

**Representative A. Lamont Tyler** proposes to substitute the following bill:

1                   **STANDARDS FOR ILLEGAL DRUG LAB DECONTAMINATION**

2                                   2000 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Sponsor: A. Lamont Tyler**

5 AN ACT RELATING TO ENVIRONMENTAL QUALITY; CREATING THE ILLEGAL DRUG  
6 MANUFACTURING AND STORAGE SITE DECONTAMINATION ACT; PROVIDING FOR  
7 THE DEPARTMENT OF HEALTH AND THE UTAH SOLID AND HAZARDOUS WASTE  
8 CONTROL BOARD TO JOINTLY OVERSEE THE IDENTIFICATION AND CLEANUP OF  
9 CONTROLLED SUBSTANCES MANUFACTURING SITES; PROVIDING RULEMAKING  
10 AUTHORITY TO SET STANDARDS AND LICENSE CONTRACTORS FOR THE CLEANUP  
11 OF SITES; PROVIDING FOR INITIAL NOTIFICATION OF A SITE BY LAW  
12 ENFORCEMENT TO THE LOCAL HEALTH AUTHORITY; PROVIDING FOR LOCAL  
13 HEALTH AUTHORITY INSPECTIONS; CREATING AN ILLEGAL DRUG  
14 MANUFACTURING AND STORAGE SITE DECONTAMINATION LOAN FUND; AND  
15 MAKING TECHNICAL CORRECTIONS.

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

17 AMENDS:

18                   **26A-1-114**, as last amended by Chapter 345, Laws of Utah 1998

19 ENACTS:

20                   **19-6-801**, Utah Code Annotated 1953

21                   **19-6-802**, Utah Code Annotated 1953

22                   **19-6-803**, Utah Code Annotated 1953

23                   **19-6-804**, Utah Code Annotated 1953

24                   **19-6-805**, Utah Code Annotated 1953

25                   **19-6-806**, Utah Code Annotated 1953

- 26 19-6-807, Utah Code Annotated 1953
- 27 19-6-808, Utah Code Annotated 1953
- 28 19-6-809, Utah Code Annotated 1953
- 29 19-6-810, Utah Code Annotated 1953
- 30 19-6-811, Utah Code Annotated 1953

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

32 Section 1. Section 19-6-801 is enacted to read:

33 **Part 8. Illegal Drug Manufacturing and Storage Site Decontamination Act**

34 **19-6-801. Title.**

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

37 Section 2. Section 19-6-802 is enacted to read:

38 **19-6-802. Definitions.**

39 As used in this part:

40 (1) "Authorized contractor" means a person who decontaminates, demolishes, or disposes  
41 of contaminated property as required by this part and who is certified by the Utah Solid and  
42 Hazardous Waste Control Board as provided for in Section 19-6-808.

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

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

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

52 (5) "Health officer" means a local health officer authorized under Title 26A, Local Health  
53 Authorities.

54 (6) "Property" means any property, site, structure, part of a structure, or the grounds  
55 surrounding the structure which is involved in the unauthorized manufacture or storage of  
56 hazardous materials. This includes but is not limited to single-family residences, units of

57 multiplexes, condominiums, apartment buildings, hotels, motels, boats, motor vehicles, trailers,  
58 manufactured housing, or any shop, or booth.

59 Section 3. Section **19-6-803** is enacted to read:

60 **19-6-803. Local Health Authority Regulations.**

61 Notwithstanding the procedures in this chapter with regard to determinations concerning  
62 notices, hearings, and inspections, any local health department with regulations adopted in  
63 accordance with Title 26A, Local Health Authorities, may proceed under their own regulations  
64 pertaining to determinations concerning notices, hearings, and inspections.

65 Section 4. Section **19-6-804** is enacted to read:

66 **19-6-804. Reporting -- Notice -- Duties of local health officer.**

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

71 (2) The local health officer shall:

72 (a) cause a notice to be posted on the premises immediately upon being notified of the  
73 suspected contamination;

74 (b) notify the Department of Health and the Department of Environmental Quality of his  
75 actions; and

76 (c) cause the property to be inspected within 14 days after receiving notice of suspected  
77 contamination.

78 (3) If a property owner believes that a tenant has contaminated property that was being  
79 leased or rented, and the property is vacated or abandoned, the property owner shall contact the  
80 local health officer about the suspected contamination.

81 (4) Local health officers may charge a reasonable fee to cover the costs of inspections of  
82 property requested by property owners.

83 (5) After having received notice pursuant to Subsection (1), and notwithstanding Section  
84 26A-1-113, a local health officer may enter, inspect, and survey at reasonable times any properties  
85 for which there is reason to believe that the property has become contaminated.

86 (6) If property is determined to be contaminated, the local health officer shall:

87 (a) continue the notice posted on the premises in accordance with Subsection (2)(a); and

88 (b) report the contaminated property to the Department of Health and Department of  
89 Environmental Quality.

90 (7) If the affected property is part of a multi-unit structure, notice shall only be posted at  
91 the entrance to the contaminated unit.

92 (8) The Utah Solid and Hazardous Waste Control Board shall keep a list of contaminated  
93 properties and make the list available upon request to health associations, landlord and realtor  
94 organizations, prosecutors, and other interested parties. The list shall be promptly updated to  
95 remove those properties which have been decontaminated according to provisions of this part.

96 Section 5. Section **19-6-805** is enacted to read:

97 **19-6-805. Unfit for use -- Notice -- Hearing.**

98 (1) If, after inspection of the property, the local health officer determines that it is  
99 contaminated, the property shall be considered unfit for use. The local health officer shall issue  
100 an order requiring that the property be vacated and prohibiting use of the property.

101 (2) The local health officer shall only require that affected property be vacated and  
102 considered unfit for use. If the contaminated property is a unit in a multi-unit structure, only the  
103 contaminated unit may be ordered vacated.

104 (3) The order shall be served either personally or by certified mail, with return receipt  
105 requested, upon all occupants and persons having an immediate interest in the property. In  
106 addition, the order shall be posted in a conspicuous place on the property.

107 (4) If the whereabouts of the persons is unknown and cannot be ascertained by the local  
108 health officer in the exercise of reasonable diligence, and the health officer makes an affidavit to  
109 that effect, then the serving of the order upon those persons may be made either by personal service  
110 or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to  
111 each person at the address appearing on the last equalized tax assessment roll of the county where  
112 the property is located or at the address known to the county assessor. The order shall be posted  
113 conspicuously at the residence.

114 (5) The order shall contain a notice that a hearing before the local health board shall be  
115 held upon the request of a person required to be notified of the order under this section.

116 (6) The request for a hearing must be made within ten days of serving the order. The  
117 hearing shall then be held not less than ten days nor more than 20 days after the request for a  
118 hearing is made. The officer shall prohibit use as long as the property is considered to be

119 contaminated.

120 (7) In any hearing concerning whether property is fit for use, the local health officer has  
121 the burden of showing that the property is contaminated or unfit for use.

122 (8) The owner or any person having an interest in the property may file an appeal on any  
123 order issued by the local health officer within 30 days from the date of service of the order. All  
124 proceedings before the board, including any subsequent appeals to the district court, shall be  
125 governed by procedures established in accordance with Title 63, Chapter 46b, Administrative  
126 Procedures Act.

127 Section 6. Section **19-6-806** is enacted to read:

128 **19-6-806. Notice to local health officer -- Decontamination by owner -- Requirements.**

129 (1) An owner or any person having an interest in the contaminated property shall notify  
130 the local health officer of his intent to have the property decontaminated. Notification shall be  
131 made in writing within 30 days of receipt of the order issued pursuant to Subsection 19-6-805(1),  
132 unless the order is appealed. In the event the order is appealed, the 30-day notification period shall  
133 run from the date of the final order.

134 (2) The services of a certified contractor shall be used to decontaminate the property.

135 (3) The contractor shall prepare and submit a written work plan for decontamination to the  
136 health officer for review and approval.

137 (4) The health officer may charge a reasonable fee to cover the costs of review and  
138 approval of the work plan.

139 (5) The health officer shall allow reuse of the property if the work plan is approved, the  
140 decontamination is completed, and the property is reinspected according to the plan and properly  
141 documented.

142 (6) A notice shall be recorded in the real property records if applicable, indicating the  
143 property has been decontaminated in accordance with requirements of this part.

144 (7) The local health officer shall notify the Utah Solid and Hazardous Waste Control  
145 Board when a property has been decontaminated.

146 Section 7. Section **19-6-807** is enacted to read:

147 **19-6-807. Action by property owner.**

148 (1) Notwithstanding the provisions of Sections 19-6-805 and 19-6-806, a property owner  
149 may take steps to arrange for the immediate decontamination of the property.

150 (2) If a property owner indicates his intention to arrange for the immediate initial  
151 inspection and decontamination of the property by a certified contractor, the local health officer  
152 shall secure that intention in writing.

153 (3) A statement signed by the property owner shall state that the owner:

154 (a) is aware of the possible contamination of his property by the manufacture or use of  
155 controlled substances;

156 (b) will cause the property to be initially inspected by a certified inspector;

157 (c) will arrange for any decontamination considered necessary; and

158 (d) will notify the local health officer upon completion of the decontamination and allow  
159 inspection of the premises in accordance with Section 19-6-806.

160 (4) The local health officer shall make the final determination that the property has been  
161 decontaminated.

162 (5) If a property owner indicates his intent to have the property inspected and  
163 decontaminated under this section, the property shall be inspected and any decontamination work  
164 commenced within ten days. If work has not been started, the local health officer may inspect the  
165 premises under the provisions of Section 19-6-804 and proceed according to Section 19-6-805.

166 Section 8. Section **19-6-808** is enacted to read:

167 **19-6-808. Municipality or county options.**

168 (1) If the local health officer does not receive the notice required by Subsection  
169 19-6-805(1) or the owner notifies him that he intends to abandon the property, the local health  
170 officer shall notify the municipality, or county for unincorporated areas, in which the contaminated  
171 property is located within 24 hours.

172 (2) The municipality or county may take action to condemn, decontaminate, or demolish  
173 the property.

174 (3) The municipality or county shall notify all persons whose interest in the property is  
175 recorded in the records of the recorder's office of the county in which the property is located of its  
176 intent to take action with regard to the property. Notification shall be sent within seven days by  
177 certified mail, with return receipt requested.

178 (4) The municipality or county shall use an authorized contractor if property is  
179 decontaminated, demolished, or removed under this section.

180 (5) A municipality or county may not condemn, decontaminate, or demolish property

181 pursuant to this section until all procedures granting the right of notice and the opportunity to  
182 appeal have been exhausted.

183 Section 9. Section **19-6-809** is enacted to read:

184 **19-6-809. Certification of contractors and inspectors -- Denial, suspension, or**  
185 **revocation of certificate -- Duties of Department of Health and Utah Solid and Hazardous**  
186 **Waste Control Board.**

187 (1) After July 1, 2001, an inspector or a contractor may not perform inspections,  
188 decontamination, demolition, or disposal work at a property determined to be contaminated under  
189 this part unless issued a certificate by the Utah Solid and Hazardous Waste Control Board.

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

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

198 (a) hazard reduction measures needed;

199 (b) techniques for adequately reducing contaminants;

200 (c) use of personal protective equipment;

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

203 (e) relevant federal and state regulations.

204 (4) Upon successful completion of the training and testing, the inspector, contractor, or  
205 their employees shall be certified.

206 (5) The Utah Solid and Hazardous Waste Control Board in consultation with the  
207 Department of Health may require the successful completion of annual refresher courses provided  
208 or approved by the Utah Solid and Hazardous Waste Control Board for the continued certification  
209 of the inspector, contractor, or employee.

210 (6) (a) The Utah Solid and Hazardous Waste Control Board shall provide for reciprocal  
211 certification of any individual trained to engage in decontamination, demolition, or disposal work

212 in another state when the prior training is shown to be substantially similar to the training required  
213 by the Utah Solid and Hazardous Waste Control Board.

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

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

219 (a) failure to perform decontamination, demolition, or disposal work under the supervision  
220 of trained personnel;

221 (b) failure to file a work plan;

222 (c) failure to perform work pursuant to the approved work plan;

223 (d) failure to perform work that meets the requirements of the Utah Solid and Hazardous  
224 Waste Control Board;

225 (e) failure to properly dispose of contaminated materials; or

226 (f) the certificate was obtained by error, misrepresentation, or fraud.

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

230 (a) Except as provided in this Subsection (b), all penalties assessed and collected under  
231 authority of this section shall be deposited in the Illegal Drug Manufacturing and Storage Site  
232 Decontamination Loan Fund.

233 (b) The Department of Environmental Quality may reimburse itself and local governments  
234 from monies collected from civil penalties for qualifying expenses incurred in administering the  
235 contractor certification program.

236 (c) This provision does not limit authority of the State of Utah or its municipalities to  
237 prosecute any person for criminal violations of the laws of the State of Utah.

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

241 (10) Fees collected under Subsection (9) shall be deposited in the General Fund as  
242 dedicated credits to be used by the Department of Environmental Quality in the administration of



243 Section 19-6-810.

244 Section 10. Section **19-6-810** is enacted to read:

245 **19-6-810. Illegal Drug Manufacturing and Storage Site Decontamination Loan Fund.**

246 (1) There is created a revolving loan fund known as the State Illegal Drug Manufacturing  
247 and Storage Site Decontamination Loan Fund.

248 (2) The fund shall consist of:

249 (a) penalties collected under the provisions of Section 19-6-809;

250 (b) direct appropriations by the Legislature; and

251 (c) repayments and interest or penalties on loans from the account to property owners to  
252 help with environmental decontamination under the provisions of this part.

253 (3) The fund shall be used to make loans to property owners to decontaminate property as  
254 required in this part.

255 (4) The Utah Solid and Hazardous Waste Control Board shall administer the fund.

256 (5) The Utah Solid and Hazardous Waste Control Board shall make rules for authorizing  
257 loans from the fund.

258 (6) Loans may only be made to the property owner for the cost of inspection and clean up  
259 of contaminated residential property required in Section 19-6-806.

260 (7) Loans may not be made to the owner of the property if the owner knew of or  
261 participated in the activity that resulted in the contamination of the property.

262 (8) Interest on loans shall be at the rate determined by the Utah Solid and Hazardous Waste  
263 Control Board and shall be set at rates necessary to cover administrative costs and protect the fund  
264 from depletion. Interest rates may be set below commercial lending rates.

265 (9) The Division of Finance shall account for and track all outstanding loans under this  
266 section as required in Section 63-65-4.

267 (10) Administrative costs for the loan processing and accounting may be paid from the  
268 fund, which may include provisions for sureties for the loans.

269 Section 11. Section **19-6-811** is enacted to read:

270 **19-6-811. Rules and standards -- Authority to develop.**

271 (1) The Utah Solid and Hazardous Waste Control Board in consultation with the  
272 Department of Health and local health officers shall promulgate rules and standards for carrying  
273 out the provisions of Sections 19-6-809 and 19-6-810 in accordance with Title 63, Chapter 46a,

274 Utah Administrative Rulemaking Act. All rules developed under this part shall be submitted to  
275 local health officers for review and comment.

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

278 (3) The Utah Solid and Hazardous Waste Control Board shall develop:

279 (a) guidelines for decontamination of property used as a drug manufacturing or storage  
280 site; and

281 (b) methods for the testing of ground water, surface water, soil, and septic tanks for  
282 contamination.

283 (4) All rules developed under this part shall be consistent with other state and federal  
284 environmental requirements.

285 Section 12. Section **26A-1-114** is amended to read:

286 **26A-1-114. Powers and duties of departments.**

287 (1) A local health department may:

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

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

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

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

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

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

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

305 (f) abate nuisances or eliminate sources of filth [and], infectious and communicable  
306 diseases affecting the public health, inspect and order the cleanup of contaminated property under  
307 the provisions of Title 19, Chapter 6, Part 8, Illegal Drug Manufacturing and Storage Site  
308 Decontamination Act, and bill the owner or other person in charge of the premises upon which this  
309 nuisance occurs for the cost of abatement;

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

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

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

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

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

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

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

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

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

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

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

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

335 (2) The local health department shall:

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

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

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

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

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

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

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

356 (iv) is reviewed and updated annually.

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

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

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

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

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

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

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

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

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