

OCCUPATIONAL SAFETY AND HEALTH AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Utah Occupational Safety and Health Act regarding penalties.

Highlighted Provisions:

This bill:

▶ amends civil and criminal penalties for a violation of the Utah Occupational Safety and Health Act; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-6-307, as last amended by Laws of Utah 2017, Chapter 461

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

Section 1. Section **34A-6-307** is amended to read:

34A-6-307. Civil and criminal penalties.

(1) (a) The commission may assess civil penalties against [any] an employer who has received a citation under Section **34A-6-302** as follows:



28 ~~[(a)]~~ (i) ~~[Except]~~ except as provided in Subsections ~~[(1)(b) through (d)]~~ (1)(a)(ii)
 29 through (1)(a)(iv), the commission may assess up to ~~[\$7,000]~~ \$13,653 for each cited
 30 violation~~[-];~~

31 ~~[(b)]~~ (ii) ~~[The]~~ the commission may not assess ~~[less than \$250 nor]~~ more than ~~[\$7,000]~~
 32 \$13,653 for each cited serious violation~~[-. A violation is serious only if:];~~

33 ~~[(i) it arises from a condition, practice, method, operation, or process in the workplace~~
 34 ~~of which the employer knows or should know through the exercise of reasonable diligence;~~
 35 ~~and]~~

36 ~~[(ii) there is a substantial possibility that the condition, practice, method, operation, or~~
 37 ~~process could result in death or serious physical harm.]~~

38 ~~[(c)]~~ (iii) ~~[The]~~ the commission may not assess less than ~~[\$5,000]~~ \$9,753 nor more
 39 than ~~[\$70,000]~~ \$136,532 for each cited willful violation~~[-];~~

40 ~~[(d)]~~ (iv) ~~[The]~~ the commission may assess up to ~~[\$70,000]~~ \$136,532 for each cited
 41 violation if the employer has previously been found to have violated the same standards, code,
 42 rule, or order~~[-]; and~~

43 ~~[(e)]~~ (v) ~~[After]~~ after the expiration of the time permitted to an employer to correct a
 44 cited violation, the commission may assess up to ~~[\$7,000]~~ \$13,653 for each day the violation
 45 continues uncorrected.

46 (b) For purposes of Subsection (1)(a)(ii), a violation is serious only if:

47 (i) it arises from a condition, practice, method, operation, or process in the workplace
 48 of which the employer knows or should know through the exercise of reasonable diligence; and

49 (ii) there is a substantial possibility that the condition, practice, method, operation, or
 50 process could result in death or serious physical harm.

51 (2) The commission may assess a civil penalty of up to ~~[\$7,000]~~ \$13,653 for each
 52 violation of ~~[any]~~ a posting requirement under this chapter.

53 (3) In deciding the amount to assess for a civil penalty, the commission shall consider
 54 all relevant factors, including:

55 (a) the size of the employer's business;

56 (b) the nature of the violation;

57 (c) the employer's good faith or lack of good faith; and

58 (d) the employer's previous record of compliance or noncompliance with this chapter.

59 (4) ~~[Any]~~ A civil penalty collected under this chapter shall be paid into the General
60 Fund.

61 (5) (a) Criminal penalties under this chapter are as follows:

62 ~~[(a)]~~ (i) ~~[Any]~~ an employer who willfully violates ~~[any]~~ a standard, code, rule, or order
63 issued under Section 34A-6-202, or ~~[any]~~ a rule made under this chapter, is guilty of a class A
64 misdemeanor if the violation caused the death of an employee~~[- If the violation causes the~~
65 ~~death of more than one employee, each death is considered a separate offense.];~~

66 ~~[(b)]~~ (ii) ~~[Any]~~ a person who gives advance notice of any inspection conducted under
67 this chapter without authority from the administrator or the administrator's representatives is
68 guilty of a class A misdemeanor~~[-];~~ and

69 ~~[(c)]~~ (iii) ~~[Any]~~ a person who knowingly makes a false statement, representation, or
70 certification in ~~[any]~~ an application, a record, a report, a plan, or ~~[other]~~ another document filed
71 or required to be maintained under this chapter is guilty of a class A misdemeanor.

72 (b) For purposes of Subsection (5)(a)(i), if the violation causes the death of more than
73 one employee, each death is considered a separate offense.

74 (6) (a) After a citation issued under this chapter and an opportunity for a hearing under
75 Title 63G, Chapter 4, Administrative Procedures Act, the division may file an abstract for any
76 uncollected citation penalty in the district court.

77 (b) The filed abstract described in Subsection (6)(a) shall have the effect of a judgment
78 issued by that court.

79 (c) The abstract described in Subsection (6)(a) shall state the amount of:

80 (i) the uncollected citation penalty~~[-];~~

81 (ii) reasonable ~~[attorneys']~~ attorney fees as set by commission rule~~[-];~~ and

82 (iii) court costs.