

ASSEMBLY BILL

No. 1489

Introduced by Assembly Member Smyth

February 27, 2009

An act to amend Sections 25354.5 and 25400.16 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1489, as introduced, Smyth. Hazardous materials: methamphetamine laboratories.

(1) 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 controlled substances. Existing law requires the department, on or before October 1, 2008, and to the extent funding is available, to develop health-based target remediation standards for iodine, methyl iodide, and phosphine.

This bill would delete the date by which the department is required to develop these standards.

(2) Existing law states that property contaminated by methamphetamine is safe for human occupancy only if the level of methamphetamine is less than, or equal to, 0.1 micrograms per 100 square feet.

This bill would increase the methamphetamine level for this purpose from 0.1 micrograms per 100 square feet to 1.5 micrograms per 100 square feet.

(3) Existing law requires that specified laws become inoperative on the date that the department adopts a health-based target remediation standard for methamphetamine.

This bill would delete the above requirement and other obsolete provisions of law.

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
13 hazardous substance, except for samples required under Section
14 11479.5 to be kept for evidentiary purposes.

15 (b) (1) Notwithstanding any other provision of law, upon receipt
16 of a notification pursuant to subdivision (a), the department shall
17 take removal action, as necessary, with respect to ~~any~~ a hazardous
18 substance that is an illegal controlled substance, a precursor of a
19 controlled substance, a material intended to be used in the unlawful
20 manufacture of a controlled substance, and ~~any~~ a container for
21 ~~such~~ ~~a~~ *the* a material, a waste material from the unlawful
22 manufacture of a controlled substance, or any other item
23 contaminated with a hazardous substance used or intended to be
24 used in the manufacture of a controlled substance. The department
25 may expend funds appropriated from the Illegal Drug Lab Cleanup
26 Account created pursuant to subdivision (f) to pay the costs of
27 removal actions required by this section. The department may enter
28 into oral contracts, not to exceed ten thousand dollars (\$10,000)
29 in obligation, when, in the judgment of the department, immediate
30 corrective action to a hazardous substance subject to this section
31 is necessary to remedy or prevent an emergency.

32 (2) The department shall, as soon as the information is available,
33 report the location of ~~any~~ a removal action that will be carried out

1 pursuant to paragraph (1), and the time that the removal action
2 will be carried out, to the local environmental health officer within
3 whose jurisdiction the removal action will take place, if the local
4 environmental officer does both of the following:

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

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

9 (c) (1) For purposes of Chapter 6.5 (commencing with Section
10 25100), Chapter 6.9.1 (commencing with Section 25400.10), or
11 this chapter, ~~any~~ a person who is found to have operated a site for
12 the purpose of manufacturing an illegal controlled substance or a
13 precursor of an illegal controlled substance is the generator of ~~any~~
14 a hazardous substance at, or released from, the site that is subject
15 to removal action pursuant to this section.

16 (2) During the removal action, for purposes of complying with
17 the manifest requirements in Section 25160, the department, the
18 county health department, the local environmental health officer,
19 or their designee may sign the hazardous waste manifest as the
20 generator of the hazardous waste. In carrying out that action, the
21 department, the county health department, the local environmental
22 health officer, or their designee shall be considered to have acted
23 in furtherance of their statutory responsibilities to protect the public
24 health and safety and the environment from the release, or
25 threatened release, of hazardous substances, and the department,
26 the county health department, the local environmental health
27 officer, or their designee are not responsible parties for the release
28 or threatened release of the hazardous substances.

29 (3) The officer, investigator, or agency employee specified in
30 subdivision (a) is not a responsible party for the release or
31 threatened release of ~~any~~ a hazardous substances at, or released
32 from, the site.

33 (d) The department may adopt regulations to implement this
34 section in consultation with appropriate law enforcement and local
35 environmental agencies.

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

38 ~~(2) On or before October 1, 2007, the department, using~~
39 ~~guidance developed by the Office of Environmental Health Hazard~~

1 ~~Assessment, shall develop a health-based target remediation~~
2 ~~standard for methamphetamine.~~

3 ~~(3) On or before October 1, 2008, the~~

4 (2) *The* department shall, to the extent funding is available,
5 develop health-based target remediation standards for iodine,
6 methyl iodide, and phosphine.

7 ~~(4)~~

8 (3) To the extent that funding is available, the department, using
9 guidance developed by the Office of Environmental Health Hazard
10 Assessment, may develop additional health-based target
11 remediation standards for additional precursors and byproducts of
12 methamphetamine.

13 ~~(5)~~

14 (4) On or before October 1, 2009, the department shall adopt
15 investigation and cleanup procedures for use in the remediation
16 of sites contaminated by the illegal manufacturing of
17 methamphetamine. The procedures shall assure that contamination
18 by the illegal manufacturing of methamphetamine can be
19 remediated to meet the standards adopted pursuant to paragraphs
20 (2) to (4), inclusive and (3), to protect the health and safety of all
21 future occupants of the site.

22 ~~(6)~~

23 (5) The department shall implement this subdivision in
24 accordance with subdivision (d).

25 (f) The Illegal Drug Lab Cleanup Account is hereby created in
26 the General Fund and the department may expend any money in
27 the account, upon appropriation by the Legislature, to carry out
28 the removal actions required by this section and to implement
29 subdivision (e), including, but not limited to, funding ~~any~~ *an*
30 interagency agreement entered into with the Office of
31 Environmental Health Hazard Assessment to provide guidance
32 services. The account shall be funded by moneys appropriated
33 directly from the General Fund.

34 (g) The responsibilities assigned to the department by this
35 section apply only to the extent that sufficient funding is made
36 available for that purpose.

37 SEC. 2. Section 25400.16 of the Health and Safety Code is
38 amended to read:

39 25400.16. (a) ~~Except as provided in subdivision (e), property~~
40 *Property* contaminated by methamphetamine laboratory activity

1 is safe for human occupancy for purposes of this chapter only if
2 the level of methamphetamine on any indoor surface is less
3 than, or equal to, 0.1 1.5 micrograms per 100 square centimeters.

4 ~~(b) Except as provided in subdivision (c), if property is~~
5 ~~contaminated by methamphetamine laboratory activity that~~
6 ~~included the use of lead or mercury compounds, in addition to the~~
7 ~~requirements of subdivision (a), property is safe for human~~
8 ~~occupancy for purposes of this chapter only if both of the following~~
9 ~~standards are met with regard to that property:~~

10 ~~(1) The total level of lead is less than, or equal to, 20 micrograms~~
11 ~~per square foot.~~

12 ~~(2) The level of mercury is less than, or equal to, 50 nanograms~~
13 ~~per cubic meter in air.~~

14 ~~(c) Subdivisions (a) and (b) shall become inoperative on the~~
15 ~~effective date that the department, in consultation with the office,~~
16 ~~adopts a health-based target remediation standard for~~
17 ~~methamphetamine to determine when a property contaminated by~~
18 ~~methamphetamine laboratory activity only is safe for human~~
19 ~~occupancy, in which case any reference in this chapter to a~~
20 ~~human-occupancy standard specified in this section shall mean~~
21 ~~only the health-based target remediation standard for~~
22 ~~methamphetamine adopted by the department.~~

23 ~~(d) The department shall conduct two public workshops, one in~~
24 ~~northern California and one in southern California, for the purpose~~
25 ~~of discussing with affected stakeholders the actions needed to~~
26 ~~further implement the goals of this chapter. The department may~~
27 ~~include, as topics for discussion, possible funding sources for local~~
28 ~~governments for the purposes of implementing this chapter,~~
29 ~~whether this chapter should be revised to address the contamination~~
30 ~~of properties by the illegal manufacturing of other controlled~~
31 ~~substances, and the results of the Illegal Drug Lab Risk Reduction~~
32 ~~Project conducted by the California Environmental Protection~~
33 ~~Agency pursuant to its adopted environmental justice action plan.~~