

1 **UTAH CONTROLLED SUBSTANCES -**
2 **EXTRACTION AND REDUCTION LABS**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: DeMar Bud Bowman**

6 **This act modifies the Clandestine Drug Lab Act to include the offense of preparing a**
7 **substance or packaging a substance with the intent that the substance be used in the**
8 **manufacture of specified illegal controlled substances.**

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

10 AMENDS:

11 **58-37d-3**, as last amended by Chapter 272, Laws of Utah 2000

12 **58-37d-4**, as last amended by Chapter 64, Laws of Utah 1997

13 **58-37d-5**, as last amended by Chapter 187, Laws of Utah 2000

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

15 Section 1. Section **58-37d-3** is amended to read:

16 **58-37d-3. Definitions.**

17 (1) As used in this chapter:

18 (a) "Booby trap" means any concealed or camouflaged device designed to cause bodily
19 injury when triggered by any action of a person making contact with the device. This term
20 includes guns, ammunition, or explosive devices attached to trip wires or other triggering
21 mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wires with hooks
22 attached, and devices for the production of toxic fumes or gases.

23 (b) "Clandestine laboratory operation" means the:

24 (i) purchase or procurement of chemicals, supplies, equipment, or laboratory location
25 for the illegal manufacture of ~~[the above]~~ specified controlled substances ~~[specified in this act]~~;

26 (ii) transportation or arranging for the transportation of chemicals, supplies, or
27 equipment for the illegal manufacture of specified controlled substances ~~[specified in this act]~~;



28 (iii) setting up of equipment or supplies in preparation for the illegal manufacture of
29 ~~[the above]~~ specified controlled substances ~~[specified in this act]~~;

30 (iv) activity of compounding, synthesis, concentration, purification, separation,
31 extraction, or other physical or chemical processing of any substance, including a controlled
32 substance precursor, or the packaging, repackaging, labeling, or relabeling of a container
33 holding a substance that is a product of any of these activities, when the substance is to be used
34 for the illegal manufacture of specified controlled substances;

35 ~~[(iv)]~~ (v) illegal manufacture of ~~[the above]~~ specified controlled substances ~~[specified~~
36 ~~in this act]~~; or

37 ~~[(v)]~~ (vi) distribution or disposal of chemicals, equipment, supplies, or products used in
38 or produced by the illegal manufacture of specified controlled substances ~~[specified in this act]~~.

39 (c) "Controlled substance precursor" means those chemicals designated in Title 58,
40 Chapter 37c, Controlled Substance Precursor Act, except those substances designated in
41 Subsections 58-37c-3(2)(kk) and (ll).

42 (d) "Disposal" means the abandonment, discharge, deposit, injection, dumping,
43 spilling, leaking, or placing of any hazardous or dangerous material into or on any property,
44 land or water so that the material may enter the environment, be emitted into the air, or
45 discharged into any waters, including groundwater.

46 (e) "Hazardous or dangerous material" means any substance which because of its
47 quantity, concentration, physical characteristics, or chemical characteristics may cause or
48 significantly contribute to an increase in mortality, an increase in serious illness, or may pose a
49 substantial present or potential future hazard to human health or the environment when
50 improperly treated, stored, transported, disposed of, or otherwise improperly managed.

51 (f) "Illegal manufacture of specified controlled substances" means in violation of Title
52 58, Chapter 37, Utah Controlled Substances Act, the:

53 (i) compounding, synthesis, concentration, purification, separation, extraction, or other
54 physical or chemical processing for the purpose of producing methamphetamine, other
55 amphetamine compounds as listed in Schedule I of the Utah Controlled Substances Act,
56 phencyclidine, narcotic analgesic analogs as listed in Schedule I of the Utah Controlled
57 Substances Act, lysergic acid diethylamide, or mescaline;

58 (ii) conversion of cocaine or methamphetamine to their base forms; or

59 (iii) extraction, concentration, or synthesis of marijuana as that drug is defined in
60 Section 58-37-2.

61 (2) Unless otherwise specified, the definitions in Section 58-37-2 also apply to this
62 chapter.

63 Section 2. Section **58-37d-4** is amended to read:

64 **58-37d-4. Prohibited acts -- Second degree felony.**

65 (1) It is unlawful for any person to knowingly or intentionally:

66 (a) possess a controlled substance precursor with the intent to engage in a clandestine
67 laboratory operation;

68 (b) possess laboratory equipment or supplies with the intent to engage in a clandestine
69 laboratory operation;

70 (c) sell, distribute, or otherwise supply a precursor chemical, laboratory equipment, or
71 laboratory supplies knowing or having reasonable cause to believe it will be used for a
72 clandestine laboratory operation;

73 (d) evade recordkeeping provisions of Title 58, Chapter 37c, Controlled Substances
74 Precursor Act, or the regulations issued under that act, knowing or having reasonable cause to
75 believe that the material distributed or received will be used for a clandestine laboratory
76 operation;

77 (e) conspire with or aid another to engage in a clandestine laboratory operation;

78 (f) produce or manufacture, or possess with intent to produce or manufacture a
79 controlled or counterfeit substance except as authorized under Title 58, Chapter 37, Utah
80 Controlled Substances Act; [or]

81 (g) transport or convey a controlled or counterfeit substance with the intent to
82 distribute or to be distributed by the person transporting or conveying the controlled or
83 counterfeit substance or by any other person regardless of whether the final destination for the
84 distribution is within this state or any other location[?]; or

85 (h) engage in compounding, synthesis, concentration, purification, separation,
86 extraction, or other physical or chemical processing of any substance, including a controlled
87 substance precursor, or the packaging, repackaging, labeling, or relabeling of a container
88 holding a substance that is a product of any of these activities, knowing or having reasonable
89 cause to believe that the substance that is a product of any of these activities and will be used in

90 the illegal manufacture of specified controlled substances.

91 (2) A person who violates any provision of Subsection (1) is guilty of a second degree
92 felony.

93 Section 3. Section **58-37d-5** is amended to read:

94 **58-37d-5. Prohibited acts -- First degree felony.**

95 (1) A person who violates Subsection 58-37d-4(1)(a), (b), (e), [~~or~~] (f), or (h) is guilty
96 of a first degree felony if the trier of fact also finds any one of the following conditions
97 occurred in conjunction with that violation:

98 (a) possession of a firearm;

99 (b) use of a booby trap;

100 (c) illegal possession, transportation, or disposal of hazardous or dangerous material or
101 while transporting or causing to be transported materials in furtherance of a clandestine
102 laboratory operation, there was created a substantial risk to human health or safety or a danger
103 to the environment;

104 (d) intended laboratory operation was to take place or did take place within 500 feet of
105 a residence, place of business, church, or school;

106 (e) clandestine laboratory operation actually produced any amount of a specified
107 controlled substance; or

108 (f) intended clandestine laboratory operation was for the production of cocaine base or
109 methamphetamine base.

110 (2) If the trier of fact finds that two or more of the conditions listed in Subsections
111 (1)(a) through (f) of this section occurred in conjunction with the violation, at sentencing for
112 the first degree felony:

113 (a) probation [~~shall~~] may not be granted;

114 (b) the execution or imposition of sentence [~~shall~~] may not be suspended; and

115 (c) the court [~~shall~~] may not enter a judgment for a lower category of offense.

Legislative Review Note

as of 12-16-02 3:52 PM

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

Office of Legislative Research and General Counsel

Fiscal Note

Utah Controlled Substances - Extraction and Reduction Labs

29-Jan-03

Bill Number HB009410:56 AM

State Impact

Any additional expense required by the provisions of this bill can be handled within the existing State and local government budgets.

Individual and Business Impact

Individuals convicted by the provisions of this bill may spend more time in prison.

Office of the Legislative Fiscal Analyst