

**CHAPTER 141****CLEANUP OF CLANDESTINE LABORATORY SITES***H.F. 419*

**AN ACT** relating to the recovery by the department of public safety of costs associated with the cleanup of a clandestine laboratory site.

*Be It Enacted by the General Assembly of the State of Iowa:*

**Section 1. NEW SECTION. 124C.1 DEFINITIONS.**

As used in this section, unless the context clearly requires otherwise:

1. "Clandestine laboratory site" means a location or operation, including but not limited to buildings or vehicles equipped with glassware, heating devices, and precursors or related reagents and solvents needed to unlawfully prepare or manufacture controlled substances defined in chapter 124.

2. "Cleanup" means actions necessary to contain, collect, control, identify, analyze, disassemble, treat, remove or otherwise disperse all substances and materials, including but not limited to those found to be hazardous waste as defined in section 455B.411 and controlled substances defined in chapter 124, including contamination caused by those chemicals or substances.

3. "Commissioner" means the commissioner of public safety.

4. "Department" means the department of public safety.

5. "Hazardous substance" means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, and other substances defined in rules adopted pursuant to section 455B.381 and controlled substances as defined in chapter 124.

6. "Person having control over a clandestine laboratory site" means a person who at any time possesses, produces, handles, stores, uses, transports, or disposes of a hazardous substance or controlled substance used or intended for use at a clandestine laboratory site. A person having control over a clandestine laboratory site does not include persons performing duties listed in section 124C.2 at the direction of the commissioner and does not include a person who is the owner of the property or a person holding a security interest in the property in or upon which the clandestine laboratory site is located unless the person knew that a clandestine laboratory existed in or upon the person's property.

**Sec. 2. NEW SECTION. 124C.2 POWERS AND DUTIES OF THE COMMISSIONER.**

1. The commissioner or the commissioner's designee may use funds appropriated or otherwise available to the department for the following purposes:

a. Administrative services for the identification, assessment, and cleanup of clandestine laboratory sites.

b. Payments to other government agencies or private contractors for services consistent with the management and cleanup of a clandestine laboratory site.

c. Emergency response activities involving clandestine laboratory sites, including surveillance, entry, security, cleanup, and disposal.

The commissioner may request the assistance of other state, federal, and local agencies as necessary.

2. The commissioner shall proceed, pursuant to this section, to collect all costs incurred in cleanup of a clandestine laboratory site from the person having control over a clandestine laboratory site.

3. The commissioner shall make all reasonable efforts to recover the full amount of moneys expended, through litigation or otherwise. Moneys recovered shall be deposited with the treasurer of state and credited to the department of public safety.

**Sec. 3. NEW SECTION. 124C.3 LIABILITY TO THE STATE.**

A person having control over a clandestine laboratory site shall be strictly liable to the state for all of the following:

1. The reasonable costs incurred by the state as a result of cleanup of the site.
2. The reasonable costs incurred by the state to evacuate people from the area threatened by the clandestine laboratory site.
3. The reasonable damages to the state for the injury to, destruction of, or loss of natural resources resulting from the clandestine laboratory site, including the costs of assessing the injury, destruction, or loss.

**Sec. 4. NEW SECTION. 124C.4 CLAIM OF STATE.**

1. An amount for which a person having control over a clandestine laboratory is liable to the state shall constitute a lien in favor of the state upon all property and rights to property, real and personal, belonging to that person. This lien shall attach at the time the charges set out in section 124C.3 become due and payable and shall continue for ten years from the time the lien attaches unless sooner released or otherwise discharged. The lien may be extended, within ten years from the date the lien attaches by filing a notice with the appropriate county official of the appropriate county and from the time of filing the lien shall be extended as to the property in that county for ten years, unless sooner released or otherwise discharged, with no limit on the number of extensions.

2. In order to preserve the lien against subsequent mortgagees, purchasers, or judgment creditors for value and without notice of the lien, the commissioner shall file with the recorder of the county in which the property is located a notice of the lien. A laboratory cleanup lien shall be recorded in the index of income tax liens in the county.

3. Each notice of lien shall be endorsed with the day, hour, and minute when the notice was received, the notice shall be preserved, indexed in the index book, and recorded in the manner provided for recording real estate mortgages. The lien shall be effective from the time of its indexing. The department shall pay a recording fee as provided by section 331.604 for the recording of the lien or for its satisfaction.

4. Upon payment of a charge for which the commissioner has filed a notice of lien with a county, the commissioner shall immediately file with the county a satisfaction of the charge and the satisfaction of the charge shall be indicated on the index.

The attorney general, upon the request of the commissioner, shall bring an action at law or in equity, without bond, to enforce payment of any charges or penalties, and in such action the attorney general shall have the assistance of the county attorney of the county in which the action is pending.

The remedies available to the state in this chapter shall be cumulative and no action taken by the commissioner or attorney general shall be construed to be an election on the part of the state to pursue any remedy to the exclusion of any other remedy provided by law.

**Sec. 5. NEW SECTION. 124C.5 LIABILITY OF STATE EMPLOYEES OR PERSONS PROVIDING CLEANUP ASSISTANCE.**

The state and its officers or employees are not liable for damages or injury caused by a condition at a clandestine laboratory site or resulting from action or inaction taken by any officers or employees when acting in their official capacity pursuant to this chapter, unless the damage or injury resulted from intentional wrongdoing or gross negligence.

**Sec. 6. NEW SECTION. 124C.6 LEGAL REMEDIES.**

This chapter does not deny a person any legal or equitable rights, remedies, or defenses, or affect any legal relationship other than the legal relationship between the state and a person having control over a clandestine laboratory site.

**Sec. 7. NEW SECTION. 124C.7 RULEMAKING AUTHORITY.**

The department may adopt rules pursuant to chapter 17A necessary to administer this chapter.