

Senator Daniel W. Thatcher proposes the following substitute bill:

DRUG DISPOSAL PROGRAM

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill authorizes the attorney general and the Department of Environmental Quality (DEQ) to implement and administer a program for the secure, environmentally friendly disposal of a lawfully possessed controlled substance.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the attorney general and the department to implement and administer a program for the secure, environmentally friendly disposal of a lawfully possessed controlled substance;
- ▶ provides that, in implementing and administering the program, the attorney general:
 - may work with law enforcement, pharmacies, and other entities to establish a network of controlled substance disposal repositories or to distribute home controlled substance disposal receptacles;
 - may establish certain requirements for a controlled substance disposal repository and a home controlled substance disposal receptacle;
 - shall ensure that the program complies with Drug Enforcement Administration requirements; and



- 26 • may publish a list of controlled substance disposal repositories or information
- 27 on obtaining a home controlled substance disposal receptacle;
- 28 ▶ permits the Department of Environmental Quality to maintain and use funds, placed
- 29 in the Environmental Mitigation and Response Fund for program purposes, to
- 30 purchase, operate, or maintain a repository, to purchase or distribute home
- 31 controlled substance disposal receptacles, or to educate citizens on the lawful and
- 32 environmentally friendly disposal of a controlled substance; and
- 33 ▶ preempts certain action by other state and local government entities in relation to
- 34 the program.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

41 **19-1-602**, as last amended by Laws of Utah 2018, Chapter 281

42 **19-1-603**, as enacted by Laws of Utah 2017, Chapter 246

43 **19-1-604**, as enacted by Laws of Utah 2017, Chapter 246

44 ENACTS:

45 **67-5-36**, Utah Code Annotated 1953



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

48 Section 1. Section **19-1-602** is amended to read:

49 **19-1-602. Definitions.**

50 As used in this part:

51 (1) "Environmental mitigation" means an action or activity intended to remedy, reduce,

52 or offset known negative impacts to the environment.

53 (2) "Environmental response action" means action taken to prevent, eliminate,

54 minimize, investigate, monitor, clean up, or remove contaminants in the environment.

55 (3) "Financial assurance" means a mechanism or instrument intended to provide funds

56 if necessary to the department to conduct closure, monitoring, or cleanup of a specific facility

57 or site in accordance with the applicable environmental requirements provided in this title.

58 (4) "Funding source" means an individual or entity that provides a monetary
59 contribution to the Environmental Mitigation and Response Fund.

60 (5) "Home controlled substance disposal receptacle" means the same as that term is
61 defined in Subsection [67-5-36\(1\)](#).

62 [~~5~~] (6) "Natural resource damage" means damages to land, fish, wildlife, biota, air,
63 water, ground water, drinking water supplies, and other resources that are held in trust for the
64 public or otherwise controlled by the United States, the state, or local government.

65 (7) "Repository" means the same as that term is defined in Subsection [67-5-36\(1\)](#).

66 [~~6~~] (8) "Unused funds" means the remaining funds from a specific funding source
67 following the complete implementation of the environmental mitigation or response actions
68 pursuant to the terms and conditions of the contribution.

69 Section 2. Section **19-1-603** is amended to read:

70 **19-1-603. Environmental Mitigation and Response Fund.**

71 (1) There is created an expendable special revenue fund known as the Environmental
72 Mitigation and Response Fund.

73 (2) The fund consists of:

74 (a) public and private funding sources made under Subsections (3) and (4);

75 (b) legally binding bankruptcy, financial assurance, or natural resource damage claim
76 settlements; [~~and~~]

77 (c) money appropriated by the Legislature, granted by the federal government, or
78 granted or donated by a person for a purpose described in Subsection [19-1-604\(2\)\(e\)](#); and

79 [~~e~~] (d) interest earnings on cash balances.

80 (3) The department may accept contributions for deposit into the fund from public and
81 private sources, including from a source as a condition of a consent decree, settlement
82 agreement, stipulated agreement, or court order.

83 (4) If funds are deposited as part of a consent decree, settlement agreement, stipulated
84 agreement, or court order, the source of the funding may specify terms and conditions in which
85 the funds may be used, in accordance with the consent decree, settlement agreement, stipulated
86 agreement, or court order.

87 (5) Unless mandated by court order, the department may refuse funds if the department

88 determines it is incapable of meeting the terms and conditions of the agreement to obtain the
89 funds, including covering the costs to administer the fund and oversee the implementation of
90 the specific mitigation or response action.

91 (6) The fund may account for assets held by the state for:

92 (a) an individual;

93 (b) a private or public entity;

94 (c) another governmental unit, including a local or federal agency;

95 (d) a state agency; or

96 (e) a Native American tribe.

97 Section 3. Section **19-1-604** is amended to read:

98 **19-1-604. Environmental mitigation.**

99 (1) The director shall administer the fund created in Section **19-1-603**.

100 (2) The director may:

101 (a) disburse funds to an authorized individual or public, private, or governmental
102 entity, or Native American tribe to implement a specified environmental mitigation action in
103 accordance with any terms and conditions associated with the funding source, as provided in
104 Subsection **19-1-603(4)**;

105 (b) expend funds to implement certain environmental mitigation actions in accordance
106 with any terms and conditions associated with the funding source, as provided in Subsection
107 **19-1-603(4)**;

108 (c) expend funds to implement an environmental response action or site closure, in
109 accordance with any terms and conditions associated with the funding source, as provided in
110 Subsection **19-1-603(4)**;

111 (d) expend funds to cover actual administrative expenditures in accordance with any
112 terms and conditions associated with the funds as provided in Subsection **19-1-603(4)**; ~~and~~

113 (e) within conditions associated with the funding source, expend funds for:

114 (i) the purchase, operation, or maintenance of a repository in the state;

115 (ii) the purchase or distribution of a home controlled substance disposal receptacle; or

116 (iii) educating citizens on the lawful and environmentally friendly disposal of a
117 controlled substance; or

118 ~~(e)~~ (f) return unused funds to the funding source, if required under the terms and

119 conditions as provided in Subsection 19-1-603(4).

120 (3) For an environmental response action conducted pursuant to Subsection
121 19-1-604(2)(c), the director shall comply with applicable environmental cleanup standards
122 described in this title.

123 (4) If the director disburses funds to another state agency in accordance with
124 Subsection (2)(a), that agency may expend the funds in accordance with any terms and
125 conditions associated with the fund contributions as provided in Subsection 19-1-603(4),
126 including returning any unused funds to the department.

127 (5) Following the completion of an environmental mitigation and response action, any
128 excess funds not returned to the funding source as provided in Subsection 19-1-603(4) shall be
129 transferred to the Hazardous Substances Mitigation Fund, in accordance with Section
130 19-6-307.

131 Section 4. Section 67-5-36 is enacted to read:

132 **67-5-36. Drug Disposal Program.**

133 (1) As used in the section:

134 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

135 (b) "Department" means the Department of Environmental Quality.

136 (c) "Environmentally friendly" means a controlled substance that is rendered:

137 (i) non-retrievable, as determined by the attorney general in consultation with the
138 department;

139 (ii) non-hazardous, as determined by the department; and

140 (iii) permissible to dispose in a landfill in a manner that does not violate state or federal
141 law relating to surface water or groundwater.

142 (d) "Home controlled substance disposal receptacle" means a receptacle provided by
143 the program that can be used by an individual to render a small amount of controlled
144 substances at an individual's residence non-retrievable and environmentally friendly.

145 (e) "Non-retrievable" means the same as that term is defined in 21 C.F.R. 1300.05.

146 (f) "Program" means the Drug Disposal Program described in this section.

147 (g) "Repository" means a controlled substance disposal repository described in
148 Subsection (3).

149 (2) The attorney general may, in coordination with the department, administer a

150 program, known as the Drug Disposal Program, to provide for the safe, secure, and
151 environmentally friendly disposal of controlled substances in the state.

152 (3) The attorney general and the department, in developing and implementing the
153 program:

154 (a) may work with law enforcement agencies, pharmacies, hospitals, and other entities
155 to ensure that one or more repositories are present in each county in the state;

156 (b) shall ensure that each repository:

157 (i) renders a controlled substance placed in the repository non-retrievable and
158 environmentally friendly, onsite; and

159 (ii) is secure from tampering or unauthorized removal;

160 (c) may require verification that:

161 (i) a repository complies with Subsection (3)(b); and

162 (ii) a home controlled substance disposal receptacle renders a controlled substance
163 non-retrievable and environmentally friendly;

164 (d) shall ensure that the program operates in accordance with Drug Enforcement
165 Administration rules; and

166 (e) may publish, on the websites of the attorney general's office and the department:

167 (i) a list of the location of each repository in the state; and

168 (ii) if home controlled substance disposal receptacles are used as part of the program,
169 information on how to obtain a home controlled substance disposal receptacle.

170 (4) The attorney general may, instead of, or in addition to, establishing a repository in a
171 county, establish a process for residents of the county to obtain a home controlled substance
172 disposal receptacle.

173 (5) A state or local government entity, other than the attorney general's office, the
174 department, or a designee of the department, may not:

175 (a) regulate the disposal of a controlled substance rendered non-retrievable in a
176 repository or home controlled substance disposal receptacle differently, or more strictly, than
177 disposal of non-hazardous household waste;

178 (b) regulate or restrict the location of a repository or the distribution of a home
179 controlled substance disposal receptacle; or

180 (c) otherwise take action to regulate or interfere with administration of the program.

181 (6) This section does not prohibit the disposal of a controlled substance:
182 (a) in a receptacle that does not qualify as a repository if:
183 (i) the receptacle is located on the premises of an entity authorized by Drug
184 Enforcement Administration rules to accept a controlled substance for subsequent disposal; and
185 (ii) the entity described in Subsection (6)(a)(i) ensures that the controlled substance is
186 managed in a manner permitted by Drug Enforcement Administration rule; or
187 (b) disposed at a facility that has received the approval required under Section
188 [19-6-108](#).