

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 three 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;

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 (1) When any law enforcement agency in the state investigates the site of an alleged  
129 operation of a clandestine laboratory, the agency shall report to the local health department  
130 within one week of the first day of the initial investigation:

131 (a) the date or dates of the investigation to that point;

132 (b) the case numbers of any cases that involve the site; and

133 (c) the address and descriptions of specified buildings at the site that the law  
134 enforcement agency has reasonable cause to believe are contaminated by any activity in  
135 violation of Section 58-37d-4;

136 (d) evidentiary information that is the basis for agency's reasonable cause to believe the  
137 specified building is contaminated; and

138 (e) whether any arrests have been made or warrants issued for a violation of Section  
139 58-37d-4 at the site.

140 (2) The reporting law enforcement agency shall update its report to the local health  
141 department to indicate:

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

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

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**Legislative Review Note**  
**as of 2-11-03 10:28 AM**

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

**Office of Legislative Research and General Counsel**

**State Impact**

This bill requires law enforcement agencies to report information about clandestine laboratories to local health departments. The Department of Public Safety estimates that one additional FTE would be required at a cost of \$40,000 annually.

The bill also requires local health departments to maintain these records 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 in 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	\$45,000	\$40,000	\$0	\$0
<b>TOTAL</b>	<b>\$45,000</b>	<b>\$40,000</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

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

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**Office of the Legislative Fiscal Analyst**