

## MN STATUTES ANNOTATED

### **145A.04 POWERS AND DUTIES OF BOARD OF HEALTH.**

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#### **Subdivision 1. Jurisdiction; enforcement.**

A county or multicounty board of health has the powers and duties of a board of health for all territory within its jurisdiction not under the jurisdiction of a city board of health. Under the general supervision of the commissioner, the board shall enforce laws, regulations, and ordinances pertaining to the powers and duties of a board of health within its jurisdictional area.

#### **Subd. 2. Appointment of agent.**

A board of health must appoint, employ, or contract with a person or persons to act on its behalf. The board shall notify the commissioner of the agent's name, address, and phone number where the agent may be reached between board meetings and submit a copy of the resolution authorizing the agent to act on the board's behalf.

#### **Subd. 3. Employment; medical consultant.**

(a) A board of health may establish a health department or other administrative agency and may employ persons as necessary to carry out its duties.

(b) Except where prohibited by law, employees of the board of health may act as its agents.

(c) Employees of the board of health are subject to any personnel administration rules adopted by a city council or county board forming the board of health unless the employees of the board are within the scope of a statewide personnel administration system.

(d) The board of health may appoint, employ, or contract with a medical consultant to receive appropriate medical advice and direction.

#### **Subd. 4. Acquisition of property; request for and acceptance of funds; collection of fees.**

(a) A board of health may acquire and hold in the name of the county or city the lands, buildings, and equipment necessary for the purposes of sections [145A.03](#) to [145A.131](#). It may do so by any lawful means, including gifts, purchase, lease, or transfer of custodial control.

(b) A board of health may accept gifts, grants, and subsidies from any lawful source, apply for and accept state and federal funds, and request and accept local tax funds.

(c) A board of health may establish and collect reasonable fees for performing its duties and providing community health services.

(d) With the exception of licensing and inspection activities, access to community health services provided by or on contract with the board of health must not be denied to an individual or family because of inability to pay.

**Subd. 5. Contracts.**

To improve efficiency, quality, and effectiveness, avoid unnecessary duplication, and gain cost advantages, a board of health may contract to provide, receive, or ensure provision of services.

**Subd. 6. Investigation; reporting and control of communicable diseases.**

A board of health shall make investigations and reports and obey instructions on the control of communicable diseases as the commissioner may direct under section [144.12](#), [145A.06, subdivision 2](#), or [145A.07](#). Boards of health must cooperate so far as practicable to act together to prevent and control epidemic diseases.

**Subd. 6a. Minnesota Responds Medical Reserve Corps; planning.**

A board of health receiving funding for emergency preparedness or pandemic influenza planning from the state or from the United States Department of Health and Human Services shall participate in planning for emergency use of volunteer health professionals through the Minnesota Responds Medical Reserve Corps program of the Department of Health. A board of health shall collaborate on volunteer planning with other public and private partners, including but not limited to local or regional health care providers, emergency medical services, hospitals, tribal governments, state and local emergency management, and local disaster relief organizations.

**Subd. 6b. Minnesota Responds Medical Reserve Corps; agreements.**

A board of health participating in the Minnesota Responds Medical Reserve Corps program may enter into written mutual aid agreements for deployment of its paid employees and its Minnesota Responds Medical Reserve Corps volunteers with other boards of health, other political subdivisions within the state, or with tribal governments within the state. A board of health may also enter into agreements with the Indian Health Services of the United States Department of Health and Human Services, and with boards of health, political subdivisions, and tribal governments in bordering states and Canadian provinces.

**Subd. 6c. Minnesota Responds Medical Reserve Corps; when mobilized.**

When a board of health finds that the prevention, mitigation, response to, or recovery from an actual or threatened public health event or emergency exceeds its local capacity, it shall use available mutual aid agreements. If the event or emergency exceeds mutual aid capacities, a board of health may request the commissioner of health to mobilize Minnesota Responds Medical Reserve Corps volunteers from outside the jurisdiction of the board of health.

**Subd. 7. Entry for inspection.**

To enforce public health laws, ordinances or rules, a member or agent of a board of health may enter a building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected.

**Subd. 8. Removal and abatement of public health nuisances.**

(a) If a threat to the public health such as a public health nuisance, source of filth, or cause of sickness is found on any property, the board of health or its agent shall order the owner or occupant of the property to remove or abate the threat within a time specified in the notice but not longer than ten days. Action to recover costs of enforcement under this subdivision must be taken as prescribed in section [145A.08](#).

(b) Notice for abatement or removal must be served on the owner, occupant, or agent of the property in one of the following ways:

(1) by registered or certified mail;

(2) by an officer authorized to serve a warrant; or

(3) by a person aged 18 years or older who is not reasonably believed to be a party to any action arising from the notice.

(c) If the owner of the property is unknown or absent and has no known representative upon whom notice can be served, the board of health or its agent shall post a written or printed notice on the property stating that, unless the threat to the public health is abated or removed within a period not longer than ten days, the board will have the threat abated or removed at the expense of the owner under section [145A.08](#) or other applicable state or local law.

(d) If the owner, occupant, or agent fails or neglects to comply with the requirement of the notice provided under paragraphs (b) and (c), then the board of health or its agent shall remove or abate the nuisance, source of filth, or cause of sickness described in the notice from the property.

**Subd. 9. Injunctive relief.**

In addition to any other remedy provided by law, the board of health may bring an action in the court of appropriate jurisdiction to enjoin a violation of statute, rule, or ordinance that the board has power to enforce, or to enjoin as a public health nuisance any activity or failure to act that adversely affects the public health.

**Subd. 10. Hindrance of enforcement prohibited; penalty.**

It is a misdemeanor deliberately to hinder a member of a board of health or its agent from entering a building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected, or otherwise to interfere with the performance of the duties of the board of health.

**Subd. 11. Neglect of enforcement prohibited; penalty.**

It is a misdemeanor for a member or agent of a board of health to refuse or neglect to perform a duty imposed on a board of health by statute or ordinance.

**Subd. 12. Other powers and duties established by law.**

This section does not limit powers and duties of a board of health prescribed in other sections.

**History:**

*1987 c 309 s 4; 1Sp2003 c 14 art 8 s 31; 2008 c 202 s 2-4*

**145A.08 ASSESSMENT OF COSTS; TAX LEVY AUTHORIZED.**

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**Subdivision 1. Cost of care.**

A person who has or whose dependent or spouse has a communicable disease that is subject to control by the board of health is financially liable to the unit or agency of government that paid for the reasonable cost of care provided to control the disease under section [145A.04, subdivision 6](#).

**Subd. 2. Assessment of costs of enforcement.**

(a) If costs are assessed for enforcement of section [145A.04, subdivision 8](#), and no procedure for the assessment of costs has been specified in an agreement established under section [145A.07](#), the enforcement costs must be assessed as prescribed in this subdivision.

(b) A debt or claim against an individual owner or single piece of real property resulting from an enforcement action authorized by section [145A.04, subdivision 8](#), must not exceed the cost of abatement or removal.

(c) The cost of an enforcement action under section [145A.04, subdivision 8](#), may be assessed and charged against the real property on which the public health nuisance, source of filth, or cause of sickness was located. The auditor of the county in which the action is taken shall extend the cost so assessed and charged on the tax roll of the county against the real property on which the enforcement action was taken.

(d) The cost of an enforcement action taken by a town or city board of health under section [145A.04, subdivision 8](#), may be recovered from the county in which the town or city is located if the city clerk or other officer certifies the costs of the enforcement action to the county auditor as prescribed in this section. Taxes equal to the full amount of the enforcement action but not exceeding the limit in paragraph (b) must be collected by the county treasurer and paid to the city or town as other taxes are collected and paid.

**Subd. 3. Tax levy authorized.**

A city council or county board that has formed or is a member of a board of health may levy taxes on all taxable property in its jurisdiction to pay the cost of performing its duties under this chapter.

**History:**

**152.0275 CERTAIN CONTROLLED SUBSTANCE OFFENSES; RESTITUTION; PROHIBITIONS ON PROPERTY USE; NOTICE PROVISIONS.**

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**Subdivision 1. Restitution.**

(a) As used in this subdivision:

(1) "clandestine lab site" means any structure or conveyance or outdoor location occupied or affected by conditions or chemicals typically associated with the manufacturing of methamphetamine;

(2) "emergency response" includes, but is not limited to, removing and collecting evidence, securing the site, removal, remediation, and hazardous chemical assessment or inspection of the site where the relevant offense or offenses took place, regardless of whether these actions are performed by the public entities themselves or by private contractors paid by the public entities, or the property owner;

(3) "remediation" means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property when an assessment so indicates; and

(4) "removal" means the removal from the clandestine lab site of precursor or waste chemicals, chemical containers, or equipment associated with the manufacture, packaging, or storage of illegal drugs.

(b) A court may require a person convicted of manufacturing or attempting to manufacture a controlled substance or of an illegal activity involving a precursor substance, where the response to the crime involved an emergency response, to pay restitution to all public entities that participated in the response. The restitution ordered may cover the reasonable costs of their participation in the response.

(c) In addition to the restitution authorized in paragraph (b), a court may require a person convicted of manufacturing or attempting to manufacture a controlled substance or of illegal activity involving a precursor substance to pay restitution to a property owner who incurred removal or remediation costs because of the crime.

**Subd. 2. Property-related prohibitions; notice; Web site.**

(a) As used in this subdivision:

(1) "clandestine lab site" has the meaning given in subdivision 1, paragraph (a);

(2) "property" means publicly or privately owned real property including buildings and other structures, motor vehicles as defined in section [609.487, subdivision 2a](#), public waters, and public rights-of-way;

(3) "remediation" has the meaning given in subdivision 1, paragraph (a); and

(4) "removal" has the meaning given in subdivision 1, paragraph (a).

(b) A peace officer who arrests a person at a clandestine lab site shall notify the appropriate county or local health department, state duty officer, and child protection services of the arrest and the location of the site.

(c) A county or local health department or sheriff shall order that any property or portion of a property that has been found to be a clandestine lab site and contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine be prohibited from being occupied or used until it has been assessed and remediated as provided in the Department of Health's clandestine drug labs general cleanup guidelines. The remediation shall be accomplished by a contractor who will make the verification required under paragraph (e).

(d) Unless clearly inapplicable, the procedures specified in chapter 145A and any related rules adopted under that chapter addressing the enforcement of public health laws, the removal and abatement of public health nuisances, and the remedies available to property owners or occupants apply to this subdivision.

(e) Upon the proper removal and remediation of any property used as a clandestine lab site, the contractor shall verify to the property owner and the applicable authority that issued the order under paragraph (c) that the work was completed according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices. The contractor shall provide the verification to the property owner and the applicable authority within five days from the completion of the remediation. Following this, the applicable authority shall vacate its order.

(f) If a contractor issues a verification and the property was not remediated according to the Department of Health's clandestine drug labs general cleanup guidelines, the contractor is liable to the property owner for the additional costs relating to the proper remediation of the property according to the guidelines and for reasonable attorney fees for collection of costs by the property owner. An action under this paragraph must be commenced within six years from the date on which the verification was issued by the contractor.

(g) If the applicable authority determines under paragraph (c) that a motor vehicle has been contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine and if the authority is able to obtain the certificate of title for the motor vehicle, the authority shall notify the registrar of motor vehicles of this fact and in addition, forward the certificate of title to the registrar. The authority shall also notify the registrar when it vacates its order under paragraph (e).

(h) The applicable authority issuing an order under paragraph (c) shall record with the county recorder or registrar of titles of the county where the clandestine lab is located an affidavit containing the name of the owner, a legal description of the property where the clandestine lab was located, and a map drawn from available information showing the boundary

of the property and the location of the contaminated area on the property that is prohibited from being occupied or used that discloses to any potential transferee:

(1) that the property, or portion of the property, was the site of a clandestine lab;

(2) the location, condition, and circumstances of the clandestine lab, to the full extent known or reasonably ascertainable; and

(3) that the use of the property or some portion of it may be restricted as provided by paragraph (c).

If an inaccurate drawing or description is filed, the authority, on request of the owner or another interested person, shall file a supplemental affidavit with a corrected drawing or description.

If the authority vacates its order under paragraph (e), the authority shall record an affidavit that contains the recording information of the above affidavit and states that the order is vacated. Upon filing the affidavit vacating the order, the affidavit and the affidavit filed under this paragraph, together with the information set forth in the affidavits, cease to constitute either actual or constructive notice.

(i) If proper removal and remediation has occurred on the property, an interested party may record an affidavit indicating that this has occurred. Upon filing the affidavit described in this paragraph, the affidavit and the affidavit filed under paragraph (h), together with the information set forth in the affidavits, cease to constitute either actual or constructive notice. Failure to record an affidavit under this section does not affect or prevent any transfer of ownership of the property.

(j) The county recorder or registrar of titles must record all affidavits presented under paragraph (h) or (i) in a manner that ensures their disclosure in the ordinary course of a title search of the subject property.

(k) The commissioner of health shall post on the Internet contact information for each local community health services administrator.

(l) Each local community health services administrator shall maintain information related to property within the administrator's jurisdiction that is currently or was previously subject to an order issued under paragraph (c). The information maintained must include the name of the owner, the location of the property, the extent of the contamination, the status of the removal and remediation work on the property, and whether the order has been vacated. The administrator shall make this information available to the public either upon request or by other means.

(m) Before signing an agreement to sell or transfer real property, the seller or transferor must disclose in writing to the buyer or transferee if, to the seller's or transferor's knowledge, methamphetamine production has occurred on the property. If methamphetamine production

has occurred on the property, the disclosure shall include a statement to the buyer or transferee informing the buyer or transferee:

(1) whether an order has been issued on the property as described in paragraph (c);

(2) whether any orders issued against the property under paragraph (c) have been vacated under paragraph (j); or

(3) if there was no order issued against the property and the seller or transferor is aware that methamphetamine production has occurred on the property, the status of removal and remediation on the property.

(n) Unless the buyer or transferee and seller or transferor agree to the contrary in writing before the closing of the sale, a seller or transferor who fails to disclose, to the best of their knowledge, at the time of sale any of the facts required, and who knew or had reason to know of methamphetamine production on the property, is liable to the buyer or transferee for:

(1) costs relating to remediation of the property according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices; and

(2) reasonable attorney fees for collection of costs from the seller or transferor.

An action under this paragraph must be commenced within six years after the date on which the buyer or transferee closed the purchase or transfer of the real property where the methamphetamine production occurred.

(o) This section preempts all local ordinances relating to the sale or transfer of real property designated as a clandestine lab site.

**History:**

*2005 c 136 art 7 s 9*

**446A.083 METHAMPHETAMINE LABORATORY CLEANUP REVOLVING ACCOUNT.**

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**Subdivision 1. Definitions.**

As used in this section:

(1) "clandestine lab site" has the meaning given in section 152.0275, subdivision 1, paragraph (a);

(2) "property" has the meaning given in section 152.0275, subdivision 2, paragraph (a), but does not include motor vehicles; and

(3) "remediate" has the meaning given to remediation in section 152.0275, subdivision 1, paragraph (a).

**Subd. 2. Account established.**

The authority shall establish a methamphetamine laboratory cleanup revolving account in the public facility authority fund to provide loans to counties and cities to remediate clandestine lab sites. The account must be credited with repayments.

**Subd. 3.Applications.**

Applications by a county or city for a loan from the account must be made to the authority on the forms prescribed by the authority. The application must include, but is not limited to:

- (1) the amount of the loan requested and the proposed use of the loan proceeds;
- (2) the source of revenues to repay the loan; and
- (3) certification by the county or city that it meets the loan eligibility requirements of subdivision 4.

**Subd. 4.Loan eligibility.**

A county or city is eligible for a loan under this section if the county or city:

- (1) identifies a site or sites designated by a local public health department or law enforcement as a clandestine lab site;
- (2) has required the site's property owner to remediate the site at cost, under a local public health nuisance ordinance that addresses clandestine lab remediation;
- (3) certifies that the property owner cannot pay for the remediation immediately;
- (4) certifies that the property owner has not properly remediated the site; and
- (5) issues a revenue bond, secured as provided in subdivision 8, payable to the authority to secure the loan.

**Subd. 5.Use of loan proceeds; reimbursement by property owner.**

(a) A loan recipient shall use the loan to remediate the clandestine lab site or if this has already been done to reimburse the applicable county or city fund for costs paid by the recipient to remediate the clandestine lab site.

(b) A loan recipient shall seek reimbursement from the owner of the property containing the clandestine lab site for the costs of the remediation. In addition to other lawful means of seeking reimbursement, the loan recipient may recover its costs through a property tax assessment by following the procedures specified in section [145A.08, subdivision 2](#), paragraph (c).

(c) A mortgagee is not responsible for cleanup costs under this section solely because the mortgagee becomes an owner of real property through foreclosure of the mortgage or by receipt of the deed to the mortgaged property in lieu of foreclosure.

**Subd. 6.Award and disbursement of funds.**

The authority shall award loans to recipients on a first-come, first-served basis, provided that the recipient is able to comply with the terms and conditions of the authority loan, which must be in conformance with this section. The authority shall make a single disbursement of the loan upon receipt of a payment request that includes a list of remediation expenses and evidence that a second-party sampling was undertaken to ensure that the remediation work was successful or a guarantee that such a sampling will be undertaken.

**Subd. 7. Loan conditions and terms.**

(a) When making loans from the revolving account, the authority shall comply with the criteria in paragraphs (b) to (e).

(b) Loans must be made at a two percent per annum interest rate for terms not to exceed ten years unless the recipient requests a 20-year term due to financial hardship.

(c) The annual principal and interest payments must begin no later than one year after completion of the cleanup. Loans must be amortized no later than 20 years after completion of the cleanup.

(d) A loan recipient must identify and establish a source of revenue for repayment of the loan and must undertake whatever steps are necessary to collect payments within one year of receipt of funds from the authority.

(e) The account must be credited with all payments of principal and interest on all loans, except the costs as permitted under section [446A.04, subdivision 5](#), paragraph (a).

(f) Loans must be made only to recipients with clandestine lab ordinances that address remediation.

**Subd. 8. Authority to incur debt.**

Counties and cities may incur debt under this section by resolution of the board or council authorizing issuance of a revenue bond to the authority. The county or city may secure and pay the revenue bond only with proceeds derived from the property containing the clandestine lab site, including assessments and charges under section [145A.08, subdivision 2](#), paragraph (c); payments by the property owner; or similar revenues.

**History:**

[2005 c 136 art 7 s 15](#)