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STANDARDS FOR ILLEGAL DRUG LAB

DECONTAMINATION

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: A. Lamont Tyler

This act modifies the Environmental Quality Code to create the Illegal Drug Manufacturing and Storage Site Decontamination Act. Under this new act, the local health authorities will oversee the identification and decontamination of controlled substances manufacturing sites. This act provides for notification to the local health department by a law enforcement agency when a drug lab site is found. The Utah Solid and Hazardous Waste Control Board will have rulemaking authority to set standards and license inspectors and contractors to decontaminate sites. This act will take effect on July 1, 2001.

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

AMENDS:

26A-1-114, as last amended by Chapter 345, Laws of Utah 1998

ENACTS:

19-6-901, Utah Code Annotated 1953

19-6-902, Utah Code Annotated 1953

19-6-903, Utah Code Annotated 1953

19-6-904, Utah Code Annotated 1953

19-6-905, Utah Code Annotated 1953

19-6-906, Utah Code Annotated 1953

19-6-907, Utah Code Annotated 1953

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

Section 1. Section **19-6-901** is enacted to read:

Part 9. Illegal Drug Manufacturing and Storage Site Decontamination Act

19-6-901. Title.

28 This part is known as the "Illegal Drug Manufacturing and Storage Site Decontamination
29 Act."

30 Section 2. Section **19-6-902** is enacted to read:

31 **19-6-902. Definitions.**

32 As used in this part:

33 (1) "Authorized contractor" means a person or firm who decontaminates, demolishes, or
34 disposes of contaminated property as required by this part and who is certified by the Utah Solid
35 and Hazardous Waste Control Board as provided in Section 19-6-906.

36 (2) "Board" means a local board of health as established under Section 26A-1-109.

37 (3) "Certified inspector" means a person who is certified by the Utah Solid and Hazardous
38 Waste Control Board to perform inspections in accordance with Section 19-6-906.

39 (4) "Contaminated" or "contamination" means polluted by hazardous materials so that the
40 property is unfit for human habitation or use due to immediate or long-term health hazards.
41 Property that at one time was contaminated but has been satisfactorily decontaminated according
42 to procedures and standards established by the Utah Solid and Hazardous Waste Control Board
43 is not "contaminated."

44 (5) "Hazardous materials" has the same meaning as "hazardous or dangerous materials"
45 as that term is defined in Section 58-37d-3. For purposes of this part, "hazardous materials" shall
46 include illegally manufactured controlled substances.

47 (6) "Health officer" means a local health officer authorized under Title 26A, Local Health
48 Authorities.

49 (7) "Property" means any property, site, structure, part of a structure, or the grounds
50 surrounding the structure which is involved in the illegal manufacture or storage of hazardous
51 materials. This includes but is not limited to single-family residences, out buildings, garages, units
52 of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor
53 vehicles, trailers, manufactured housing, or any shop, or booth.

54 Section 3. Section **19-6-903** is enacted to read:

55 **19-6-903. Local health authority regulations -- Exception.**

56 (1) Local health departments may establish regulations in accordance with Title 26A,
57 Local Health Authorities, concerning the posting of notices, notification of property owners,
58 hearings, and appeals.

59 (2) Local health departments regulations shall require that those who inspect or
60 decontaminate property shall be certified under the provisions of Section 19-6-906, however an
61 exception shall be made for an owner of record who indicates his intention to decontaminate his
62 property personally.

63 Section 4. Section **19-6-904** is enacted to read:

64 **19-6-904. Reporting -- Notice -- Duties of local health officer.**

65 (1) Whenever a law enforcement agency has lawfully entered property and has reason to
66 believe that property has been contaminated by hazardous materials related to the illegal
67 manufacturing or consumption of controlled substances, the agency shall report the suspected
68 contamination to the local health officer within 24 hours.

69 (2) The local health officer shall:

70 (a) proceed under regulations established by the local health department pertaining to the
71 posting of notices, notification of property owners, hearings, and appeals;

72 (b) report property determined to be contaminated to the Utah Solid and Hazardous Waste
73 Control Board; and

74 (c) provide information to the property owner concerning requirements for inspection,
75 decontamination, and disposal of contaminated debris.

76 (3) The Utah Solid and Hazardous Waste Control Board shall keep a list of contaminated
77 properties and make the list available upon request. The list shall be promptly updated to remove
78 those properties which have been decontaminated according to standards established under Section
79 19-6-907.

80 Section 5. Section **19-6-905** is enacted to read:

81 **19-6-905. Municipality or county options.**

82 (1) If the local health officer does not receive a timely response from the owner of
83 contaminated property or the owner notifies him that he intends to abandon the property, the local
84 health officer shall notify the municipality, or county for unincorporated areas, in which the
85 contaminated property is located. For the purposes of this section, "timely" means a period of not
86 less than 14 days, but may be longer in accordance with local health department regulations.

87 (2) The municipality or county may take action to:

88 (a) bring an action in public nuisance against the property in accordance with the law;

89 (b) decontaminate the property under the provisions of this chapter; or

90 (c) demolish the property under existing county or municipal ordinance.

91 (3) The municipality or county shall notify all persons whose interest in the property is
92 recorded in the records of the recorder's office of the county in which the property is located of its
93 intent to take action with regard to the property.

94 (4) A municipality or county may not bring an action in public nuisance, decontaminate,
95 or demolish property pursuant to this section until all procedures granting the right of notice and
96 the opportunity to appeal have been exhausted.

97 (5) The municipality or county shall use a certified contractor if property is
98 decontaminated, demolished, or removed under this section.

99 Section 6. Section **19-6-906** is enacted to read:

100 **19-6-906. Certification of contractors and inspectors -- Denial, suspension, or**
101 **revocation of certificate -- Duties of Department of Health and Utah Solid and Hazardous**
102 **Waste Control Board.**

103 (1) After July 1, 2002, an inspector or a contractor may not perform inspections,
104 decontamination, demolition, or disposal work at a property determined to be contaminated under
105 this part unless issued a certificate by the Utah Solid and Hazardous Waste Control Board.

106 (2) The Utah Solid and Hazardous Waste Control Board in consultation with the Utah
107 Department of Health shall establish performance and certification standards for inspectors and
108 contractors by rule in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
109 Act.

110 (3) The Utah Solid and Hazardous Waste Control Board in consultation with the
111 Department of Health shall train and test, or may approve courses to train and test, inspectors and
112 contractors and their employees on the essential elements in assessing and inspecting property used
113 as an illegal drug manufacturing or storage site to determine:

114 (a) hazard reduction measures needed;

115 (b) techniques for adequately reducing contaminants;

116 (c) use of personal protective equipment;

117 (d) methods for proper demolition, removal, and disposal of contaminated property,
118 including preparation of work plans for decontamination; and

119 (e) relevant federal and state regulations.

120 (4) Upon successful completion of the training and testing, the inspector, contractor, or

121 their employees shall be certified.

122 (5) The Utah Solid and Hazardous Waste Control Board in consultation with the
123 Department of Health shall require the successful completion of annual refresher courses provided
124 or approved by the Utah Solid and Hazardous Waste Control Board for the continued certification
125 of inspectors and contractors.

126 (6) (a) The Utah Solid and Hazardous Waste Control Board shall provide for reciprocal
127 certification of any individual trained to engage in decontamination, demolition, or disposal work
128 in another state when the prior training is shown to be substantially similar to the training required
129 by the Utah Solid and Hazardous Waste Control Board.

130 (b) The Utah Solid and Hazardous Waste Control Board may require individuals to take
131 an examination or refresher course before certification.

132 (7) The Utah Solid and Hazardous Waste Control Board may deny, suspend, or revoke a
133 certificate for failure to comply with the requirements of this part or any rule adopted pursuant to
134 this part. A certificate may be denied, suspended, or revoked on any of the following grounds:

135 (a) failure to perform decontamination, demolition, or disposal work under the supervision
136 of trained and certified personnel;

137 (b) failure to perform work that meets the requirements of the Utah Solid and Hazardous
138 Waste Control Board;

139 (c) failure to properly dispose of contaminated materials; or

140 (d) the certificate was obtained by error, misrepresentation, or fraud.

141 (8) Any contractor or inspector who violates any provision of this part, or any rule, order,
142 certificate or other requirement issued or adopted under this part, is subject in a civil proceeding
143 to the penalties found in Subsection 19-6-113(2).

144 (9) The Utah Solid and Hazardous Waste Control Board shall set fees in accordance with
145 Section 63-38-3.2 for the issuance and renewal of certificates, the administration of examinations,
146 and for the review of training courses.

147 (10) Fees collected under Subsection (9) shall be deposited in the General Fund as
148 dedicated credits for the administration of this section.

149 Section 7. Section **19-6-907** is enacted to read:

150 **19-6-907. Rules and standards -- Authority to develop.**

151 (1) The Utah Solid and Hazardous Waste Control Board, in accordance with Title 63,

152 Chapter 46a, Utah Administrative Rulemaking Act, shall make rules in consultation with the
153 Department of Health and local health officers:

154 (a) to carry out the provisions of Sections 19-6-906;

155 (b) providing standards and best management practices for the inspection and
156 decontamination of property, and disposal of contaminated debris under this part;

157 (c) determining appropriate methods for the testing of ground water, surface water, soil,
158 and septic tanks; and

159 (d) to determine when testing of ground water, surface water, soil, and septic tanks may
160 be required.

161 (2) The Departments of Health and Environmental Quality shall provide technical
162 assistance to local health boards and officers to carry out their duties under this part.

163 (3) All rules developed under this part shall be consistent with other state and federal
164 environmental requirements.

165 Section 8. Section **26A-1-114** is amended to read:

166 **26A-1-114. Powers and duties of departments.**

167 (1) A local health department may:

168 (a) enforce state laws, local ordinances, department rules, and local health department
169 standards and regulations relating to public health and sanitation, including the plumbing code
170 adopted by the Division of Occupational and Professional Licensing under Section 58-56-4 and
171 under Title 26, Chapter 15a, Food Safety Manager Certification Act;

172 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical control
173 over property and over individuals as the local health department finds necessary for the protection
174 of the public health;

175 (c) establish and maintain medical, environmental, occupational, and other laboratory
176 services considered necessary or proper for the protection of the public health;

177 (d) establish and operate reasonable health programs or measures not in conflict with state
178 law that:

179 (i) are necessary or desirable for the promotion or protection of the public health and the
180 control of disease; or

181 (ii) may be necessary to ameliorate the major risk factors associated with the major causes
182 of injury, sickness, death, and disability in the state;

183 (e) close theaters, schools, and other public places and prohibit gatherings of people when
184 necessary to protect the public health;

185 (f) abate nuisances or eliminate sources of filth [~~and~~], infectious and communicable
186 diseases, and chemical contamination affecting the public health and bill the owner or other person
187 in charge of the premises upon which this nuisance occurs for the cost of abatement;

188 (g) make necessary sanitary and health investigations and inspections on its own initiative
189 or in cooperation with the Department of Health or Environmental Quality, or both, as to any
190 matters affecting the public health;

191 (h) (i) establish and collect appropriate fees;

192 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,
193 property, services, or materials for public health purposes; and

194 (iii) make agreements not in conflict with state law that are conditional to receiving a
195 donation or grant;

196 (i) prepare, publish, and disseminate information necessary to inform and advise the public
197 concerning:

198 (i) the health and wellness of the population, specific hazards, and risk factors that may
199 adversely affect the health and wellness of the population; and

200 (ii) specific activities individuals and institutions can engage in to promote and protect the
201 health and wellness of the population;

202 (j) investigate the causes of morbidity and mortality;

203 (k) issue notices and orders necessary to carry out this part;

204 (l) conduct studies to identify injury problems, establish injury control systems, develop
205 standards for the correction and prevention of future occurrences, and provide public information
206 and instruction to special high risk groups;

207 (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within
208 the jurisdiction of the boards; and

209 (n) cooperate with the state health department, the Department of Corrections, the
210 Administrative Office of the Courts, the Division of Youth Corrections, and the Crime Victims
211 Reparations Board to conduct testing for HIV infection of convicted sexual offenders and any
212 victims of a sexual offense.

213 (2) The local health department shall:

214 (a) establish programs or measures to promote and protect the health and general wellness
215 of the people within the boundaries of the local health department;

216 (b) investigate infectious and other diseases of public health importance and implement
217 measures to control the causes of epidemic and communicable diseases and other conditions
218 significantly affecting the public health which may include involuntary testing of convicted sexual
219 offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of victims of
220 sexual offenses for HIV infection pursuant to Section 76-5-503;

221 (c) cooperate with the department in matters pertaining to the public health and in the
222 administration of state health laws; and

223 (d) coordinate implementation of environmental programs to maximize efficient use of
224 resources by developing with the Department of Environmental Quality a Comprehensive
225 Environmental Service Delivery Plan that:

226 (i) recognizes that the Department of Environmental Quality and local health departments
227 are the foundation for providing environmental health programs in the state;

228 (ii) delineates the responsibilities of the department and each local health department for
229 the efficient delivery of environmental programs using federal, state, and local authorities,
230 responsibilities, and resources;

231 (iii) provides for the delegation of authority and pass through of funding to local health
232 departments for environmental programs, to the extent allowed by applicable law, identified in the
233 plan, and requested by the local health department; and

234 (iv) is reviewed and updated annually.

235 (3) The local health department has the following duties regarding public and private
236 schools within its boundaries:

237 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
238 persons attending public and private schools;

239 (b) exclude from school attendance any person, including teachers, who is suffering from
240 any communicable or infectious disease, whether acute or chronic, if the person is likely to convey
241 the disease to those in attendance;

242 (c) (i) make regular inspections of the health-related condition of all school buildings and
243 premises;

244 (ii) report the inspections on forms furnished by the department to those responsible for

245 the condition and provide instructions for correction of any conditions that impair or endanger the
246 health or life of those attending the schools; and

247 (iii) provide a copy of the report to the department at the time the report is made.

248 (4) If those responsible for the health-related condition of the school buildings and
249 premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c),
250 the local health board shall cause the conditions to be corrected at the expense of the persons
251 responsible.

252 (5) The local health department may exercise incidental authority as necessary to carry out
253 the provisions and purposes of this part.

254 Section 9. **Effective date.**

255 This act takes effect on July 1, 2001.

Legislative Review Note
as of 10-4-00 10:29 AM

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

Office of Legislative Research and General Counsel

Committee Note

The Judiciary Interim Committee recommended this bill.