



# Senate Public Health and Welfare Committee

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## Summary SB 1243 PN 1778

This legislation creates the Decontamination of Clandestine Lab Sites Act to provide for the decontamination of property associated with the manufacturing of methamphetamine. The Department of Health is required to develop standards for the removal of contamination on property used for this purpose.

Courts may award reasonable restitution to public entities involved in an emergency response to a clandestine lab site if a conviction is obtained. A convicted individual may also be responsible for reimbursing a property owner who incurred removal or remediation costs.

Law enforcement, upon making an arrest at a clandestine lab site, shall notify the appropriate county or local health department (the applicable authority) of the arrest. The applicable authority is then required to issue an order prohibiting occupation of the property until such time as it is assessed and removal and remediation have occurred.

Contractors removing and remediating these properties shall verify to the applicable authority and to the property owner that removal and remediation have been accomplished according to department standards. Such verification shall be provided within five days of the completion of the removal and remediation and the order shall be vacated. If a contractor issues such verification and department guidelines were not followed, the contractor shall be liable for the costs of proper removal and remediation and for reasonable attorney fees if incurred by the property owner.

If a motor vehicle is the site of contamination, and the applicable authority is able to obtain the title to the vehicle, the title shall be forwarded to the Department of Transportation which shall then be notified when the order is vacated.

The applicable authority issuing an order shall file an affidavit with the county recorder of the county where the clandestine lab site is located. The affidavit shall include the name of the property owner, a legal description of the property where the clandestine lab site was located and a map showing the property boundaries and the area of contamination so that any transferee can discern:

- That the property or a portion of the property was a clandestine lab site,
- The location, condition and circumstances of the site, and
- That the property or some portion of the property may be restricted in use.

This information shall also be included in an affidavit if the authority vacates its order prohibiting occupation of the property. All affidavits filed shall be disclosed in the course of an ordinary title search of the property. The applicable authority shall also maintain this information in addition to the status of the removal and remediation work and make the information available to the public upon request or by other means.

An applicable authority may not prohibit an owner or lessor from decontaminating the property.

A property owner otherwise entitled to restitution under this act may also file a civil action to enforce compliance. A court may issue relief necessary to enforce the provisions and may award the prevailing party court costs and reasonable attorney fees.

### **Real estate transactions**

Sellers or transferors of real property are required to disclose to buyers or transferees if the production of methamphetamine has occurred on the property. The disclosure shall indicate whether an order has been issued on the property prohibiting occupation, whether any orders have been vacated and the status of any removal or remediation. A failure to disclose prior to transfer of the property will make the seller or transferor liable for removal and remediation costs as well as any reasonable attorney fees incurred. Actions involving such property transfers shall be commenced within six years. Real estate professionals shall not be liable for the failure of a seller or transferor to disclose unless the real estate professional had actual knowledge.

### **Effective Date**

This act shall take effect in 60 days.

### **Amendment A06949**

- Changes the requirement that the department develop standards to a requirement that the department adopt guidelines
- Adds a definition of applicable authority
- Allows the department to establish a list of approved contractors for removal and remediation of contamination. Directs them to publish any list on their website.
- Makes other technical and clarifying changes