

1 HOUSE BILL NO. 116

2 INTRODUCED BY V. RICCI

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4 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE REQUIREMENT TO NOTIFY AND REMEDIATE
5 INHABITABLE PROPERTIES CONTAMINATED WITH METHAMPHETAMINE RESIDUE; RAISING THE
6 DECONTAMINATION STANDARD; REVISING THE DEFINITION OF "INHABITABLE PROPERTY"; AND
7 AMENDING SECTIONS 75-10-1301, 75-10-1302, 75-10-1303, AND 75-10-1305, MCA."

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

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11 **Section 1.** Section 75-10-1301, MCA, is amended to read:

12 **"75-10-1301. Finding and purpose.** The legislature finds that some properties are being
13 contaminated with hazardous chemical residues created by the manufacture of methamphetamine or the
14 smoke from the use of methamphetamine. Innocent members of the public may be harmed when they are
15 unknowingly exposed to these residues if the properties are not decontaminated prior to any subsequent rental,
16 sale, or use of the properties. Remediation of properties has been frustrated by the lack of a decontamination
17 standard. The purpose of this part is to protect the public health, safety, and welfare by providing specific
18 cleanup standards and authorizing the department to establish a voluntary program that will provide for a
19 property decontamination process that will meet state standards."

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21 **Section 2.** Section 75-10-130175-10-1302, MCA, is amended to read:

22 **"75-10-1302. Definitions.** Unless the context requires otherwise, in this part, the following definitions
23 apply:

24 (1) "Department" means the department of environmental quality provided for in 2-15-3501.

25 (2) (a) "Inhabitable property" means any building or structure used as a clandestine
26 methamphetamine drug lab or that has been contaminated from smoke from the use of methamphetamine that
27 is intended to be primarily occupied by people, either as a dwelling or a business, including a storage facility,
28 mobile home, or recreational vehicle, that may be sold, leased, or rented for any length of time.

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

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

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8 **Section 3.** Section 75-10-1303, MCA, is amended to read:

9 **"75-10-1303. Decontamination standards -- rulemaking authority -- samples.** (1) The
10 decontamination standard for methamphetamine inside inhabitable property is less than or equal to ~~0.4~~1.5
11 micrograms of methamphetamine per 100 square centimeters of surface material unless a different standard is
12 adopted by the department by rule to protect human health. The department may adopt standards by rule for
13 precursors to methamphetamine that are consistent with the standard for methamphetamine.

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

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

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19 **Section 4.** Section 75-10-1305, MCA, is amended to read:

20 **"75-10-1305. Occupant notice by owner of inhabitable property -- immunity.** (1) An owner of
21 inhabitable property that is known by the owner to have been used as a clandestine methamphetamine drug lab
22 or that has been contaminated from smoke from the use of methamphetamine shall notify in writing any
23 subsequent occupant or purchaser of the inhabitable property of that fact if the inhabitable property has not
24 been remediated to the standards established in 75-10-1303 by a contractor who is certified in accordance with
25 75-10-1304.

26 (2) An owner or an owner's agent referred to in subsection (1) may provide notice to a subsequent
27 occupant or purchaser that the owner or the owner's agent has submitted:

28 (a) documentation to the department by a contractor who is certified pursuant to 75-10-1304 that the

1 inhabitable property has been remediated to the standards established in 75-10-1303; or

2 (b) documentation by a certified contractor that the property meets the decontamination standards
3 without decontamination.

4 (3) Notice as required or authorized in this section must occur before agreement to a lease or sale of
5 the inhabitable property.

6 (4) If the department has confirmed that the decontamination standard provided for in 75-10-1303 has
7 been met and if notice has been given as provided in subsections (2) and (3), the owner and the owner's agent
8 are not liable in any action brought by a person who has been given notice that is based on the presence of
9 methamphetamine in an inhabitable property.

10 (5) The immunity provided for in subsection (4) does not apply to an owner or an owner's agent who
11 caused the methamphetamine contamination."

12 - END -