

# SENATE BILL NO. 1122

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Text to be added within a bill has been marked with Bold and Underline. Text to be removed has been marked with Strikethrough and Italic. How these codes are actually displayed will vary based on the browser software you are using.

**This sentence is marked with bold and underline to show added text.**

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

## Bill Status

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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"

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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

## AMENDMENTS TO SECTION 1

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

## AN ACT

1  
 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:

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 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:

## CHAPTER 26

## 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.

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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.

