

SENATE BILL NO. 1122

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~~This sentence is marked with strikethrough and italic, indicating text to be removed.~~

Bill Status

S1122aaH.....by JUDICIARY AND RULES
CLANDESTINE DRUG LABORATORY CLEANUP ACT - Adds to existing law to set forth the "Clandestine Drug Laboratory Cleanup Act;" to define terms; to require the promulgation of rules; to set forth law enforcement responsibilities; to set forth cleanup responsibilities of residential property owners; to provide for immunity; and to provide for voluntary compliance.

02/14 Senate intro - 1st rdg - to printing
02/15 Rpt prt - to Jud
02/21 Rpt out - rec d/p - to 2nd rdg
02/22 2nd rdg - to 3rd rdg
02/23 3rd rdg - PASSED - 31-0-4
AYES -- Andreason, Broadsword, Bunderson, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai,

Marley,

McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner,
Stennett,

Sweet, Werk, Williams

NAYS -- None

Absent and excused -- Brandt, Burkett, Gannon, Noble

Floor Sponsors - Darrington & Kelly

Title apvd - to House

02/24 House intro - 1st rdg - to Jud

03/10 Rpt out - to Gen Ord

03/14 Rpt out amen - to 1st rdg as amen

03/15 1st rdg - to 2nd rdg as amen

03/16 2nd rdg - to 3rd rdg as amen

03/17 3rd rdg as amen - PASSED - 62-2-6

AYES -- Anderson, Andrus, Barraclough, Bastian, Bayer, Bedke,
Bell,

Bilbao, Black, Block, Boe, Bolz, Bradford, Cannon, Chadderdon,
Clark,

Collins, Crow, Deal, Denney, Edmunson, Ellsworth, Eskridge,
Field(18), Field(23), Garrett, Hart, Harwood, Henbest,

Henderson,

Jaquet, Jones, Kemp, Lake, LeFavour, Loertscher, Martinez,

Mathews,

McGeachin, Miller, Mitchell, Moyle, Nielsen, Nonini, Pasley-
Stuart,

Pence, Ring, Ringo, Roberts, Rusche, Rydalch, Sali, Sayler,
Shepherd(2), Shepherd(8), Shirley, Skippen, Smylie, Snodgrass,
Stevenson, Trail, Wills

NAYS -- McKague, Schaefer

Absent and excused -- Barrett, Raybould, Smith(30), Smith(24),

Wood,

Mr. Speaker

Floor Sponsor - Field(18)

Title apvd - to Senate

03/18 Senate concurred in House amens - to engros

03/21 Rpt engros - 1st rdg - to 2nd rdg as amen

03/22 2nd rdg - to 3rd rdg as amen

03/23 3rd rdg as amen - PASSED - 34-0-0, 1 vacancy

AYES -- Andreason, Brandt, Broadsword, Bunderson, Burkett,
Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis,
Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough,

Langhorst,

Little, Lodge, Malepeai, Marley, McGee, McKenzie, Pearce,

Richardson,

Schroeder, Stegner, Stennett, Sweet, Werk, Williams

NAYS -- None

Absent and excused -- (District 21 seat vacant)

Floor Sponsor - Darrington

Title apvd - to enrol

03/24 Rpt enrol - Pres signed - Sp signed

03/25 To Governor

03/31 Governor signed

Session Law Chapter 215

Effective: 07/01/05

Bill Text

]]]] LEGISLATURE OF THE STATE OF IDAHO]]]]
 Fifty-eighth Legislature First Regular Session -
 2005

IN THE SENATE

SENATE BILL NO. 1122

BY JUDICIARY AND RULES COMMITTEE

1 AN ACT

2 RELATING TO CLANDESTINE DRUG LABORATORY CLEANUP; AMENDING
 TITLE 6, IDAHO CODE,

3 BY THE ADDITION OF A NEW CHAPTER 26, TITLE 6, IDAHO
 CODE, TO PROVIDE A

4 SHORT TITLE, TO SET FORTH THE PURPOSE OF THE CLANDESTINE
 DRUG LABORATORY

5 CLEANUP ACT, TO DEFINE TERMS, TO REQUIRE THE PROMULGATION
 OF RULES, TO SET

6 FORTH LAW ENFORCEMENT AGENCY RESPONSIBILITIES, TO
 SET FORTH CLEANUP

7 RESPONSIBILITIES OF RESIDENTIAL PROPERTY OWNERS, TO
 PROVIDE FOR IMMUNITY

8 AND TO PROVIDE FOR VOLUNTARY COMPLIANCE.

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Title 6, Idaho Code, be, and the same is
hereby amended

11 by the addition thereto of a NEW CHAPTER, to be known and
designated as Chap-

12 ter 26, Title 6, Idaho Code, and to read as follows:

13 CHAPTER 26
14 CLANDESTINE DRUG LABORATORY CLEANUP ACT

15 6-2601. SHORT TITLE. This chapter shall be known and may
be cited as the

16 "Clandestine Drug Laboratory Cleanup Act."

17 6-2602. PURPOSE. The legislature finds that some
residential properties

18 are being contaminated with hazardous chemical residues
created by the manu-

19 facture of clandestine drugs. Innocent members of the
public may be harmed

20 when they are exposed to chemical residues if the residential
properties are

21 not decontaminated prior to any subsequent rental, sale or
use of the proper-

22 ties. The purpose of this chapter is to protect the public
health, safety and

23 welfare by authorizing the department of health and
welfare to establish a

24 program providing a process and standards for the cleanup of
clandestine drug

25 laboratories.

26 6-2603. DEFINITIONS. As used in this chapter, unless
the context other-

27 wise requires:

28 (1) "Clandestine drug laboratory" means the areas where
controlled sub-

29 stances or their immediate precursors, as those terms are
defined in section

30 37-2701, Idaho Code, have been, or were attempted to be,
manufactured, proc-

31 essed, cooked, disposed of or stored, and all proximate areas
that are likely

32 to be contaminated as a result of such manufacturing,
processing, cooking,

33 disposing or storing.

34 (2) "Department" means the Idaho department of health and
welfare.

35 (3) "Law enforcement agency" means any policing agency of
the state or of

36 any political subdivision of the state.

37 (4) "Residential property" means any building or
structure to be primar-

38 ily occupied by people, either as a dwelling or as a
business, including a

39 storage facility, mobile home, manufactured home or
recreational vehicle that

40 may be sold, leased or rented for any length of time.
"Residential property"

2

1 does not include any water system, sewer system, land or
water outside of a

2 building or structure.

3 (5) "Residential property owner" means the person holding
record title to

4 residential property, as defined in this section.

5 6-2604. RULES. The department shall promulgate rules
establishing the

6 acceptable process and standards for the cleanup of
clandestine drug laborato-

7 ries. The department shall also promulgate rules
establishing a program for

8 addition to, and removal from, a list of residential
properties that housed a

9 clandestine drug laboratory.

10 6-2605. LAW ENFORCEMENT AGENCY RESPONSIBILITY. Following
the adoption of

11 rules pursuant to section 6-2604, Idaho Code, and using a
format established

12 by the department, a law enforcement agency, upon locating

chemicals, equip-

13 ment, supplies or immediate precursors indicative of a
clandestine drug labo-

14 ratory on a residential property, shall notify the
residential property owner

15 and the department.

16 6-2606. RESIDENTIAL PROPERTY OWNER CLEANUP
RESPONSIBILITY. (1) Except as

17 otherwise provided in subsection (2) of this section, upon
notification to a

18 residential property owner by a law enforcement agency that
chemicals, equip-

19 ment, supplies or immediate precursors indicative of a
clandestine drug labo-

20 ratory have been located on the owner's residential property,
the residential

21 property owner shall meet the cleanup standards established by
the department.

22 The residential property shall remain vacant from the time
the residential

23 property owner is notified of the clandestine drug laboratory
until such time

24 as the residential property owner has received a
certificate issued by the

25 department evidencing that the cleanup standards have been met.

26 (2) A residential property owner may, at his or her
option, elect to

27 demolish the residential property instead of meeting the
cleanup standards

28 established by the department.

29 6-2607. RESIDENTIAL PROPERTY OWNER IMMUNITY. Once a
residential property

30 meets the cleanup standards established by the department
pursuant to this

31 chapter, the residential property owner and any representative
or agent of the

32 residential property owner shall be immune from civil actions
involving health

33 claims brought by any future owner, renter or other person
who occupies the

34 residential property, and by any neighbor of such residential

property, where

35 the alleged cause of injury or loss is based upon the use of
the residential

36 property for the purposes of a clandestine drug laboratory,
provided however,

37 that such immunity shall not apply to any person alleged to
have produced the

38 clandestine drugs.

39 6-2608. VOLUNTARY COMPLIANCE. Any residential property
owner who chooses

40 to voluntarily and successfully accomplish the cleanup
standards established

41 by the department, whether or not such owner was notified by a
law enforcement

42 agency, shall be afforded the protections from civil actions
provided in sec-

43 tion 6-2607, Idaho Code.

Amendment

]]]] LEGISLATURE OF THE STATE OF IDAHO]]]]

Fifty-eighth Legislature First Regular Session -
2005

Moved by

Field (18)

Seconded by

Smith (24)

IN THE HOUSE OF REPRESENTATIVES
HOUSE AMENDMENT TO S.B. NO. 1122

1 AMENDMENTS TO SECTION 1

2 On page 2 of the printed bill, in line 17, following
"section," insert:

3 "and pursuant to rules adopted as provided in this chapter,";
in line 23, fol-
4 lowing "notified" insert: ", in accordance with rules
adopted as provided in
5 this chapter,"; in line 30, following "pursuant to" insert:
"rules adopted as
6 provided in"; and in line 41, following "department"
insert: "pursuant to
7 rules adopted as provided in this chapter".

Engrossed Bill (Original Bill with Amendment(s) Incorporated)

]]]] LEGISLATURE OF THE STATE OF IDAHO]]]]
Fifty-eighth Legislature First Regular Session -
2005

IN THE SENATE

SENATE BILL NO. 1122, As Amended in the House

BY JUDICIARY AND RULES COMMITTEE

1 AN ACT
2 RELATING TO CLANDESTINE DRUG LABORATORY CLEANUP; AMENDING
TITLE 6, IDAHO CODE,
3 BY THE ADDITION OF A NEW CHAPTER 26, TITLE 6, IDAHO
CODE, TO PROVIDE A
4 SHORT TITLE, TO SET FORTH THE PURPOSE OF THE CLANDESTINE
DRUG LABORATORY
5 CLEANUP ACT, TO DEFINE TERMS, TO REQUIRE THE PROMULGATION
OF RULES, TO SET
6 FORTH LAW ENFORCEMENT AGENCY RESPONSIBILITIES, TO
SET FORTH CLEANUP
7 RESPONSIBILITIES OF RESIDENTIAL PROPERTY OWNERS, TO
PROVIDE FOR IMMUNITY
8 AND TO PROVIDE FOR VOLUNTARY COMPLIANCE.

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Title 6, Idaho Code, be, and the same is
hereby amended
11 by the addition thereto of a NEW CHAPTER, to be known and
designated as Chap-
12 ter 26, Title 6, Idaho Code, and to read as follows:

13 CHAPTER 26
14 CLANDESTINE DRUG LABORATORY CLEANUP ACT

15 6-2601. SHORT TITLE. This chapter shall be known and may
be cited as the
16 "Clandestine Drug Laboratory Cleanup Act."

17 6-2602. PURPOSE. The legislature finds that some
residential properties
18 are being contaminated with hazardous chemical residues
created by the manu-
19 facture of clandestine drugs. Innocent members of the
public may be harmed
20 when they are exposed to chemical residues if the residential
properties are
21 not decontaminated prior to any subsequent rental, sale or
use of the proper-
22 ties. The purpose of this chapter is to protect the public
health, safety and
23 welfare by authorizing the department of health and
welfare to establish a
24 program providing a process and standards for the cleanup of
clandestine drug
25 laboratories.

26 6-2603. DEFINITIONS. As used in this chapter, unless
the context other-
27 wise requires:

28 (1) "Clandestine drug laboratory" means the areas where
controlled sub-
29 stances or their immediate precursors, as those terms are
defined in section
30 37-2701, Idaho Code, have been, or were attempted to be,
manufactured, proc-
31 essed, cooked, disposed of or stored, and all proximate areas
that are likely

32 to be contaminated as a result of such manufacturing,
processing, cooking,
33 disposing or storing.

34 (2) "Department" means the Idaho department of health and
welfare.

35 (3) "Law enforcement agency" means any policing agency of
the state or of

36 any political subdivision of the state.

37 (4) "Residential property" means any building or
structure to be primar-

38 ily occupied by people, either as a dwelling or as a
business, including a

39 storage facility, mobile home, manufactured home or
recreational vehicle that

40 may be sold, leased or rented for any length of time.

"Residential property"

2

1 does not include any water system, sewer system, land or
water outside of a

2 building or structure.

3 (5) "Residential property owner" means the person holding
record title to

4 residential property, as defined in this section.

5 6-2604. RULES. The department shall promulgate rules
establishing the

6 acceptable process and standards for the cleanup of
clandestine drug laborato-

7 ries. The department shall also promulgate rules
establishing a program for

8 addition to, and removal from, a list of residential
properties that housed a

9 clandestine drug laboratory.

10 6-2605. LAW ENFORCEMENT AGENCY RESPONSIBILITY. Following
the adoption of

11 rules pursuant to section 6-2604, Idaho Code, and using a
format established

12 by the department, a law enforcement agency, upon locating
chemicals, equip-

13 ment, supplies or immediate precursors indicative of a

clandestine drug labo-

14 ratory on a residential property, shall notify the
residential property owner

15 and the department.

16 6-2606. RESIDENTIAL PROPERTY OWNER CLEANUP
RESPONSIBILITY. (1) Except as

17 otherwise provided in subsection (2) of this section, and
pursuant to rules

18 adopted as provided in this chapter, upon notification to a
residential prop-

19 erty owner by a law enforcement agency that chemicals,
equipment, supplies or

20 immediate precursors indicative of a clandestine drug
laboratory have been

21 located on the owner's residential property, the
residential property owner

22 shall meet the cleanup standards established by the
department. The residen-

23 tial property shall remain vacant from the time the
residential property owner

24 is notified, in accordance with rules adopted as provided in
this chapter, of

25 the clandestine drug laboratory until such time as the
residential property

26 owner has received a certificate issued by the department
evidencing that the

27 cleanup standards have been met.

28 (2) A residential property owner may, at his or her
option, elect to

29 demolish the residential property instead of meeting the
cleanup standards

30 established by the department.

31 6-2607. RESIDENTIAL PROPERTY OWNER IMMUNITY. Once a
residential property

32 meets the cleanup standards established by the department
pursuant to rules

33 adopted as provided in this chapter, the residential property
owner and any

34 representative or agent of the residential property owner
shall be immune from

35 civil actions involving health claims brought by any future

owner, renter or

36 other person who occupies the residential property, and by
any neighbor of

37 such residential property, where the alleged cause of injury
or loss is based

38 upon the use of the residential property for the purposes
of a clandestine

39 drug laboratory, provided however, that such immunity shall
not apply to any

40 person alleged to have produced the clandestine drugs.

41 6-2608. VOLUNTARY COMPLIANCE. Any residential property
owner who chooses

42 to voluntarily and successfully accomplish the cleanup
standards established

43 by the department pursuant to rules adopted as provided
in this chapter,

44 whether or not such owner was notified by a law enforcement
agency, shall be

45 afforded the protections from civil actions provided in
section 6-2607, Idaho

46 Code.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE

RS 14915

The purpose of this legislation is to establish a program providing for a clandestine drug laboratory cleanup process and standard. The legislation directs the Department of Health and Welfare to create standards and a process for cleaning up clandestine laboratories, and to create a tracking system whereby an affected residential property can be added to, and removed from, the system. The law enforcement agency that discovers the clandestine lab will be charged with notifying the residential property owner and the Department. Once the residential property has met the cleanup standards

defined by Department, no health-based claim may be filed against the owner of the property for impacts resulting from the clandestine laboratory.

FISCAL NOTE

The Department of Health and Welfare will oversee the implementation of this legislation. Costs would include salary and benefits as well as travel and operating expenses. Total cost would be \$78,000 to the General Fund.

CONTACT:

Name: Senator Denton Darrington
Phone: 208-332-1000

Name: Representative Debbie Field
Phone: 208-332-1000

Name: Megan Ronk, Office of the Governor
Phone: 208-334-2100

Name: John Eaton, Idaho Association of REALTORS
Phone: 208-342-3585

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STATEMENT OF PURPOSE/FISCAL NOTE

S 1122