

**AN ACT PROTECTING THE PUBLIC HEALTH AND ENVIRONMENT FROM
PATHOGENIC BIOLOGICAL AGENTS AND TOXINS**

SECTION 1. The General Court finds that:

- 1) There are health, safety, and environmental risks from research undertaken on pathogenic biological agents and toxins if laboratory workers are exposed to or infected by pathogenic biological agents or toxins or if those agents or toxins escape the laboratory into the nearby community and environment;
- 2) There are inadequate laws and regulations to protect laboratory workers, the community, and environment from mistakes, accidents, and intentional nefarious acts that could infect workers or allow pathogenic biological agents and toxins to escape the laboratory into the nearby community and environment; and
- 3) The Commonwealth seeks to ensure the safety of its residents and the protection of the environment from pathogenic biological agents and toxins.

SECTION 2. The General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after Chapter 21 K of the General Laws, Chapter 21 L, Protection from Pathogenic Biological Agents and Toxins, as follows:

Chapter 21L: Section 1 Definitions

As used in this Chapter, the following words shall have the following meanings unless the context clearly requires otherwise:

“Biosafety Level 2 (BSL2),” that level of containment as defined as BSL2 by the United States National Institutes of Health Guidelines unless otherwise defined by the Department of Public Health.

“Biosafety Level 3 (BSL3),” that level of containment as defined as BSL3 by the United States National Institutes of Health Guidelines unless otherwise defined by the Department of Public Health.

“Biosafety Level 4 (BSL4),” that level of containment as defined as BSL4 by the United States National Institutes of Health Guidelines unless otherwise defined by the Department of Public Health.

“BSL4 facility,” a building or project that includes a BSL4 laboratory component.

“BSL3 facility,” a building or project that includes a BSL3 laboratory component and that does not have a BSL4 laboratory component.

“Institutional Biosafety Committee (IBC),” an internal experimental review committee required by NIH Guidelines, comprised of at least five members so selected that they collectively have experience and expertise in recombinant DNA technology and biological pathogens and the

capability to assess the safety of recombinant DNA and pathogenic biological research and identify any potential risk to public health or the environment.

“National Institutes of Health Guidelines” or “NIH Guidelines,” the National Institutes of Health Guidelines for Research Involving Recombinant Molecules as amended from time to time. If the National Institutes of Health shall discontinue or abolish said guidelines, the guidelines shall remain in effect in the Commonwealth of Massachusetts as thereafter modified from time to time in regulations by the Department of Public Health.

“Pathogenic biological agent,” any microorganism (including but not limited to bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substance, or any naturally occurring, bioengineered, or synthesized component of any such microorganism or infectious substance, capable of causing death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism; deterioration of food, water, equipment, supplies, or material of any kind; or deleterious alteration of the environment.

“Person,” a natural person, corporation, association, partnership or other legal entity.

“Protocol registration documentation”, a document with supporting detail that describes research program elements and procedures and is reviewed by the IBC; there is greater detail as the potential hazards associated with the work increase.

“Retaliatory action,” the unlawful discharge, suspension, demotion, harassment, denial of promotion, layoff or other adverse action taken against an employee affecting the terms and conditions of employment, against a researcher affecting his ability to perform research in a laboratory, or against a student affecting his grades, student status, or ability to perform research in a laboratory.

“Select agent,” a pathogenic biological agent that is designated as a select agent by the federal government or the Department of Public Health based on its potential to pose a severe threat to public health and safety, to animal health, or to animal products.

“Toxin,” the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes any poisonous substance or biological product that may be engineered as a result of biotechnology, produced by a living organism; or any poisonous isomer or biological product, homolog, or derivative of such a substance.

Chapter 21L: Section 2 Siting of BSL4 Facilities

(a) The Department of Environmental Protection, in cooperation with the Department of Public Health, shall promulgate regulations establishing criteria for the selection of superior sites for the location of BSL4 facilities, guidelines for their application, and procedures for the conduct of site selection. The primary consideration in adopting such regulations shall be the protection of public health, safety, and the environment. The site selection criteria and application guidelines

shall ensure, at a minimum, that any superior site satisfies the following site suitability requirements: (1) Sites shall be capable of being characterized, modeled, and monitored; (2) Sites shall be located so that nearby activities will not adversely affect the ability of the site to meet any performance objectives adopted by the Department of Public Health, or significantly impair any environmental monitoring program; (3) Sites shall be located in an area with minimal wind that would exacerbate the spread of released pathogens; (4) Sites should not be next to a known fire hazards or be in danger of flooding; (5) Sites should not be near areas of high traffic congestion that would impede emergency access or evacuation or endanger motorists; and (6) Sites shall have sufficient land available to provide for a reasonable buffer around the BSL4 facility, at a minimum 150 unobstructed feet in every direction.

(b) The Department of Environmental Protection, in cooperation with the Department of Public Health, shall promulgate regulations for the siting of BSL4 facilities that shall include, but not be limited to, the following considerations: (1) The proximity of flood plains, wetlands, waterways, and waterbodies; (2) The relationship of the site to groundwater elevations; (3) The nature and extent of residential areas and schools through grade 12 in proximity to the site; (4) The availability and suitability of access roads to the site, including the ability of first responders to access the site in an emergency and to evacuate the vicinity in the event of a release of a pathogenic biological agent or toxin from the laboratory or terrorist attack on the laboratory; (5) The potential for adverse impact on air quality; (6) The potential for adverse public health and safety impacts; (7) The potential impact of increased traffic volume on roads to the site; (8) The potential threat of a terrorist attack on the facility; and (9) The potential adverse impacts on communities within ten miles of the site.

Chapter 21L: Section 3 Construction of BSL4 Facilities

(a) No BSL4 facility shall be constructed or operated within the Commonwealth unless: (1) Construction and operation of the proposed facility has been approved by the municipality in which the facility would be sited; (2) Construction and operation of the proposed facility has been approved by the Department of Environmental Protection and the Department of Public Health; (3) An adequate emergency preparedness plan for the proposed facility has been developed, approved, and implemented by the Commonwealth; and (4) Effective standards applicable to the proposed facility have been promulgated by the Commonwealth to protect the public against health and safety hazards attributable to BSL4 materials within the Commonwealth.

(b) At a minimum, the following shall be submitted to the Department of Public Health, Department of Environmental Protection, and municipality in which the facility will be sited for review and approval, before beginning construction of a BSL4 facility: (1) Small-scale layout drawing showing possible arrangement of space, conceptual designs, and schematic designs; (2) Topographic data, including seismic data or other pertinent information; (3) Existing utilities information; (4) Construction schedule; (5) Project Plan including: Description of Project, Project Implementation Strategy, Quality Assurance and Quality Surveillance Plans, Environmental Control Plan, Occupancy Plan, Community Relations Plan, and Commissioning Plans; and (6) Worst case release and contagion scenarios for the pathogenic biological agents and toxins that might be in the BSL4 laboratory.

(c) All construction contractors engaged in BSL4 facility projects shall have recent and relevant experience in the planning and construction of biocontainment facilities. Records and references of such experience shall be submitted to the Department of Public Health, Department of Environmental Protection, and municipality in which the facility will be sited for review and approval.

(d) The Department of Public Health shall promulgate additional regulations for the construction of BSL4 facilities that are at least as stringent and protective of the public health, safety, and the environment as applicable federal requirements and guidelines for construction of such facilities. At a minimum, the regulations shall assure that the facility is constructed to minimize the potential that a pathogenic biological agent or toxin might infect a person or escape laboratory containment. The regulations shall also require the facility to have redundant utilities and systems to prevent and minimize the possibility of a release of a pathogenic biological agent or toxin.

Chapter 21L: Section 4 Operation and Maintenance of BSL4 facilities

(a) The Department of Public Health shall promulgate regulations for the operation and maintenance of BSL4 facilities, laboratory and testing procedures, and the handling of biological materials to be used in BSL4 laboratories that shall be at least as stringent and protective of worker and public health, safety, and the environment as applicable federal requirements and guidelines. At a minimum, the regulations shall assure that research is performed, the laboratory is operated, and its containment systems and procedures maintained, to minimize to the greatest extent practicable the potential that a pathogenic biological agent or toxin might infect a person in the laboratory or escape laboratory containment. The regulations shall, at a minimum, be at least as protective of and require compliance with the standards and practices established in the most current versions of federal technical guidance documents, including: (1) NIH Guidelines; (2) Biosafety in Microbiological and Biomedical Laboratories (CDC/NIH); and (3) Guidelines on Primary Containment for Biohazards (CDC/NIH). The regulations shall also require the facility to adopt special medical surveillance and occupational health requirements, in consultation with a qualified occupational health physician experienced in biological laboratory exposures and informed about select agents, to monitor and track potential laboratory-acquired infections and releases to the community and to report that information to the Department of Public Health and local board of health periodically.

(b) The facility shall have specific procedures to ensure compliance with all applicable BSL4 health and safety criteria and research standards. They shall include that the facility develop and maintain a manual of operations and maintenance that contains and complies with all applicable Federal, State, and municipal regulations and requirements and that shall be publicly accessible with reasonable security limitations.

(c) The facility shall provide adequate training for site workers in the proper handling of pathogenic biological agents or toxins that might be in the laboratory. Such training shall include, but not be limited to basic BSL4 principles, basic BSL4 protection; BSL4 biology; decontamination methods; personnel safety precautions and work habits; early warning disease

surveillance; and accident response actions and notifications. The facility shall provide an annual training plan to the Department of Public Health for approval annually. The training plan shall ensure that all laboratory staff and researchers, including the principal investigator for each laboratory, are trained adequately and that the principal investigator participates in the creation and implementation of a training program for others using the BSL4 laboratory.

(d) Each facility shall report the presence of select agents to the Department of Public Health upon the arrival of those select agents at the facility. The Department of Public Health shall make that information available to the board of health and emergency response officials in the municipality where the facility is located.

(e) Any accidental or intentional release of a pathogenic biological agent or toxin outside the containment area and any laboratory acquired infection shall be reported to the local police, fire, and health department and the Department of Public Health and Department of Environmental Protection immediately, and in no case more than eight (8) hours after a suspected release or infection.

(f) Every BSL4 facility shall have a security plan that shall take into account the basic security threats to the facility and that shall have the capability for the protection of select agents in transit to the facility and when select agents are stored and used in the facility. The plan shall be developed in coordination with state and local officials. The basic security threats shall include but not be limited to threats equivalent to the events of September 11, 2001; a physical, cyber, biochemical, or other terrorist threat; an attack on a facility by multiple coordinated teams of a large number of individuals; assistance in an attack from several persons employed at the facility; a suicide attack; a water-based or air-based threat; the use of explosive devices of considerable size and other modern weaponry; an attack by persons with a sophisticated knowledge of the operations of a sensitive BSL4 facility; internal terrorism and sabotage; fire, especially a fire of long duration; and any other threat that the Department of Environmental Protection, Department of Public Health, or local and state police determine should be included as an element of the plan. The security plan shall prescribe the establishment and maintenance of a physical protection system, the deployment of security guards, the numbers of the members of the guards at each facility, the tactics of the guards at each facility; and the capabilities of the guards at each facility; and other protective measures, including, coordination of security response with Federal, State, and Local authorities; restricted personnel access to each BSL4; perimeter site security, internal site security, and fire protection barriers; a security barrier of at least 150 feet; and background security checks and psychological profiling for employees and prospective employees. If at any time the facility determines that the implementation of the requirements of the security plan is insufficient to ensure the security of the facility against a basic security threat, the facility shall immediately submit to the Commonwealth a report that identifies the vulnerability of the facility; and recommends actions by Federal, State, or local agencies to eliminate the vulnerability. If the facility is incapable of defending itself from a security threat the Commonwealth may supply protection to the facility at cost to the facility or may require the facility to close immediately and destroy its stock of pathogenic biological agents and toxins.

(g) The Department of Public Health, in cooperation with the Department of Public Safety, shall promulgate regulations for security guards for BSL4 facilities. At a minimum, those regulations shall include: qualification standards; training requirements; examination; criminal and security background checks; disqualification of individuals who present security risks; and annual proficiency review.

Chapter 21L: Section 5 Permit Required for Operation of BSL4 facilities

(a) For purposes of this section, "permit proceeding" includes the consideration of any application for a permit and of any proposal or request to suspend, revoke, modify or renew a permit. "Permit determination," means the decision of the director upon such application, proposal or request.

(b) No person or persons shall operate a BSL4 facility without a currently valid permit issued by the Department of Public Health. No person or persons shall operate a facility that engages in any activity that may reasonably be expected to result in or require BSL4 containment without a currently valid permit issued by the Department of Public Health.

(c) The Department of Public Health shall adopt regulations with respect to permit proceedings and determinations. Applications for permits shall be submitted within times and on forms prescribed by the Department of Public Health and shall contain such information as it may require.

(d) Public notice of every permit proceeding shall be given in the manner provided by section three of chapter thirty A. The Department of Public Health shall circulate information received concerning the matter pending and hold a public hearing. The public hearing shall be in the municipality in which the BSL4 facility is located, at least thirty days after giving notice thereof.

(e) The Department of Public Health shall grant a permit only if it determines that the facility will not be a threat to the public health, safety, and the environment and that the facility will comply with the requirements of federal, state, and local laws and regulations for BSL4 facilities. No permit shall be issued for a term of more than five years. Such term shall not be extended or renewed and no further permit shall be issued to a facility without its submittal of a completed permit application.

(f) A permit for a BSL4 facility shall require compliance with federal and state requirements and standards and other safeguards that the Department of Public Health may require to prevent a release of a pathogenic biological agent or toxin and to protect worker and public health and safety and the environment

(g) A permit granted under this section shall require the permittee to submit the protocol registration documentation, or similar documentation if the protocol registration documentation is not available, to the Department of Public Health and local board of health concerning each experiment undertaken at or proposed for the BSL4 facility. The permittee shall also submit any changes to the protocol made by an Institutional Biosafety Committee to the Department of Public Health and local board of health. The BSL4 facility shall have its permit suspended or

revoked if it undertakes any work requiring BSL4 containment that it does not report to the Department of Public Health. If the BSL4 facility is not allowed to disclose to the Department of Public Health the nature of any of its work by the federal agency or other entity that funds it, the facility may not accept the funding or conduct the work. Nothing in this paragraph shall be construed as superseding the powers of any or municipality to enact and enforce restrictions on BSL4 and other biological experimentation consistent with the provisions of this chapter and any regulations issued hereunder.

(h) The Department of Public Health may propose and determine to modify, suspend, or revoke any outstanding permit, in whole or in part, for cause, including, but not limited to, violation of any permit term, obtaining a permit by misrepresentation or failure to disclose fully all relevant facts or any change in or discovery of conditions that calls for reduction or discontinuance of the authorized discharge. The Department of Public Health may also modify a permit at the request of the permittee upon a showing, satisfactory to the Department of Public Health, that the requested modification is appropriate in view of circumstances for which the permittee is not at fault.

Chapter 21L: Section 6 Packaging and Transportation of Pathogenic Biological Agents and Toxins

(a) No person or persons may transport select agents within the Commonwealth without a license allowing such transport. A general license is hereby issued to any common or contract carrier to receive, possess, transport, and store select agents in the regular course of their carriage for others or storage incident thereto, provided the transportation and storage is in accordance with applicable federal and state requirements.

(b) The Department of Public Health, in cooperation with the Department of Environmental Protection, shall promulgate regulations for the packaging, storage, and transport of pathogenic biological agents or toxins within the Commonwealth. The regulations shall be at least as stringent and protective of the public health, safety, and environment as federal standards. At a minimum, the regulations shall ensure that each package meets stringent packaging requirements, is appropriately labeled and stored, and is tracked from sender to receiver; persons who transport pathogenic biological agents or toxins receive appropriate training; persons who transport pathogenic biological agents or toxins are not known threats to the Commonwealth; procedures are in place to minimize terrorist access to pathogenic biological agents or toxins during transport; and notification of an incident during transport shall be made to the Department of Public Health and Department of Environmental Protection immediately and in no event later than 8 hours after the incident.

Chapter 21L: Section 7 Emergencies

(a) The Department of Public Health, in cooperation with the Department of Public Safety, shall establish regulations for emergency response plans for BSL4 facilities that will require the facility to consult with Local, State, and Federal officials to develop an emergency response plan to respond to security threats and an emergency response plan to respond to actual and potential releases and infections. A BSL4 facility without an emergency response plan shall not receive a

permit. All emergency response plans shall be approved by the Department of Public Health and included in each facility's operation and maintenance manual.

(b) Each municipality in which a BSL4 facility is located shall have an emergency response plan to respond to security threats to and actual and suspected releases from the facility. Such plan shall include provisions for emergency treatment of potentially infected persons, emergency evacuation, and emergency quarantine and is subject to approval the Department of Public Health, which shall establish regulations for such plans. The municipality must have the capability to implement the plan to the satisfaction of the Department of Public Health or such plan shall not be approved. A BSL4 facility may not operate in a municipality that does not have such a plan approved by the Department of Public Health.

Chapter 21L: Section 8 Insurance

(a) Each BSL4 facility shall establish a contingent liability account and an institutional control account. The Institutional Biosafety Committee shall determine annually the amount that shall be deposited within each account subject to the approval of the Department of Public Health; provided, however, that after such deposits, no amounts so deposited may be transferred between such accounts. The contingent liability account shall be used to pay compensation for injuries (including death and illness) to persons, land, or property resulting from the possession and use of BSL4 materials. The institutional control account shall be used to pay for institutional control. The account shall be used by the facility to purchase insurance coverage or otherwise to ensure the availability of funds to meet liability claims during the institutional control period; provided, however, that no portion of the monies held in the institutional control account may be used to satisfy judgments or settlements for any other purpose other than institutional control of a facility.

(b) The Department of Public Health shall conduct an annual review and analysis of the adequacy of available funds and insurance protection against personal injury and property damage, including third-party liability insurance attributable to any BSL4 facility and may promulgate regulations setting forth liability insurance requirements for BSL4 facilities.

Chapter 21 L: Section 9 Penalties

(a) A person who violates this chapter or regulations promulgated thereunder is subject to judicially imposed criminal and civil penalties as well as civil administrative penalties imposed by the Department of Environmental Protection or Department of Public Health. Each day that a violation occurs or continues constitutes a separate violation.

(b) A violation may be punished by the imposition of a penalty that does not exceed \$25,000 for each day of violation. A violation may be punished by the administrative imposition of a penalty of no less than \$100 and not more than \$25,000 for each day of violation. A violation may be punished by a fine of not more than \$25,000, or by imprisonment for not more than two years in a house of correction. Punishment imposed under the chapter is in addition to any other penalty prescribed by law.

(c) A facility's BSL4 permit may be permanently or temporarily revoked for any violation of this chapter.

Chapter 21 L: Section 10 Institutional Biosafety Committee

(a) Each BSL4 facility shall have an Institutional Biosafety Committee (IBC) as required by NIH Guidelines. At least two members of the IBC shall be from the municipality in which the facility is located and shall be outside members who are independent of the facility, its contractors and consultants, as approved by the Department of Public Health. The IBC shall comply with NIH Guidelines applicable to the IBC and may be further regulated by the Department of Public Health.

(b) The Department of Public Health shall establish further regulations for the composition, operation, and requirements of the IBC. Those regulations shall require that the IBC keep public minutes of its meetings and file an annual public report of its operations and decisions with the Department of Public Health and with the municipality in which the BSL4 facility is located.

Chapter 21L: Section 11 Community Oversight Board

(a) Each BSL4 facility shall have a community oversight board comprised of at least three and no more than five persons appointed by the municipality in which the facility is located; one person, appointed by the Governor, who lives in the municipality in which the facility is located; and one person appointed by the facility. The persons appointed by the municipality and Governor shall be independent of, and have no financial or research ties to, the owner and operator of the BSL4 facility. The persons appointed by the municipality shall include at least one representative of an environmental advocacy organization and one representative of a neighborhood association or other community based organization located near the facility. The community oversight board shall have the authority to approve in advance the containment level of research proposed for the laboratory, safety practices, medical surveillance plan, and trainings to be conducted for the BSL4 component, receive health and safety reports on ongoing research in the BSL4 component, inspect the laboratory at least annually, and stop BSL4 research in the event of a potential health or safety problem subject to the review of the Department of Public Health. The BSL4 facility shall provide the community oversight board with adequate funding to select and hire an independent expert to advise and assist it in its work.

(b) Each municipality in which a BSL3 facility is located shall have one community oversight board for all the BSL3 facilities in the municipality. The community oversight board shall be comprised of at least four and no more than six persons appointed by the municipality in which the facility is located; and one person, appointed by the Governor, who lives in the municipality in which the facility is located. The persons appointed by the municipality and Governor shall be independent of, and have no financial or research ties to, the owner and operator of the BSL3 facility. The persons appointed by the municipality shall include at least one representative of an environmental advocacy organization and one representative of a neighborhood association or other community based organization located near the facility. The community oversight board shall have the authority to approve in advance the containment level of research proposed for the laboratory, safety practices, medical surveillance plan, and trainings to be conducted for the

BSL3 component, receive health and safety reports on ongoing research in the BSL3 component, inspect the laboratory at least annually, and stop BSL3 research in the event of a potential health or safety problem subject to the review of the Department of Public Health. The BSL3 facility shall provide the community oversight board with adequate funding to select and hire an independent expert to advise and assist it in its work.

(c) The Department of Public Health shall promulgate regulations concerning the membership on, including terms of membership, and authority and responsibility of community oversight boards. Those regulations shall require that the community oversight board to keep public minutes of its meetings and file an annual public report of its operations and decisions with the Department of Public Health and with the municipality in which the BSL4 facility is located. The Department of Public Health may authorize a municipality that has a community oversight board with jurisdiction to enforce health and safety standards in BSL3 facilities and a history of having done so, to operate said board in lieu of the requirements in subsection (b) for BSL3 facilities.

Chapter 21L: Section 12: Inspections

To assure compliance with this chapter, and to protect the public health, safety, and the environment, the Department of Public Health, Department of Environmental Protection, and Department of Public Safety are authorized to inspect each facility that has a BSL4 laboratory, and review and have a copy of its records, during normal working hours and at other times as required by exigent circumstances.

Chapter 21L: Section 13: Whistleblower Protections

(a) No employee, researcher, or student shall be required to conduct scientific research, experimentation, or study or take other action in a BSL4 laboratory that violates the provisions of this chapter or that has a reasonable potential to adversely affect public or worker health or safety or the environment.

(b) A facility with a BSL4 laboratory shall not take any retaliatory action against its employee, a researcher, or student in the facility because that person: (i) discloses or threatens to disclose to a manager or a public body an activity, policy or practice that the employee reasonably believes is in violation of this chapter; or (ii) objects to, or refuses to participate in, any activity, policy or practice that the employee reasonably believes is in violation of this chapter.

(c) The protection against retaliatory action shall not apply to the public disclosure of confidential or proprietary information, trade secrets or other confidential materials unless such confidential disclosure is made by the person directly to and exclusively with the office of the attorney general or the Department of Public Health or the Department of Environmental Protection. The Department of Public Health and Department of Environmental Protection shall not publicly disclose any such confidential information but shall submit the information to the attorney general forthwith.

(d) Any employee, researcher, or student aggrieved by a violation of this section may, within 2 years, file a complaint with the attorney general, who may bring an action in the name of the commonwealth against the institution alleged to have violated this section. Within 90 days of receiving a complaint, the attorney general shall notify the complainant in writing as to whether he intends to bring an action in the name of the commonwealth. If the attorney general declines to bring an action based on the complaint filed, the aggrieved employee may, within 1 year, institute a civil action in the superior court. A party to that action may claim a jury trial. All remedies available in common law tort actions shall be available to prevailing plaintiffs. These remedies are in addition to any legal or equitable relief provided in this chapter. The court may: (i) issue temporary restraining orders or preliminary or permanent injunctions to restrain continued violation of this section; (ii) reinstate the person to the same position held before the retaliatory action, or to an equivalent position; (iii) reinstate full fringe benefits and seniority rights to the person; (iv) compensate the person for 3 times the lost wages, benefits and other remuneration, and interest thereon; and (v) order payment by the institution of reasonable costs, and attorneys' fees.

(e) In any action brought by a person under subsection (d), if the court finds the action was without basis in law or in fact, the court may award reasonable attorneys' fees and court costs to the institution.

(f) A person shall not be assessed attorneys' fees under subsection (e) if the person moves to dismiss the action against the institution or files for a dismissal, within a reasonable time after determining that the institution would not be found liable for damages.

(g) Nothing in this section shall diminish the rights, privileges or remedies of any person under any other federal or state law or regulation, or under any collective bargaining agreement or employment contract, but the institution of a private action in accordance with subsection (d) shall be deemed a waiver by the plaintiff of the rights and remedies available to him, for the actions of the institution, under any other contract, collective bargaining agreement, state law, rule or regulation or under the common law.

(h) A facility with a BSL4 laboratory shall publicly display notices reasonably designed to inform employees, students, and researchers of their protection and obligations under this section, and use other appropriate means to keep those persons so informed. Each notice posted pursuant to this subsection shall include the name of the person who has been designated by the institution to receive written notification of a suspected violation of this chapter.

Chapter 21L: Section 14: Authority Granted for Additional Regulation

Each local municipality within the Commonwealth may enact laws and regulations in addition to those established by this chapter to regulate or prohibit BSL4 facilities located within their jurisdiction.

Chapter 21L: Section 15: Regulation of BSL3 Facilities

The Department of Public Health, in cooperation with the Department of Environmental Protection, shall also adopt regulations that are protective of worker and public health and safety and the environment for facilities with a BSL3 laboratory but without a BSL4 laboratory. Those regulations shall include requirements concerning operation and maintenance and permitting, and other provisions as the Department of Public Health determines are necessary.

SECTION 3. The Department of Environmental Protection and Department of Public Health shall adopt the initial regulations required by this act within 180 days after the effective date of this act. Construction and operation of any BSL4 facility shall not begin until the regulations required by this act have taken effect.

SECTION 4. The Department of Environmental Protection and Department of Public Health shall complete a joint report within one year after the effective date of this act on whether BSL2 laboratories should be regulated and if so the nature of that regulation.