

AMENDED IN SENATE JULY 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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 amended, 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 *laboratory activity* is safe for human occupancy only if the level of methamphetamine *on an indoor surface* is less than, or equal to, 0.1 micrograms per 100 square ~~feet~~ *centimeters*. *Existing law establishes additional requirements for safe human occupancy if this activity included the use of lead or mercury.*

This bill would increase the methamphetamine level for this purpose from 0.1 micrograms per 100 square ~~feet~~ *centimeters* to 1.5 micrograms per 100 square ~~feet~~ *centimeters*. *This bill would provide that these safety*

provisions do not preclude the department, in consultation with the Office of Health Hazard Assessment, from adopting stricter standards than the law would otherwise require. This bill would also delete obsolete provisions of law.

~~(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~~ *an* 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 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 a container for the ~~a~~
21 material, a waste material from the unlawful manufacture of a
22 controlled substance, or any other item contaminated with a
23 hazardous substance used or intended to be used in the manufacture
24 of a controlled substance. The department may expend funds
25 appropriated from the Illegal Drug Lab Cleanup Account created
26 pursuant to subdivision (f) to pay the costs of removal actions

1 required by this section. The department may enter into oral
2 contracts, not to exceed ten thousand dollars (\$10,000) in
3 obligation, when, in the judgment of the department, immediate
4 corrective action to a hazardous substance subject to this section
5 is necessary to remedy or prevent an emergency.

6 (2) The department shall, as soon as the information is available,
7 report the location of a removal action that will be carried out
8 pursuant to paragraph (1), and the time that the removal action
9 will be carried out, to the local environmental health officer within
10 whose jurisdiction the removal action will take place, if the local
11 environmental officer does both of the following:

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

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

16 (c) (1) For purposes of Chapter 6.5 (commencing with Section
17 25100), Chapter 6.9.1 (commencing with Section 25400.10), or
18 this chapter, a person who is found to have operated a site for the
19 purpose of manufacturing an illegal controlled substance or a
20 precursor of an illegal controlled substance is the generator of a
21 hazardous substance at, or released from, the site that is subject to
22 removal action pursuant to this section.

23 (2) During the removal action, for purposes of complying with
24 the manifest requirements in Section 25160, the department, the
25 county health department, the local environmental health officer,
26 or their designee may sign the hazardous waste manifest as the
27 generator of the hazardous waste. In carrying out that action, the
28 department, the county health department, the local environmental
29 health officer, or their designee shall be considered to have acted
30 in furtherance of their statutory responsibilities to protect the public
31 health and safety and the environment from the release, or
32 threatened release, of hazardous substances, and the department,
33 the county health department, the local environmental health
34 officer, or their designee ~~are not responsible parties~~ *is not a*
35 *responsible party* for the release, or threatened release, of the
36 hazardous substances.

37 (3) The officer, investigator, or agency employee specified in
38 subdivision (a) is not a responsible party for the release, or
39 threatened release ~~of a~~ *of* hazardous substances at, or released
40 from, the site.

1 (d) The department may adopt regulations to implement this
2 section in consultation with appropriate law enforcement and local
3 environmental agencies.

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

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

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

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~~ ensure that
18 contamination by the illegal manufacturing of methamphetamine
19 can be remediated to meet the standards adopted pursuant to
20 paragraphs (2) and (3), to protect the health and safety of all future
21 occupants of the site.

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

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

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

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

38 25400.16. (a) Property contaminated by methamphetamine
39 laboratory activity is safe for human occupancy for purposes of
40 this chapter only if the level of methamphetamine on an indoor

1 surface is less than, or equal to, 1.5 micrograms per 100 square
2 centimeters.

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

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

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

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

22 *(d) This section does not preclude the department, in*
23 *consultation with the Office of Health Hazard Assessment, from*
24 *adopting stricter health-based remediation standards than required*
25 *under this section.*

26
27
28 **CORRECTIONS:**
29 **Digest—Pages 1 and 2.**
30

O