

**Representative David Litvack** proposes the following substitute bill:

**DRUG LAB CLEANUP AND DISCLOSURE**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: David Litvack**

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**LONG TITLE**

**General Description:**

This bill provides procedures for local health departments regarding property contaminated by illegal drug operations.

**Highlighted Provisions:**

This bill:

- ▶ requires law enforcement agencies to report contaminated property locations to the local health department;
- ▶ requires the local health departments to make these reports available to the public, as advisory information only;
- ▶ requires the local health department to notify the property owner of the report, and also to notify the county or municipality if the property owner is not taking action regarding the contamination;
- ▶ directs the state Department of Health to make rules that include certification standards regarding the decontamination of contaminated property;
- ▶ requires the Department of Environmental Quality to establish a certification program for decontamination specialists;
- ▶ requires clean-up of contamination and certification that a contaminated property has been cleaned up;
- ▶ establishes a program to certify specialists who provide evaluation, sampling, and



26 clean-up of contaminated properties; and

27       ▶ includes in the real estate definition of stigmatized property that is not subject to  
28 disclosure contaminated property that has been decontaminated.

29 **Monies Appropriated in this Bill:**

30       None

31 **Other Special Clauses:**

32       None

33 **Utah Code Sections Affected:**

34 AMENDS:

35       **57-1-1**, as last amended by Chapter 10, Laws of Utah 1991

36 ENACTS:

37       **19-6-901**, Utah Code Annotated 1953

38       **19-6-902**, Utah Code Annotated 1953

39       **19-6-903**, Utah Code Annotated 1953

40       **19-6-904**, Utah Code Annotated 1953

41       **19-6-905**, Utah Code Annotated 1953

42       **19-6-906**, Utah Code Annotated 1953



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

45       Section 1. Section **19-6-901** is enacted to read:

46               **Part 9. Illegal Drug Operations Site Reporting and Decontamination Act**

47               **19-6-901. Title.**

48               This part is known as the "Illegal Drug Operations Site Reporting and Decontamination  
49 Act."

50       Section 2. Section **19-6-902** is enacted to read:

51               **19-6-902. Definitions.**

52               As used in this part:

53               (1) "Board" means the Solid and Hazardous Waste Control Board, as defined in  
54 Section 19-1-106, within the Department of Environmental Quality.

55               (2) "Certified decontamination specialist" means an individual who has met the  
56 standards for certification as a decontamination specialist and has been certified by the board

57 under Subsection 19-6-906(2).

58 (3) "Contaminated" or "contamination" means polluted by hazardous materials that  
59 cause property to be unfit for human habitation or use due to immediate or long-term health  
60 hazards.

61 (4) "Contamination list" means a list maintained by the local health department of  
62 properties:

63 (a) reported to the local health department under Section 19-6-903; and

64 (b) determined by the local health department to be contaminated.

65 (5) "Decontaminated" means property that at one time was contaminated, but the  
66 contaminants have been removed.

67 (6) "Hazardous materials":

68 (a) has the same meaning as "hazardous or dangerous materials" as defined in Section  
69 58-37d-3; and

70 (b) includes any illegally manufactured controlled substances.

71 (7) "Health department" means a local health department under Title 26A, Local  
72 Health Authorities.

73 (8) "Owner of record":

74 (a) means the owner of real property as shown on the records of the county recorder in  
75 the county where the property is located; and

76 (b) may include an individual, financial institution, company, corporation, or other  
77 entity.

78 (9) "Property":

79 (a) means any real property, site, structure, part of a structure, or the grounds  
80 surrounding a structure; and

81 (b) includes single-family residences, outbuildings, garages, units of multiplexes,  
82 condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers,  
83 manufactured housing, shops, or booths.

84 (10) "Reported property" means property that is the subject of a law enforcement report  
85 under Section 19-6- 903.

86 Section 3. Section **19-6-903** is enacted to read:

87 **19-6-903. Law enforcement reporting and records -- Removal from list.**

88 (1) (a) When any state or local law enforcement agency in the course of its official  
89 duties observes any paraphernalia of a clandestine drug laboratory operation, including  
90 chemicals or equipment used in the manufacture of unlawful drugs, the agency shall report the  
91 location where the items were observed to the local health department.

92 (b) (i) The law enforcement officer shall make the report under Subsection (1)(a) at the  
93 location where the observation occurred, if making the report at that time will not compromise  
94 an ongoing investigation.

95 (ii) If the report cannot be made at the location, the report shall be made as soon  
96 afterward as is practical.

97 (c) The report under Subsection (1)(a) shall include:

98 (i) the date of the observation;

99 (ii) the name of the reporting agency and the case number of the case that involves the  
100 location of the observation;

101 (iii) the contact information of the officer involved, including name and telephone  
102 number;

103 (iv) the address of the location and descriptions of the property that may be  
104 contaminated; and

105 (v) a brief description of the evidence at the location that led to the belief the property  
106 at the location may be contaminated.

107 (2) The law enforcement agency shall forward to the local health department copies of  
108 the reports made under Subsection (1).

109 (3) (a) Upon receipt of a complaint or a report from law enforcement regarding  
110 possibly contaminated property, the local health officer or his designee shall determine if  
111 reasonable evidence exists that the property is contaminated.

112 (b) The local health department shall place property considered to be contaminated on  
113 a contamination list.

114 (4) The local health departments shall maintain searchable records of the properties on  
115 their contamination lists and shall:

116 (a) make the records reasonably available to the public;

117 (b) provide written notification to persons requesting access to the records that the  
118 records are only advisory in determining if specific property has been contaminated by

119 clandestine drug lab activity; and

120 (c) remove the contaminated property from the list when the following conditions have  
121 been met:

122 (i) the local health department has monitored the decontamination process and, after  
123 documenting that the test results meet decontamination standards, has authorized the removal  
124 of or purging of the contamination information from the department's records; or

125 (ii) a certified decontamination specialist submits a report to the local health  
126 department stating that the property is decontaminated.

127 Section 4. Section **19-6-904** is enacted to read:

128 **19-6-904. Decontamination specialist reporting to local health departments.**

129 (1) A certified decontamination specialist is required to report to the local health  
130 department the location of any property that is the subject of decontamination work by that  
131 decontamination specialist. The report shall be submitted prior to commencement of the  
132 decontamination work.

133 (2) The report under Subsection (1) shall include:

134 (a) sufficient information to allow the local health department to investigate and verify  
135 the location of the property, including the address and description of the property; and

136 (b) a proposed work plan for decontaminating the property.

137 (3) Upon completion of the decontamination process, a report certifying that the  
138 property is decontaminated shall be submitted to the local health department within 30 days.

139 Section 5. Section **19-6-905** is enacted to read:

140 **19-6-905. Notification of property owner -- Notification of municipality or county.**

141 (1) (a) If the local health department determines a property is contaminated, it shall  
142 notify the owner of record that the property has been placed on the contamination list and shall  
143 provide to the owner information regarding remediation options and the requirements  
144 necessary to clean up the property, obtain certification that the property is decontaminated, and  
145 remove the property from the contamination list.

146 (b) The notification shall include a deadline for the owner to provide to the local health  
147 department information on how the owner plans to address the contamination.

148 (c) This part does not require that decontamination be conducted by a certified  
149 decontamination specialist. However, upon completion of the decontamination, the property

150 must be determined to be decontaminated in accordance with Subsection 19-6-903(4)(c) in  
151 order to be removed from the contamination list.

152 (2) If the local health department does not receive a response from the owner of record  
153 within the time period specified in the notice, or the owner of record advises the local health  
154 department that the owner does not intend to take action or that the reported property will be  
155 abandoned, the local health department shall notify the municipality in which the reported  
156 property is located, or the county, if the location is in an unincorporated area, of the owner of  
157 record's response or lack of response.

158 Section 6. Section **19-6-906** is enacted to read:

159 **19-6-906. Decontamination standards -- Specialist certification standards --**  
160 **Rulemaking.**

161 (1) The Department of Health shall make rules under Title 63, Chapter 46a, Utah  
162 Administrative Rulemaking Act, in consultation with the local health departments and the  
163 Department of Environmental Quality, to establish:

164 (a) decontamination and sampling standards and best management practices for the  
165 inspection and decontamination of property and the disposal of contaminated debris under this  
166 part;

167 (b) appropriate methods for the testing of buildings and interior surfaces, and  
168 furnishings, soil, and septic tanks for contamination; and

169 (c) when testing for contamination may be required.

170 (2) The Department of Environmental Quality Solid and Hazardous Waste Control  
171 Board shall make rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, in  
172 consultation with the Department of Health and local health departments, to establish within  
173 the Department of Environmental Quality Division of Environmental Response and  
174 Remediation:

175 (a) certification standards for any private person, firm, or entity involved in the  
176 decontamination of contaminated property; and

177 (b) a process for revoking the certification of a decontamination specialist who fails to  
178 maintain the certification standards.

179 (3) All rules made under this part shall be consistent with other state and federal  
180 requirements.

181 (4) The board has authority to enforce the provisions under Subsection (2).

182 Section 7. Section **57-1-1** is amended to read:

183 **57-1-1. Definitions.**

184 As used in this title:

185 (1) "Certified copy" means a copy of a document certified by its custodian to be a true  
186 and correct copy of the document or the copy of the document maintained by the custodian,  
187 where the document or copy is maintained under the authority of the United States, the state of  
188 Utah or any of its political subdivisions, another state, a court of record, a foreign government,  
189 or an Indian tribe.

190 (2) "Document" means every instrument in writing, including every conveyance,  
191 affecting, purporting to affect, describing, or otherwise concerning any right, title, or interest in  
192 real property, except wills and leases for a term not exceeding one year.

193 (3) "Real property" or "real estate" means any right, title, estate, or interest in land,  
194 including all nonextracted minerals located in, on, or under the land, all buildings, fixtures and  
195 improvements on the land, and all water rights, rights-of-way, easements, rents, issues, profits,  
196 income, tenements, hereditaments, possessory rights, claims, including mining claims,  
197 privileges, and appurtenances belonging to, used, or enjoyed with the land or any part of the  
198 land.

199 (4) "Stigmatized" means:

200 (a) the site or suspected site of a homicide, other felony, or suicide; ~~or~~

201 (b) the dwelling place of a person infected, or suspected of being infected, with the  
202 Human Immunodeficiency Virus, or any other infectious disease that the Utah Department of  
203 Health determines cannot be transferred by occupancy of a dwelling place~~[-]; or~~

204 (c) property that has been found to be contaminated, and that the local health  
205 department has subsequently found to have been decontaminated in accordance with Title 19,  
206 Chapter 6, Part 9, Illegal Drug Operations Site Reporting and Decontamination Act.