

1 **LAW ENFORCEMENT - REPORTING**
2 **HAZARDOUS MATERIALS RELATING TO**
3 **CONTROLLED SUBSTANCES**

4 2004 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Eric K. Hutchings**

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Clandestine Drug Lab Act and the Local Health Departments
11 chapter to require law enforcement agencies to report to local health departments any
12 sites where the agency has reason to believe there is contamination due to illegal drug
13 labs.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ requires law enforcement agencies to report to the local health department those
17 sites of arrests involving clandestine drug laboratories where there is reasonable
18 cause to believe there is contamination;
- 19 ▶ requires local health departments to maintain searchable records of law enforcement
20 agency reports of clandestine lab activity sites;
- 21 ▶ requires the local health departments to make these records available to the public
22 for a reasonable fee and notify the public that the reports are advisory only; and
- 23 ▶ requires the local health departments to provide upon request a list of local
24 businesses that provide testing and cleanup services.

25 **Monies Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**



28 This bill takes effect on July 1, 2004.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **26A-1-114 (Effective 07/01/04)**, as last amended by Chapters 3 and 171, Laws of Utah

32 2003

33 ENACTS:

34 **58-37d-10**, Utah Code Annotated 1953



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

37 Section 1. Section **26A-1-114 (Effective 07/01/04)** is amended to read:

38 **26A-1-114 (Effective 07/01/04). Powers and duties of departments.**

39 (1) A local health department may:

40 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances,
41 department rules, and local health department standards and regulations relating to public
42 health and sanitation, including the plumbing code adopted by the Division of Occupational
43 and Professional Licensing under Section 58-56-4 and under Title 26, Chapter 15a, Food
44 Safety Manager Certification Act, in all incorporated and unincorporated areas served by the
45 local health department;

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

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

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

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

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

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

59 (f) abate nuisances or eliminate sources of filth and infectious and communicable
60 diseases affecting the public health and bill the owner or other person in charge of the premises
61 upon which this nuisance occurs for the cost of abatement;

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

65 (h) pursuant to county ordinance or interlocal agreement:

66 (i) establish and collect appropriate fees for the performance of services and operation
67 of authorized or required programs and duties;

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

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

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

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

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

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

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

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

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

85 (n) cooperate with the state health department, the Department of Corrections, the
86 Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime
87 Victims Reparations Board to conduct testing for HIV infection of convicted sexual offenders
88 and any victims of a sexual offense;

89 (o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108; and

90 (p) provide public health assistance in response to a national, state, or local emergency,
91 a public health emergency as defined in Section 26-23b-102, or a declaration by the President
92 of the United States or other federal official requesting public health-related activities.

93 (2) The local health department shall:

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

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

101 (c) cooperate with the department in matters pertaining to the public health and in the
102 administration of state health laws; [~~and~~]

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

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

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

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

114 (iv) is reviewed and updated annually[-]; and

115 (e) maintain searchable records of law enforcement agencies' reports of clandestine
116 drug lab activity sites as required under Section 58-37d-10, and shall:

117 (i) make the reports reasonably available to the public;

118 (ii) advise the public that the reports are only advisory in determining if specific
119 property has been contaminated by clandestine drug lab activity;

120 (iii) make available a list of local businesses that provide testing for contamination and

121 cleanup services for contaminated sites;

122 (iv) fund the service of making the reports submitted under Section 58-37d-10

123 available to the public by a reasonable fee per search;

124 (v) ensure submitted reports are made available to the public as soon as possible after

125 receipt; and

126 (vi) maintain each report received for not fewer than seven years from the date it is

127 submitted by the law enforcement agency.

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

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

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

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

137 (ii) report the inspections on forms furnished by the department to those responsible for
138 the condition and provide instructions for correction of any conditions that impair or endanger
139 the health or life of those attending the schools; and

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

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

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

147 Section 2. Section **58-37d-10** is enacted to read:

148 **58-37d-10. Law enforcement agency to report clandestine lab activity to local**
149 **health department.**

150 When any law enforcement agency in the state makes an arrest for possession of
151 clandestine drug laboratory paraphernalia or clandestine drug laboratory activity as described

152 under Section 58-37d-4, if the site of the arrest involves any physical structure, the agency shall
153 report the arrest to the local county health department. The report shall be made while at the
154 scene of the arrest, if making the report at that time will not compromise an ongoing
155 investigation. The report shall include:

156 (1) the date;

157 (2) the case number of the case that involves the site;

158 (3) the address and descriptions of specified buildings or structures at the site that the
159 law enforcement agency has reasonable cause to believe are contaminated by any activity in
160 violation of Section 58-37d-4;

161 (4) evidentiary information that is the basis for the agency's reasonable cause to believe
162 the specified building is contaminated;

163 (5) whether any arrests have been made or warrants issued for a violation of Section
164 58-37d-4 at the site;

165 (6) additional buildings at the site that the agency has reasonable cause to believe are
166 contaminated; and

167 (7) any buildings or sites that the agency upon further investigation does not have
168 reasonable cause to believe are contaminated.

169 **Section 3. Effective date.**

170 This bill takes effect on July 1, 2004.

Legislative Review Note
as of 10-29-03 3:38 PM

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

Office of Legislative Research and General Counsel