

IN THE SENATE

SENATE BILL NO. 1139

BY STATE AFFAIRS COMMITTEE

AN ACT

1
2 RELATING TO HEALTH AND WELFARE; AMENDING SECTION 56-1001, IDAHO CODE, TO DE-
3 FINE TERMS, TO REVISE DEFINITIONS, AND TO MAKE TECHNICAL CORRECTIONS;
4 AND AMENDING SECTION 56-1003, IDAHO CODE, TO REVISE PROVISIONS REGARD-
5 ING THE POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND
6 WELFARE.

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

8 SECTION 1. That Section 56-1001, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 56-1001. DEFINITIONS. Whenever used or referred to in this chapter,
11 unless a different meaning clearly appears from the context, the following
12 terms shall have the following meanings:

13 (1) "Biological agent" means a bacterium, virus, fungus, protozoan,
14 parasite, or other microorganism and associated toxins with the ability to
15 adversely affect human health or cause death.

16 (2) "Board" means the board of health and welfare as created in section
17 56-1005, Idaho Code.

18 (3) "Chemical agent" means any chemical that through its chemical ac-
19 tion on life processes can cause death, temporary incapacitation, or perma-
20 nent harm to humans or animals.

21 (24) "Department" means the department of health and welfare.

22 (35) "Director" means the director of the department of health and wel-
23 fare.

24 (46) "Isolation" means the separation of infected persons, or of per-
25 sons suspected to be infected, from other persons to such places, under such
26 conditions, and for such time as will prevent transmission of the infec-
27 tious agent a person diagnosed with an infectious or a communicable disease,
28 presenting medically unknown symptoms, or contaminated from a chemical,
29 nuclear, or biological agent for a period of time limited to when the person
30 is infectious, displaying medically unknown symptoms, or contaminated.

31 (57) "Laboratory" means not only facilities for biological, serologi-
32 cal, biophysical, cytological and pathological tests, but also facilities
33 for the chemical or other examination of materials from water, air or other
34 substances.

35 (8) "Medically unknown symptoms" means symptoms that are or could be
36 suggestive of an infectious or communicable disease and that do not suffi-
37 ciently reveal the structural or other specified pathology of an illness on
38 initial examination.

39 (69) "Person" means any individual, association, partnership, firm,
40 joint stock company, trust, estate, political subdivision, public or pri-
41 vate corporation, state or federal governmental department, agency or in-

1 instrumentality, or any other legal entity ~~which is~~ recognized by law as the
2 subject of rights and duties.

3 (710) "Public swimming pool" means an artificial structure, and its
4 appurtenances, ~~which that~~ contains water more than two (2) feet deep ~~which~~
5 ~~that~~ is used or intended to be used for swimming or recreational bathing, and
6 ~~which that~~ is for the use of any segment of the public pursuant to a general
7 invitation but not an invitation to a specific occasion or occasions. The
8 term does not include a swimming pool operated solely for and in conjunction
9 with a hotel, motel or other place of lodging, or a trailer park, apart-
10 ment, condominium or any other residential facility containing multiple
11 dwellings.

12 (811) "Quarantine" means the ~~restriction placed on the entrance to and~~
13 ~~exit from the place or premises where an infectious agent or hazardous mate-~~
14 ~~rial exists.~~ separation of a person exposed to:

15 (a) An infectious or a communicable disease;

16 (b) Another person displaying medically unknown symptoms; or

17 (c) Another person exposed to contamination from a chemical, nuclear,
18 or biological agent;

19 under circumstances likely to result in the spread of the disease, symptoms,
20 or contaminant to the person who had such contact. The separation may last
21 only for a reasonable period of time sufficient to determine whether or not
22 the exposed person will become sick.

23 (12) "Restricted access" means limited or disallowed access to an area:

24 (a) That has been cordoned off;

25 (b) At which signs have been posted limiting or disallowing access; or

26 (c) To which entry or exit has in some other way been limited or blocked.

27 (913) "State" means the state of Idaho.

28 (104) "Substantive" means that which creates, defines or regulates the
29 rights of any person or implements, interprets or prescribes law or policy,
30 but does not include statements concerning only the internal management of
31 the department and not affecting private rights or procedures available to
32 the public.

33 SECTION 2. That Section 56-1003, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 56-1003. POWERS AND DUTIES OF THE DIRECTOR. The director shall have
36 the following powers and duties:

37 (1) All of the powers and duties of the department of public health, the
38 department of health, the board of health and all nonenvironmental protec-
39 tion duties of the department of health and welfare are hereby vested to the
40 director of the department of health and welfare. Provided, however, that
41 oversight of the department and rulemaking and hearing functions relating
42 to public health and licensure and certification standards shall be vested
43 in the board of health and welfare. Except when the authority is vested in
44 the board of health and welfare under law, the director shall have all such
45 powers and duties as may have been or could have been exercised by his pre-
46 decessors in law, including the authority to adopt, promulgate, and enforce
47 rules, and shall be the successor in law to all contractual obligations en-
48 tered into by predecessors in law. All rulemaking proceedings and hearings

1 of the director shall be governed by the provisions of chapter 52, title 67,
2 Idaho Code.

3 (2) The director shall, pursuant and subject to the provisions of the
4 Idaho Code, and the provisions of this chapter, ~~formulate~~ promulgate and
5 recommend to the board rules, ~~codes and standards,~~ as may be necessary to
6 ~~deal with problems to administer statutes~~ related to personal health, and
7 licensure and certification requirements pertinent thereto, which shall,
8 upon adoption by the board, have the force of law relating to any purpose
9 which may be necessary and feasible for enforcing the provisions of this
10 chapter including, but not limited to, the maintenance and protection of
11 personal health. Any such rule or standard to health. Such rules may be
12 of general application throughout across the state or may be limited as to
13 times, places, in time, place, and circumstances or conditions in order to
14 make due allowance for variations therein as needed to address problems.

15 (3) The director, under the rules, ~~codes or standards~~ adopted by ~~him~~ the
16 board, shall have the general supervision of the ~~promotion and protection of~~
17 the life, health and mental health welfare of the people of this state. The
18 powers and duties of the director shall include, ~~but are not be limited to,~~
19 the following:

20 (a) The education of the people of this state using guidelines and rec-
21 ommendations for issues of health, safety, mental health, and wellness;

22 (b) The issuance of licenses and permits as prescribed by law and by the
23 rules of the board;

24 (~~b~~c) The supervision and administration of laboratories and the super-
25 vision and administration of standards of tests for environmental pol-
26 lution, chemical analyses and communicable diseases. The director may
27 require that laboratories operated by any city, county, institution,
28 person, firm or corporation for health or environmental purposes con-
29 form to standards set by the board of health and welfare and the board of
30 environmental quality in rule;

31 (ed) The supervision and administration of a mental health program,
32 which shall include services for the evaluation, screening, custody and
33 treatment of the mentally ill and those persons suffering from a mental
34 defect or mental defects, and services for the prevention of suicide;

35 (~~d~~e) The enforcement of minimum standards of health, safety, and sani-
36 tation for all public swimming pools within the state as established in
37 rule of the board;

38 (ef) The supervision and administration of the various schools, hos-
39 pitals, and institutions that were the responsibility of the board of
40 health;

41 (fg) The supervision and administration of services dealing with the
42 problems of alcoholism including, but not limited to, the care and
43 substance abuse, including but not limited to treatment and rehabilita-
44 tion of persons suffering from alcoholism;

45 (gh) The establishment of liaison Communication and cooperation with
46 other governmental departments, agencies and boards in order to effec-
47 tively assist ~~other governmental entities~~ with the planning for the
48 control of or abatement of health problems. All of the rules ~~and stan-~~
49 ~~dards~~ adopted by the board shall apply to state institutions;

1 (hi) The supervision and administration of an emergency medical ser-
2 vice program, including, but not limited to, assisting other governmen-
3 tal agencies and local governmental units, in providing first aid emer-
4 gency medical services and for transportation of the sick and injured;

5 (ij) The supervision ~~and administration~~ of administrative units whose
6 responsibility shall be to assist and encourage counties, cities, other
7 governmental units, and industries in the control of and/or abatement
8 of health problems; and

9 (jk) The enforcement of all laws, and rules, codes and standards relat-
10 ing to health.

11 (4) The director, when so designated by the governor, and any other time
12 subject to the standard appropriations and approval process of the legisla-
13 ture, shall have the power to apply for, receive on behalf of the state, and
14 utilize any federal aid, grants, gifts, ~~gratuities,~~ or moneys made available
15 through the federal government.

16 (5) The director shall have the power to enter into and make contracts
17 and agreements with any public agencies or municipal corporations for fa-
18 cilities, land, and equipment when such use will have a beneficial, recre-
19 ational, or therapeutic effect or be in the best interest in carrying out the
20 duties imposed upon the department.

21 The director shall also have the power to enter into contracts for the
22 expenditure of state matching funds for local purposes. This subsection
23 will constitute the authority for public agencies or municipal corporations
24 to enter into such contracts and expend money for the purposes delineated in
25 such contracts.

26 (6) The director is authorized to adopt an official seal to be used on
27 appropriate occasions, in connection with the functions of the department or
28 the board, and such seal shall be judicially noticed. Copies of any books,
29 records, papers and other documents in the department shall be admitted in
30 evidence equally with the originals thereof when authenticated under such
31 seal.

32 (7) The director, under rules adopted by the board of health and welfare
33 and approved by the legislature pursuant to section 67-5291, Idaho Code, and
34 section 29, article III, of the constitution of the state of Idaho, shall
35 have the power to impose and enforce orders of isolation, and quarantine, or
36 restricted access to protect the public from the spread of infectious or com-
37 municable diseases or from contamination from chemical, nuclear, or biolog-
38 ical agents, whether naturally occurring or propagated by criminal or ter-
39 rorist act.

40 (a) An order of isolation may be issued only for a person diagnosed with
41 an infectious or a communicable disease, presenting medically unknown
42 symptoms, or contaminated from a chemical, nuclear, or biological agent
43 and only while a person is infectious, displaying unknown symptoms, or
44 contaminated.

45 (b) An order of quarantine may be issued only for a person exposed to:

46 (i) An infectious or a communicable disease;

47 (ii) A person displaying medically unknown symptoms; or

48 (iii) Contamination from a chemical, nuclear, or biological
49 agent;

1 under circumstances likely to result in the spread of the disease, symp-
 2 toms, or contaminant to the person who had such contact and only for a
 3 reasonable period of time sufficient to determine whether or not the ex-
 4 posed person will become sick.

5 (c) If the director has reasonable cause to believe a chemical, nu-
 6 clear, or biological agent has been released in an identifiable place,
 7 including a building or structure, the director may impose an order of
 8 restricted access into or out of that place for the purpose of determin-
 9 ing whether that place has been contaminated with a chemical, nuclear,
 10 or biological agent that may create a substantial and immediate danger
 11 to the public. An order of restricted access shall be effective only
 12 until such time as the contamination has been remediated and the area
 13 of restricted access has been determined to no longer pose an immediate
 14 health risk.

15 (d) An order of isolation, ~~or~~ quarantine, or restricted access issued
 16 pursuant to this section shall not be subject to the Idaho administra-
 17 tive procedure act, chapter 52, title 67, Idaho Code, but shall be a fi-
 18 nal agency action for purposes of subject to judicial review as a final
 19 agency order. However, this shall not prevent the director from recon-
 20 sidering, amending, or withdrawing the order. Judicial review of or-
 21 ders of isolation ~~or~~, quarantine, or restricted access shall be de novo.
 22 The court may affirm, reverse, or modify the order and shall affirm the
 23 order if it appears the director shows by a preponderance of the clear
 24 and convincing evidence that the order is reasonably necessary to pro-
 25 tect the public from a substantial and immediate danger of the spread of
 26 an infectious or communicable disease or from contamination by a chem-
 27 ical, nuclear, or biological agent. A hearing on a request for review
 28 pursuant to this paragraph shall be held as soon as practicable but no
 29 later than three (3) business days after the request is made. Notice
 30 of the request for review to the court must be provided to the director.
 31 The court may order the person who is the subject of or affected by the
 32 order of isolation, quarantine, or restricted access to appear remotely
 33 via technology approved by the Idaho supreme court. Upon conclusion of
 34 a hearing described in this subsection, the court conducting judicial
 35 review shall issue an order:

36 (i) Affirming or modifying the order of isolation, quarantine, or
 37 restricted access; or

38 (ii) Reversing the order and releasing an individual who is the
 39 subject of or affected by such order.

40 ~~(b) If the director has reasonable cause to believe a chemical or bi-~~
 41 ~~ological agent has been released in an identifiable place, including a~~
 42 ~~building or structure, an order of quarantine may be imposed to prevent~~
 43 ~~the movement of persons into or out of that place, for a limited period~~
 44 ~~of time, for the purpose of determining whether a person or persons at~~
 45 ~~that place have been contaminated with a chemical or biological agent~~
 46 ~~which may create a substantial and immediate danger to the public.~~

47 ~~(ee) Any person who violates an order of isolation, ~~or~~ quarantine, or~~
 48 ~~restricted access shall be guilty of a misdemeanor.~~

49 (8) The director shall develop safeguards necessary to ensure the secu-
 50 rity of nonpublic personal information in the department's possession and to

1 prevent undue disclosure of such information. The director shall establish
2 a process to authenticate requests made by a person, entity or jurisdiction
3 arising under the 2007 Hague ~~C~~onvention on the ~~I~~nternational ~~R~~ecovery of
4 ~~C~~hild ~~S~~upport and ~~O~~ther ~~F~~orms of ~~F~~amily ~~M~~aintenance. In the event the
5 department becomes aware of any improper disclosure, the director shall take
6 all actions required under section 28-51-105, Idaho Code.