

SENATE FILE NO. SF0152

Illegal drug laboratories-remediation of buildings.

Sponsored by: Senator(s) Fecht and Representative(s) Meyer
and White

A BILL

for

1 AN ACT relating to public health and safety; providing that
2 the discovery on property of hazardous materials related to
3 clandestine laboratory operations constitutes an incident
4 requiring response under the Wyoming Emergency Response
5 Act; providing for rules and regulations setting forth
6 standards for remediation of clandestine laboratory
7 operations; providing for reimbursement of response costs;
8 providing for notice and time for private remediation; and
9 providing for an effective date.

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

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13 **Section 1.** W.S. 35-9-152(a)(iv), 35-9-153 by creating
14 a new subsection (h), 35-9-156(d), 35-9-157(b)(intro) and
15 35-9-159(b)(intro) and by creating new subsections (d) and
16 (e) are amended to read:

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2 **35-9-152. Definitions.**

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4 (a) As used in this act:

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6 (iv) "Incident" means the release, or imminent
7 threat of release, of a hazardous material, or a situation
8 involving a potential weapon of mass destruction that
9 requires the emergency action of responders to limit or
10 prevent damage to life or property. "Incident" also
11 includes the discovery on a property of hazardous materials
12 related to clandestine laboratory operations as defined in
13 W.S. 35-7-1058;

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15 **35-9-153. State emergency response commission;**
16 **creation; duties.**

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18 (h) The commission shall, by rule and regulation set
19 standards for incident response and remediation required to
20 render former clandestine laboratory operation sites safe
21 for re-entry, habitation or use with respect to the
22 following:

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1 (i) Decontamination and sampling standards and
2 best management practices for the inspection and
3 decontamination of property and the disposal of
4 contaminated debris;

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6 (ii) Appropriate methods for the testing of
7 buildings and interior surfaces, furnishings, soil and
8 septic tanks for contamination;

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10 (iii) When testing for contamination may be
11 required; and

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13 (iv) When a site may be declared remediated.

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15 **35-9-156. Local response authority.**

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17 (d) The incident commander shall declare an incident
18 ended when he has determined the threat to public health
19 and safety has ended. Until the incident commander has
20 declared the threat to public safety has ended the incident
21 commander shall have the authority to declare the site or
22 premise uninhabitable, secure the site or premise and take
23 appropriate steps to minimize exposure to identified or
24 suspected contamination at the site or premise.

35-9-157. Right to claim reimbursement.

(b) Notwithstanding subsection (a) of this section and except with respect to a response to a clandestine laboratory operation incident, no person shall be liable under this act if the incident was caused by:

35-9-159. Exceptions to reimbursements; exception to act.

(b) Except with respect to a response to a clandestine laboratory operation incident, the state, political subdivisions of the state or other unit of local government shall not be entitled to reimbursement under this act from any responsible party for an incident involving less than the following quantities of hazardous materials:

Hazard Class/Division from 49 CFR Article 100-185	Hazard Type	Quantity subject to reimbursement
1.1, 1.2, 1.3 (Table 1 materials)	Explosive Materials	Any quantity
1.4, 1.5, 1.6 (Table 2 materials)	Explosive Materials	1001 pounds
2.1 (Table 2 material)	Flammable Gas	150 gallons
2.3 (Table 1 material)	Poison Gas	Any quantity

1	3	Flammable Liquid	150 gallons
2	(Table 2 material)		
3	3	Combustible Liquid	300 gallons
4	(Table 2 material)		
5	4.1	Flammable Solid or	11 pounds
6	4.2	Spontaneously Combustible	
7	(Table 2 materials)	Material	
8	4.3	Dangerous When Wet	3 pounds
9	(Table 1 material)		
10	5.1	Oxidizer	1001 pounds
11	(Table 2 material)	(Includes inorganic	
12		Peroxides)	
13	5.2	Organic Peroxide	66 pounds
14	(Table 1 material)		
15	6.1	Poison (Inhalation	32 pounds
16	(Table 1 material)	Hazard Zone A or B)	
17	6.1	Poison (Other than	1001 pounds
18	(Table 2 material)	Inhalation Hazard Zone	
19		A or B)	
20	6.2	Infectious Substance	1001 pounds
21	(Table 2 material)		
22	Class 7	Radioactive Material	Any quantity
23	(Table 1 material)	(Yellow Label III only)	
24	Class 8	Corrosive Material	1001 pounds
25	(Table 2 material)		
26	Class 9	Miscellaneous	1001 pounds
27	(Table 2 material)	Hazardous Material	
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29 (d) Notwithstanding any other provision of this act,
 30 if a local law enforcement agency acting as an emergency
 31 responder does not find an immediate and substantial threat
 32 to public health when responding to a clandestine
 33 laboratory operation incident the local law enforcement
 34 agency discovering the clandestine laboratory operation
 35 shall provide written notice of the discovery to the owner
 36 of the property. The owner of the property shall have
 37 ninety (90) days to remediate the property in accordance
 38 with standards established pursuant to W.S. 35-9-153(h).
 39 If the property is not remediated within ninety (90) days

1 of receipt of notice pursuant to this section, the law
2 enforcement agency acting as an emergency responder may
3 take remediation action as provided in rules authorized
4 under W.S. 35-9-153(h). If the owner is unable to complete
5 the remediation within ninety (90) days, the owner may
6 request an extension of time from the local law enforcement
7 agency which shall grant the extension of time to complete
8 the remediation if it finds that:

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10 (i) The owner is making a good faith effort to
11 remediate the property; and

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13 (ii) The owner has a practical time schedule to
14 complete the remediation.

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16 (e) If the law enforcement agency denies an extension
17 pursuant to subsection (d) of this section, the owner may
18 appeal to the governing body of the local law enforcement
19 agency within fifteen (15) days of the issuance of the
20 denial. The law enforcement agency's authority to take
21 remediation action shall be stayed while the appeal is
22 pending.

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1 **Section 3.** 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)