



AN ACT ESTABLISHING A DECONTAMINATION STANDARD FOR THE CLEANUP OF INDOOR PROPERTY CONTAMINATED BY THE CLANDESTINE MANUFACTURE OF METHAMPHETAMINE; PROVIDING FOR RULEMAKING AUTHORITY TO CHANGE THE STANDARD OR TO ADOPT SIMILAR STANDARDS FOR PRECURSORS TO METHAMPHETAMINE TO PROTECT HUMAN HEALTH; AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PROVIDE MINIMUM STANDARDS AND REQUIREMENTS FOR CERTIFYING PERSONS TO CONDUCT METHAMPHETAMINE LAB REMEDIATION ACTIVITIES; REQUIRING NOTICE TO SUBSEQUENT OCCUPANTS OF CONTAMINATED INHABITABLE PROPERTY UNDER CERTAIN CONDITIONS; PROVIDING REPORTING REQUIREMENTS; AND PROVIDING CIVIL IMMUNITY FOR A PROPERTY OWNER AND OWNER'S AGENT IN CERTAIN INSTANCES.

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

**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. Remediation of properties has been frustrated by the lack of a decontamination standard. The purpose of [sections 1 through 6] is to protect the public health, safety, and welfare by providing specific cleanup standards and authorizing the department to establish a voluntary program that will provide for a property decontamination process that will meet state standards.

**Section 2. Definitions.** Unless the context requires otherwise, in [sections 1 through 6], the following definitions apply:

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

(2) (a) "Inhabitable property" means any building or structure used as a clandestine methamphetamine drug lab 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 to which inhabitants of the building or structure may be exposed.

**Section 3. Decontamination standards -- rulemaking authority -- samples.** (1) The decontamination standard for methamphetamine inside inhabitable property is less than or equal to 0.1 micrograms of methamphetamine per 100 square centimeters of surface material unless a different standard is adopted by the department by rule to protect human health. The department may adopt standards by rule for precursors to methamphetamine that are consistent with the standard for methamphetamine.

(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 and acceptable testing methods.

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

**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 who are to perform the assessment or remediation of inhabitable 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 inhabitable property contaminated by methamphetamine residues. If the department conducts the training and testing of contractors and their employees, it may adopt rules to provide for the assessment of reasonable fees to cover the state's costs of providing the training and testing.

(3) The department shall establish by rule procedures for the certification of contractors and their employees, including procedures for the decertification of contractors and their employees for cause. The rules may provide for the assessment of reasonable fees to cover the cost of the contractor certification program.

(4) Any contractor and the contractor's employees certified to perform the remediation of inhabitable property in any other state are 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 contractors and shall make the list available to local health officials, law enforcement officials, and the public.

**Section 5. Occupant notice by owner of inhabitable property -- immunity.** (1) An owner of inhabitable property that is known by the owner to have been used as a clandestine methamphetamine drug lab shall notify in writing any subsequent occupant or purchaser of the inhabitable property of that fact if the inhabitable property has not been remediated to the standards established in [section 3] by a contractor who is certified in accordance with [section 4].

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

(a) documentation to the department by a contractor who is certified pursuant to [section 4] that the inhabitable property has been remediated to the standards established in [section 3]; or

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

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

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

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

**Section 6. Reporting requirements.** (1) Whenever a state or local law enforcement agency becomes aware that an inhabitable 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 inhabitable property that has been reported as contaminated, and the list must be made available to the public through a website except as provided in subsection (3).

(3) Upon confirmation by the department that an inhabitable property has been properly remediated to the standards established in [section 3] or that the inhabitable property meets the decontamination standards

without decontamination, the department shall remove the inhabitable property from the list required in subsection (2). The department shall provide written notification to the local health officer and the property owner of record when the documentation shows that the inhabitable property has been properly assessed or remediated.

(4) The department may adopt rules establishing reasonable requirements for the sufficiency of documentation to be provided by a certified contractor.

(5) Notwithstanding any other provision of law, once an inhabitable property has been removed from the list required in subsection (2), a property owner, landlord, or real estate agent is not required to report or otherwise disclose the past contamination.

**Section 7. Codification instruction.** [Sections 1 through 6] are intended to be codified in Title 75, chapter 10.

- END -

I hereby certify that the within bill,  
HB 0060, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

HOUSE BILL NO. 60  
INTRODUCED BY HARRIS

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