

Representative David L. Hogue proposes the following substitute bill:

TOXIC MOLD DISCLOSURE

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Hogue

LONG TITLE

General Description:

This bill enacts provisions within the Utah Health Code ~~⌘ [and the Utah Fit Premises Act] ⌘~~ related to mold.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to:
 - prepare and make public certain information relating to mold; and
 - monitor progress in the science relating to mold exposure and make reports to

the Legislature ~~⌘ [; and~~

~~————▶ requires an owner to make a disclosure to a renter or prospective renter regarding mold in a rental unit] ⌘ .~~

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

~~⌘ [AMENDS:~~

~~———— 57-22-2, as enacted by Chapter 314, Laws of Utah 1990] ⌘~~

ENACTS:



- 26 26-48-101, Utah Code Annotated 1953
- 27 26-48-102, Utah Code Annotated 1953
- 28 26-48-201, Utah Code Annotated 1953
- 29 26-48-202, Utah Code Annotated 1953
- 30 ~~§ [57-22-4.2, Utah Code Annotated 1953] h~~



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

33 Section 1. Section **26-48-101** is enacted to read:

34 **CHAPTER 48. TOXIC MOLD ACT**

35 **Part 1. General Provisions**

36 **26-48-101. Title.**

37 This chapter is known as the "Toxic Mold Act."

38 Section 2. Section **26-48-102** is enacted to read:

39 **26-48-102. Definitions.**

40 As used in this chapter:

41 (1) "Department" means the Department of Health.

42 (2) (a) "Mold" means a form of multicellular fungi that live:

43 (i) on plant or animal matter; and

44 (ii) in indoor environments.

45 (b) "Mold" includes:

46 (i) cladosporium;

47 (ii) penicillium;

48 (iii) alternaria;

49 (iv) aspergillus;

50 (v) fuarium;

51 (vi) trichoderma;

52 (vii) memnoniella;

53 (viii) mucor; and

54 (ix) stachybotrys chartarum.

55 Section 3. Section **26-48-201** is enacted to read:

56 **Part 2. Department Responsibilities**

57 **26-48-201. Department to provide public information.**

58 (1) The department shall prepare information concerning:

59 (a) the health impacts of mold on a person who occupies real property containing mold;

60 and

61 (b) recommended practices for a person who owns or occupies real property containing

62 mold.

63 (2) The department shall, within existing budgets, use any reasonable means to make
64 the information prepared under Subsection (1) available and accessible to the public.

65 Section 4. Section **26-48-202** is enacted to read:

66 **26-48-202. Monitoring and reporting requirements.**

67 The department shall:

68 (1) monitor developments in other states regarding the science of setting minimum
69 standards of mold exposure within real property; and

70 (2) when the department considers appropriate, report any developments described in
71 Subsection (1) to the Health and Human Services interim committee.

72 **Ĥ** ~~Section 5. Section 57-22-2 is amended to read:~~

73 ~~57-22-2. Definitions.~~

74 ~~As used in this chapter:~~

75 ~~(1) "Mold" is as defined in Section 26-48-102.~~

76 ~~[(1)] (2) "Owner" means the owner, lessor, or sublessor of a residential rental unit. A~~
77 ~~managing agent, leasing agent, or resident manager is considered an owner for purposes of~~
78 ~~notice and other communication required or allowed under this chapter unless the agent or~~
79 ~~manager specifies otherwise in writing in the rental agreement.~~

80 ~~[(2)] (3) "Rental agreement" means any agreement, written or oral, which establishes or~~
81 ~~modifies the terms, conditions, rules, or any other provisions regarding the use and occupancy~~
82 ~~of a residential rental unit.~~

83 ~~[(3)] (4) "Renter" means any person entitled under a rental agreement to occupy a~~
84 ~~residential rental unit to the exclusion of others.~~

85 ~~[(4)] (5) "Residential rental unit" means a renter's principal place of residence and~~
86 ~~includes the appurtenances, grounds, and facilities held out for the use of the residential renter~~
87 ~~generally, and any other area or facility provided to the renter in the rental agreement. It does] Ĥ~~

88 ~~h~~ [not include facilities contained in a boarding or rooming house or similar facility, mobile home
89 lot, or recreational property rented on an occasional basis.

90 ~~Section 6. Section 57-22-4.2 is enacted to read:~~

91 ~~57-22-4.2. Owner's duties -- Mold -- Civil action:~~

92 ~~(1) An owner shall comply with Subsection (2) if the owner knows that a residential~~
93 ~~rental unit contains visible mold;~~

94 ~~(2) An owner described in Subsection (1) shall provide written notice to:~~

95 ~~(a) a prospective renter prior to entering into a rental agreement; and~~

96 ~~(b) a renter within five calendar days after the owner becomes aware of a condition~~
97 ~~described in Subsection (1);~~

98 ~~(3) This section does not require an owner to conduct tests to determine whether a~~
99 ~~rental unit contains visible mold;~~

100 ~~(4) (a) A renter may bring an action against an owner for a violation of this section:~~

101 ~~(b) In an action under Subsection (4)(a), a renter may recover the greater of:~~

102 ~~(i) actual damages; or~~

103 ~~(ii) \$1,000.] h~~

Legislative Review Note
as of 2-19-04 12:14 PM

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

Office of Legislative Research and General Counsel