

CERTIFICATION OF ENROLLMENT
SUBSTITUTE HOUSE BILL 1163

56th Legislature
1999 Regular Session

Passed by the House April 21, 1999
Yeas 97 Nays 0

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate April 6, 1999
Yeas 42 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1163** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1163

AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Cooper, Schoesler, Linville, G. Chandler, Keiser, Rockefeller and Conway; by request of Department of Health)

Read first time 02/23/1999.

1 AN ACT Relating to the authority of local health jurisdictions
2 regarding properties contaminated by toxic chemicals used in the
3 manufacture of illegal drugs; amending RCW 64.44.010, 64.44.020,
4 64.44.030, 64.44.040, 64.44.050, 64.44.060, and 64.44.070; and creating
5 a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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.

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

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

12 (3) "Hazardous chemicals" means the following substances used in
13 the manufacture of illegal drugs: (a) Hazardous substances as defined
14 in RCW 70.105D.020, and (b) precursor substances as defined in RCW
15 69.43.010 which the state board of health, in consultation with the
16 state board of pharmacy, has determined present an immediate or long-
17 term health hazard to humans.

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

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

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

28 Whenever a law enforcement agency becomes aware that property has
29 been contaminated by hazardous chemicals, that agency shall report the
30 contamination to the local health officer. The local health officer
31 shall (~~cause a posting of a notice~~) post a written warning on the
32 premises (~~immediately upon being notified~~) within one working day of
33 notification of the contamination and shall (~~cause an inspection to be~~
34 ~~done on~~) inspect the property within fourteen days after receiving the
35 notice of contamination. The warning shall inform the potential
36 occupants that hazardous chemicals may exist on, or have been removed
37 from, the premises and that entry is unsafe. If a property owner
38 believes that a tenant has contaminated property that was being leased

1 or rented, and the property is vacated or abandoned, then the property
2 owner shall contact the local health officer about the possible
3 contamination. Local health officers or boards may charge property
4 owners reasonable fees for inspections of suspected contaminated
5 property requested by property owners.

6 ~~((If property is determined to be contaminated, then the local~~
7 ~~health officer shall cause a posting of a notice on the premises.))~~ A
8 local health officer may enter, inspect, and survey at reasonable times
9 any properties for which there are reasonable grounds to believe that
10 the property has become contaminated. If the property is contaminated,
11 the local health officer shall post a written notice declaring that the
12 officer intends to issue an order prohibiting use of the property as
13 long as the property is contaminated.

14 Local health officers must report all cases of contaminated
15 property to the state department of health. The department may make
16 the list of contaminated properties available to health associations,
17 landlord and realtor organizations, prosecutors, and other interested
18 groups. The department shall promptly update the list of contaminated
19 properties to remove those which have been decontaminated according to
20 provisions of this chapter.

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

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

25 If after the inspection of the property, the local health officer
26 finds that it is contaminated, then the property shall be found unfit
27 for use. The local health officer shall cause to be served an order
28 prohibiting use either personally or by certified mail, with return
29 receipt requested, upon all occupants and persons having any interest
30 therein as shown upon the records of the auditor's office of the county
31 in which such property is located(~~(, and)~~). The local health officer
32 shall also post the order prohibiting use in a conspicuous place on the
33 property(~~(, an order prohibiting use)~~). If the whereabouts of such
34 persons is unknown and the same cannot be ascertained by the local
35 health officer in the exercise of reasonable diligence, and the health
36 officer makes an affidavit to that effect, then the serving of the
37 order upon such persons may be made either by personal service or by
38 mailing a copy of the order by certified mail, postage prepaid, return

1 receipt requested, to each person at the address appearing on the last
2 equalized tax assessment roll of the county where the property is
3 located or at the address known to the county assessor, and the order
4 shall be posted conspicuously at the residence. A copy of the order
5 shall also be mailed, addressed to each person or party having a
6 recorded right, title, estate, lien, or interest in the property.
7 ((Such)) The order shall contain a notice that a hearing before the
8 local health board or officer shall be held upon the request of a
9 person required to be notified of the order under this section. The
10 request for a hearing must be made within ten days of serving the
11 order. The hearing shall then be held within not less than twenty days
12 nor more than thirty days after the serving of the order. The officer
13 shall prohibit use as long as the property is found to be contaminated.
14 A copy of the order shall also be filed with the auditor of the county
15 in which the property is located, and such filing of the complaint or
16 order shall have the same force and effect as other lis pendens notices
17 provided by law. In any hearing concerning whether property is fit for
18 use, the property owner has the burden of showing that the property is
19 decontaminated or fit for use. The owner or any person having an
20 interest in the property may file an appeal on any order issued by the
21 local health board or officer within thirty days from the date of
22 service of the order with the appeals commission established pursuant
23 to RCW 35.80.030. All proceedings before the appeals commission,
24 including any subsequent appeals to superior court, shall be governed
25 by the procedures established in chapter 35.80 RCW.

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

28 The city or county in which the contaminated property is located
29 may take action to condemn or demolish property or to require the
30 property be vacated or the contents removed from the property. The
31 city or county ((~~must~~)) may use an authorized contractor if property is
32 demolished, decontaminated, or removed under this section. No city or
33 county may condemn or demolish property pursuant to this section until
34 all procedures granting the right of notice and the opportunity to
35 appeal in RCW 64.44.030 have been exhausted.

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

1 An owner of contaminated property who desires to have the property
2 decontaminated (~~((must))~~) shall use the services of an authorized
3 contractor (~~((to decontaminate the property))~~) unless otherwise
4 authorized by the local health officer. The contractor shall prepare
5 and submit a written work plan for decontamination to the local health
6 officer. The local health officer may charge a reasonable fee for
7 review of the work plan. If the work plan is approved and the
8 decontamination is completed and the property is retested according to
9 the plan and properly documented, then the health officer shall allow
10 reuse of the property. A (~~((notice))~~) release for reuse document shall
11 be recorded in the real property records (~~((if applicable,))~~) indicating
12 the property has been decontaminated in accordance with rules of the
13 state department of health.

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

16 (1) (~~((After January 1, 1991,))~~) A contractor may not perform
17 decontamination, demolition, or disposal work unless issued a
18 certificate by the state department of health. The department shall
19 establish performance standards for contractors by rule in accordance
20 with chapter 34.05 RCW, the administrative procedure act. The
21 department shall train and test, or may approve courses to train and
22 test, contractors and their employees on the essential elements in
23 assessing property used as an illegal drug manufacturing or storage
24 site to determine hazard reduction measures needed, techniques for
25 adequately reducing contaminants, use of personal protective equipment,
26 methods for proper decontamination, demolition, removal, and disposal
27 of contaminated property, and relevant federal and state regulations.
28 Upon successful completion of the training, the contractor or employee
29 shall be certified.

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

33 (3) The department shall provide for reciprocal certification of
34 any individual trained to engage in decontamination, demolition, or
35 disposal work in another state when the prior training is shown to be
36 substantially similar to the training required by the department. The
37 department may require such individuals to take an examination or
38 refresher course before certification.

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

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

7 (b) Failing to file a work plan;

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

9 (d) Failing to perform work that meets the requirements of the
10 department;

11 (e) The certificate was obtained by error, misrepresentation, or
12 fraud; or

13 (f) If the person has been certified pursuant to RCW 74.20A.320 by
14 the department of social and health services as a person who is not in
15 compliance with a support order or a residential or visitation order.
16 If the person has continued to meet all other requirements for
17 reinstatement during the suspension, reissuance of the license or
18 certificate shall be automatic upon the department's receipt of a
19 release issued by the department of social and health services stating
20 that the person is in compliance with the order.

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

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

26 (7) The decontamination account is hereby established in the state
27 treasury. All fees collected under this chapter shall be deposited in
28 this account. Moneys in the account may only be spent after
29 appropriation for costs incurred by the department in the
30 administration and enforcement of this chapter.

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

33 (1) The state board of health shall promulgate rules and standards
34 for carrying out the provisions in this chapter in accordance with
35 chapter 34.05 RCW, the administrative procedure act. The local board
36 of health and the local health officer are authorized to exercise such
37 powers as may be necessary to carry out this chapter. The department

1 shall provide technical assistance to local health boards and health
2 officers to carry out their duties under this chapter.

3 (2) The department shall (~~develop guidelines~~) adopt rules for
4 decontamination of a property used as ((a)) an illegal drug laboratory
5 and methods for the testing of ground water, surface water, soil, and
6 septic tanks for contamination. The rules shall establish
7 decontamination standards for hazardous chemicals, including but not
8 limited to methamphetamine, lead, mercury, and total volatile organic
9 compounds.

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