

## HOUSE BILL NO. HB0224

Illegal drug laboratories.

Sponsored by: Representative(s) Harvey, Berger, Hastert,  
Hinckley and Iekel and Senator(s) Barrasso,  
Coe and Decaria

## A BILL

for

1 AN ACT relating to illegal drug laboratories; providing for  
2 the creation of an environmental health program within the  
3 department of health; providing for identification of  
4 contaminated property; providing for testing and property  
5 closure by the department of health as specified; providing  
6 for remediation of contaminated property by the property  
7 owner or department of health; providing for recovery of  
8 remediation costs; providing for notice to affected  
9 persons; providing for a registry of contaminated property;  
10 granting rulemaking authority; providing criminal  
11 penalties; authorizing positions; providing an  
12 appropriation; and providing for an effective date.

13

14 *Be It Enacted by the Legislature of the State of Wyoming:*

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1       **Section 1.**       W.S. 35-29-101 through 35-29-106 are  
2 created to read:

3

4

CHAPTER 29

5

ILLEGAL DRUG LABORATORIES

6

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**35-29-101. Definitions.**

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9

(a) For purposes of this chapter:

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(i) "Contaminated" means the presence of  
12 hazardous chemicals, hazardous chemical byproducts,  
13 hazardous chemical waste or hazardous chemical residue at  
14 levels that create a hazard to the health of humans or  
15 animals;

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17

(ii) "Drug" means as defined in W.S.  
18 35-7-110(a) (x);

19

20

(iii) "Hazardous chemicals" means those  
21 substances identified by the department of health in its  
22 rules and regulations for purposes of this chapter;

23

1           (iv) "Illegal drug laboratory" means any  
2 facility used for the purpose of manufacturing drugs  
3 without approval of the Wyoming board of pharmacy pursuant  
4 to W.S. 33-24-139;

5

6           (v) "Program" means the environmental public  
7 health program of the department of health;

8

9           (vi) "Property" means any real property,  
10 fixture, structure or part of a structure, manufactured  
11 housing, motor vehicle, recreational vehicle, trailer or  
12 other personal property which is contaminated by the  
13 unauthorized manufacture or storage of hazardous chemicals  
14 or the operation of an illegal drug manufacturing  
15 laboratory.

16

17       **35-29-102. Identification of illegal drug laboratory;**  
18 **closure of property; report to department of health.**

19

20 In the event any law enforcement agency has reason to  
21 believe that any property has been used as an illegal drug  
22 laboratory, the agency shall immediately order the property  
23 closed, shall escort all occupants out of the property,  
24 shall post the property closed until further notice and

1 shall notify the department of health in the manner  
2 prescribed by department rule and regulation.

3

4 **35-29-103. Environmental health program; duties;**  
5 **notices.**

6

7 (a) The environmental health program within the  
8 department of health shall have the following duties  
9 regarding illegal drug laboratories:

10

11 (i) The program, with the assistance of local  
12 law enforcement personnel, shall enter and conduct a  
13 preliminary investigation of any reported illegal drug  
14 laboratory site within forty-eight (48) hours after  
15 receiving the report and shall evaluate the site for  
16 contamination;

17

18 (ii) The department may order and, with the  
19 assistance of local law enforcement personnel, shall  
20 supervise evacuation and relocation of residents, securing  
21 of the site or other appropriate acute steps to minimize  
22 exposure to identified or suspected contamination at the  
23 site;

24

1           (iii) If it identifies the existence of  
2 continuing contamination at the former laboratory site, the  
3 department shall order the property closed and shall place  
4 appropriate signage on any affected property and at the  
5 minimal safe distance from the property to caution that the  
6 site is contaminated and warn that unauthorized entry onto  
7 or use of the property is prohibited;

8  
9           (iv) If the contamination is limited to an  
10 enclosed portion of a hotel, motel, mobile home park or  
11 apartment building, the closure order shall be limited to  
12 that portion of the property necessary to protect other  
13 residents and the public from the contamination;

14  
15           (v) The department shall deliver a copy of a  
16 property closure order to any of the following persons who  
17 are present on site or, if the person is not present, the  
18 department shall mail a copy by certified mail to the  
19 person before the end of the next business day:

20  
21           (A) The owner, at the address on file with  
22 the county assessor;

23

1 (B) The manager or landlord if not the  
2 owner;

3

4 (C) The tenant;

5

6 (D) All adult occupants of the property.

7

8 (vi) As soon as practicable after identification  
9 of contamination, the department shall arrange for removal  
10 by the United States Drug Enforcement Administration or  
11 other appropriate federal authority of chemicals and  
12 apparatus used for illegal drug manufacturing;

13

14 (vii) In addition to the acute actions required  
15 under paragraph (vi) of this subsection, the department  
16 shall provide appropriate guidance to the affected property  
17 owner and to any remediation contractors hired by the owner  
18 in those additional remediation actions required to render  
19 the former laboratory site safe for reentry, habitation or  
20 use;

21

22 (viii) The department shall monitor and  
23 supervise the owner's or contractor's performance of  
24 remediation actions, shall test the affected property

1 following completion of remediation and shall issue a  
2 remediation certificate if the property tests free of  
3 contamination;

4

5 (ix) Within twenty-four (24) hours after issuing  
6 a remediation certificate, the department shall remove all  
7 property closure signage from the property and shall mail a  
8 copy of the remediation certificate to all persons who  
9 received the property closure order.

10

11 (b) The department shall maintain a registry of real  
12 property subject to active closure orders. The registry  
13 shall be available for public inspection and the department  
14 shall disclose information from the registry upon request  
15 of any person. No later than the next business day  
16 following issuance of the certification described in  
17 paragraph (a)(vi) of this section, the subject property  
18 shall be removed from the department's registry of active  
19 closure orders. If a property owner conveys any interest  
20 in real property while the property is subject to an active  
21 closure order, the owner or the owner's agent shall  
22 disclose the order to the transferee in writing before the  
23 conveyance of any deed, contract for deed, mortgage or  
24 other instrument.

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2 (c) The department shall maintain for each reported  
3 illegal drug laboratory site permanent detailed records of  
4 all contamination tests, remediation activities conducted  
5 at the site and costs expended for testing and remediation.

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7 **35-29-104. Contaminated property; costs of testing**  
8 **and remediation; liens; owner's cause of action.**

9

10 (a) The owner of contaminated property shall be  
11 liable for the actual costs of remediation from the time  
12 the property closure order is issued until the certificate  
13 of remediation is issued.

14

15 (b) The department and the owner of contaminated  
16 property who is not also a person listed in paragraphs (i)  
17 through (iv) of this subsection shall have a cause of  
18 action to recover their respective costs of testing and  
19 remediation resulting from the operation of an illegal drug  
20 laboratory on the owner's property, plus reasonable  
21 consequential damages, attorney fees and costs of  
22 litigation against the following persons, whose liability  
23 shall be joint and several:

24



1           (i) All persons participating in the operation  
2 of the illegal drug laboratory;

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4           (ii) Any tenant in control of the premises who  
5 knowingly authorized the operation of the illegal drug  
6 laboratory;

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8           (iii) Any person who supplied chemicals or  
9 equipment knowing that they would be used to manufacture  
10 illegal drugs;

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12           (iv) Any person who distributed or purchased  
13 illegal drugs manufactured on the owner's contaminated  
14 property.

15

16           (c) If the owner of contaminated property does not  
17 commence remediation within twenty-one (21) days of the  
18 department's property closure order, the department of  
19 health in its discretion may:

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21           (i) Enter into a contract with a remediation  
22 contractor for the remediation of the contamination;

23

1           (ii) Following notice and opportunity for a  
2 hearing, seize any contaminated personal property for  
3 appropriate disposal;

4  
5           (iii) File a notice of lien with the appropriate  
6 filing office identified in W.S. 34.1-9-501 for recording  
7 without charge a statement of lien for the estimated costs  
8 of testing and remediation of the contaminated property.  
9 The department shall file an amended lien statement when  
10 actual costs are determined and shall promptly file a  
11 satisfaction of lien upon receipt of payment of the lien  
12 amount. Lien amounts which remain unpaid sixty (60) days  
13 after recording the remediation certificate shall draw  
14 interest at the rate of eighteen percent (18%) per annum  
15 until paid. The attorney general on behalf of the  
16 department of health may initiate proceedings for  
17 foreclosure of the lien in district court within ten (10)  
18 years from the date of filing. After the date of filing,  
19 no person shall remove from the state any property subject  
20 to a lien under this section.

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22           **35-29-105. Departmental cooperation; rules and**  
23 **regulations.**

1 The department of health, following consultation with the  
2 department of environmental quality and division of  
3 criminal investigation of the office of the attorney  
4 general, shall promulgate rules and regulations for the  
5 identification, testing and remediation of property  
6 contaminated by illegal drug laboratories, including public  
7 or private property adjacent to contaminated property and  
8 including public or private sewerage systems that may  
9 damage public facilities or contaminate ground or surface  
10 water.

11  
12 **35-29-106. Criminal penalties.**

13  
14 (a) Any person who knowingly enters upon real  
15 property or uses personal property in violation of a  
16 property closure order is guilty of a misdemeanor and upon  
17 conviction shall be punished for each offense by a fine of  
18 not more than five hundred dollars (\$500.00), imprisonment  
19 for not more than six (6) months, or both.

20  
21 (b) A person who removes, defaces or obscures a  
22 property closure order properly posted on real property is  
23 guilty of a misdemeanor and upon conviction shall be

1 punished by a fine of not more than one thousand dollars  
2 (\$1,000.00).

3  
4 (c) A property owner who knowingly permits or  
5 encourages occupancy of his property in violation of a  
6 property closure order is guilty of a misdemeanor and upon  
7 conviction shall be punished by a fine of not more than one  
8 thousand dollars (\$1,000.00), imprisonment for not more  
9 than one (1) year, or both.

10  
11 **Section 2.** W.S. 9-2-102(a)(intro) and by creating a  
12 new paragraph (v) is amended to read:

13  
14 **9-2-102. Department of health; duties and**  
15 **responsibilities; state grants.**

16  
17 (a) The department of health is the state mental  
18 health authority, the developmental disabilities authority,  
19 the environmental public health authority and the substance  
20 abuse authority. The department through its divisions has  
21 the following duties and responsibilities to:

22  
23 (v) Provide a statewide program for  
24 environmental public health that includes:

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**Section 3.**

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(A) Sufficient offices, staffed by trained environmental public health technicians, to provide adequate statewide services;

(B) Environmental public health education and awareness training;

(C) Capability to respond promptly to reports of illegal drug laboratory sites and to evaluate reported sites for environmental public health hazards as provided in W.S. 35-29-101 through 35-29-106.

(a) There is appropriated eight hundred fifty-four thousand dollars (\$854,000.00) from the general fund to the department of health for the period beginning April 1, 2005 and ending June 30, 2006 to implement the purposes of this act.

(b) The department of health is authorized five (5) full-time positions to implement the purposes of this act.

1       **Section 4.** This act is effective immediately upon  
2 completion of all acts necessary for a bill to become law  
3 as provided by Article 4, Section 8 of the Wyoming  
4 Constitution.

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(END)