

SENATE BILL NO. 201

INTRODUCED BY V. RICCI

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CLEANUP LAWS FOR PROPERTIES
CONTAMINATED WITH METHAMPHETAMINES OR ~~OTHER DANGEROUS DRUGS~~ FENTANYL;
PROVIDING FOR CERTIFICATION OF REMEDIATION CONTRACTORS; REVISING DECONTAMINATION
STANDARDS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 75-10-1301, 75-10-1302, 75-10-
1303, ~~AND 75-10-1304, 75-10-1305, AND 75-10-1306~~, MCA."

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

NEW SECTION. Section 1. Remediation certification required -- investigation of complaint --
penalties. (1) A person may not represent to the public that the person is certified to assess or remediate
inhabitable property or volunteer property contaminated by methamphetamine OR FENTANYL residues ~~or other~~
~~dangerous drug residues~~ unless the person is certified BY THE DEPARTMENT under this part.

(2) The department may investigate a complaint or other information received concerning practice
by an uncertified person of activities authorized by this part.

(3) For a person guilty of violating subsection (1), the department may:

(a) for a first offense:

(i) revoke the person's license or certification;

(ii) issue a fine of not more than \$1,000; and

(iii) require completion of not less than ~~40-16~~ hours of certification training; and

(b) for a second offense:

(i) revoke the person's license or certification;

(ii) issue a fine of not more than \$2,000; and

(iii) require completion of not less than ~~20~~ 24 hours of certification training.

NEW SECTION. Section 2. Decontamination of volunteer property -- verification -- no public

1 **list.** (1) The department shall determine if and verify when a volunteer property has met all decontamination
2 requirements pursuant to 75-10-1303.

3 (2) The department may not list any volunteer properties on a publicly accessible website or other
4 locations.

5
6 **SECTION 3.** Section 75-10-1301, MCA, is amended to read:

7 **"75-10-1301. Finding and purpose.** The legislature finds that some properties are being
8 contaminated with hazardous chemical residues created by the manufacture of methamphetamine and fentanyl
9 or the ~~smoke from the use~~ consumption of methamphetamine or fentanyl. Innocent members of the public may
10 be harmed when they are unknowingly exposed to these residues if the properties are not decontaminated prior
11 to any subsequent rental, sale, or use of the properties. Remediation of properties has been frustrated by the
12 lack of a decontamination standard. The purpose of this part is to protect the public health, safety, and welfare
13 by providing specific cleanup standards and authorizing the department to establish a voluntary program that
14 will provide for a property decontamination process that will meet state standards."

15
16 **Section 4.** Section 75-10-1302, MCA, is amended to read:

17 **"75-10-1302. Definitions.** Unless the context requires otherwise, in this part, the following definitions
18 apply:

19 (1) ~~"Contractor~~ CERTIFIED CONTRACTOR" means any person or company certified by the department
20 to perform the assessment or remediation of inhabitable property or volunteer property contaminated by
21 methamphetamine OR FENTANYL residues or other dangerous drug residues pursuant to 75-10-1304.

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

23 ~~(2)(3)~~ (a) "Inhabitable property" means any building or structure used as a clandestine
24 methamphetamine OR FENTANYL drug lab or that has been contaminated WITH HAZARDOUS CHEMICAL RESIDUES
25 from ~~smoke from the use~~ CONSUMPTION of methamphetamine or other dangerous drug residues FENTANYL that
26 is intended to be primarily occupied by people, either as a dwelling or a business, including a storage facility;
27 OR mobile home, ~~or recreational vehicle~~, that may be sold, leased, or rented for any length of time.

28 (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)(A).

~~(3)(4)~~ "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.

~~(5) "Volunteer property" means any property owner requesting that the department determine if the property is contaminated with hazardous chemical residues created by smoke from the use of methamphetamine or other dangerous drugs~~ AN INHABITABLE PROPERTY MEETING THE FOLLOWING CRITERIA:

(A) THE PROPERTY OWNER HAS BECOME AWARE OF CONTAMINATION WITH HAZARDOUS CHEMICAL RESIDUES FROM CONSUMPTION OF METHAMPHETAMINE OR FENTANYL;

(B) THE PROPERTY HAS NOT BEEN REPORTED BY LAW ENFORCEMENT PURSUANT TO 75-10-1306(1); AND

(C) THE PROPERTY OWNER HAS ELECTED TO FOLLOW PROCESSES TO MEET THE DECONTAMINATION STANDARD IN 75-10-1303 TO RECEIVE CERTIFICATION FROM THE DEPARTMENT THAT THE DECONTAMINATION STANDARD HAS BEEN MET."

Section 5. Section 75-10-1303, MCA, is amended to read:

"75-10-1303. Decontamination standards -- rulemaking authority -- samples. (1) The decontamination standard for ~~METHAMPHETAMINE INSIDE methamphetamine inside~~ inhabitable property ~~or volunteer property~~ is less than or equal to 1.5 micrograms of methamphetamine ~~per for each~~ 100 square centimeters of surface material unless a different standard is adopted by the department by rule to protect human health. The department:

(A) SHALL ADOPT STANDARDS BY RULE FOR THE DECONTAMINATION OF FENTANYL INSIDE INHABITABLE PROPERTY; AND

(B) may adopt standards by rule for precursors to methamphetamine AND FENTANYL that are consistent with the standard STANDARDS for methamphetamine AND FENTANYL.

(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~~ six samples must be

collected from the surface material most likely to be contaminated at each property, including at least three samples from the heating, ventilation, and air conditioning systems at each property IF PRESENT."

Section 6. Section 75-10-1304, MCA, is amended to read:

"75-10-1304. Contractor certification -- department authority. (1) The department ~~is authorized to~~ shall 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 ~~or volunteer property~~ contaminated by methamphetamine OR FENTANYL residues ~~or other dangerous drug residues.~~

(2) The department ~~may shall~~ MAY train and test or ~~may shall~~ MAY approve courses to train and test contractors and their employees in the proper methods of assessing, remediating, and testing inhabitable property ~~or volunteer property~~ contaminated by methamphetamine residues ~~or other dangerous drug~~ FENTANYL 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~~ MUST COMPLETE REFRESHER TRAINING BY THE DEPARTMENT OR A DEPARTMENT-APPROVED TRAINING PROVIDER TO QUALIFY FOR CERTIFICATION IN MONTANA.

(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 7. Section 75-10-1305, MCA, is amended to read:

"75-10-1305. 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 or

fentanyl drug lab or that has been contaminated from ~~smoke from the use~~ consumption of methamphetamine or
fentanyl 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 75-10-1303 by a ~~contractor~~
~~who is certified in accordance with 75-10-1304~~ certified contractor.

(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 certified contractor ~~who is certified pursuant to 75-10-~~
~~1304~~ that the inhabitable property has been remediated to the standards established in 75-10-1303; 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 75-10-1303
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."

SECTION 8. Section 75-10-1306, MCA, is amended to read:

"75-10-1306. 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 or fentanyl 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 75-10-1303 or that the inhabitable property meets the
decontamination standards without decontamination, the department shall remove the inhabitable property from

1 the list required in subsection (2). The department shall provide written notification to the local health officer and
2 the property owner of record when the documentation shows that the inhabitable property has been properly
3 assessed or remediated.

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

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

9
10 NEW SECTION. **Section 9. Codification instruction.** [Sections 1 and 2] are intended to be codified
11 as an integral part of Title 75, chapter 10, part 13, and the provisions of Title 75, chapter 10, part 13, apply to
12 [sections 1 and 2].

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