

# HOUSE BILL REPORT

## HB 2901

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**As Reported by House Committee On:**  
Natural Resources, Ecology & Parks

**Title:** An act relating to the clean up of properties contaminated by the manufacturing of illegal drugs.

**Brief Description:** Changing provisions relating to the clean up of properties contaminated by manufactured illegal drugs.

**Sponsors:** Representatives Morrell, Green, Campbell, Roberts, Wallace, Ericks, Lantz, Kilmer, Blake, Grant, Hudgins, Darneille, McDonald, Linville, McCune and Ormsby.

**Brief History:**

**Committee Activity:**

Natural Resources, Ecology & Parks: 1/27/06, 2/2/06 [DPS].

**Brief Summary of Substitute Bill**

- Provides that personal property is covered by the law, in addition to real property.
- Creates the authority for administrative warrants to be issued by courts when access to property suspected of contamination by the manufacture of illegal drugs is denied.
- Directs the Department of Health to create rules to conduct third-party sampling of decontaminated properties.

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### HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives B. Sullivan, Chair; Blake, Dickerson, Eickmeyer, Hunt and Kagi.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Upthegrove, Vice Chair; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Chandler and Orcutt.

**Staff:** Amy Van Horn (786-7168).

**Background:**

There is a chapter of state law that describes how properties that have been contaminated by the manufacture or use of illegal drugs must be handled. The provisions involve reporting of the contaminated property, notice of the property being unfit for use, decontamination requirements, and contractor certification.

#### Reporting and notice of a contaminated property

A law enforcement officer that discovers a property that has been contaminated to the point where it is unfit for human habitation must notify the local health officer. The local health officer must then post a written notice on the property and conduct an inspection of the property within 14 days. Notice of contamination can also be submitted by the property's owner or be discovered by the local health officer directly. If the local health officer suspects a property is contaminated, the officer may enter and inspect the property.

#### Determining a property unfit for use

The local health officer may determine if a property is unfit for use due to chemical contamination. If this determination is made, the local health officer must prohibit use of the property. Notice of this prohibition must be delivered to the property's owner and posted on the actual property itself. The property owner may request a hearing to dispute the finding that the property is unfit. In the hearing, the property owner has the burden of showing that the property is not contaminated or has already been cleaned to an acceptable level.

#### Actions upon finding of contamination

Cities and counties have the option of condemning or demolishing contaminated properties. The local government must wait until all hearings have been exhausted before a demolition can occur. Alternatively, the owner of the property can pay to have the property decontaminated. If the owner chooses this course, then he or she must hire a contractor certified by the Department of Health (Department). The contractor must present a decontamination plan to the local health officer, and upon its successful execution, the unfit for use determination may be lifted. The local health officer may charge the property owner fees for reviewing the plan and reinspecting the property.

#### Contractor certification

A property owner may only hire a contractor for decontamination work if the contractor has been approved by the Department. The Department maintains performance standards and standards for training and testing contractors to ensure that they are capable of dealing with the contamination left behind from illegal drug manufacturing. Contractors can lose their certification if they violate certain standards set by the Department.

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### **Summary of Substitute Bill:**

#### Definitions (section 1)

Two definitions are expanded. The definition of "hazardous chemical" is expanded to include the final product of drug manufacturing, and not just the precursor elements needed to manufacture illegal drugs. In addition, the definition of "property" is expanded to include personal property (in addition to real property) and storage sheds.

#### Administrative Warrants (section 2)

If a local health officer is denied access to a property he or she reasonably suspects is contaminated due to the manufacture of illegal drugs, the officer, in consultation with law enforcement, may seek an administrative warrant from a court in order to perform administrative inspections and to seize property. The court must determine that probable cause exists that the property is contaminated.

#### Third Party Sampling (section 3)

The Department shall develop rules to conduct independent third party sampling of decontaminated properties in order to verify satisfactory decontamination.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill removed provisions granting the power to issue emergency orders, the power to fine employees of clean-up contractors, and the power to punish the unauthorized removal of property from a condemned site with a misdemeanor. The substitute bill also removed a provision creating a clean-up account in the State Treasury and providing grants to innocent landlords whose properties become contaminated by illegal drug manufacture.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support of original bill) Meth manufacturing can lead to health and environmental impacts on communities. Local governments have insufficient resources to clean up these sites, and this bill helps communities by providing tools. The powers of local health officials are simplified and the certification of clean-up programs is strengthened. Glitches in the law complicate things for local governments.

(With concerns on original bill) Public money should not be used to benefit private landowners. The money in the account should be used for local law enforcement. There are innocent landowners that deserve funding that are not necessarily landlords. The bill does not address new trends in meth production. The bill should not amend the Model Toxics Control Act. Exempting a landowner from liability does not solve the problems happening out in communities.

**Testimony Against:** (Opposed to original bill) It is unclear how this bill affects buildings with multiple tenants and how different families are affected. The warrant language gives too much discretion to local health officers. Hotels and motels should not be singled out as problems.

**Persons Testifying:** (In support of original bill) Representative Morrell, prime sponsor; and Jonelle Fenton-Wallace, Snohomish Regional Drug Task Force and Snohomish Health District.

(With concerns on original bill) Lori Hall, American Environmental; Jim Pendowski, Department of Ecology; and Mo McBroom, Washington Environmental Council.

(Opposed to original bill) John Flood, Snohomish Regional Drug Task Force; Mark Paulsen, Washington Apartment Association; and T.K. Bentler, Washington State Hotel and Lodging Association.

**Persons Signed In To Testify But Not Testifying:** Doug Nyhart, Rental Housing Association.