

2 **SHB 1163** - S COMM AMD

3 By Committee on Environmental Quality & Water Resources

4 ADOPTED 4/6/99

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that the
8 contamination of properties used for illegal drug manufacturing poses
9 a threat to public health. The toxic chemicals left behind by the
10 illegal drug manufacturing must be cleaned up to prevent harm to
11 subsequent occupants of the properties. It is the intent of the
12 legislature that properties are decontaminated in a manner that is
13 efficient, prompt, and that makes them safe to reoccupy.

14 **Sec. 2.** RCW 64.44.010 and 1990 c 213 s 2 are each amended to read
15 as follows:

16 The words and phrases defined in this section shall have the
17 following meanings when used in this chapter unless the context clearly
18 indicates otherwise.

19 (1) "Authorized contractor" means a person who decontaminates,
20 demolishes, or disposes of contaminated property as required by this
21 chapter who is(~~(a)~~) certified by the department as provided for in
22 RCW 64.44.060(~~(, or (b) until January 1, 1991, listed with the~~
23 ~~department as provided for in section 8, chapter 213, Laws of 1990)~~).

24 (2) "Contaminated" or "contamination" means polluted by hazardous
25 chemicals so that the property is unfit for human habitation or use due
26 to immediate or long-term hazards. Property that at one time was
27 contaminated but has been satisfactorily decontaminated according to
28 procedures established by the state board of health is not
29 "contaminated."

30 (3) "Hazardous chemicals" means the following substances used in
31 the manufacture of illegal drugs: (a) Hazardous substances as defined
32 in RCW 70.105D.020, and (b) precursor substances as defined in RCW
33 69.43.010 which the state board of health, in consultation with the
34 state board of pharmacy, has determined present an immediate or long-
35 term health hazard to humans.

1 (4) "Officer" means a local health officer authorized under
2 chapters 70.05, 70.08, and 70.46 RCW.

3 (5) "Property" means any property, site, structure, or part of a
4 structure which is involved in the unauthorized manufacture or storage
5 of hazardous chemicals. This includes but is not limited to single-
6 family residences, units of multiplexes, condominiums, apartment
7 buildings, boats, motor vehicles, trailers, manufactured housing, or
8 any shop, booth, or garden.

9 **Sec. 3.** RCW 64.44.020 and 1990 c 213 s 3 are each amended to read
10 as follows:

11 Whenever a law enforcement agency becomes aware that property has
12 been contaminated by hazardous chemicals, that agency shall report the
13 contamination to the local health officer. The local health officer
14 shall ~~((cause a posting of a notice))~~ post a written warning on the
15 premises ~~((immediately upon being notified))~~ within one working day of
16 notification of the contamination and shall ~~((cause an inspection to be~~
17 ~~done on))~~ inspect the property within fourteen days after receiving the
18 notice of contamination. The warning shall inform the potential
19 occupants that hazardous chemicals may exist on, or have been removed
20 from, the premises and that entry is unsafe. If a property owner
21 believes that a tenant has contaminated property that was being leased
22 or rented, and the property is vacated or abandoned, then the property
23 owner shall contact the local health officer about the possible
24 contamination. Local health officers or boards may charge property
25 owners reasonable fees for inspections of suspected contaminated
26 property requested by property owners.

27 ~~((If property is determined to be contaminated, then the local~~
28 ~~health officer shall cause a posting of a notice on the premises.))~~ A
29 local health officer may enter, inspect, and survey at reasonable times
30 any properties for which there are reasonable grounds to believe that
31 the property has become contaminated. If the property is contaminated,
32 the local health officer shall post a written notice declaring that the
33 officer intends to issue an order prohibiting use of the property as
34 long as the property is contaminated.

35 Local health officers must report all cases of contaminated
36 property to the state department of health. The department may make
37 the list of contaminated properties available to health associations,
38 landlord and realtor organizations, prosecutors, and other interested

1 groups. The department shall promptly update the list of contaminated
2 properties to remove those which have been decontaminated according to
3 provisions of this chapter.

4 The local health officer may determine when the services of an
5 authorized contractor are necessary.

6 **Sec. 4.** RCW 64.44.030 and 1990 c 213 s 4 are each amended to read
7 as follows:

8 If after the inspection of the property, the local health officer
9 finds that it is contaminated, then the property shall be found unfit
10 for use. The local health officer shall cause to be served an order
11 prohibiting use either personally or by certified mail, with return
12 receipt requested, upon all occupants and persons having any interest
13 therein as shown upon the records of the auditor's office of the county
14 in which such property is located(~~(, and)~~). The local health officer
15 shall also post the order prohibiting use in a conspicuous place on the
16 property(~~(, an order prohibiting use)~~). If the whereabouts of such
17 persons is unknown and the same cannot be ascertained by the local
18 health officer in the exercise of reasonable diligence, and the health
19 officer makes an affidavit to that effect, then the serving of the
20 order upon such persons may be made either by personal service or by
21 mailing a copy of the order by certified mail, postage prepaid, return
22 receipt requested, to each person at the address appearing on the last
23 equalized tax assessment roll of the county where the property is
24 located or at the address known to the county assessor, and the order
25 shall be posted conspicuously at the residence. A copy of the order
26 shall also be mailed, addressed to each person or party having a
27 recorded right, title, estate, lien, or interest in the property.
28 (~~(Such)~~) The order shall contain a notice that a hearing before the
29 local health board or officer shall be held upon the request of a
30 person required to be notified of the order under this section. The
31 request for a hearing must be made within ten days of serving the
32 order. The hearing shall then be held within not less than twenty days
33 nor more than thirty days after the serving of the order. The officer
34 shall prohibit use as long as the property is found to be contaminated.
35 A copy of the order shall also be filed with the auditor of the county
36 in which the property is located, and such filing of the complaint or
37 order shall have the same force and effect as other lis pendens notices
38 provided by law. In any hearing concerning whether property is fit for

1 use, the property owner has the burden of showing that the property is
2 decontaminated or fit for use. The owner or any person having an
3 interest in the property may file an appeal on any order issued by the
4 local health board or officer within thirty days from the date of
5 service of the order with the appeals commission established pursuant
6 to RCW 35.80.030. All proceedings before the appeals commission,
7 including any subsequent appeals to superior court, shall be governed
8 by the procedures established in chapter 35.80 RCW.

9 **Sec. 5.** RCW 64.44.040 and 1990 c 213 s 5 are each amended to read
10 as follows:

11 The city or county in which the contaminated property is located
12 may take action to condemn or demolish property or to require the
13 property be vacated or the contents removed from the property. The
14 city or county ~~((must))~~ may use an authorized contractor if property is
15 demolished, decontaminated, or removed under this section. No city or
16 county may condemn or demolish property pursuant to this section until
17 all procedures granting the right of notice and the opportunity to
18 appeal in RCW 64.44.030 have been exhausted.

19 **Sec. 6.** RCW 64.44.050 and 1990 c 213 s 6 are each amended to read
20 as follows:

21 An owner of contaminated property who desires to have the property
22 decontaminated ~~((must))~~ shall use the services of an authorized
23 contractor ~~((to decontaminate the property))~~ unless otherwise
24 authorized by the local health officer. The contractor shall prepare
25 and submit a written work plan for decontamination to the local health
26 officer. The local health officer may charge a reasonable fee for
27 review of the work plan. If the work plan is approved and the
28 decontamination is completed and the property is retested according to
29 the plan and properly documented, then the health officer shall allow
30 reuse of the property. A ~~((notice))~~ release for reuse document shall
31 be recorded in the real property records ~~((if applicable,))~~ indicating
32 the property has been decontaminated in accordance with rules of the
33 state department of health.

34 **Sec. 7.** RCW 64.44.060 and 1997 c 58 s 878 are each amended to read
35 as follows:

1 (1) (~~After January 1, 1991,~~) A contractor may not perform
2 decontamination, demolition, or disposal work unless issued a
3 certificate by the state department of health. The department shall
4 establish performance standards for contractors by rule in accordance
5 with chapter 34.05 RCW, the administrative procedure act. The
6 department shall train and test, or may approve courses to train and
7 test, contractors and their employees on the essential elements in
8 assessing property used as an illegal drug manufacturing or storage
9 site to determine hazard reduction measures needed, techniques for
10 adequately reducing contaminants, use of personal protective equipment,
11 methods for proper decontamination, demolition, removal, and disposal
12 of contaminated property, and relevant federal and state regulations.
13 Upon successful completion of the training, the contractor or employee
14 shall be certified.

15 (2) The department may require the successful completion of annual
16 refresher courses provided or approved by the department for the
17 continued certification of the contractor or employee.

18 (3) The department shall provide for reciprocal certification of
19 any individual trained to engage in decontamination, demolition, or
20 disposal work in another state when the prior training is shown to be
21 substantially similar to the training required by the department. The
22 department may require such individuals to take an examination or
23 refresher course before certification.

24 (4) The department may deny, suspend, or revoke a certificate for
25 failure to comply with the requirements of this chapter or any rule
26 adopted pursuant to this chapter. A certificate may be denied,
27 suspended, or revoked on any of the following grounds:

28 (a) Failing to perform decontamination, demolition, or disposal
29 work under the supervision of trained personnel;

30 (b) Failing to file a work plan;

31 (c) Failing to perform work pursuant to the work plan;

32 (d) Failing to perform work that meets the requirements of the
33 department;

34 (e) The certificate was obtained by error, misrepresentation, or
35 fraud; or

36 (f) If the person has been certified pursuant to RCW 74.20A.320 by
37 the department of social and health services as a person who is not in
38 compliance with a support order or a residential or visitation order.
39 If the person has continued to meet all other requirements for

1 reinstatement during the suspension, reissuance of the license or
2 certificate shall be automatic upon the department's receipt of a
3 release issued by the department of social and health services stating
4 that the person is in compliance with the order.

5 (5) A contractor who violates any provision of this chapter may be
6 assessed a fine not to exceed five hundred dollars for each violation.

7 (6) The department of health shall prescribe fees as provided for
8 in RCW 43.70.250 for the issuance and renewal of certificates, the
9 administration of examinations, and for the review of training courses.

10 (7) The decontamination account is hereby established in the state
11 treasury. All fees collected under this chapter shall be deposited in
12 this account. Moneys in the account may only be spent after
13 appropriation for costs incurred by the department in the
14 administration and enforcement of this chapter.

15 **Sec. 8.** RCW 64.44.070 and 1990 c 213 s 9 are each amended to read
16 as follows:

17 (1) The state board of health shall promulgate rules and standards
18 for carrying out the provisions in this chapter in accordance with
19 chapter 34.05 RCW, the administrative procedure act. The local board
20 of health and the local health officer are authorized to exercise such
21 powers as may be necessary to carry out this chapter. The department
22 shall provide technical assistance to local health boards and health
23 officers to carry out their duties under this chapter.

24 (2) The department shall ~~((develop guidelines))~~ adopt rules for
25 decontamination of a property used as ~~((a))~~ an illegal drug laboratory
26 and methods for the testing of ground water, surface water, soil, and
27 septic tanks for contamination. The rules shall establish
28 decontamination standards for hazardous chemicals, including but not
29 limited to methamphetamine, lead, mercury, and total volatile organic
30 compounds."

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32 By Committee on Environmental Quality & Water Resources

33 ADOPTED 4/6/99

34 On page 1, line 3 of the title, after "drugs;" strike the reminder
35 of the title and insert "amending RCW 64.44.010, 64.44.020, 64.44.030,

1 64.44.040, 64.44.050, 64.44.060, and 64.44.070; and creating a new
2 section."

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