

AMENDED IN SENATE MAY 1, 2007

**SENATE BILL**

**No. 592**

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**Introduced by Senator Cogdill**

**(Coauthor: Senator Cox)**

*(Coauthors: Assembly Members Arambula, La Malfa, and Maze)*

February 22, 2007

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An act to amend Sections 25354.5 and 25400.46 of *amend Section 25400.46 of, and to add Section 25400.48 to, the Health and Safety Code, relating to methamphetamine cleanup.*

LEGISLATIVE COUNSEL'S DIGEST

SB 592, as amended, Cogdill. Methamphetamine: liable party: property owner reimbursement.

The Methamphetamine Contaminated Property Cleanup Act of 2005 requires a local health officer to take specified actions after receiving notification from a law enforcement agency of potential contamination, or of known or suspected contamination, of property by methamphetamine laboratory activity. Under the act, if property is contaminated, the property owner is liable for the cost of remediating the property, including any decontamination or disposal expenses, and other related expenses. If a person who is not the owner of the property conducts methamphetamine laboratory activity on or at that property, that person is liable for those costs, and is required to reimburse the property owner.

~~Existing law requires the Department of Toxic Substances Control to take removal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the unlawful manufacture of a controlled substance. The department is authorized to expend funds appropriated~~

from the ~~Illegal Drug Lab Cleanup Account in the General Fund for this purpose.~~

This bill would authorize an owner of real property to submit a claim *for reimbursement of those costs* to the department, if the owner is required to be reimbursed by a liable party for any costs the owner incurs for remediating the property, but is unable to obtain reimbursement from that liable party *or is unable to identify a potentially responsible party for the contamination.* ~~The~~

~~The~~ bill would authorize the department to pay a claim to that person for reimbursement of those costs from the ~~Illegal Drug Lab Cleanup Account, upon appropriation by the Legislature, if the department determines the property owner is eligible for reimbursement of these costs.~~ *establish and administer a grant program to reimburse property owners that are unable to obtain that reimbursement. If the department elects to establish that grant program, the department would be required to adopt criteria for the awarding of these funds. The department would be prohibited from implementing the grant program until the department receives funding from the federal government to provide this reimbursement to those property owners. The department would be authorized to award a grant for reimbursement to a property owner, in accordance with the conditions attached to those federal funds, if the property owner meets the criteria adopted by the department.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 25354.5 of the Health and Safety Code~~  
 2     ~~is amended to read:~~  
 3     ~~25354.5. (a) A state or local law enforcement officer or~~  
 4     ~~investigator or other law enforcement agency employee who, in~~  
 5     ~~the course of an official investigation or enforcement action~~  
 6     ~~regarding the manufacture of any illegal controlled substance,~~  
 7     ~~comes in contact with, or is aware of, the presence of a substance~~  
 8     ~~that the person suspects is a hazardous substance at a site where~~  
 9     ~~an illegal controlled substance is or was manufactured, shall notify~~  
 10    ~~the department for the purpose of taking removal action, as~~  
 11    ~~necessary, to prevent, minimize, or mitigate damage that might~~  
 12    ~~otherwise result from the release or threatened release of the~~

1 hazardous substance, except for samples required under Section  
2 11479.5 to be kept for evidentiary purposes.

3 (b) (1) Notwithstanding any other provision of law, upon receipt  
4 of a notification pursuant to subdivision (a), the department shall  
5 take removal action, as necessary, with respect to any hazardous  
6 substance that is an illegal controlled substance, a precursor of a  
7 controlled substance, a material intended to be used in the unlawful  
8 manufacture of a controlled substance and any container for such  
9 a material, a waste material from the unlawful manufacture of a  
10 controlled substance, or any other item contaminated with a  
11 hazardous substance used or intended to be used in the manufacture  
12 of a controlled substance. The department may expend funds  
13 appropriated from the Illegal Drug Lab Cleanup Account created  
14 pursuant to subdivision (f) to pay the costs of removal actions  
15 required by this section. The department may enter into oral  
16 contracts, not to exceed ten thousand dollars (\$10,000) in  
17 obligation, when, in the judgment of the department, immediate  
18 corrective action to a hazardous substance subject to this section  
19 is necessary to remedy or prevent an emergency.

20 (2) The department shall, as soon as the information is available,  
21 report the location of any removal action that will be carried out  
22 pursuant to paragraph (1), and the time that the removal action  
23 will be carried out, to the local environmental health officer within  
24 whose jurisdiction the removal action will take place, if the local  
25 environmental officer does both of the following:

26 (A) Requests, in writing, that the department report this  
27 information to the local environmental health officer.

28 (B) Provides the department with a single 24-hour telephone  
29 number to which the information can be reported.

30 (c) (1) For purposes of Chapter 6.5 (commencing with Section  
31 25100), Chapter 6.9.1 (commencing with Section 25400.10), or  
32 this chapter, any person who is found to have operated a site for  
33 the purpose of manufacturing an illegal controlled substance or a  
34 precursor of an illegal controlled substance is the generator of any  
35 hazardous substance at, or released from, the site that is subject to  
36 removal action pursuant to this section.

37 (2) During the removal action, for purposes of complying with  
38 the manifest requirements in Section 25160, the department, the  
39 county health department, the local environmental health officer,  
40 or their designee may sign the hazardous waste manifest as the

1 generator of the hazardous waste. In carrying out that action, the  
2 department, the county health department, the local environmental  
3 health officer, or their designee shall be considered to have acted  
4 in furtherance of their statutory responsibilities to protect the public  
5 health and safety and the environment from the release, or  
6 threatened release, of hazardous substances, and the department,  
7 the county health department, the local environmental health  
8 officer, or their designee are not responsible parties for the release  
9 or threatened release of the hazardous substances.

10 (3) The officer, investigator, or agency employee specified in  
11 subdivision (a) is not a responsible party for the release or  
12 threatened release of any hazardous substances at, or released from,  
13 the site.

14 (d) The department may adopt regulations to implement this  
15 section in consultation with appropriate law enforcement and local  
16 environmental agencies.

17 (e) (1) The department shall develop sampling and analytical  
18 methods for the collection of methamphetamine residue.

19 (2) On or before October 1, 2007, the department, using  
20 guidance developed by the Office of Environmental Health Hazard  
21 Assessment, shall develop a health-based target remediation  
22 standard for methamphetamine.

23 (3) On or before October 1, 2008, the department shall, to the  
24 extent funding is available, develop health-based target remediation  
25 standards for iodine, methyl iodide, and phosphine.

26 (4) To the extent that funding is available, the department, using  
27 guidance developed by the Office of Environmental Health Hazard  
28 Assessment, may develop additional health-based target  
29 remediation standards for additional precursors and byproducts of  
30 methamphetamine.

31 (5) On or before October 1, 2009, the department shall adopt  
32 investigation and cleanup procedures for use in the remediation  
33 of sites contaminated by the illegal manufacturing of  
34 methamphetamine. The procedures shall assure that contamination  
35 by the illegal manufacturing of methamphetamine can be  
36 remediated to meet the standards adopted pursuant to paragraphs  
37 (2) to (4), inclusive, to protect the health and safety of all future  
38 occupants of the site.

39 (6) The department shall implement this subdivision in  
40 accordance with subdivision (d).

1 ~~(f) The Illegal Drug Lab Cleanup Account is hereby created in~~  
2 ~~the General Fund and the department may expend any money in~~  
3 ~~the account, upon appropriation by the Legislature, to carry out~~  
4 ~~the removal actions required by this section, to reimburse an~~  
5 ~~eligible property owner for claims submitted pursuant to~~  
6 ~~subdivision (d) of Section 25400.46, and to implement subdivision~~  
7 ~~(e), including, but not limited to, funding any interagency~~  
8 ~~agreement entered into with the Office of Environmental Health~~  
9 ~~Hazard Assessment to provide guidance services. The account~~  
10 ~~shall be funded by moneys appropriated directly from the General~~  
11 ~~Fund.~~

12 ~~(g) The responsibilities assigned to the department by this~~  
13 ~~section apply only to the extent that sufficient funding is made~~  
14 ~~available for that purpose.~~

15 ~~SEC. 2.~~

16 *SECTION 1.* Section 25400.46 of the Health and Safety Code  
17 is amended to read:

18 25400.46. (a) A property owner who receives an order issued  
19 by a local health officer pursuant to Section 25400.22, or a property  
20 owner who owns property that is the subject of a notice posted  
21 pursuant to subdivision (i) of Section 25400.22, is liable for, and  
22 shall pay all of the following costs if it is determined that the  
23 property is contaminated:

24 (1) The cost of any testing.

25 (2) Any cost related to maintaining records with regard to the  
26 property.

27 (3) The cost of remediating the property, including any  
28 decontamination or disposal expenses.

29 (4) Any actual cost incurred by the local health officer or any  
30 other local or state agency resulting from the enforcement of this  
31 chapter and oversight of the implementation of the PSA work plan  
32 and the PSA report, with regard to that property.

33 (b) A person who conducts methamphetamine laboratory activity  
34 on or at property subject to subdivision (a), and who is not the  
35 owner of that property, is liable for, and shall reimburse the owner  
36 of the property for, any cost that property owner may incur pursuant  
37 to subdivision (a).

38 (c) The owner of a mobilehome, manufactured home, or  
39 recreational vehicle, in or about which a methamphetamine  
40 laboratory activity occurred, is liable for, and shall reimburse the

1 owner of the real property on which the mobilehome, manufactured  
 2 home, or recreational vehicle is located for, any cost the owner of  
 3 the real property incurs pursuant to subdivision (a).

4 (d) If an owner of property is required to be reimbursed pursuant  
 5 to subdivision (b) or (c) for any costs the owner incurs pursuant  
 6 to subdivision (a), but is unable to obtain that reimbursement from  
 7 the liable party, *or is unable to identify a potentially responsible*  
 8 *party for the contamination*, the property owner may ~~submit a~~  
 9 ~~claim for those costs to the department. The department may pay~~  
 10 ~~that claim from the Illegal Drug Lab Cleanup Account, upon~~  
 11 ~~appropriation by the Legislature, if the department determines the~~  
 12 ~~property owner is eligible for reimbursement of those costs. submit~~  
 13 ~~a claim for reimbursement from the department pursuant to Section~~  
 14 ~~25400.48.~~

15 *SEC. 2. Section 25400.48 is added to the Health and Safety*  
 16 *Code, to read:*

17 25400.48. (a) *The department may establish and administer*  
 18 *a grant program to reimburse property owners that are unable to*  
 19 *obtain reimbursement from the liable party, as specified in*  
 20 *subdivision (d) of Section 25400.46.*

21 (b) *If the department elects to establish a grant program*  
 22 *pursuant to this section, the department shall adopt criteria for*  
 23 *the awarding of these funds, which shall include all of the following*  
 24 *requirements:*

25 (1) *The property that is the subject of the claim is not otherwise*  
 26 *subject to a corrective action for a release of hazardous waste*  
 27 *pursuant to Chapter 6.5 (commencing with Section 25100).*

28 (2) *The property owner, after a reasonable effort, is unable to*  
 29 *identify a potentially responsible party for the contamination, or,*  
 30 *after a reasonable effort, is unable to obtain reimbursement from*  
 31 *the liable party.*

32 (3) *The property owner is not a potentially responsible party*  
 33 *with regard to that contamination.*

34 (c) *The department shall not implement this section until the*  
 35 *department receives funding from the federal government to*  
 36 *provide reimbursement to property owners who are unable to*  
 37 *obtain reimbursement from the liable party for the costs specified*  
 38 *in subdivision (a) of Section 25400.46.*

39 (d) *The department may award a grant to a property owner for*  
 40 *reimbursement of the costs specified in subdivision (a) of Section*

1 25400.46, in accordance with the conditions attached to any funds  
2 obtained pursuant to subdivision (c), if the property owner meets  
3 the criteria adopted by the department pursuant to subdivision  
4 (b).

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