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As of: February 23, 2004 (3:03pm)

LC9191

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act **FOR DISCUSSION PURPOSES ONLY** establishing a state training and certification program for persons authorized to clean inhabitable real property contaminated by materials and chemicals used the manufacture of illegal clandestine drugs, establishing a decontamination standard for methamphetamine residues, providing a limited liability to owners of property that has been certified as properly decontaminated, authorizing rules, providing an appropriation; and providing a termination date; and providing effective dates."

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 and other illegal drugs. Innocent members of the public may be harmed when they are unknowingly exposed to these residues if the properties are not decontaminated prior to the subsequent rental, sale, or use of the properties. The purpose of [sections 1 through __] is to require the department of public health and human services to provide specific cleanup standards and to establish a voluntary program that will provide for a

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property decontamination process that can be certified to meet state standards.

NEW SECTION. **Section 2. Definitions.** Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Department" means the department of public health and environment 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 humans, either as a dwelling or a business, including storage facilities, 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 waters outside of a building or structure described in (2) (a).

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

NEW SECTION. **Section 3. Powers and responsibilities of the department - rules.** (1) The department shall initiate and administer a program designed to provide the owners, purchasers,

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or renters of inhabitable real property with a method of determining whether or not the property has been properly cleaned of any hazardous residues that may have contaminated the property as the result of the manufacture of methamphetamine or other illegal drugs. The program must:

(a) qualify through training and testing, or through approved courses to train and test, contractors and their employees on the essential elements of assessing and cleaning property used in the manufacture of methamphetamine or other illegal drugs;

(b) provide approved methods for the sampling of materials and the testing of samples;

(c) maintain a list of laboratories, which may include state laboratories, that are approved to prepare and analyze samples for drug residues;

(d) maintain a list of contractors qualified by the state to assess and clean contaminated property;

(e) allow for the participation of local health officers or their representatives in determining compliance with [section X through Y]; and

(f) establish fees that will cover the state costs incurred in the testing and qualification of persons under this section and for the preparation and testing of any samples submitted to state laboratories.

(2) The department may adopt rules necessary for the implementation of this part including but not limited to rules for the:

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- (a) training and testing of qualified contractors including;
 - (b) suspension and revocation of qualifications for cause;
- and
- (c) certification of decontaminated property.

NEW SECTION. **Section 4. Decontamination of property.** The owner of inhabitable real property contaminated by the manufacture of methamphetamine or other illegal drugs may receive a certificate of cleanup from the state if the owner uses the services of a qualified contractor qualified pursuant to the requirements of [section 3].

NEW SECTION. **Section 5. Decontamination standards.** (1) Except as provided in subsection(2), the department may establish by rule or guideline a decontamination standard for any illegal drug chemical or residual.

(2) The decontamination standard for methamphetamine is less than or equal to 0.1 micrograms per 100 square centimeters of surface material.

(3) The standards or guidelines established in this section may only apply to inhabitable real property.

NEW SECTION. **Section 6. Certificate of cleanup.** The department shall provide the owner of inhabitable real property contaminated by the manufacture of methamphetamine or other illegal drugs a certificate of cleanup only if the owner provides to the department a sworn statement from a contractor qualified

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under [section 3] that the property was cleaned in accordance with state requirements. The statement must include the testing results from a laboratory approved under [section 3] that show compliance with the decontamination standard in [section 5].

NEW SECTION. **Section 7. Liability following certified cleanup.** The owner of inhabitable real property who complies with this part and obtains a state certificate of cleanup in compliance with [section 6] is not liable in any action brought by a subsequent inhabitant based on an alleged exposure to or the alleged presence of chemical residuals that were removed in compliance with this part.

NEW SECTION. **Section 8. Appropriation.** There is appropriated \$50,000 from the general fund to the department of public health and human services for each of the fiscal years 2006 and 2007.

OR

NEW SECTION. **Section 9. Property decontamination fee.** For each property and casualty policy in effect in Montana on February 1 of each year, the insurer issuing the policy shall pay 10 cents to the commissioner. The fee must be paid on or before March 1 of each year and be deposited in the general fund. The purpose of the fee is to fund the establishment and implementation of the voluntary certified property decontamination program established in [sections 1-7].

OR

NEW SECTION. **Section 10. Transfer of funds.** If it is permitted within the criteria of the granting agency, the department of justice shall transfer \$50,000 from federal grants it receives to address the problem of clandestine illegal drug labs in Montana to the department of public health and human services for each of the fiscal years 2006 and 2007. The department of public health and human services shall use the transferred funds for the establishment and implementation of the voluntary certified property decontamination program established in [sections 1-7]. Any funds remaining at the end of the biennium shall be transferred back to the department of justice.

NEW SECTION. **Section 11. {standard} Codification instruction.** (1) [Sections 1-7] is intended to be codified as an integral part of Title 50, and the provisions of Title 50 apply to [section 1-7].

(2) [Section 9] is intended to be codified as an integral part of Title 33, chapter 2, part 7, and the provisions of Title 33, chapter 2, part 7, apply to [section 9].

NEW SECTION. **Section 12. {standard} Effective dates.** (1) [Sections * and this section] are effective on passage and approval.

(2) [Sections * through *] are effective

NEW SECTION. Section 13. {standard} Termination. [Section
9] terminates June 30, 2007.

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