

FINAL BILL REPORT

SHB 1208

C 191 L 05

Synopsis as Enacted

Brief Description: Concerning forfeited property.

Sponsors: By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representative O'Brien).

House Committee on Natural Resources, Ecology & Parks
Senate Committee on Water, Energy & Environment

Background:

The Model Toxics Control Act (MTCA) outlines the liabilities and responsibilities of the owner or operator of a site that has been contaminated by a hazardous substance or substances. The cleaning of these contaminated sites, known as facilities, can be the responsibility of a broad range of individuals. They include the current owner or operator of the facility, any person who owned or operated the facility when the hazardous substances were disposed, and any person who owned or possessed a hazardous substance that was disposed at the facility. All entities identified as being responsible for cleaning a facility are jointly and severally liable for the expense.

The "owner or operator" of a facility is defined as any person with ownership interest or managerial control of a facility, or that was the last owner of an abandoned facility. A state entity or a local government can satisfy the criteria for being considered an owner or operator of a facility, and assume liability, unless the facility came into public ownership through bankruptcy, tax delinquency, abandonment, or other circumstances where the government acquires title involuntarily.

Subject to some conditions, ownership of any real property that is used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importation, or exportation of a controlled substance may be seized and transferred to a public entity. If the seized property is contaminated with hazardous substances to such a degree that it qualifies as a facility under the MTCA, then that public entity could be held liable as an owner or operator under the MTCA. Property seizure requires a positive action by a public entity; therefore, property seizure would not qualify as an involuntary acquisition of title under the MTCA's exceptions to the definition of owner or operator.

Summary:

A state entity or local government will not become liable under the MTCA as an owner or operator of a facility if the facility came into public ownership by way of a drug forfeiture action.

Votes on Final Passage:

House	97	1
Senate	42	2

Effective: July 24, 2005