

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 198

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO LABORATORIES; AMENDING SECTION 6-2602, IDAHO CODE, TO REVISE
2 A STATEMENT OF PURPOSE; AMENDING SECTION 6-2603, IDAHO CODE, TO DE-
3 FINE A TERM; REPEALING SECTION 6-2604, IDAHO CODE, RELATING TO RULES;
4 AMENDING CHAPTER 26, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW
5 SECTION 6-2604, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING DEPART-
6 MENT RESPONSIBILITY; AMENDING SECTION 6-2605, IDAHO CODE, TO REVISE
7 PROVISIONS REGARDING LAW ENFORCEMENT AGENCY RESPONSIBILITY; AMEND-
8 ING SECTION 6-2606, IDAHO CODE, TO REMOVE PROVISIONS REGARDING RULES;
9 AMENDING SECTION 6-2607, IDAHO CODE, TO REMOVE A PROVISION REGARDING
10 RULES; AMENDING SECTION 6-2608, IDAHO CODE, TO REMOVE A PROVISION RE-
11 GARDING RULES; AMENDING CHAPTER 26, TITLE 6, IDAHO CODE, BY THE ADDITION
12 OF A NEW SECTION 6-2609, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING
13 CLEARANCE SAMPLING REQUIREMENTS; AMENDING CHAPTER 26, TITLE 6, IDAHO
14 CODE, BY THE ADDITION OF A NEW SECTION 6-2610, IDAHO CODE, TO ESTABLISH
15 PROVISIONS REGARDING CLEANUP STANDARDS; AMENDING CHAPTER 26, TITLE 6,
16 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-2611, IDAHO CODE, TO ES-
17 TABLISH PROVISIONS REGARDING REPORTING REQUIREMENTS; AMENDING SECTION
18 56-1007, IDAHO CODE, TO PROVIDE THAT THE STATE LABORATORY IS AUTHORIZED
19 TO CHARGE CERTAIN FEES; AMENDING TITLE 56, IDAHO CODE, BY THE ADDITION
20 OF A NEW CHAPTER 22, TITLE 56, IDAHO CODE, TO PROVIDE A SHORT TITLE,
21 TO ESTABLISH PROVISIONS REGARDING APPLICATION FOR CERTIFICATION, TO
22 ESTABLISH PROVISIONS REGARDING CERTIFICATION FEES, AND TO ESTABLISH
23 PROVISIONS REGARDING CERTIFICATION OVERSIGHT AND REQUIREMENTS; AMEND-
24 ING TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 23, TITLE
25 56, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO ESTABLISH PROVISIONS RE-
26 GARDING REGISTRATION REQUIREMENTS, TO ESTABLISH PROVISIONS REGARDING
27 DEPARTMENT INSPECTIONS, AND TO ESTABLISH PROVISIONS REGARDING GENERAL
28 REQUIREMENTS; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED IN
29 IDAPA 16.02.06 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT; PROVID-
30 ING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED IN IDAPA 16.02.13 SHALL
31 BE NULL, VOID, AND OF NO FORCE AND EFFECT; PROVIDING THAT CERTAIN ADMIN-
32 ISTRATIVE RULES CONTAINED IN IDAPA 16.02.24 SHALL BE NULL, VOID, AND OF
33 NO FORCE AND EFFECT; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES CON-
34 TAINED IN IDAPA 16.02.25 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT;
35 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
36

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

38 SECTION 1. That Section 6-2602, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 6-2602. PURPOSE. The legislature finds that some residential prop-
41 erties are being contaminated with hazardous chemical residues created by
42 the manufacture of clandestine drugs. Innocent members of the public may be

1 harmed when they are exposed to chemical residues if the residential prop-
 2 erties are not decontaminated prior to any subsequent rental, sale or use of
 3 the properties. The purpose of this chapter is to protect the public health,
 4 safety and welfare by ~~authorizing the department of health and welfare to~~
 5 ~~establish~~ establishing a program providing a process and standards for the
 6 cleanup of clandestine drug laboratories.

7 SECTION 2. That Section 6-2603, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 6-2603. DEFINITIONS. As used in this chapter, unless the context oth-
 10 erwise requires:

11 (1) "Clandestine drug laboratory" means the areas where controlled
 12 substances or their immediate precursors, as those terms are defined in sec-
 13 tion 37-2701, Idaho Code, have been, or were attempted to be, manufactured,
 14 processed, cooked, disposed of or stored, and all proximate areas that are
 15 likely to be contaminated as a result of such manufacturing, processing,
 16 cooking, disposing or storing.

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

18 (3) "Law enforcement agency" means any policing agency of the state or
 19 of any political subdivision of the state.

20 (4) "Qualified industrial hygienist" means an individual who is:

21 (a) Certified in comprehensive practice by the American board of indus-
 22 trial hygiene; or

23 (b) Registered as a member of the association of professional indus-
 24 trial hygienists.

25 ~~(4)~~ (5) "Residential property" means any building or structure to be
 26 primarily occupied by people, either as a dwelling or as a business, includ-
 27 ing a storage facility, mobile home, manufactured home or recreational vehi-
 28 cle that may be sold, leased or rented for any length of time. "Residential
 29 property" does not include any water system, sewer system, land or water out-
 30 side of a building or structure.

31 ~~(5)~~ (6) "Residential property owner" means the person holding record
 32 title to residential property, as defined in this section.

33 SECTION 3. That Section 6-2604, Idaho Code, be, and the same is hereby
 34 repealed.

35 SECTION 4. That Chapter 26, Title 6, Idaho Code, be, and the same is
 36 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 37 ignated as Section 6-2604, Idaho Code, and to read as follows:

38 6-2604. DEPARTMENT RESPONSIBILITY. (1) Upon notification by a law en-
 39 forcement agency or a property owner who voluntarily reports a property, the
 40 department shall place the property on the clandestine drug laboratory site
 41 property list.

42 (2) When a property is determined by a qualified industrial hygienist
 43 to meet the cleanup standard in this chapter or the property owner submits
 44 documentation establishing that the property has been fully and lawfully de-
 45 molished, the department shall issue the property owner a dated certificate
 46 of delisting.

1 SECTION 5. That Section 6-2605, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 6-2605. LAW ENFORCEMENT AGENCY RESPONSIBILITY. ~~Following the adop-~~
4 ~~tion of rules pursuant to section 6-2604, Idaho Code, and using a format~~
5 ~~established by the department, a~~ A law enforcement agency, upon locating
6 chemicals, equipment, supplies or immediate precursors indicative of a
7 clandestine drug laboratory on a residential property, shall notify the
8 residential property owner and the department within seventy-two (72) hours
9 using the department-approved form and shall post a sign on the property.

10 SECTION 6. That Section 6-2606, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 6-2606. RESIDENTIAL PROPERTY OWNER CLEANUP RESPONSIBILITY. (1) Ex-
13 cept as otherwise provided in subsection (2) of this section, ~~and pursuant to~~
14 ~~rules adopted as provided in this chapter,~~ upon notification to a residen-
15 tial property owner by a law enforcement agency that chemicals, equipment,
16 supplies or immediate precursors indicative of a clandestine drug labora-
17 tory have been located on the owner's residential property, the residential
18 property owner shall meet the cleanup standards established by the de-
19 partment. The residential property shall remain vacant from the time the
20 residential property owner is notified, ~~in accordance with rules adopted as~~
21 ~~provided in this chapter,~~ of the clandestine drug laboratory until such time
22 as the residential property owner has received a certificate issued by the
23 department evidencing that the cleanup standards have been met.

24 (2) A residential property owner may, at his or her option, elect to de-
25 molish the residential property instead of meeting the cleanup standards es-
26 tablished by the department.

27 SECTION 7. That Section 6-2607, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 6-2607. RESIDENTIAL PROPERTY OWNER IMMUNITY. Once a residential prop-
30 erty meets the cleanup standards established ~~by the department pursuant to~~
31 ~~rules adopted as provided in this chapter,~~ the residential property owner
32 and any representative or agent of the residential property owner shall be
33 immune from civil actions involving health claims brought by any future
34 owner, renter or other person who occupies the residential property, and by
35 any neighbor of such residential property, where the alleged cause of injury
36 or loss is based upon the use of the residential property for the purposes of
37 a clandestine drug laboratory, provided however, that such immunity shall
38 not apply to any person alleged to have produced the clandestine drugs.

39 SECTION 8. That Section 6-2608, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 6-2608. VOLUNTARY COMPLIANCE. Any residential property owner who
42 chooses to voluntarily and successfully accomplish the cleanup standards
43 established by ~~the department pursuant to rules adopted as provided in this~~
44 ~~chapter,~~ whether or not such owner was notified by a law enforcement agency,

1 shall be afforded the protections from civil actions provided in section
2 6-2607, Idaho Code.

3 SECTION 9. That Chapter 26, Title 6, Idaho Code, be, and the same is
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
5 ignated as Section 6-2609, Idaho Code, and to read as follows:

6 6-2609. CLEARANCE SAMPLING REQUIREMENTS. (1) A qualified industrial
7 hygienist who is independent of the company or entity conducting the cleanup
8 or analysis shall conduct sampling to verify that cleanup standards have
9 been met. All sample collection must be conducted pursuant to this section.

10 (2) Sample locations shall be photographed and show the floor plan of
11 the property, and such photos shall be included in the requisite final re-
12 port.

13 (3) Samples shall be obtained, preserved, and handled under profes-
14 sional standards for the types of samples and analytical testing to be
15 conducted under the chain of custody protocol.

16 (4) Samples shall be analyzed by a laboratory certified by the United
17 States environmental protection agency or accredited by the American indus-
18 trial hygiene association laboratory accreditation program for the analyte
19 being analyzed.

20 (5) Sampling locations shall be numerically identified, and the num-
21 bered sampling locations shall be delineated on the floor plan, visible in
22 photographs, and linked to samples.

23 (6) Standard three (3) inch by three (3) inch gauze shall be used for
24 all sampling. The gauze shall be wetted with analytical grade methanol or
25 isopropanol and each surface wiped at least five (5) times in two (2) perpen-
26 dicular directions, and the gauze shall be turned onto itself throughout the
27 wiping process.

28 (7) After sampling, the sample shall be placed in a new, clean sample
29 container and sealed with a teflon-lined lid. The sample container shall be
30 labeled with the site or project identification number, date, time, and sam-
31 ple location and shall be handled by professional standards and conducted
32 under the chain of custody protocol.

33 (8) Discrete sampling shall be used in areas expected to have the high-
34 est levels of contamination as identified on the department-approved form.
35 A ten (10) centimeter by ten (10) centimeter area shall be sampled from non-
36 porous surfaces such as floors, walls, appliances, sinks, or countertops in
37 each room. The sample area shall be composed of no fewer than three (3) dis-
38 crete samples.

39 (9) All other rooms of the property with the lowest levels of contamina-
40 tion shall be sampled using one (1) discrete sample per room.

41 (10) A ten (10) centimeter by ten (10) centimeter area shall be sampled
42 from the ventilation system in a location to be determined by the qualified
43 industrial hygienist.

44 SECTION 10. That Chapter 26, Title 6, Idaho Code, be, and the same is
45 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
46 ignated as Section 6-2610, Idaho Code, and to read as follows:

1 6-2610. CLEANUP STANDARDS. The following cleanup standards must be
2 met:

3 (1) A level of methamphetamine that does not exceed a concentration of
4 one-tenth (0.1) of a microgram per one hundred (100) square centimeters as
5 demonstrated by clearance sampling conducted by a qualified industrial hy-
6 gienist.

7 (2) If a porous surface has a level of methamphetamine that does not
8 exceed a concentration of five-tenths (0.5) of a microgram per one hundred
9 (100) square centimeters as demonstrated by clearance sampling conducted by
10 a qualified industrial hygienist, an adequate coating or sealant appropri-
11 ate to the material may be used as a method to meet the cleanup standard.

12 (3) Standards may be established for the cleanup of other controlled
13 substances found in clandestine drug laboratories on an individual basis,
14 based on an inventory of chemicals found, and after consultation with the de-
15 partment, the property owner, law enforcement, and a qualified industrial
16 hygienist.

17 SECTION 11. That Chapter 26, Title 6, Idaho Code, be, and the same is
18 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
19 ignated as Section 6-2611, Idaho Code, and to read as follows:

20 6-2611. REPORTING REQUIREMENTS. (1) For a property to be delisted, the
21 property owner must provide the department with an original or certified
22 copy of the final report that includes the following from a qualified indus-
23 trial hygienist:

24 (a) The property description, including physical street address, city,
25 zip code, legal description, ownership, and number and type of struc-
26 tures present;

27 (b) Documentation of sampling procedures and analytical results from a
28 laboratory as specified in this chapter; and

29 (c) A qualified industrial hygienist statement of qualifications, in-
30 cluding professional certification or documentation, and a signed cer-
31 tification stating: "I certify that the cleanup standard established
32 by Idaho Code has been met as evidenced by testing I conducted."

33 (2) If the property owner chooses to demolish the property, documenta-
34 tion shall be provided to the department showing that the structure was com-
35 pletely and lawfully demolished and disposed of complying with local, state,
36 and federal laws and regulations.

37 SECTION 12. That Section 56-1007, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 56-1007. COLLECTION OF FEES FOR SERVICES. The department of health and
40 welfare is hereby authorized to charge and collect reasonable fees, estab-
41 lished by rule, for any service rendered by the department. The fee may be
42 determined by a sliding scale according to income or available assets. The
43 department is hereby authorized to require information concerning the total
44 income and assets of each person receiving services in order to determine the
45 amount of the fee to be charged. The state laboratory is authorized to charge
46 testing fees at market rates that do not disadvantage entities offering sim-
47 ilar services.

1 SECTION 13. That Title 56, Idaho Code, be, and the same is hereby
2 amended by the addition thereto of a NEW CHAPTER, to be known and designated
3 as Chapter 22, Title 56, Idaho Code, and to read as follows:

4 CHAPTER 22
5 DRINKING WATER LABORATORY CERTIFICATION PROGRAM

6 56-2201. SHORT TITLE. This chapter shall be known and may be cited as
7 the "Drinking Water Laboratory Certification Program."

8 56-2202. APPLICATION FOR CERTIFICATION. (1) An application for drink-
9 ing water certification, listing methods approved by the department of envi-
10 ronmental quality, shall be submitted annually by laboratories seeking cer-
11 tification on a form approved by the department of health and welfare.

12 (2) Applications for renewal and supporting documentation requested by
13 the department of health and welfare must be received by the department at
14 least thirty (30) days before the current certificate expires.

15 (3) A laboratory seeking to change methods or to add analytes prior to
16 annual reapplication shall submit an amended application and provide sup-
17 porting documentation requested by the department of health and welfare.
18 Laboratories submitting an amended application shall be subject to an addi-
19 tional base fee charge.

20 (4) All certifications shall be valid for one (1) year from the date of
21 issuance.

22 56-2203. CERTIFICATION FEES. (1) Laboratories requesting chemistry
23 certification shall be charged a base fee of one hundred dollars (\$100) per
24 discipline and twenty dollars (\$20.00) per analyte per method.

25 (2) Laboratories requesting microbiology certification shall be
26 charged a fee of one hundred fifty dollars (\$150).

27 (3) Out-of-state laboratories requesting chemistry certification
28 shall be charged a base fee of two hundred dollars (\$200) per discipline and
29 twenty dollars (\$20.00) per analyte per method.

30 (4) Out-of-state laboratories requesting microbiology certification
31 shall be charged a fee of three hundred dollars (\$300).

32 (5) New laboratories requesting certification will be charged a non-
33 refundable application fee of two hundred fifty dollars (\$250) per disci-
34 pline listed on the completed application form.

35 56-2204. CERTIFICATION OVERSIGHT AND REQUIREMENTS. (1) Qualified
36 representatives of the department of health and welfare are authorized to
37 audit the premises and operations of all certified laboratories to determine
38 the adequacy of the laboratory to perform drinking water compliance testing.
39 On-site audits shall occur a minimum of every three (3) years or more fre-
40 quently at the discretion of the department. Departmental representatives
41 shall issue a written report of audit findings, list items requiring a lab-
42 oratory response, and specify the response time frame required to maintain
43 certification.

44 (2) Test results shall be submitted in a format approved by the depart-
45 ment of environmental quality and shall be reported to the department of en-
46 vironmental quality, or the department's designee, no later than ten (10)

1 business days after the completion of testing or upon receipt of results from
2 subcontracted laboratories.

3 (3) As soon as feasible, a laboratory shall notify the department of
4 environmental quality, or the department's designee, of any nitrate and ni-
5 trate level exceeding the current maximum contaminant level. Notification
6 shall also be made for any other regulated chemical or radiological contam-
7 inant that exceeds four (4) times the maximum contaminant level. Notifica-
8 tion requirements apply to any samples subcontracted to another laboratory.

9 (4) A laboratory shall notify the department of environmental quality,
10 or the department's designee, of any total coliform positive result by the
11 end of the day, unless the positive result is obtained after the department
12 of environmental quality is closed and the department of environmental qual-
13 ity does not have either an after-hours phone line or an alternative notifi-
14 cation procedure, in which case the laboratory shall notify the department
15 of environmental quality before the end of the next business day.

16 SECTION 14. That Title 56, Idaho Code, be, and the same is hereby
17 amended by the addition thereto of a NEW CHAPTER, to be known and designated
18 as Chapter 23, Title 56, Idaho Code, and to read as follows:

19 CHAPTER 23
20 QUALITY ASSURANCE FOR CLINICAL LABORATORIES

21 56-2301. SHORT TITLE. This chapter shall be known and may be cited as
22 the "Quality Assurance for Clinical Laboratories."

23 56-2302. REGISTRATION REQUIREMENTS. (1) A clinical laboratory shall
24 register with the department of health and welfare on a department form prior
25 to accepting specimens for testing.

26 (2) Registered clinical laboratories shall submit a completed regis-
27 tration form every two (2) years and indicate any changes in laboratory oper-
28 ations.

29 (3) To be registered, a clinical laboratory shall submit evidence of
30 certification from one (1) of the following:

- 31 (a) The centers for medicare and medicaid services (CMS) clinical labo-
32 ratory improvement amendments certification program;
33 (b) An agency approved by CMS as an accreditation program; or
34 (c) Other certification programs approved by the department of health
35 and welfare.

36 (4) The following laboratories and facilities are excluded from com-
37 pliance with this chapter:

- 38 (a) Teaching, research, forensic, and pre-employment drug screening
39 laboratories, if test results are not used for diagnosis or treatment;
40 (b) Prosthetic dental laboratories; and
41 (c) Facilities performing skin testing solely for the detection of al-
42 lergies and sensitivities.

43 56-2303. DEPARTMENT INSPECTIONS. Qualified representatives of the
44 department of health and welfare are authorized to inspect any registered
45 clinical laboratory to determine the adequacy of the supervision, staffing,
46 and quality assurance program.

1 56-2304. GENERAL REQUIREMENTS. (1) A clinical laboratory shall have
2 adequate space, equipment, and supplies to perform the services offered by
3 the laboratory with accuracy, precision, and safety.

4 (2) Practitioners legally authorized to diagnose, treat, and prescribe
5 are authorized to order both waived and nonwaived tests and receive results.
6 Laboratory directors are authorized to order the waived tests listed on an
7 approved registration form and receive results.

8 (3) Clinical laboratories shall satisfactorily participate in profi-
9 ciency testing programs approved by the department of health and welfare and
10 ensure all proficiency testing results are available to the department.

11 (4) Clinical laboratories shall:

12 (a) Identify the person responsible for performing a procedure;

13 (b) Maintain testing records for at least two (2) years and ensure that
14 test reports are readily accessible upon request; and

15 (c) Identify specimens referred to other certified laboratories and
16 identify the reference laboratory by name and address.

17 SECTION 15. The rules contained in IDAPA 16.02.06, Idaho Department
18 of Health and Welfare, relating to Quality Assurance for Clinical Labo-
19 ratories, shall be null, void, and of no force and effect on and after the
20 effective date of this act.

21 SECTION 16. The rules contained in IDAPA 16.02.13, Idaho Department
22 of Health and Welfare, relating to State of Idaho Drinking Water Laboratory
23 Certification Program, shall be null, void, and of no force and effect on and
24 after the effective date of this act.

25 SECTION 17. The rules contained in IDAPA 16.02.24, Idaho Department of
26 Health and Welfare, relating to Clandestine Drug Laboratory Cleanup, shall
27 be null, void, and of no force and effect on and after the effective date of
28 this act.

29 SECTION 18. The rules contained in IDAPA 16.02.25, Idaho Department of
30 Health and Welfare, relating to State Laboratory Fees, shall be null, void,
31 and of no force and effect on and after the effective date of this act.

32 SECTION 19. An emergency existing therefor, which emergency is hereby
33 declared to exist, this act shall be in full force and effect on and after
34 July 1, 2025.