

## SB0109S01 compared with SB0109

~~{deleted text}~~ shows text that was in SB0109 but was deleted in SB0109S01.

inserted text shows text that was not in SB0109 but was inserted into SB0109S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{RADON TESTING FOR HOME PURCHASE}~~ Senator Aaron Osmond proposes the following substitute bill:

### **RADON AWARENESS CAMPAIGN**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Aaron Osmond**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill ~~{enacts the Radon Testing and Disclosure Act}~~ establishes an educational campaign regarding radon gas.

##### Highlighted Provisions:

This bill:

▶ ~~{defines terms;~~

→ ~~requires an owner of a residential building to give a purchaser the following information and disclosures before the purchaser becomes obligated to purchase an interest in the residential building;~~

• ~~a copy of a radon hazard information pamphlet, developed by the division; and~~

• ~~a written disclosure that states each radon test that has been performed on the residential building within the last 5 years;~~

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- provides a purchaser of an interest in a residential building no less than 10 days to perform a radon test on the residential building, unless the owner and the purchaser agree to a different time period;
- requires a real estate purchase contract for the sale of an interest in a residential building to include signed acknowledgments that the owner has complied with the requirements described in this bill;
- provides a procedure to enforce compliance with the provisions of this bill;
- allows the division to make rules consistent with the provisions in this bill; and
- makes technical and conforming changes; requires the Department of Health, in consultation with the Division of Radiation Control, to develop a campaign to educate the public regarding radon gas, including health risks, testing options, and remediation.

### Money Appropriated in this Bill:

~~{None}~~ This bill appropriates in fiscal year 2015:

- ▶ to the Department of Health - Radon Awareness Campaign as a one-time appropriation from the General Fund, \$100,000.

### Other Special Clauses:

None

### Utah Code Sections Affected:

~~{AMENDS:~~

- ~~———— 19-1-105, as last amended by Laws of Utah 2012, Chapter 360~~
- ~~———— 19-3-103.5, as last amended by Laws of Utah 2012, Chapter 360~~
- ~~———— 19-3-109, as last amended by Laws of Utah 2013, Chapter 330~~

~~{ENACTS:~~

- ~~{~~ ~~———— 57-28-101}~~ 26-7-7, Utah Code Annotated 1953
- ~~———— 57-28-102, Utah Code Annotated 1953~~
- ~~———— 57-28-201, Utah Code Annotated 1953~~
- ~~———— 57-28-202, Utah Code Annotated 1953~~
- ~~———— 57-28-203, Utah Code Annotated 1953~~
- ~~———— 57-28-204, Utah Code Annotated 1953~~
- ~~———— 57-28-301, Utah Code Annotated 1953~~

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~~57-28-302, Utah Code Annotated 1953~~

~~57-28-303, Utah Code Annotated 1953~~

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

Section 1. Section ~~{19-1-105 is amended to read:~~

~~19-1-105. Divisions of department -- Control by division directors:~~

~~(1) The following divisions are created within the department:~~

~~(a) the Division of Air Quality, to administer Title 19, Chapter 2, Air Conservation Act;~~

~~(b) the Division of Drinking Water, to administer Title 19, Chapter 4, Safe Drinking Water Act;~~

~~(c) the Division of Environmental Response and Remediation, to administer:~~

~~(i) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act; and~~

~~(ii) Title 19, Chapter 6, Part 4, Underground Storage Tank Act;~~

~~(d) }26-7-7 is enacted to read:~~

26-7-7. Radon awareness campaign.

The department shall, in consultation with the Division of Radiation Control, ~~to~~ administer:

~~(i) Title 19, Chapter 3, Radiation Control Act; and~~

~~(ii) Title 57, Chapter 28, Radon Testing and Disclosure Act;~~

~~(c) the Division of Solid and Hazardous Waste, to administer:~~

~~(i) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act;~~

~~(ii) Title 19, Chapter 6, Part 2, Hazardous Waste Facility Siting Act;~~

~~(iii) Title 19, Chapter 6, Part 5, Solid Waste Management Act;~~

~~(iv) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal;~~

~~(v) Title 19, Chapter 6, Part 7, Used Oil Management Act;~~

~~(vi) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act;~~

~~(vii) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act;~~

~~(viii) Title 19, Chapter 6, Part 11, Industrial Byproduct Reuse; and~~

~~(ix) Title 19, Chapter 6, Part 12, Disposal of Electronic Waste Program; and~~

~~(f) the Division of Water Quality, to administer Title 19, Chapter 5, Water Quality Act.~~

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~~— (2) Each division is under the immediate direction and control of a division director appointed by the executive director.~~

~~— (3) (a) A division director shall possess the administrative skills and training necessary to perform the duties of division director.~~

~~— (b) A division director shall hold one of the following degrees from an accredited college or university:~~

~~— (i) a four-year degree in physical or biological science or engineering;~~

~~— (ii) a related degree; or~~

~~— (iii) a degree in law.~~

~~— (4) The executive director may remove a division director at will.~~

~~— (5) A division director shall serve as the executive secretary to the policymaking board created in Section 19-1-106, that has rulemaking authority over the division director's division.~~

~~— Section 2. Section 19-3-103.5 is amended to read:~~

~~— **19-3-103.5. Board authority and duties.**~~

~~— (1) The board may:~~

~~— (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement the provisions of:~~

~~— (i) the Radiation Control Act; and~~

~~— (ii) Title 57, Chapter 28, Radon Testing and Disclosure Act;~~

~~— (b) recommend that the director:~~

~~— (i) issue orders necessary to enforce the provisions of this part;~~

~~— (ii) enforce the orders by appropriate administrative and judicial proceedings; or~~

~~— (iii) institute judicial proceedings to secure compliance with this part;~~

~~— (c) (i) hold a hearing that is not an adjudicative proceeding; or~~

~~— (ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;~~

~~— (d) accept, receive, and administer grants or other funds or gifts from public and~~

~~private agencies, including the federal government, for the purpose of carrying out any of the functions of this part; or~~

~~— (e) order the director to impound radioactive material in accordance with Section 19-3-111.~~

~~— (2) The board shall:~~

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~~\_\_\_\_\_ (a) prepare a radioactive waste management plan in compliance with Section 19-3-107 as soon as practicable;~~

~~\_\_\_\_\_ (b) promote the planning and application of pollution prevention and radioactive waste minimization measures to prevent the unnecessary waste and depletion of natural resources;~~

~~\_\_\_\_\_ (c) to ensure compliance with applicable statutes and regulations;~~

~~\_\_\_\_\_ (i) review a settlement negotiated by the director in accordance with Subsection 19-3-108(3)(b) that requires a civil penalty of \$25,000 or more; and~~

~~\_\_\_\_\_ (ii) approve or disapprove the settlement;~~

~~\_\_\_\_\_ (d) submit an application to the U.S. Food and Drug Administration for approval as an accrediting body in accordance with 42 U.S.C. 263b, Mammography Quality Standards Act of 1992;~~

~~\_\_\_\_\_ (e) accredit mammography facilities, pursuant to approval as an accrediting body from the U.S. Food and Drug Administration, in accordance with 42 U.S.C. 263b, Mammography Quality Standards Act of 1992; and~~

~~\_\_\_\_\_ (f) review the qualifications of, and issue certificates of approval to, individuals who:~~

~~\_\_\_\_\_ (i) survey mammography equipment; or~~

~~\_\_\_\_\_ (ii) oversee quality assurance practices at mammography facilities;~~

~~\_\_\_\_\_ (3) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-3-108:~~

~~\_\_\_\_\_ (a) a permit;~~

~~\_\_\_\_\_ (b) a license;~~

~~\_\_\_\_\_ (c) a registration;~~

~~\_\_\_\_\_ (d) a certification; or~~

~~\_\_\_\_\_ (e) another administrative authorization made by the director.~~

~~\_\_\_\_\_ (4) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.~~

~~\_\_\_\_\_ Section 3. Section 19-3-109 is amended to read:~~

~~\_\_\_\_\_ **19-3-109. Civil penalties -- Appeals:**~~

~~\_\_\_\_\_ (1) [A] Except as provided in Subsection (7), a person who violates a provision of this part, a rule or order issued under the authority of this part, or the terms of a license, permit, or registration certificate issued under the authority of this part is subject to a civil penalty not to~~

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~~exceed \$10,000 for each violation.~~

~~— (2) The director may assess and make a demand for payment of a penalty under this section and may compromise or remit that penalty.~~

~~— (3) In order to make demand for payment of a penalty assessed under this section, the director shall issue a notice of agency action, specifying, in addition to the requirements for notices of agency action contained in Title 63G, Chapter 4, Administrative Procedures Act:~~

~~— (a) the date, facts, and nature of each act or omission charged;~~

~~— (b) the provision of the statute, rule, order, license, permit, or registration certificate that is alleged to have been violated;~~

~~— (c) each penalty that the director proposes to impose, together with the amount and date of effect of that penalty; and~~

~~— (d) that failure to pay the penalty or respond may result in a civil action for collection.~~

~~— (4) A person notified according to Subsection (3) may request an adjudicative proceeding.~~

~~— (5) Upon request by the director, the attorney general may institute a civil action to collect a penalty imposed under this section.~~

~~— (6) (a) Except as provided in Subsection (6)(b), the department shall deposit all money collected from civil penalties imposed under this section into the General Fund.~~

~~— (b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.~~

~~— (c) The department shall regulate reimbursements by making rules that:~~

~~— (i) define qualifying environmental enforcement activities; and~~

~~— (ii) define qualifying extraordinary expenses.~~

~~— (7) This section does not apply to a violation of, or a rule issued under, Title 57, Chapter 28, Radon Testing and Disclosure Act.~~

~~— Section 4. Section 57-28-101 is enacted to read:~~

### ~~**CHAPTER 28. RADON TESTING AND DISCLOSURE ACT**~~

#### ~~**Part 1. General Provisions**~~

~~— **57-28-101. Title:**~~

~~— (1) This chapter is known as the "Radon Testing and Disclosure Act."~~

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~~(2) This part is known as "General Provisions."~~

~~Section 5. Section 57-28-102 is enacted to read:~~

~~**57-28-102. Definitions:**~~

~~As used in this chapter:~~

~~(1) "Action level" means the concentration of indoor radon, measured in picocuries per liter of air, at which the United States Environmental Protection Agency recommends remedial action to reduce the concentration of radon:~~

~~(2) "Division" means the Division of Radiation Control, created in Section 19-1-105.~~

~~(3) "Owner" means the holder of a legal or equitable title or interest in real property:~~

~~(4) "Residential building" means a building or structure, or a portion of a building or structure, occupied as, or designed or intended for occupancy as, a residence of one or more individuals:~~

~~Section 6. Section 57-28-201 is enacted to read:~~

### ~~**Part 2. Residential Conveyance Requirements**~~

~~**57-28-201. Title:**~~

~~This part is known as "Residential Conveyance Requirements."~~

~~Section 7. Section 57-28-202 is enacted to read:~~

~~**57-28-202. Required disclosures:**~~

~~(1) Before a purchaser is obligated to purchase an interest in a residential building from an owner, the owner shall:~~

~~(a) give the purchaser a radon hazard information pamphlet described in Subsection (3);~~

~~(b) provide the purchaser a reasonable opportunity to review and understand the radon hazard information pamphlet; and~~

~~(c) disclose to the purchaser, in writing, each radon test performed on the residential building within the last five years:~~

~~(2) For each radon test disclosed under Subsection (1)(c), the written disclosure shall state:~~

~~(a) the date that the radon test was performed;~~

~~(b) the type of test used;~~

~~(c) the name of the person who performed the test; and~~

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~~—— (d) the results of the test.~~

~~—— (3) The division shall develop and make available to the public a radon hazard information pamphlet that describes the dangers associated with radon.~~

~~—— Section 8. Section 57-28-203 is enacted to read:~~

~~—— **57-28-203. Optional radon testing:**~~

~~—— (1) Before a purchaser is obligated to purchase an interest in a residential building from an owner, the owner shall provide the purchaser no less than 10 days to conduct a radon test.~~

~~—— (2) The owner and the purchaser may mutually agree to a time period different from the time period described in Subsection (1):~~

~~—— (3) If, during the 10-day period described in Subsection (1) or the time period mutually agreed to by the owner and the purchaser under Subsection (2), the purchaser learns that the radon concentration in the residential building is at or above the action level, the purchaser may revoke any offer, or cancel any agreement, to purchase an interest in the residential building.~~

~~—— Section 9. Section 57-28-204 is enacted to read:~~

~~—— **57-28-204. Real estate purchase contract -- required contents:**~~

~~—— (1) Each contract for the purchase of an interest in a residential building shall contain a provision, signed by the purchaser, that states that the purchaser has:~~

~~—— (a) received a radon hazard information pamphlet;~~

~~—— (b) read the radon hazard information pamphlet;~~

~~—— (c) understood the contents of the radon hazard information pamphlet; and~~

~~—— (d) had an opportunity to perform a radon test on the residential building in accordance with the requirements described in Section 57-28-203.~~

~~—— (2) Except as provided in Subsection 57-28-203(3), nothing in this chapter shall affect the validity or enforceability of a sale of an interest in a residential building or a contract to purchase an interest in a residential building.~~

~~—— Section 10. Section 57-28-301 is enacted to read:~~

### ~~**Part 3. Administration and Enforcement**~~

~~—— **57-28-301. Title:**~~

~~—— This part is known as "Administration and Enforcement."~~

~~—— Section 11. Section 57-28-302 is enacted to read:~~

~~—— **57-28-302. Rulemaking:**~~



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~~In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this chapter, the division may make rules governing:~~

- ~~(1) the content, form, and procedures relating to radon-related disclosures;~~
- ~~(2) acceptable radon testing; and~~
- ~~(3) the contents of a real estate purchase contract relating to radon testing and disclosures.~~

~~Section 12. Section 57-28-303 is enacted to read:~~

### ~~57-28-303. Private action.~~

- ~~(1) A person may file an action in district court to enforce any provision of this chapter.~~
- ~~(2) In an action filed under Subsection (1), the court may award costs, including expert witness fees, and reasonable attorney fees to the party that commenced the action if the party that commenced the action is the prevailing party.~~

### Legislative Review Note

~~as of 9-10-13 6:34 AM~~

~~Office of Legislative Research and General Counsel; develop a campaign to educate the public regarding:~~

- ~~(1) the existence and prevalence of radon gas in buildings and structures;~~
- ~~(2) the health risks associated with radon gas;~~
- ~~(3) options for radon gas testing; and~~
- ~~(4) options for radon gas remediation.~~

### ~~Section 2. Appropriation.~~

~~Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.~~

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To the Department of Health

From General Fund, one-time

\$100,000

Schedule of Programs

Radon Awareness Campaign

\$100,000

The Legislature intends that the appropriation under this Section 2 be used only for an educational campaign under Section 26-7-7.