

HOUSE No. 2051

The Commonwealth of Massachusetts

PRESENTED BY:

Gloria L. Fox

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act promoting research and protecting public safety and environment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Gloria L. Fox	7th Suffolk
Willie Mae Allen	6th Suffolk
Steven J. D'Amico	4th Bristol
William Lantigua	16th Essex
Barbara A. L'Italien	18th Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2097 OF 2007-2008.]

The Commonwealth of Massachusetts
CORRECTED TEXT

In the Year Two Thousand and Nine

AN ACT PROMOTING RESEARCH AND PROTECTING PUBLIC SAFETY AND
ENVIRONMENT.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 SECTION 1. Chapter 17 of the General Laws, as appearing in the 2004 official edition is hereby
2 amended by inserting after section 17 the following:-

3 Section 18. Biological Agents Registry Program

4 (a) Definitions. As used in this section the following words shall have the following meanings:

5 “Biological agent,” any microorganism (including bacteria, virus, fungus, and protozoa), or infectious
6 substance, or any naturally occurring, bioengineered, or synthesized component of any such
7 microorganism or infectious substance, capable of causing: death, disease, or other biological malfunction
8 in a human, an animal, a plant, or another living organism; deterioration of food, water, equipment,
9 supplies, or material of any kind; or deleterious alteration of the environment.

10 “Department,” the Department of Public Health.

11 “Person,” any state, public, or private corporation or authority, any individual, trust, firm, joint stock
12 company, partnership, association, or other entity, or any group thereof, and any officer, employee, or
13 agent of such person, any group of persons, and any agency or political subdivision of the
14 Commonwealth or of the federal government.

15 “Program,” the Biological Agents Registry Program.

16 “Select Agents and Toxins” a biological agent or toxin as defined in Title 42, Part 73 of the Code of
17 Federal Regulations, Title 9, Part 121 of the Code of Federal Regulations, or Title 7, Part 331 of the Code
18 of Federal Regulations.

19 “Toxin,” any toxic material or product of plants, animals, microorganisms (including bacteria, virus,
20 fungus, rickettsiae, or protozoa), or infectious substance, or a recombinant or synthesized molecule,
21 whatever their origin and method of production, and includes: any poisonous substance or biological
22 product that may be engineered as a result of biotechnology produced by a living organism; or any
23 poisonous isomer or biological product, homolog, or derivative of such a substance.

24 (b) There is established in the department a Biological Agents Registry Program.

25 (c) The Biological Agents Registry shall:

26 (1) Identify the select agents and toxins, and other biological agents and toxins, as determined by the
27 department, possessed and maintained by any person in the Commonwealth; and

28 (2) Contain other information as required by regulations of the department.

29 (d) The department shall adopt regulations for the implementation of the program that:

30 (1) Determine and list the biological agents and toxins required to be reported under this section,
31 which shall include:

32 i. All select agents and toxins, provided that the department may exempt select agents and
33 toxins that Title 42, Part 72 or 73 of the Code of Federal Regulations, Title 9, Part 121 of
34 the Code of Federal Regulation, or Title 7, Part 331 of the Code of Federal Regulations
35 exempt from their provisions; and
36 ii. Other biological agents and toxins as determined by the department.

37 (2) Designate the persons required to make reports and the specific information required to be
38 reported;

39 (3) Designate time limits for reporting, the form of reports, and the persons to whom reports are to be
40 submitted;

41 (4) Require local boards of health to be informed of the location and nature of the biological agents
42 and toxins in the registry that are located within the local jurisdiction;

- 43 (5) Provide for the release of information in the Biological Agents Registry to:
- 44 i. Municipal, state and federal law enforcement agencies and the Centers for Disease Control
45 and Prevention pursuant to a communicable disease or laboratory-acquired infection
46 investigation commenced or conducted by the department or municipal, state, or federal
47 law enforcement agency having investigatory authority, or in connection with any
48 investigation involving a release, spread, theft, illicit sale, or loss of biological agents;
- 49 ii. The Massachusetts emergency management agency and the Massachusetts department of
50 the environmental protection for the purposes of planning for the protection of the public in
51 relation to the release of a biological agent and the prevention of a release of a biological
52 agent; and
- 53 iii. The Massachusetts emergency medical services system for the purposes of providing
54 certain specified information to:
- 55 (A) A police officer or firefighter responding to an emergency; and
- 56 (B) An emergency medical services provider performing emergency services
57 responding to a fire or other emergency, or dispatched on a call for emergency services;
- 58 (6) Establish a process for persons that possess and maintain select agents and toxins and other
59 biological agents and toxins to alert appropriate authorities of unauthorized possession or
60 attempted possession of such biological agents or toxins.
- 61 (e) A person that possesses and maintains biological agents and toxins shall report to the department the
62 information required by the department for inclusion in the Biological Agents Registry unless the
63 department determines that the select agents and toxins, certified laboratory, or facility is exempt
64 from the requirements for the interstate shipment of etiologic agents under Title 42, Part 72.6(h) or
65 Part 72, Appendix A of the Code of Federal Regulations.
- 66 (f) Information prepared for or maintained in the Biological Agents Registry shall be subject to chapter
67 66 of the General Laws, provided that information released from the Registry is not consequently a
68 public record and a person to whom information has been released from the Registry may not release
69 the information unless such release is approved by the department.

70 (g) A person who violates a provision of this section is guilty of a misdemeanor and on conviction is
71 subject to a fine not exceeding \$1000 for the first offense and not exceeding \$5000 for each
72 subsequent conviction for a violation of the same provision. Each day a violation is continued after
73 the first conviction is a subsequent offense.

74 Section 19. High Containment Biological Research Laboratory Health and Safety Program

75 (a) Definitions. As used in this section the following words shall have the following meanings:

76 “Biological agent,” any microorganism (including bacteria, virus, fungus, and protozoa), or infectious
77 substance, or any naturally occurring, bioengineered, or synthesized component of any such
78 microorganism or infectious substance, capable of causing: death, disease, or other biological malfunction
79 in a human, an animal, a plant, or another living organism; deterioration of food, water, equipment,
80 supplies, or material of any kind; or deleterious alteration of the environment.

81 “Biosafety in Microbiological and Biomedical Laboratories” or “BMBL,” a publication that lists the
82 standards and special microbiological practices, safety equipment and facilities constituting Biosafety
83 Levels 1-4, most recent edition, published by the United States Department of Health and Human
84 Services, Public Health Service, the Centers for Disease Control and Prevention and the National
85 Institutes of Health. If the publication is discontinued, the most recent edition shall remain in effect as
86 thereafter modified from time to time by regulation of the department.

87 “Biosafety Level 3 laboratory” or “BSL3 laboratory,” a laboratory that is designed, equipped, or operated
88 as a biosafety level 3 laboratory as defined by the United States National Institutes of Health Guidelines
89 for Research Involving Recombinant DNA Molecules (NIH Guidelines).

90 “Biosafety Level 4 laboratory” or “BSL4 laboratory,” a laboratory that is designed, equipped, or operated
91 as a biosafety level 4 laboratory as defined by the United States National Institutes of Health Guidelines
92 for Research Involving Recombinant DNA Molecules (NIH Guidelines).

93 “Department,” the Department of Public Health.

94 “Facility,” a building or combination of buildings under common control and ownership containing one
95 or more laboratories subject to a common Institutional Biosafety Committee.

96 “High Containment Biological Research Laboratory,” a BSL3 or BSL4 laboratory.

97 “Laboratory,” a room or rooms that are used primarily for biological research, development, non-routine
98 testing, or experimentation activity, or any room or rooms where vertebrate animals are contained under
99 animal biosafety levels three and four as described in NIH Guidelines/BMBL Section IV. The word
100 “laboratory” shall also include those rooms that directly serve a laboratory and are within the containment
101 area.

102 “National Institutes of Health Guidelines” or “NIH Guidelines,” the National Institutes of Health
103 Guidelines for Research Involving Recombinant Molecules, as amended from time to time. If the

104 National Institutes of Health shall discontinue or abolish said guidelines, the most recent guidelines shall
105 remain in effect as thereafter modified from time to time by regulation by the department.

106 “Person,” any state, public, or private corporation or authority, any individual, trust, firm, joint stock
107 company, partnership, association, or other entity, or any group thereof, and any officer, employee, or
108 agent of such person, any group of persons, and any agency or political subdivision of the
109 Commonwealth or of the federal government.

110 “Program,” the High Containment Biological Research Laboratory Health and Safety Program.

111 “Select Agents and Toxins,” a biological agent or toxin as defined in Title 42, Part 73 of the Code of
112 Federal Regulations, Title 9, Part 121 of the Code of Federal Regulations, or Title 7, Part 331 of the Code
113 of Federal Regulations.

114 “Toxin,” any toxic material or product of plants, animals, microorganisms (including bacteria, virus,
115 fungus, rickettsiae, or protozoa), or infectious substance, or a recombinant or synthesized molecule,
116 whatever their origin and method of production, and includes: any poisonous substance or biological
117 product that may be engineered as a result of biotechnology produced by a living organism; or any
118 poisonous isomer or biological product, homolog, or derivative of such a substance.

119 (b) There is established in the department a High Containment Biological Research Laboratory Health
120 and Safety Program.

121 (c) The program shall provide standards for the location, operation, and maintenance of high containment
122 biological research laboratories and the oversight of such laboratories to protect the safety of
123 laboratory workers, the public, and the environment from select agents and toxins.

124 (d) The department shall adopt regulations for the implementation of the program that:

125 (1) Set criteria for determining appropriate locations for siting a building with a BSL4 laboratory,
126 including whether a BSL4 laboratory may be created within an existing building, that at a
127 minimum include that:

128 i. Sites shall not be within a floodplain, near a property whose regular use could significantly
129 endanger the site through fire or explosion, or near an area of high traffic congestion that
130 might impede emergency access or evacuation or endanger motorists;

131 ii. Sites shall have sufficient land available to provide for a reasonable buffer around the
132 building, a minimum of 150 unobstructed feet in every direction;

133 iii. Other criteria for consideration include: the proximity of flood plains, wetlands, waterways,
134 and water bodies; the relationship of the site to groundwater elevations; the nature and
135 extent of residential areas and schools through grade twelve in proximity to the site; the
136 availability and suitability of access roads to the site, including the ability of first
137 responders to access the site in an emergency; the potential for adverse public health and
138 safety impacts; the potential impact of increased traffic volume on roads to the site; and the
139 potential threat of a terrorist attack on or infiltration of the building.

140

- 141 (2) Provide a process to determine whether to approve the siting of a new BSL4 laboratory that
142 includes:
- 143 i. An application to be completed by a person wishing to site a building with a BSL4
144 laboratory or add a BSL4 laboratory to an existing building that did not have a BSL4
145 laboratory;
 - 146 ii. The department holding a public hearing on the application in the municipality where the
147 laboratory would be located;
 - 148 iii. The department, the department of environmental protection, the board of health of the
149 municipality in which the facility would be located reviewing the application and
150 approving the siting if they determine that the proposed site and building would not
151 constitute a threat to the public health or safety or the environment;
 - 152 iv. The decision on the siting is made in writing with findings as to why the decision was
153 made;
 - 154 v. The approval or denial of siting may be appealed pursuant to provisions of section fourteen
155 of chapter thirty A;
- 156 (3) Require each facility with a BSL4 laboratory that has been approved as required by subsection
157 (2) to submit to the department the construction plans for the facility, construction schedule, the
158 application submitted to the National Institutes of Health (NIH), if applicable, the as-built plans
159 when completed, and documentation of third-party commissioning of the facility.
- 160 (4) Assure that high containment biological research laboratories meet or exceed federal guidelines
161 for health and safety practices, including that:
- 162 i. Each facility with a high containment biological research laboratory complies with the most
163 current versions of the following guidelines: NIH Guidelines; BMBL; and Guidelines on
164 Primary Containment for Biohazards (Centers for Disease Control/NIH); or more
165 protective regulations that the department might adopt.
 - 166 ii. Each facility with a high containment biological research laboratory shall establish an
167 Institutional Biosafety Committee (IBC) in accordance with the NIH Guidelines, whether it
168 is NIH funded or not. At least two members of the IBC shall be residents of the
169 municipality in which the facility is located and shall be independent of the facility, its
170 contractors, and consultants. One such member shall be appointed by the department and
171 the other shall be appointed by the local board of health. A member appointed by the
172 department or local board of health may be rejected by the facility only for good cause.
 - 173 iii. An IBC shall comply with NIH Guidelines applicable to IBCs for all research in high
174 containment biological research laboratories, whether recombinant DNA research or not,
175 and may be further regulated by the department. Each IBC for a facility with high
176 containment biological research laboratory shall, at a minimum:
 - 177 (A) Provide the department with a complete list of all members of the IBC, including
178 member's name, title, business mailing address, phone number, fax number, e-mail,
179 and curriculum vitae. The list and curriculum vitae shall be updated with any changes
180 at least annually.

181 (B) Review and approve all projects in facilities operating a high containment
182 biological research laboratory prior to the projects commencing. A protocol
183 registration document, as defined by the NIH guidelines, shall be required for all
184 approved IBC projects with select agents and toxins and other regulated agents
185 requiring BSL3 or BSL4 containment. The documents shall be sent to the department
186 and are subject to chapter 66 of the General Laws.

187 (C) Take and keep minutes of IBC meetings that conform to the NIH Guidelines and
188 provide the minutes to the department. The minutes shall be accessible for members
189 who do not attend the meetings. The minutes shall include, but not be limited to: IBC
190 members present at the meeting; a description of any current or pending research; any
191 comments or concerns made at the meeting; and any voting, administrative matters,
192 accident reporting or compliance issues discussed. The department may provide the
193 minutes to the local board of health upon request.

194 (D) Inspect the high containment biological research laboratories at least annually and
195 submit the results of the inspections to the department.

196 (E) Meet at least annually with a representative of the department to review safety
197 procedures, discuss health issues relating to operation of its facility, and such other
198 issues identified by the department.

199 (F) Hold at least one public meeting annually to a report on health and safety issues at
200 the facility and take public comments about the facility.

- 201 (5) Require prior approval by the department for research that may or is intended to:
- 202 i. Enhance the harmful consequences of a biological agent or toxin. Harmful consequences
203 include the ability to critically alter normal biological functions, or inflict damage on public
204 health resources, materiel, and public safety. Enhancement includes augmenting properties
205 such as virulence, infectivity, stability, transmissibility, or the ability of the biological agent
206 or toxin to be disseminated;
 - 207 ii. Disrupt immunity or the effectiveness of an immunization;
 - 208 iii. Confer to a pathogenic agent or toxin resistance to clinically or agriculturally useful
209 prophylaxes or therapeutics against that agent or toxin;
 - 210 iv. Facilitate the ability of a biological agent or toxin to evade detection methodologies;
 - 211 v. Increase the stability, transmissibility, or the ability to disseminate a biological agent or
212 toxin;
 - 213 vi. Alter the host range or tropism of a pathogenic agent or toxin;
 - 214 vii. Enhance the susceptibility of a host population, including by immuno-modulation of the
215 host to increase pathogenicity; or
 - 216 viii. Generate a novel pathogenic agent or toxin or reconstitute an eradicated or extinct
217 pathogenic agent. A novel agent is an agent that has not existed previously and is
218 considered unique based on biological or other properties and traits.
- 219

220 Such approval may be granted only upon a showing that the facility has taken special precautions
221 to minimize or eliminate health and safety risks arising from such research.

222 (6) Require each facility with a high containment biological research laboratory to complete a
223 permit application and obtain a permit from the department to operate its high containment
224 biological research laboratories. Said permits shall contain the terms and conditions the
225 department determines are necessary to protect worker and public health and safety and the
226 environment. Said permits shall not exceed five years in duration but may be renewed or
227 reissued by the department after receipt of a new completed permit application that meets
228 regulatory requirements. The department may issue or renew a permit only upon finding that no
229 condition or circumstance exists in the facility that is prejudicial to worker or public health and
230 safety or the environment. The department may suspend or revoke a permit upon finding that a
231 condition or circumstance exists in the facility that is prejudicial to worker or public health and
232 safety or the environment.

233 (7) Require each facility with a high containment biological research laboratory to have a medical
234 surveillance plan created in consultation with a licensed physician experienced in occupational
235 health or infection control and familiar with biological laboratory exposures and informed about
236 select agents and toxins. The purpose of the plan is to establish employee and researcher
237 occupational health records, document and require inoculation for diseases when a safe vaccine
238 is available, screen for illness among laboratory workers, require reporting of laboratory
239 accidents, monitor and track releases and laboratory-acquired infections and spreads, and report
240 within the facility and to appropriate government entities. The specifics of the medical
241 surveillance and infection control protocol must meet standards established by the department
242 and be approved by the department. The medical surveillance plan shall be implemented
243 through an employee experienced in occupational health or infection control, familiar with
244 biological laboratory exposures, and informed about select agents and toxins. The employee
245 shall also:

246 i. Report any accidental or intentional human exposure to a pathogenic biological agent or
247 toxin, or reasonable likelihood of such exposure, to the department as soon as possible and
248 in no case more than 24 hours after learning of the exposure;

249 ii. Report any accidental or intentional release or spread of a pathogenic biological agent or
250 toxin, or reasonable likelihood of a release or spread, outside the containment area of a BSL
251 3 or BSL4 laboratory to the department as soon as possible, and in no case more than 24
252 hours after the release. The report also shall be provided to the board of health in the
253 municipality in which the facility is located and any other municipality affected by the
254 release.

255 iii. Provide the IBC with a report of all incidents, accidents, and other events that caused or are
256 suspected to have caused a threat to the public health, death, illness, or bodily injury to any
257 person in the laboratory, as they occur, but no later than 3 days after the incident.

258 (8) Require each facility with a high containment biological research laboratory to have and
259 implement a plan to provide adequate training for the proper handling of pathogenic biological
260 agents and toxins that might be present in the laboratory. Such training shall include, but not be
261 limited to, decontamination methods, personnel safety precautions and work habits, early
262 warning disease surveillance, and accident response actions and notifications. The facility shall

263 provide a training plan to its IBC and the department for approval and shall update the plan
264 annually, if necessary. The training plan shall ensure that all laboratory staff and researchers,
265 including the principal investigator for each facility, are trained adequately and that the principal
266 investigator participates in the creation and implementation of the training plan. No individual
267 other than a local, state or federal government representative requiring access for regulatory
268 compliance or investigative purposes may enter a high containment biological research
269 laboratory located within a facility without first completing the facility's training plan.

270 (9) Require each facility with a high containment biological research laboratory to have and
271 implement a waste management and decontamination plan approved by the department.

272 (e) A facility with a high containment biological research laboratory shall develop an emergency
273 response plan, in conjunction with local and state officials, that addresses security threats and releases
274 and spread of pathogenic biological agents and toxins. The emergency response plan shall comply
275 with local, state or federal plans already in existence. The plan must address such events as severe
276 weather (such as hurricanes and floods), earthquakes, power outages, terrorism, and other natural,
277 accidental, or intended disasters or emergencies. The emergency response plan shall at a minimum
278 address the following:

279 (1) The hazards associated with the use of the select agents and toxins and special procedures
280 needed to address the hazards of specific select agents and toxins.

281 (2) Personnel roles, lines of authority, training, and communication.

282 (3) Emergency assessment and prevention.

283 (4) Site security and control.

284 (5) Evacuation routes and procedures.

285 (6) Decontamination.

286 (7) Emergency medical treatment and first aid.

287 (8) Emergency alerting and response procedures.

288 (9) Personal protective and emergency equipment.

289 (10) Regularly scheduled preparedness exercises in coordination with local public health and safety
290 officials.

291 (11) Critique of response and follow-up after an incident has occurred.

292 (12) Communication to the public and news media.

293 (f) A facility with a BSL4 laboratory shall coordinate with a hospital within a five mile radius of the
294 facility for a medical response to human exposure to a pathogenic biological agent or toxin, and do so
295 in conformity with existing public health guidelines and regulations. If there is no hospital medically
296 equipped to coordinate this type of response within a five mile radius of said facility, then the
297 coordination shall be performed at the closest hospital to the facility so equipped. Said coordination
298 shall include, but not be limited to, addressing transportation, isolation, and quarantine issues as
299 appropriate to the diseases caused by select agents and toxins at the facility. If the closest hospital has
300 created a plan in collaboration with the department under the Bioterrorism Grant Program, the facility
301 is not required to pay for the cost of annual drills.

302 (g) Every facility that has a high containment biological laboratory shall purchase property and general
303 liability insurance. The insurance shall provide compensation for harm that would be caused to

304 facility workers and the public in the event of a release of a toxin or agent or other hazardous
305 exposure to dangerous pathogens, and from damages caused by a terrorist attack on the facility.

306 (h) No employee, researcher, or student shall be required to conduct scientific research, experimentation,
307 or study or take other action in a facility with a high containment biological research laboratory that
308 violates any provision of this section or has reasonable potential to adversely affect public or worker
309 health, safety, or the environment.

310 (i) A facility with a high containment biological research laboratory shall not take any retaliatory action
311 against an employee, researcher, or student in the facility because that person discloses or threatens to
312 disclose to a supervisor or a public body an activity, policy or practice that the employee, researcher
313 or student reasonably believes is in violation of this section or objects to or refuses to participate in
314 any activity, policy or practice that the employee, researcher or student reasonably believes is in
315 violation of this section.

316 (1) The protection against retaliatory action shall not apply to the public disclosure of confidential or
317 proprietary information, trade secrets or other confidential materials unless the employee, researcher
318 or student makes such disclosure directly and exclusively to the office of the attorney general or the
319 department. The department shall not publicly disclose any such confidential information, but shall
320 submit the information to the Attorney General forthwith.

321 (2) An employee, researcher or student aggrieved by a violation of this subsection may, within two
322 years, file a complaint with the attorney general, who may bring an action in the name of the
323 Commonwealth against the facility alleged to have violated this section. Provided further, that within
324 ninety days of receiving said complaint, the attorney general shall notify the complainant in writing as
325 to whether he intends to bring an action in the name of the Commonwealth. If the attorney general
326 declines to bring an action based on the complaint filed, the aggrieved employee, researcher or
327 student may, within one year, institute a civil action in the superior court. Any party to said action
328 shall be entitled to claim a jury trial. All remedies available in common law tort actions shall be
329 available to prevailing plaintiffs. These remedies are in addition to any legal or equitable relief
330 provided herein. The court may: (i) issue temporary restraining orders or preliminary or permanent
331 injunctions to restrain continued violation of this section; (ii) reinstate the employee, researcher or
332 student to the same position held before the retaliatory action, or to an equivalent position; (iii)
333 reinstate full fringe benefits and seniority rights to the employee, researcher or student; (iv)
334 compensate the employee, researcher or student for three times the lost wages, benefits and other
335 remuneration, and interest thereon; and (v) order payment by the facility of reasonable costs, and
336 attorneys' fees.

337 (3) In any action brought by an employee, researcher or student under subsection (2), if the court
338 finds said action was without basis in law or in fact, the court may award reasonable attorneys' fees
339 and court costs to the facility. An employee, researcher or student shall not be assessed attorneys'
340 fees if, after exercising reasonable and diligent efforts after filing a suit, the employee, researcher or

341 student moves to dismiss the action against the facility, or files a notice agreeing to a voluntary
342 dismissal, within a reasonable time after determining that the facility would not be found liable for
343 damages.

344 (4) Nothing in this subsection shall be deemed to diminish the rights, privileges or remedies of any
345 employee, researcher or student under any other federal or state law or regulation, or under any
346 collective bargaining agreement or employment contract.

347 (5) A facility with a high containment biological research laboratory shall publicly display notices
348 designed to inform its employees, researchers and students of their protections and obligations under
349 this subsection, and use other appropriate means to keep its employees, researchers or students so
350 informed. Each notice posted pursuant to this subsection shall include the name of the person or
351 persons the facility has designated to receive written notification of a suspected violation of this
352 section.

353 (j) A facility with a high containment biological research laboratory shall have a security plan developed
354 in coordination with state and local public safety officials. The security plan shall describe the
355 deployment of security guards; the number of guards at each facility; other protective measures,
356 including, coordination of security response with Federal, State, and Local authorities; restricted
357 personnel access to each BSL3 and BSL4 laboratory; perimeter site security, internal site security,
358 and fire protection barriers; and background security clearance for employees and prospective
359 employees. If, at any time, the department of public safety determines that the security plan or
360 implementation of the security plan for a BSL3 or BSL4 facility or laboratory is insufficient to ensure
361 its security, the municipality or department of public safety shall submit to the facility a report that
362 identifies the vulnerability of the facility or laboratory, and recommended actions to eliminate the
363 vulnerability. Said recommendations or other remedial actions shall be implemented by the facility
364 immediately.

365 (k) To ensure compliance with this section and to protect the public health and safety and the
366 environment, the department shall have the authority to review all documentation relating to the
367 operations of a high containment biological research laboratory and conduct physical inspections of
368 any such laboratory, and any other part of a facility that supports the laboratory, with or without prior
369 notice; so long as such inspections are conducted at reasonable times and in a manner that maintains
370 the health and safety systems of the laboratory.

371 (l) A person who willfully or knowingly violates this section or a regulation promulgated pursuant to this
372 section is subject to judicially imposed criminal and civil penalties as well as civil administrative
373 penalties. Each day that a violation occurs or continues constitutes a separate violation. A violation
374 may be punished by the administrative imposition of a penalty of not less than \$100 and not more
375 than \$25,000 for each day of violation. A violation may be punished by a fine not less than \$100 and

376 not more than \$25,000, or by imprisonment for not more than two years in the house of correction.
377 Punishment imposed under this section does not preclude any other penalty prescribed by law.

378 (m) If a facility or laboratory remains in violation of this section or a regulation promulgated pursuant to
379 this section after written notice from the department without taking reasonable steps to alleviate the
380 violation, the department shall have the authority to close the facility or laboratory until the violation
381 is remedied. If the department finds that an imminent and substantial threat to worker or public
382 health or safety or the environment exists in a facility or laboratory, it may request the attorney
383 general bring suit or an action for injunctive relief.

384 (n) Each municipality in the Commonwealth shall have the authority to regulate and prohibit high
385 containment biological research laboratories within its jurisdiction. If a municipality has a regulatory
386 program for high containment biological research laboratories that the department finds is at least as
387 protective of worker and public health and safety and environment as this program, upon request of
388 the municipality the department may certify the municipal program to operate in the place of this
389 program in the municipality.

390 SECTION 2. The Department of Public Health shall adopt regulations to implement this act within one
391 year after the effective date of this act.

392 SECTION 3. Section 19(d)(2), concerning whether to approve the siting of a new BSL4 laboratory, shall
393 not apply to any building intended to include a BSL4 laboratory that has a building permit and is under
394 construction as of the effective date of this act.