

## HOUSE BILL NO. 60

INTRODUCED BY HARRIS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A DECONTAMINATION STANDARD FOR THE  
5 CLEANUP OF INDOOR PROPERTY CONTAMINATED BY THE CLANDESTINE MANUFACTURE OF  
6 METHAMPHETAMINE; PROVIDING FOR RULEMAKING AUTHORITY TO CHANGE THE STANDARD OR TO  
7 ADOPT SIMILAR STANDARDS FOR PRECURSORS TO METHAMPHETAMINE TO PROTECT HUMAN  
8 HEALTH; AUTHORIZING THE DEPARTMENT OF ~~PUBLIC HEALTH AND HUMAN SERVICES~~  
9 ENVIRONMENTAL QUALITY TO PROVIDE MINIMUM STANDARDS AND REQUIREMENTS FOR  
10 CERTIFYING PERSONS TO CONDUCT METHAMPHETAMINE LAB REMEDIATION ACTIVITIES; REQUIRING  
11 NOTICE TO SUBSEQUENT OCCUPANTS OF CONTAMINATED INHABITABLE PROPERTY UNDER  
12 CERTAIN CONDITIONS; PROVIDING REPORTING REQUIREMENTS; AND PROVIDING CIVIL IMMUNITY  
13 FOR ~~STATE AND LOCAL OFFICIALS~~ A PROPERTY OWNER AND OWNER'S AGENT IN CERTAIN  
14 INSTANCES."

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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18 NEW SECTION. Section 1. Finding and purpose. The legislature finds that some properties are being  
19 contaminated with hazardous chemical residues created by the manufacture of methamphetamine. Innocent  
20 members of the public may be harmed when they are unknowingly exposed to these residues if the properties  
21 are not decontaminated prior to any subsequent rental, sale, or use of the properties. Remediation of properties  
22 has been frustrated by the lack of a decontamination standard. The purpose of [sections 1 through 7 6] is to  
23 protect the public health, safety, and welfare by providing specific cleanup standards and authorizing the  
24 department to establish a voluntary program that will provide for a property decontamination process that will  
25 meet state standards.

26  
27 NEW SECTION. Section 2. Definitions. Unless the context requires otherwise, in [sections 1 through  
28 7 6], the following definitions apply:

29 (1) "Department" means the department of ~~public health and human services provided for in 2-15-2204~~  
30 ENVIRONMENTAL QUALITY PROVIDED FOR IN 2-15-3501.

1 (2) (a) "Inhabitable property" means any building or structure USED AS A CLANDESTINE METHAMPHETAMINE  
 2 DRUG LAB that is intended to be primarily occupied by people, either as a dwelling or a business, including a  
 3 storage facility, mobile home, or recreational vehicle, that may be sold, leased, or rented for any length of time.

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

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

10  
 11 NEW SECTION. Section 3. Decontamination standards -- RULEMAKING AUTHORITY -- samples. (1)

12 The decontamination standard for methamphetamine inside inhabitable property is less than or equal to 0.1  
 13 micrograms of methamphetamine per 100 square centimeters of surface material UNLESS A DIFFERENT STANDARD  
 14 IS ADOPTED BY THE DEPARTMENT BY RULE TO PROTECT HUMAN HEALTH. THE DEPARTMENT MAY ADOPT STANDARDS BY  
 15 RULE FOR PRECURSORS TO METHAMPHETAMINE THAT ARE CONSISTENT WITH THE STANDARD FOR METHAMPHETAMINE.

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

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

20  
 21 NEW SECTION. Section 4. Contractor certification -- department authority. (1) The department

22 is authorized to establish by rule minimum standards for the training and certification of contractors and their  
 23 employees who are to perform the ASSESSMENT OR remediation of inhabitable property contaminated by  
 24 methamphetamine residues.

25 (2) The department may train and test or may approve courses to train and test contractors and their  
 26 employees in the proper methods of assessing, remediating, and testing inhabitable property contaminated by  
 27 methamphetamine residues. If the department conducts the training and testing of contractors and their  
 28 employees, it may ~~assess~~ ADOPT RULES TO PROVIDE FOR THE ASSESSMENT OF reasonable fees to cover the state's  
 29 costs of providing the training and testing.

30 (3) The department shall establish by rule procedures for the certification of contractors and their

1 employees, including procedures for the decertification of contractors and their employees for cause. THE RULES  
 2 MAY PROVIDE FOR THE ASSESSMENT OF REASONABLE FEES TO COVER THE COST OF THE CONTRACTOR CERTIFICATION  
 3 PROGRAM.

4 (4) Any contractor and the contractor's employees certified to perform the remediation of inhabitable  
 5 property in any other state are approved for certification in Montana unless the department determines that the  
 6 certification process in the other state is not substantially similar to the minimum certification standards  
 7 established by the department.

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

10  
 11 NEW SECTION. Section 5. Occupant notice by owner of inhabitable property -- IMMUNITY. (1) An  
 12 owner of inhabitable property that is known by the owner to have been used as a clandestine methamphetamine  
 13 drug lab shall notify IN WRITING any subsequent occupant or purchaser of the inhabitable property of that fact  
 14 ~~unless~~ IF the inhabitable property has NOT been remediated to the standards established in [section 3] by a  
 15 contractor who is certified in accordance with [section 4].

16 ~~(2) AN OWNER OR AN OWNER'S AGENT WHO PROVIDES THE NOTIFICATION OR WHO HAS SUBMITTED~~  
 17 ~~DOCUMENTATION TO THE DEPARTMENT THAT THE INHABITABLE PROPERTY HAS BEEN REMEDIATED TO THE STANDARDS~~  
 18 ~~ESTABLISHED IN [SECTION 3] BY A CONTRACTOR WHO IS CERTIFIED IN ACCORDANCE WITH [SECTION 4] WITH THE~~  
 19 ~~EXCEPTION OF AN OWNER OR AN OWNER'S AGENT WHO CAUSED THE METHAMPHETAMINE CONTAMINATION, AN AN OWNER~~  
 20 ~~OR AN OWNER'S AGENT WHO REFERRED TO IN SUBSECTION (1) MAY PROVIDE NOTICE TO A SUBSEQUENT OCCUPANT OR~~  
 21 ~~PURCHASER THAT THE OWNER OR THE OWNER'S AGENT HAS SUBMITTED:~~

22 ~~(A) DOCUMENTATION TO THE DEPARTMENT BY A CONTRACTOR WHO IS CERTIFIED PURSUANT TO [SECTION 4] THAT~~  
 23 ~~THE INHABITABLE PROPERTY HAS BEEN REMEDIATED TO THE STANDARDS ESTABLISHED IN [SECTION 3]; OR SUBMITS~~

24 ~~(B) DOCUMENTATION BY A CERTIFIED CONTRACTOR THAT THE PROPERTY MEETS THE DECONTAMINATION~~  
 25 ~~STANDARDS WITHOUT DECONTAMINATION AND WHO RECEIVES NOTIFICATION FROM THE DEPARTMENT CONFIRMING THE~~  
 26 ~~CONTAMINATION HAS BEEN SATISFACTORILY ADDRESSED IS NOT LIABLE IN ANY ACTION BASED ON THE PRESENCE OF~~  
 27 ~~METHAMPHETAMINE IN AN INHABITABLE PROPERTY.~~

28 ~~(3) NOTICE AS REQUIRED OR AUTHORIZED IN THIS SECTION MUST OCCUR BEFORE AGREEMENT TO A LEASE OR~~  
 29 ~~SALE OF THE INHABITABLE PROPERTY.~~

30 ~~(4) IF THE DEPARTMENT HAS CONFIRMED THAT THE DECONTAMINATION STANDARD PROVIDED FOR IN [SECTION~~

1 3] HAS BEEN MET AND IF NOTICE HAS BEEN GIVEN AS PROVIDED IN SUBSECTIONS (2) AND (3), THE OWNER AND THE  
 2 OWNER'S AGENT ARE NOT LIABLE IN ANY ACTION BROUGHT BY A PERSON WHO HAS BEEN GIVEN NOTICE THAT IS BASED  
 3 ON THE PRESENCE OF METHAMPHETAMINE IN AN INHABITABLE PROPERTY.

4 (5) THE IMMUNITY PROVIDED FOR IN SUBSECTION (4) DOES NOT APPLY TO AN OWNER OR AN OWNER'S AGENT  
 5 WHO CAUSED THE METHAMPHETAMINE CONTAMINATION.

6  
 7 NEW SECTION. Section 6. Reporting requirements. (1) Whenever a state or local law enforcement  
 8 agency becomes aware that an inhabitable property has been contaminated by its use as a clandestine  
 9 methamphetamine drug lab, the agency shall report the contamination to the department and to the local health  
 10 officer.

11 (2) The department shall maintain a list of inhabitable property that has been reported as contaminated,  
 12 and the list must be made available to the public ~~upon request~~ THROUGH A WEBSITE except as provided in  
 13 subsection (3).

14 (3) ~~An inhabitable property that has been contaminated by its use as a clandestine methamphetamine~~  
 15 ~~drug lab must be removed from the list required in subsection (2) upon submittal of documentation by the owner~~  
 16 ~~of the inhabitable property to the department that the inhabitable property has been remediated to the standards~~  
 17 ~~established in [section 3] by a contractor who is certified in accordance with [section 4].~~ UPON CONFIRMATION BY  
 18 THE DEPARTMENT THAT AN INHABITABLE PROPERTY HAS BEEN PROPERLY REMEDIATED TO THE STANDARDS ESTABLISHED  
 19 IN [SECTION 3] OR THAT THE INHABITABLE PROPERTY MEETS THE DECONTAMINATION STANDARDS WITHOUT  
 20 DECONTAMINATION, THE DEPARTMENT SHALL REMOVE THE INHABITABLE PROPERTY FROM THE LIST REQUIRED IN  
 21 SUBSECTION (2). The department shall ~~notify~~ PROVIDE WRITTEN NOTIFICATION TO the local health officer AND THE  
 22 PROPERTY OWNER OF RECORD when the documentation shows that the inhabitable property has been properly  
 23 ASSESSED OR remediated.

24 (4) THE DEPARTMENT MAY ADOPT RULES ESTABLISHING REASONABLE REQUIREMENTS FOR THE SUFFICIENCY  
 25 OF DOCUMENTATION TO BE PROVIDED BY A CERTIFIED CONTRACTOR.

26 ~~(4)(5)~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ONCE AN INHABITABLE PROPERTY HAS BEEN REMOVED  
 27 FROM THE LIST REQUIRED IN SUBSECTION (2), A PROPERTY OWNER, LANDLORD, OR REAL ESTATE AGENT IS NOT REQUIRED  
 28 TO REPORT OR OTHERWISE DISCLOSE THE PAST CONTAMINATION.

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 30 ~~NEW SECTION. Section 7. Civil liability -- immunity.~~ Employees of state and local law enforcement

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

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5 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 7 6] are intended to be  
6 codified as an integral part of Title 50, and the provisions of Title 50 apply to [sections 1 through 7]. IN TITLE 75,  
7 CHAPTER 10.

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9 ~~NEW SECTION. Section 9. Two-thirds vote required -- contingent voidness.~~ Because [section 7]  
10 limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the  
11 members of each house of the legislature for passage. If [this act] is not approved by a vote of two-thirds of the  
12 members of each house of the legislature, then [section 7] is void.

13 - END -