

## 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"; REVISING  
7 WHEN AN OWNER OR OWNER'S AGENT IS IMMUNE FROM CERTAIN ACTIONS; AND AMENDING  
8 SECTIONS 75-10-1301, 75-10-1302, 75-10-1303, AND 75-10-1305, MCA."

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

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

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

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

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

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

26 (2) (a) "Inhabitable property" means any building or structure used as a clandestine  
27 methamphetamine drug lab or that has been contaminated from smoke from the use of methamphetamine that  
28 is intended to be primarily occupied by people, either as a dwelling or a business, including a storage facility,

1 mobile home, or recreational vehicle, that may be sold, leased, or rented for any length of time.

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

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

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

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

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

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

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

21 **"75-10-1305. Occupant notice by owner of inhabitable property -- immunity.** (1) An owner of  
22 inhabitable property that is known by the owner to have been used as a clandestine methamphetamine drug lab  
23 or that has been contaminated from smoke from the use of methamphetamine shall notify in writing any  
24 subsequent occupant or purchaser of the inhabitable property of that fact if the inhabitable property has not  
25 been remediated to the standards established in 75-10-1303 by a contractor who is certified in accordance with  
26 75-10-1304.

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

1 (a) documentation to the department by a contractor who is certified pursuant to 75-10-1304 that the  
2 inhabitable property has been remediated to the standards established in 75-10-1303; or

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

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

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

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

13 - END -