

Unofficial Draft Copy

As of: August 31, 2004 (11:00am)

LC9009

**** Bill No. ****

Introduced By *****

FOR DISCUSSION PURPOSES ONLY

A Bill for an Act entitled: "An Act establishing a decontamination standard for the cleanup of indoor property contaminated by clandestine manufacture of methamphetamine; authorizing the department of public health and human services to provide minimum standards and requirements for persons qualified to conduct methamphetamine lab remediation activities; requiring notice to subsequent occupants of contaminated property under certain conditions; providing reporting requirements; and providing civil immunity for state and local officials."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Finding and purpose.** The legislature finds that some properties are being contaminated with hazardous chemical residues created by the manufacture of methamphetamine. Innocent members of the public may be harmed when they are unknowingly exposed to these residues if the properties are not decontaminated prior to any subsequent rental, sale, or use of the properties. The purpose of [sections 1 through 7] is to protect the public health, safety, and welfare by providing specific cleanup standards and authorizing the department of public health and human services to establish a voluntary program that will provide for a property

decontamination process that will meet state standards.

NEW SECTION. **Section 2. Definitions.** Unless the context requires otherwise, in [sections 1 through 7], the following definitions apply:

(1) "Department" means the department of public health and human services provided for in 2-15-2201.

(2) (a) "Inhabitable real property" or "property" means any building or structure that is intended to be primarily occupied by people, either as a dwelling or a business, including a storage facility, MOBILE HOME, OR RECREATIONAL VEHICLE, that may be sold, leased, or rented for any length of time.

(b) The term does not mean any water system, sewer system, land, or water outside of a building or structure described in subsection (2) (a).

(3) "Surface material" means any porous or nonporous substance common to the interior of a building or structure, including but not limited to ceilings and walls, window coverings, floors and floor coverings, counters, furniture, heating and cooling duct work, and any other surfaces that may be exposed to building or structure inhabitants.

NEW SECTION. **Section 3. Decontamination standards -- samples.** (1) The decontamination standard for methamphetamine inside inhabitable real property is less than or equal to 0.1 micrograms per 100 square centimeters of surface material as determined by testing methods approved by the department.

(2) (a) The department may by rule establish the number and locations of surface material samples to be collected based on the circumstances of the contamination.

(b) In the absence of a rule described in subsection (2)(a), at least three samples must be collected from the locations most likely to be contaminated at each property.

NEW SECTION. **Section 4. Contractor certification -- department authority.** (1) The department is authorized to establish by rule minimum standards for the training and certification of contractors and their employees qualified to perform the remediation of inhabitable real property contaminated by methamphetamine residues.

(2) The department may train and test or may approve courses to train and test contractors and their employees in the proper methods of assessing, remediating, and testing property contaminated by methamphetamine residues. If the department conducts the training and testing of contractors and their employees, it may assess reasonable fees to cover the state costs of providing the training and testing.

(3) The department shall establish by rule procedures for the certification of qualified contractors and their employees, including procedures for the decertification of contractors and their employees for cause.

(4) Any contractor and its employees who are certified to perform the remediation of inhabitable real property in any other state is hereby approved for certification in Montana unless the

department determines that the certification process in the other state is not substantially similar to the minimum certification standards established by the department.

(5) The department shall maintain a list of certified decontamination contractors and shall make the list available to local health officials, law enforcement officials, and the public.

NEW SECTION. Section 5. Occupant notice by property owner.

A property owner of inhabitable real property that is known by the owner to have been used as a clandestine methamphetamine drug lab shall notify any subsequent occupant or purchaser of the property of that fact unless the property has been remediated to the standards established in [section 3] by a qualified contractor who is certified in accordance with [section 4].

NEW SECTION. Section 6. Reporting requirements. (1)

Whenever a state or local law enforcement agency becomes aware that a property has been contaminated by its use as a clandestine methamphetamine drug lab, the agency shall report the contamination to the department and to the local health officer.

(2) The department shall maintain a list of property that has been reported as contaminated, which must be made available to the public upon request except as provided in subsection (3).

(3) A property that has been contaminated by its use as a clandestine methamphetamine drug lab shall be removed from the list required in subsection (2) upon submittal of documentation

by the property owner to the department that the property has been remediated to the standards established in [section 3] by a qualified contractor who is certified in accordance with [section 4]. The department shall notify the local health officer when the documentation shows that the property has been properly remediated.

NEW SECTION. Section 7. Civil liability -- immunity.

Employees of state and local law enforcement agencies, local health departments, and the department are immune from civil liability arising out of the performance of their duties under [sections 1 through 7] unless the performance constitutes gross negligence or intentional misconduct.

NEW SECTION. Section 8. {standard} Codification

instruction. [Sections 1 through 7] are intended to be codified as an integral part of Title 50, and the provisions of Title 50 apply to [sections 1 through 7].

NEW SECTION. Section 9. Two-thirds vote required --

contingent voidness. Because [section 7] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage. If [this act] is not approved by a vote of two-thirds of the members of each house of the legislature, then [section 7] is void.

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