

Representative Eric K. Hutchings proposes the following substitute bill:

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

4 2003 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Eric K. Hutchings**

7 **This act modifies the Clandestine Drug Lab Act and the Local Health Departments**
8 **chapter to require that law enforcement agencies report to the local health department**
9 **any sites and buildings where the agency has reasonable cause to believe clandestine drug**
10 **laboratory activity has resulted in contamination. The act also requires the local health**
11 **departments to maintain searchable records of these reports open to the public and**
12 **authorizes the local health departments to charge a reasonable fee per search.**

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

14 AMENDS:

15 **26A-1-114**, as last amended by Chapter 249, Laws of Utah 2002

16 ENACTS:

17 **58-37d-10**, Utah Code Annotated 1953

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

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

20 **26A-1-114. Powers and duties of departments.**

21 (1) A local health department may:

22 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances,
23 department rules, and local health department standards and regulations relating to public
24 health and sanitation, including the plumbing code adopted by the Division of Occupational
25 and Professional Licensing under Section 58-56-4 and under Title 26, Chapter 15a, Food



26 Safety Manager Certification Act, in all incorporated and unincorporated areas served by the
27 local health department;

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

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

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

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

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

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

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

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

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

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

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

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

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

56 (i) the health and wellness of the population, specific hazards, and risk factors that may

- 57 adversely affect the health and wellness of the population; and
- 58 (ii) specific activities individuals and institutions can engage in to promote and protect
- 59 the health and wellness of the population;
- 60 (j) investigate the causes of morbidity and mortality;
- 61 (k) issue notices and orders necessary to carry out this part;
- 62 (l) conduct studies to identify injury problems, establish injury control systems,
- 63 develop standards for the correction and prevention of future occurrences, and provide public
- 64 information and instruction to special high risk groups;
- 65 (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules
- 66 within the jurisdiction of the boards; and
- 67 (n) cooperate with the state health department, the Department of Corrections, the
- 68 Administrative Office of the Courts, the Division of Youth Corrections, and the Crime Victims
- 69 Reparations Board to conduct testing for HIV infection of convicted sexual offenders and any
- 70 victims of a sexual offense.
- 71 (2) The local health department shall:
- 72 (a) establish programs or measures to promote and protect the health and general
- 73 wellness of the people within the boundaries of the local health department;
- 74 (b) investigate infectious and other diseases of public health importance and implement
- 75 measures to control the causes of epidemic and communicable diseases and other conditions
- 76 significantly affecting the public health which may include involuntary testing of convicted
- 77 sexual offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of
- 78 victims of sexual offenses for HIV infection pursuant to Section 76-5-503;
- 79 (c) cooperate with the department in matters pertaining to the public health and in the
- 80 administration of state health laws; ~~and~~
- 81 (d) coordinate implementation of environmental programs to maximize efficient use of
- 82 resources by developing with the Department of Environmental Quality a Comprehensive
- 83 Environmental Service Delivery Plan that:
- 84 (i) recognizes that the Department of Environmental Quality and local health
- 85 departments are the foundation for providing environmental health programs in the state;
- 86 (ii) delineates the responsibilities of the department and each local health department
- 87 for the efficient delivery of environmental programs using federal, state, and local authorities,

88 responsibilities, and resources;

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

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

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

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

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

98 (iii) make available a list of local businesses that provide testing for contamination and
99 cleanup services for contaminated sites;

100 (iv) fund the service of making the reports submitted under Section 58-37d-10
101 available to the public by a reasonable fee per search;

102 (v) ensure submitted reports are made available to the public as soon as possible after
103 receipt; and

104 (vi) maintain each report received for not fewer than seven years from the date it is
105 submitted by the law enforcement agency.

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

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

110 (b) exclude from school attendance any person, including teachers, who is suffering
111 from any communicable or infectious disease, whether acute or chronic, if the person is likely
112 to convey the disease to those in attendance; **h AND h**

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

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

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

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

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

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

126 **58-37d-10. Law enforcement agency to report clandestine lab activity to local**
127 **health department.**

128 When any law enforcement agency in the state makes an arrest for possession of
129 clandestine **h DRUG h** laboratory paraphernalia or clandestine **h DRUG h** laboratory activity as
129a described under

130 Section 58-37d-4, if the site of the arrest involves any physical structure, the agency **h [-] h** shall
131 report the arrest to the local county health department. The report shall be made while at the
132 scene of the arrest, if making the report at that time will not compromise an ongoing
133 investigation. The report shall include:

134 (1) the date;

135 (2) the case number of the case that involves the site; and

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

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

141 (5) whether any arrests have been made or warrants issued for a violation of Section
142 58-37d-4 at the site;

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

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

Fiscal Note**Bill Number HB0134s1****Law Enforcement - Reporting Hazardous Materials
Relating To Controlled Substances***03-Mar-03**3:04 PM*

State Impact

This bill requires local health departments to maintain records of clandestine drug laboratories and make them available to the public. Initial start-up costs are estimated at \$5,000; ongoing costs will be covered by fees as authorized by the bill. These costs will be determined by the number of requests made.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
General Fund	\$5,000	\$0	\$0	\$0
TOTAL	\$5,000	\$0	\$0	\$0

Individual and Business Impact

Records of clandestine laboratories will be available, for a fee, to individuals or businesses.

Office of the Legislative Fiscal Analyst