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BILL TEXT

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INTRODUCED BY Assembly Members Keene and Liu

FEBRUARY 22, 2005

An act to add Chapter 6.9.1 (commencing with Section 25400.10) to Division 20 of the Health and Safety Code, relating to contaminated property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1078, Keene Contaminated property: methamphetamine.

(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, and the department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose. Existing law defines the term "county" as including a city and county.

This bill would enact the "Methamphetamine Contaminated Property Cleanup Act of 2005" and define terms. The bill would specify the human occupancy standards for property that is subject to the act, which would become inoperative on the effective date when the Department of Toxic Substances Control, in consultation with the Office of Environmental Health Hazard Assessment, adopts a health-based target remediation standard for methamphetamine to determine when a property contaminated by methamphetamine laboratory activity is safe for human occupancy.

The bill would require 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 a methamphetamine laboratory activity, thereby imposing a state-mandated local program by imposing new duties upon local agencies. The bill would authorize a local health officer to delegate all or part of the duties specified in the act to a designated local agency, as defined.

The bill would require a local health officer who determines, after conducting an inspection, that property is contaminated, to issue a specified order prohibiting use or occupancy and to post the

order on the property, as specified. The bill would require the local health officer to record with the county recorder a lien of \$200 or the cost incurred by the local health officer, whichever is greater, on the property.

The bill would require a property owner who receives an order that property owned by that person is contaminated by a methamphetamine laboratory activity, a property owner who owns property that is the subject of an order, and a person occupying the property to immediately vacate the affected unit. The bill would require the property owner to retain a methamphetamine laboratory site remediation firm that is an authorized contractor meeting certain requirements, as defined, to remediate the contamination caused by methamphetamine laboratory activity.

The bill would also require the property owner or the property owner's authorized contractor to submit a preliminary site assessment (PSA) work plan to the local health officer for review within 30 days after retaining an authorized contractor. The bill would require the local health officer to inform the property owner and contractor in writing of any deficiencies in the PSA work plan. The bill would require a property owner and authorized contractor to prepare and submit a PSA report to the local health officer after the completion of the preliminary site assessment and would require the property owner to complete remediation no later than 90 days after the date that the PSA work plan is approved, except as extended by the local health officer.

The bill would require a local health officer to issue a no further action determination if the local health officer determines that remediation is not required at a property, based on the PSA report or, if the site has been remediated, as specified. The bill would require the local health officer to release the lien recorded pursuant to the bill and send a copy of the release to the property owner stating that the property was remediated, as required, and is habitable, if he or she determines that remediation is not required at the property or the property has been remediated, as specified. The bill would require a property owner who has not received a "no further action determination" to notify prospective buyers and tenants, as specified.

The bill would allow a city or county to either remediate property that is not remediated in compliance with an order issued pursuant to the act, or seek a court order to require the property owner to remediate the property. The bill would also allow a city or county to remediate property for which the local health officer is unable to locate the property owner. The bill would require a property owner to be liable for, and pay the city or county for, all costs related to the remediation, if a city or county elects to remediate the contaminated property. The bill would authorize the city or county to record a nuisance abatement lien if the property owner fails to pay for the costs of remediation.

The bill would require a local health officer to establish a written plan outlining the procedures to be followed for conducting remediation to property for purposes of the act, including the preparation of a PSA work plan, the conduct of a preliminary site assessment to determine the extent and level of contamination in accordance with that PSA work plan, and the preparation of a PSA report containing the results of the preliminary site assessment and recommended remedial actions.

The bill would provide for the imposition of a civil penalty upon

a property owner who does not provide a notice or disclosure required by the act, or upon a person who violates an order issued by the local health officer prohibiting the use or occupancy of a property contaminated by a methamphetamine laboratory activity.

The bill would also impose liability for specified costs regarding testing, remediation, and administrative enforcement and oversight upon a property owner who receives an order.

The bill would require the department to conduct 2 public workshops, one in northern California and one in southern California, to discuss the actions needed to further implement the act.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(3) The bill would become operative only if SB 536 is enacted and becomes effective on or before January 1, 2006.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 6.9.1 (commencing with Section 25400.10) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.9.1. METHAMPHETAMINE CONTAMINATED PROPERTY CLEANUP ACT OF 2005

Article 1. Findings and Definitions

25400.10. (a) The Legislature finds and declares all of the following:

(1) Methamphetamine use and production are growing throughout the state. Properties may be contaminated by hazardous chemicals used or produced in the manufacture of methamphetamine where those chemicals remain and where the contamination has not been remediated.

(2) Initial cleanup actions may be limited to the removal of bulk hazardous materials and associated glassware that pose an immediate threat to public health and the environment. Where methamphetamine production has occurred, significant levels of contamination may be found throughout residential properties if the contamination is not remediated.

(3) Once methamphetamine laboratories have been closed, the public may be harmed by the materials and residues that remain.

(4) There is no statewide standardization of standards for determining when a site of a closed methamphetamine laboratory has been successfully remediated.

(b) This chapter shall be known, and may be cited as, the "Methamphetamine Contaminated Property Cleanup Act of 2005."

25400.11. For purposes of this chapter, the following definitions shall apply:

(a) "Authorized contractor" means a person who has been trained or received other qualifications pursuant to Section 25400.40.

(b) "Contaminated" or "contamination" means property polluted by a

hazardous chemical related to methamphetamine laboratory activities.

(c) "Controlled substance" has the same meaning as defined in Section 11007.

(d) "Decontamination" means the process of reducing the level of a known contaminant to a level that is deemed safe for human reoccupancy, as established pursuant to Section 25400.16 using currently available methods and processes.

(e) "Department" means the Department of Toxic Substances Control.

(f) "Designated local agency" means a city, county, or city and county agency designated by the local health officer to carry out all, or any portion of, responsibilities assigned to the local health officer as specified by this chapter. The local health officer may authorize any of the following to serve as a designated local agency:

(1) The Certified Unified Program Agency or CUPA as certified pursuant to Chapter 6.11 (commencing with Section 25404), except in a jurisdiction where the state is acting as the CUPA pursuant to subdivision (f) of Section 25404.3.

(2) The fire department or environmental health department.

(3) The local agency responsible for enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13).

(g) "Disposal of contaminated property" means the disposal of property that is a hazardous waste in accordance with Chapter 6.5 (commencing with Section 25100).

(h) "Hazardous chemical" means a chemical that is determined by the local health officer to be toxic, carcinogenic, explosive, corrosive, or flammable that was used in the manufacture or storage of methamphetamine that is prohibited by Section 11383.

(i) "Illegal methamphetamine manufacturing or storage site" or "site" means property where a person manufactures methamphetamine or stores methamphetamine or a hazardous chemical used in connection with the manufacturing or storage and in violation of Section 11383.

(j) "Local health officer" means a county health officer, a city health officer, or an authorized representative of that local health officer.

(k) "Methamphetamine laboratory activity" means the illegal manufacturing or storage of methamphetamine.

(l) "Office" means the Office of Environmental Health Hazard Assessment.

(m) "Posting" means attaching a written or printed announcement conspicuously on property that is determined to be contaminated by a methamphetamine laboratory activity or the storage of methamphetamine or a hazardous chemical.

(n) "Preliminary site assessment work plan" or "PSA work plan" means a plan to conduct activities to determine the extent and level of contamination of an illegal methamphetamine manufacturing or storage site and that is prepared in accordance with the requirements of Section 25400.36.

(o) "Preliminary site assessment" or "PSA" means the activities taken to determine the extent and level of contamination of an illegal methamphetamine manufacturing or storage site that are conducted in accordance with an approved PSA work plan.

(p) "Preliminary site assessment report" or "PSA report" means a

determination that the levels of contamination at an illegal methamphetamine manufacturing or storage site require remediation, including a recommendation for the remedial actions required for the site to meet human occupancy standards, and that is prepared in accordance with Section 25400.37.

(q) (1) "Property" means any parcel of land, structure, or part of a structure where the manufacture of methamphetamine or storage of methamphetamine or a hazardous chemical that is prohibited by Section 11383, occurred, including, manufactured housing and mobilehomes.

(2) Notwithstanding paragraph (1), "property" does not include any of the following:

(A) A mobilehome park or manufactured housing park, as defined, respectively, in Section 798.4 or 798.6 of the Civil Code.

(B) A manufactured housing community, as defined in Section 18801.

(C) A mobilehome park or park, as defined, respectively, in Section 18214 or 18214.5.

(D) A mobilehome or manufactured housing located in a mobilehome park, manufactured housing park, or manufactured housing community, or park, as defined in this paragraph.

(3) Paragraph (2) shall become inoperative on January 1, 2008, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

(r) (1) "Property owner" means a person owning property by reason of obtaining it by purchase, exchange, gift, lease, inheritance, or legal action.

(2) Notwithstanding paragraph (1), "property owner" does not include any of the following:

(A) The manager or owner of a mobilehome park, manufactured housing park, manufactured housing community, or park, as defined in paragraph (2) of subdivision (q).

(B) An agent or representative authorized to act on behalf of a manager or owner specified in subparagraph (A).

(C) A person who owns a mobilehome located in a mobilehome park, manufactured housing park, manufactured housing community, or park.

(3) Paragraph (2) shall become inoperative on January 1, 2008, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

(s) "Storage site" means any property used for the storage of a hazardous chemical or methamphetamine that is prohibited by Section 11383.

(t) "Warning" means a sign posted by the local health officer conspicuously on property where methamphetamine was manufactured or stored, informing occupants that hazardous chemicals exist on the premises and that entry is unsafe.

25400.12. Any term not defined expressly by this article shall have the same meaning as defined in Chapter 6.8 (commencing with Section 25300).

Article 2. Establishment of Remediation and Reoccupancy Standards

25400.16. (a) Except as provided in subdivision (c), property contaminated by methamphetamine laboratory activity is safe for human occupancy for purposes of this chapter only if the level of methamphetamine on any indoor surface is less than, or equal to, 0.1 micrograms per 100 square centimeters.

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

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

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

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

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

Article 3. Local Health Officer Responsibilities

25400.17. (a) Notwithstanding any other provision of law, a city, county, or city and county shall comply with the uniform regulations and standards established pursuant to this chapter.

(b) A local health officer may delegate all or part of the duties specified in this chapter to a designated local agency.

(c) If a methamphetamine laboratory activity has taken place at a property, the local health officer shall assume that the methamphetamine manufacturing process has led to some degree of chemical contamination and shall take action pursuant to this chapter.

25400.18. Within 48 hours after receiving notification from a law enforcement agency of potential contamination of property by a methamphetamine laboratory activity, the local health officer shall post a written notice in a prominent location on the premises of the property. At a minimum, the notice shall include all of the following information:

(a) The word "WARNING" in large bold type at the top and bottom of the notice.

(b) A statement that a methamphetamine laboratory was seized on or inside the property.

(c) The date of the seizure.

(d) The address or location of the property including the identification of any dwelling unit, room number, apartment number, or mobilehome or manufactured home identification number.

(e) The name and contact telephone number of the agency posting

the property.

(f) A statement specifying that hazardous substances, toxic chemicals, or other hazardous waste products may have been present and may remain on or inside the property.

(g) A statement that it is unlawful for an unauthorized person to enter the contaminated portion of the property until advised that it is safe to do so by the local health officer or designated local agency.

(h) A statement that a person disturbing or destroying the posted notice is subject to a civil penalty in an amount of up to five thousand dollars (\$5,000).

(i) A statement that a person violating the posted notice is subject to a civil penalty in an amount of up to five thousand dollars (\$5,000).

25400.19. Within five working days after receiving a notification from a law enforcement agency of known or suspected contamination of a property by a methamphetamine laboratory activity, or upon notification from the property owner, the local health officer shall inspect the property pursuant to this section.

(a) The property inspection shall include, but not be limited to, obtaining evidence of hazardous chemical use or storage and documentation of evidence of any chemical stains, cooking activity and release or spillage of hazardous chemicals used to manufacture methamphetamine.

(b) In conducting an inspection pursuant to this section, the local health officer may request copies of any law enforcement reports, forensic chemist reports, and any hazardous waste manifests, to evaluate all of the following:

(1) The length of time the property was used as an illegal methamphetamine manufacturing or storage site.

(2) The extent of the property actually used and contaminated in the manufacture of methamphetamine or the storage of methamphetamine or a hazardous chemical.

(3) The chemical process that was involved in the illegal methamphetamine manufacturing.

(4) The chemicals that were removed from the scene.

(5) The location of the illegal methamphetamine manufacturing or storage site in relation to the habitable areas of the property.

25400.20. (a) Upon completing an inspection pursuant to Section 25400.19, the local health officer shall immediately determine whether the property is contaminated.

(b) If the local health officer determines the property is contaminated, the local health officer shall take the actions specified in Section 25400.22.

(c) If the local health officer determines that the property is not contaminated, within three working days after making that determination, the local health officer shall remove all notices posted pursuant to Section 25400.18 and prepare a written documentation of this determination, which shall include all of the following:

(1) Findings and conclusions.

(2) Name of the property owner, and, if applicable, mailing and street address of the property, or vehicle identification number, if applicable.

(3) Parcel identification number, if applicable.

(d) Within 10 working days after preparing a written documentation of the determination made pursuant to subdivision (c) that the

property is not contaminated, the local health officer shall send a copy of the documentation to the property owner, and to the local agency responsible for enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13).

25400.22. (a) No later than 10 working days after the date when a local health officer determines that property is contaminated pursuant to subdivision (b) of Section 25400.20, the local health officer shall do both of the following:

(1) If the property is real property, record with the county recorder a lien on the property. The lien shall specify all of the following:

(A) The name of the agency on whose behalf the lien is imposed.

(B) The date on which the property is determined to be contaminated.

(C) The legal description and the assessor's parcel number.

(D) The record owner of the property.

(E) The amount of the lien, which shall be the greater of two hundred dollars (\$200) or the costs incurred by the local health officer in compliance with this chapter, including, but not limited to, the cost of inspection performed pursuant to Section 25400.20 and the county recorder's fee.

(2) Issue to persons specified in subdivisions (d), (e), and (f) an order prohibiting the use or occupancy of the property.

(b) The county recorder's fees for recording and indexing documents provided for in this subdivision shall be in the amount specified in Article 5 (commencing with Section 27360) of Chapter 6 of Part 3 of Title 3 of the Government Code.

(c) The lien recorded pursuant to subdivision (a) shall have the force, effect, and priority of a judgment lien. The local health officer shall not release the lien until either of the following occurs:

(1) The property owner satisfies the lien and the local health officer issues a release pursuant to Section 25400.27.

(2) The lien is otherwise released under applicable law.

(d) Except as otherwise specified in this section, an order issued pursuant to this section shall be served, either personally or by certified mail, return receipt requested, to all known occupants of the property and to all persons who have an interest in the property, as contained in the records of the recorder's office of the county in which the property is located.

(e) If the whereabouts of the person described in subdivision (d) are unknown and cannot be ascertained by the local health officer, in the exercise of reasonable diligence, and the local health officer makes an affidavit to that effect, the local health officer shall serve the order by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, as follows:

(1) The order shall be served to each person at the address appearing on the last equalized tax assessment roll of the county where the property is located, and to all occupants of the affected unit.

(2) The order shall be served at the address contained in the record of the county recorder.

(f) The local health officer shall also mail a copy of the order required by this section to the address of each person or party having a recorded right, title, estate, lien, or interest in the property and to the association of a common interest development, as

defined in Section 1351 of the Civil Code.

(g) The order issued pursuant to this section shall include all of the following information:

- (1) A description of the property.
 - (2) The parcel identification number, if applicable.
 - (3) The vehicle identification number, if applicable.
 - (4) A description of the local health officer's intended course of action.
 - (5) A specification of the penalties for noncompliance with the order.
 - (6) A prohibition on the use of all or portions of the property that are contaminated.
 - (7) A description of the measures the property owner is required to take to decontaminate the property.
 - (8) An indication of the potential health hazards involved.
 - (9) A statement that a property owner who fails to provide a notice or disclosure that is required by this chapter is subject to a civil penalty of up to five thousand dollars (\$5,000).
- (h) The local health officer shall provide a copy of the order to the local building or code enforcement agency or other appropriate agency responsible for the enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13).
- (i) The local health officer shall post the order in a conspicuous place on the property within one working day of the date that the order is issued.

Article 4. Site Assessment and Remediation

25400.25. (a) A property owner who receives an order issued pursuant to Section 25400.22 that property owned by that person is contaminated by a methamphetamine laboratory activity, a property owner who owns property that is the subject of an order posted pursuant to subdivision(i) of Section 25400.22, and a person occupying property that is the subject of the order, shall immediately vacate the affected unit that is determined to be in a hazardous zone by the local health officer.

(b) No later than 30 days after receipt of an order issued pursuant to Section 25400.22, the property owner shall demonstrate to the local health officer that the property owner has retained a methamphetamine laboratory site remediation firm that is an authorized contractor to remediate the contamination caused by the methamphetamine laboratory activity.

25400.26. (a) A property owner who receives an order issued pursuant to Section 25400.22 that property owned by that person is contaminated by a methamphetamine laboratory activity, or a property owner who owns property that is the subject of an order posted pursuant to subdivision (i) of Section 25400.22, shall utilize the services of an authorized contractor to remediate the contamination caused by the methamphetamine laboratory activity, in accordance with the procedures specified in this section.

(b) The property owner and the local health officer shall keep all required records documenting decontamination procedures for three years following certification that the property is habitable.

(c) The property owner or the property owner's authorized contractor shall submit a preliminary site assessment work plan to the local health officer for review no later than 30 days after demonstrating to the local health officer that an authorized

contractor has been retained to remediate the contamination caused by the methamphetamine laboratory activity.

(d) (1) No later than 10 working days after the date the PSA work plan is submitted by the property owner, the local health officer shall review the PSA work plan to determine whether the PSA work plan complies with this chapter, including the procedures established pursuant to Section 25400.35.

(2) If there are any deficiencies in a submitted PSA work plan, the local health officer shall inform the property owner and authorized contractor, in writing, of those deficiencies no later than 15 days of the date that the PSA work plan was submitted to the local health officer.

(3) If the local health officer approves the plan, the local health officer shall inform in writing, the property owner and authorized contractor no later than 15 days of the date that the PSA work plan was submitted to the local health officer.

(e) (1) After a PSA is completed in accordance with the PSA work plan, the property owner and authorized contractor shall prepare a PSA report in accordance with Section 25400.37 and submit the PSA report to the local health officer.

(2) If after a PSA is completed in accordance with a PSA work plan, and the local health officer, upon review of the PSA report, determines there is no level of contamination at a site that requires remediation, the local health officer shall take the actions specified in Section 25400.27.

(f) The property owner shall complete remediation of all applicable portions of the contaminated property in accordance with this chapter no later than 90 days after the date that the PSA work plan has been approved by the local health officer. The local health officer may extend the date for completion of the remediation, in writing.

25400.27. (a) If a local health officer determines that property that has been the subject of a PSA report has been remediated in accordance with this chapter, or if the local health officer makes the determination specified in paragraph (2) of subdivision (e) of Section 25400.26, the local health officer shall issue a no further action determination.

(b) For real property, within 10 working days of the date of making the determination or of receiving payment for the amount of the lien recorded pursuant to paragraph (1) of subdivision (a) of Section 25400.22, whichever is later, the local officer shall do both of the following:

(1) Release the lien recorded with the county recorder. The release shall specify all of the following:

(A) The name of the agency on whose behalf the lien is imposed.

(B) The recording date of the lien being released.

(C) The legal description and the assessor's parcel number.

(D) The record owner of the property.

(E) The recording instrument, or book and page, of the lien being released.

(2) Send a copy of the release stating that the property was remediated in accordance with this chapter, does not violate the standard for human occupancy established pursuant to this chapter, and is habitable, to the property owner, local agency responsible for the enforcement of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13), and all recipients pursuant to this section and Section 25400.22.

25400.28. Until a property owner subject to Section 25400.25 receives a notice from a local health officer pursuant to Section 25400.27 that the property identified in an order requires no further action, all of the following shall apply to that property:

(a) Except as otherwise required in Section 1102.3 or 1102.3a of the Civil Code, the property owner shall notify the prospective buyer in writing of the pending order, and provide the prospective buyer with a copy of the pending order. The prospective buyer shall acknowledge, in writing, the receipt of a copy of the pending order.

(b) The property owner shall provide written notice to all prospective tenants that have completed an application to rent an affected dwelling unit or other property of the remediation order, and shall provide the prospective tenant with a copy of the order. The prospective tenant shall acknowledge, in writing, the receipt of the notice and pending order before signing a rental agreement. The notice shall be attached to the rental agreement. If the property owner does not comply with this subdivision, the prospective tenant may void the rental agreement.

Article 5. Remediation of Contaminated Property by a City or County

25400.30. (a) If a property owner does not initiate or complete the remediation of property in compliance with an order issued by a local health officer pursuant to this chapter, the city, county, or city and county in which the property is located may, at its discretion, take action to remediate the residually contaminated portion of the property pursuant to this chapter or may seek a court order to require the property owner to remediate the property in compliance with this chapter.

(b) If a local health officer is unable to locate a property owner within 10 days after the date the local health officer issues an order pursuant to Section 25400.22, the city, county, or city and county in which the property is located may remediate the property in accordance with this article. The city or county or its contractors may remove contaminated property as part of this remediation activity.

(c) If a city, county, or city and county elects to remediate contaminated property pursuant to this article, the property owner is liable for, and shall pay the city or county for, all actual costs related to the remediation, including, but not limited to, all of the following:

(1) Posting and physical security of the contaminated site.

(2) Notification of affected people, businesses or any other entity.

(3) Actual expenses related to the recovery of cost, laboratory fees, cleanup services, removal costs, and administrative and filing fees.

(d) If a property owner does not pay the city, county, or city and county for the costs of remediation specified in subdivision (c) _____, the city, county, or city and county may record a nuisance abatement lien pursuant to Section 38773.1 of the Government Code against the property for the actual costs related to the remediation or bring an action against the property owner for the remediation costs. The nuisance abatement lien shall have the effect, priority, and enforceability of a judgment

lien from the date of its recordation.

Article 6. Requirements for Property Assessment and Cleanup

25400.35. A local health officer shall establish a written plan consistent with this chapter outlining the procedures to be followed for conducting the remediation to property for purposes of this chapter. The procedures shall comply with this article and any regulations adopted pursuant to this chapter, and shall include, but not be limited to, procedures for the preparation of a preliminary site assessment work plan, the conduct of a preliminary site assessment to determine the extent and level of contamination, in accordance with that PSA work plan, and the preparation of a PSA report containing the results of the preliminary site assessment and recommendations for remediation to meet the occupancy standards specified in Section 25400.16.

25400.36. The PSA work plan shall include, but is not limited to, all of the following:

(a) The physical location of the property.

(b) A summary of the information obtained from law enforcement, the local health officer, and other involved local agencies. The summary shall include a discussion of the information's relevance to the contamination, including areas suspected of being contaminated, and may include all of the following information:

(1) Duration of laboratory operation and number of batches cooked or processed.

(2) Hazardous chemicals known to have been manufactured.

(3) Recipes and methods used.

(4) Chemicals and equipment found, by location, used in connection with the manufacture or storage of the hazardous chemicals.

(5) Location of contaminated cooking and storage areas.

(6) Visual assessment of the severity of contamination inside and outside of the structure where the laboratory was located.

(7) Assessment of contamination of adjacent rooms, units, apartments, or structures.

(8) Disposal methods observed at or near the site, including dumping, burning, burial, venting, or drain disposal.

(9) A comparison of the chemicals on the manifest with known methods of manufacture in order to identify other potential contaminants.

(10) A determination as to whether the methamphetamine manufacturing method included the use of chemicals containing mercury or lead, including lead acetate, mercuric chloride, mercuric nitrate.

(c) A description of the areas to be sampled and the basis for the selection of the areas. This element of the PSA work plan shall also document the decision process used in determining not to sample particular areas. The PSA work plan shall consider both primary and secondary areas of concern.

(1) The primary areas of concern included in the work plan shall include all the following areas:

(A) Any area that has obvious staining caused by the use or manufacture of hazardous chemicals.

(B) Any processing or cooking area, with contamination caused by spills, boilovers, explosions, or by chemical fumes and gases created during cooking. The area may include floors, walls, ceilings,

glassware, and containers, working surfaces, furniture, carpeting, draperies and other textile products, plumbing fixtures and drains, heating and air-conditioning vents.

(C) Any disposal area, including such indoor areas as sinks, toilets, bathtubs, plumbing traps and floor drains, vents, vent fans, and chimney flues and such outdoor areas that may be contaminated by dumping or burning on or near soil, surface water, groundwater, sewer or storm systems, septic systems, and cesspools.

(D) Chemical storage areas that may be contaminated by spills, leaks, or open containers.

(2) The secondary areas of concern shall include all of the following:

(A) Any location where contamination may have migrated, including hallways or other high traffic areas.

(B) Common areas in multiple dwellings, and adjacent apartments or rooms, including floors, walls, ceilings, furniture, carpeting, light fixtures, blinds, draperies and other textile products.

(C) Common ventilation or plumbing systems in hotels and multiple dwellings.

(d) Sampling protocols, analytical methods and laboratories to use and their relevant certifications or accreditations.

(e) A description of areas and items that will be remediated in lieu of sampling, if any.

25400.37. After a preliminary site assessment is completed in accordance with the PSA work plan, a PSA report shall be prepared and submitted to the local health officer. The PSA report shall be thorough and specific in reporting findings and recommendations and shall include all of the following:

(a) The location of the site, including the street address and mailing address of the contaminated property, the owner of record and mailing address, legal description, and clear directions for locating the property.

(b) A site map, including a diagram of the contaminated property. The diagram shall include floor plans of affected buildings and local drinking water wells and nearby streams or other surface waters, if potentially impacted, and shall show the location of damage and contamination and the location of sampling points used in the preliminary site assessment. All sampling point locations shall be keyed to the sampling results and remediation recommendations.

(c) A description of the sampling methods and analytical protocols used in the preliminary site assessment.

(d) A description of the sampling results.

(e) Information regarding the background samples and results obtained.

(f) Specific recommendations, including methods, for remedial actions required to meet the human occupancy standards specified in Section 25400.16, including, but not limited to, any required decontamination, demolition, or disposal.

(g) A plan for postremediation site assessment, including specific sampling requirements and methodologies, and locations at which samples are to be obtained.

25400.38. The PSA work plan and PSA report shall be signed and notarized by the contractor responsible for the completion of the preliminary site assessment and by a certified industrial hygienist for sufficiency and completeness.

25400.40. (a) A person shall not perform a preliminary site assessment or any remediation work pursuant to this chapter,

including a decontamination, demolition, or disposal, unless the person has completed all of the following:

(1) Initial training pursuant to subparagraph (A) of paragraph (3) of, or paragraph (4) of, subdivision (e) of Section 5192 of Title 8 of the California Code of Regulations, as applicable. That training shall include elements listed pursuant to subparagraphs (A) to (G), inclusive, of paragraph (2) of subdivision (e) of Section 5192 of Title 8 of the California Code of Regulations.

(2) Annual refresher training pursuant to paragraph (8) of subdivision (e) of Section 5192 of Title 8 of the California Code of Regulations.

(3) Additional requirements as determined by the local health officer, or other applicable law.

(b) Training specified in paragraphs (1) and (2) of subdivision (a) shall be certified pursuant to paragraph (6) of subdivision (e) of Section 5192 of Title 8 of the California Code of Regulations.

Article 7. Enforcement and Liability

25400.45. (a) A property owner who does not provide a notice or disclosure required by this chapter is subject to a civil penalty in an amount of up to five thousand dollars (\$5,000). A property owner shall also be assessed the full cost of all harm to public health or to the environment resulting from the property owner's failure to comply with this chapter.

(b) A person who violates an order issued by a local health officer pursuant to this chapter prohibiting the use or occupancy of a property contaminated by a methamphetamine laboratory activity is subject to a civil penalty in an amount of up to five thousand dollars (\$5,000).

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

(1) The cost of any testing.

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

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

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

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

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. This act shall become operative only if Senate Bill 536 of the 2005-06 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 2006.

