an injury or death for which compensation is payable from the Uninsured
- 623 Employers' Fund has been caused by the wrongful act or neglect of another person not in the
- 624 same employment, the Uninsured Employers' Fund has the same rights as allowed under
- 625 Section [34A-2-106](#).
- 626 (10) The Uninsured Employers' Fund, subject to approval of the administrator, shall
- 627 discharge its obligations by:
- 628 (a) adjusting its own claims; or
- 629 (b) contracting with an adjusting company, risk management company, insurance
- 630 company, or other company that has expertise and capabilities in adjusting and paying workers'
- 631 compensation claims.
- 632 (11) (a) For the purpose of maintaining the Uninsured Employers' Fund, an
- 633 administrative law judge, upon rendering a decision with respect to a claim for workers'
- 634 compensation benefits in which an employer that meets a condition listed in Subsection
- 635 (1)(a)(i)(B) is duly joined as a party, shall:
- 636 (i) order the employer that meets a condition listed in Subsection (1)(a)(i)(B) to
- 637 reimburse the Uninsured Employers' Fund for the benefits paid to or on behalf of an injured
- 638 employee by the Uninsured Employers' Fund along with interest, costs, and attorney fees; and
- 639 (ii) impose a penalty against the employer that meets a condition listed in Subsection
- 640 (1)(a)(i)(B):
- 641 (A) of 15% of the value of the total award in connection with the claim; and
- 642 (B) that shall be deposited into the Uninsured Employers' Fund.
- 643 (b) An award under this Subsection (11) shall be collected by the administrator in
- 644 accordance with Subsection (5)(c).
- 645 (12) The state, the commission, and the state treasurer, with respect to payment of

646 compensation benefits, expenses, fees, or disbursement properly chargeable against the
647 Uninsured Employers' Fund:

- 648 (a) are liable only to the assets in the Uninsured Employers' Fund; and
- 649 (b) are not otherwise in any way liable for the making of a payment.

650 (13) The commission may make reasonable rules for the processing and payment of a
651 claim for compensation from the Uninsured Employers' Fund.

652 (14) (a) (i) If it becomes necessary for the Uninsured Employers' Fund to pay benefits
653 under this section to an employee described in Subsection (14)(a)(ii), the Uninsured Employers'
654 Fund may assess all other self-insured employers amounts necessary to pay:

655 (A) the obligations of the Uninsured Employers' Fund subsequent to a condition listed
656 in Subsection (1)(a)(i)(B) occurring;

657 (B) the expenses of handling covered a claim subsequent to a condition listed in
658 Subsection (1)(a)(i)(B) occurring;

659 (C) the cost of an examination under Subsection (15); and

660 (D) other expenses authorized by this section.

661 (ii) This Subsection (14) applies to benefits paid to an employee of:

662 (A) a self-insured employer, as defined in Section [34A-2-201.5](#), that meets a condition
663 listed in Subsection (1)(a)(i)(B); or

664 (B) if the self-insured employer that meets a condition described in Subsection
665 (1)(a)(i)(B) is a public agency insurance mutual, a member of the public agency insurance
666 mutual.

667 (b) The assessments of a self-insured employer shall be in the proportion that the
668 manual premium of the self-insured employer for the preceding calendar year bears to the
669 manual premium of all self-insured employers for the preceding calendar year.

670 (c) A self-insured employer shall be notified of the self-insured employer's assessment
671 not later than 30 days before the day on which the assessment is due.

672 (d) (i) A self-insured employer may not be assessed in any year an amount greater than
673 2% of that self-insured employer's manual premium for the preceding calendar year.

674 (ii) If the maximum assessment does not provide in a year an amount sufficient to
675 make all necessary payments from the Uninsured Employers' Fund for one or more self-insured
676 employers that meet a condition listed in Subsection (1)(a)(i)(B), the unpaid portion shall be

677 paid as soon as money becomes available.

678 (e) A self-insured employer is liable under this section for a period not to exceed three
679 years after the day on which the Uninsured Employers' Fund first pays benefits to an employee
680 described in Subsection (14)(a)(ii) for the self-insured employer that meets a condition listed in
681 Subsection (1)(a)(i)(B).

682 (f) This Subsection (14) does not apply to a claim made against a self-insured employer
683 that meets a condition listed in Subsection (1)(a)(i)(B) if the condition listed in Subsection
684 (1)(a)(i)(B) occurred before July 1, 1986.

685 (15) (a) The following shall notify the division of any information indicating that any
686 of the following may be insolvent or in a financial condition hazardous to its employees or the
687 public:

688 (i) a self-insured employer; or

689 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
690 public agency insurance mutual.

691 (b) Upon receipt of the notification described in Subsection (15)(a) and with good
692 cause appearing, the division may order an examination of:

693 (i) that self-insured employer; or

694 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
695 public agency mutual.

696 (c) The cost of the examination ordered under Subsection (15)(b) shall be assessed
697 against all self-insured employers as provided in Subsection (14).

698 (d) The results of the examination ordered under Subsection (15)(b) shall be kept
699 confidential.

700 (16) (a) In a claim against an employer by the Uninsured Employers' Fund, or by or on
701 behalf of the employee to whom or to whose dependents compensation and other benefits are
702 paid or payable from the Uninsured Employers' Fund, the burden of proof is on the employer or
703 other party in interest objecting to the claim.

704 (b) A claim described in Subsection (16)(a) is presumed to be valid up to the full
705 amount of workers' compensation benefits claimed by the employee or the employee's
706 dependents.

707 (c) This Subsection (16) applies whether the claim is filed in court or in an adjudicative

708 proceeding under the authority of the commission.

709 (17) A partner in a partnership or an owner of a sole proprietorship may not recover
710 compensation or other benefits from the Uninsured Employers' Fund if:

711 (a) the person is not included as an employee under Subsection 34A-2-104(3) or (5); or

712 (b) the person is included as an employee under Subsection 34A-2-104(3), but:

713 (i) the person's employer fails to insure or otherwise provide adequate payment of
714 direct compensation; and

715 (ii) the failure described in Subsection (17)(b)(i) is attributable to an act or omission
716 over which the person had or shared control or responsibility.

717 (18) A director or officer of a corporation may not recover compensation or other
718 benefits from the Uninsured Employers' Fund if the director or officer is excluded from
719 coverage under Subsection 34A-2-104(4).

720 (19) The Uninsured Employers' Fund:

721 (a) shall be:

722 (i) used in accordance with this section only for:

723 (A) the purpose of assisting in the payment of workers' compensation benefits in
724 accordance with Subsection (1); and

725 (B) in accordance with Subsection (3), payment of:

726 (I) reasonable costs of administering the Uninsured Employers' Fund; or

727 (II) fees required to be paid by the Uninsured Employers' Fund; and

728 (ii) expended according to processes that can be verified by audit; and

729 (b) may not be used for:

730 (i) administrative costs unrelated to the Uninsured Employers' Fund; or

731 (ii) an activity of the commission other than an activity described in Subsection (19)(a).

732 (20) (a) For purposes of Subsection (1), an employment relationship is localized in the
733 state if:

734 (i) (A) the employer who is liable for the benefits has a business premise in the state;

735 and

736 (B) (I) the contract for hire is entered into in the state; or

737 (II) the employee regularly performs work duties in the state for the employer who is
738 liable for the benefits; or

739 (ii) the employee is:

740 (A) a resident of the state; and

741 (B) regularly performs work duties in the state for the employer who is liable for the
742 benefits.

743 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
744 commission shall by rule define what constitutes regularly performing work duties in the state.

745 Section 5. Section **34A-2-1003** is amended to read:

746 **34A-2-1003. Issuance of a waiver.**

747 (1) The commission shall issue a workers' compensation coverage waiver to a business
748 entity that:

749 (a) elects not to include an owner, partner, or corporate officer or director as an
750 employee under a workers' compensation policy in accordance with Section **34A-2-103** and
751 Subsection **34A-2-104(3)** or (4);

752 (b) employs no other employee on the day on which the commission issues the waiver
753 to the business entity;

754 (c) provides to the commission the information required by Section **34A-2-1004**; and

755 (d) pays a fee [~~established by~~] the commission establishes in accordance with Section
756 **63J-1-504**, [~~except that the fee may~~] that does not exceed \$50.

757 (2) (a) Subject to Subsection (2)(b), the commission may issue a workers'
758 compensation coverage waiver for as many as three employed minors to:

759 (i) a partnership;

760 (ii) a sole proprietorship; or

761 (iii) a limited liability company that pays federal income tax as a partnership or sole
762 proprietorship.

763 (b) The commission shall issue a workers' compensation coverage waiver to an entity
764 described in Subsection (2)(a), if the entity:

765 (i) elects not to include a minor as an employee under a workers' compensation policy
766 in accordance with Section 34A-2-103 and Subsection **34A-2-104(5)**;

767 (ii) on the day on which the commission issues the waiver to the entity, employs no
768 employee other than:

769 (A) a minor for whom the entity makes the election described in Subsection (2)(b)(i);

770 (B) if a sole proprietorship, the owner's legal spouse; or
771 (C) if a limited liability company with a single member, the member's legal spouse;
772 (iii) provides to the commission the information required by Section 34A-2-1004; and
773 (iv) pays a fee the commission establishes in accordance with Section 63J-1-504, that
774 does not exceed \$50.

775 ~~[(2)]~~ (3) (a) A waiver issued under this section expires one year from the day on which
776 it is issued unless renewed by the holder of the waiver.

777 (b) To renew a waiver issued under ~~[this part]~~ Subsection (1), the holder of the waiver
778 shall:

779 (i) employ no other employee on the day on which the commission renews the waiver;

780 (ii) provide to the commission the information required by Section 34A-2-1004; and

781 (iii) pay a fee established by the commission in accordance with Section 63J-1-504,

782 ~~[except that the fee may]~~ that does not exceed \$50.

783 (c) To renew a waiver issued under Subsection (2), the holder of the waiver shall:

784 (i) provide to the commission the information required by Section 34A-2-1004; and

785 (ii) pay a fee the commission establishes in accordance with Section 63J-1-504, that

786 does not exceed \$50.

787 ~~[(3)]~~ (4) (a) As of the day on which a business entity described in Subsection (1)
788 employs an employee other than an owner, partner, or corporate officer or director described in
789 Subsection (1)(a):

790 ~~[(a)]~~ (i) the business entity's waiver is invalid; and

791 ~~[(b)]~~ (ii) the business entity is required to provide workers' compensation coverage for
792 that employee in accordance with Section 34A-2-201.

793 (b) As of the day on which an entity described in Subsection (2) employs any
794 individual other than an individual described in Subsection (2)(b)(ii) or fails to provide health
795 insurance coverage to the extent required under Subsection 34A-2-104(5):

796 (i) the entity's waiver is invalid; and

797 (ii) the entity is required to provide workers' compensation coverage for the employed
798 minor in accordance with Section 34A-2-201.

799 ~~[(4)]~~ (5) The commission shall deposit a fee collected under this section in the
800 Industrial Accident Restricted Account created in Section 34A-2-705.

801 ~~[(5)]~~ (6) Unless invalidated under Section 34A-2-1005, notwithstanding the other
802 provisions of this section, a waiver issued by an insurer that is valid on June 30, 2011, remains
803 valid until ~~[its]~~ the waiver's expiration date.

804 Section 6. Section 34A-2-1004 is amended to read:

805 **34A-2-1004. Information required to obtain a waiver.**

806 (1) To obtain or renew a waiver, a business entity shall submit to the commission:

807 ~~[(1)]~~ (a) a copy of two or more of the following:

808 ~~[(a)]~~ (i) the business entity's federal or state income tax return that shows business
809 income for the complete taxable year that immediately precedes the day on which the business
810 entity submits the information;

811 ~~[(b)]~~ (ii) a valid business license;

812 ~~[(c)]~~ (iii) a license to engage in an occupation or profession, including a license under
813 Title 58, Occupations and Professions; or

814 ~~[(d)]~~ (iv) documentation of an active liability insurance policy that covers the business
815 entity's activities; or

816 ~~[(2)]~~ (b) a copy of one item listed in Subsection (1)(a) and a copy of two or more of the
817 following:

818 ~~[(a)]~~ (i) proof of a bank account for the business entity;

819 ~~[(b)]~~ (ii) proof that for the business entity there is:

820 ~~[(i)]~~ (A) a telephone number; and

821 ~~[(ii)]~~ (B) a physical location; or

822 ~~[(c)]~~ (iii) an advertisement of services showing the business entity's name and contact
823 information:

824 ~~[(i)]~~ (A) in a newspaper of general circulation;

825 ~~[(ii)]~~ (B) in a telephone directory;

826 ~~[(iii)]~~ (C) on a website or social media; or

827 ~~[(iv)]~~ (D) in a trade magazine.

828 (2) In addition to the requirements described in Subsection (1), to obtain or renew a
829 waiver under Subsection 34A-2-1003(2), an entity shall submit to the commission:

830 (a) proof that the entity employs no employee other than:

831 (i) a minor for whom the entity elects to obtain a workers' compensation coverage

832 waiver;

833 (ii) if a sole proprietorship, the owner's legal spouse; or

834 (iii) if a limited liability company with a single member, the member's legal spouse;

835 (b) proof that each minor employee for whom the entity seeks to obtain or renew a

836 waiver is a child of:

837 (i) a partner of the partnership;

838 (ii) the owner of the sole proprietorship; or

839 (iii) a member of the limited liability company;

840 (c) proof that the entity carries health insurance coverage for each minor employee for

841 whom the entity seeks to obtain or renew a waiver to the extent required under Subsection

842 [34A-2-104\(5\)](#); and

843 (d) written confirmation from the entity's insurer that the insurer will cover each minor

844 employee for any work-related injury.

845 Section 7. Section **34A-2-1005** is amended to read:

846 **34A-2-1005. Enforcement.**

847 (1) The commission may investigate a business entity to determine whether:

848 (a) the business entity validly elects to not cover an owner, partner, or corporate officer

849 or director as an employee under a workers' compensation policy in accordance with Section

850 [34A-2-103](#)[-]; or

851 (b) the business entity validly elects not to cover an employed minor as an employee

852 under a workers' compensation policy in accordance with Section [34A-2-103](#) or [34A-2-104](#).

853 (2) If the commission determines that a business entity's election as provided in this
854 section is invalid, the commission may:

855 (a) prohibit a business entity from using a waiver obtained under this part; and

856 (b) take any action provided for under this chapter or Chapter 3, Utah Occupational

857 Disease Act, for failure to obtain workers' compensation coverage for an employee.