

2SHB 2817 - H AMD 1105

By Representative Campbell

ADOPTED 02/18/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 64.44.050 and 2006 c 339 s 205 are each amended to
4 read as follows:

5 (1) An owner of contaminated property who desires to have the
6 property decontaminated, demolished, or disposed of shall use the
7 services of an authorized contractor unless otherwise authorized by the
8 local health officer. The contractor and property owner shall prepare
9 and submit a written work plan for decontamination, demolition, or
10 disposal to the local health officer. The local health officer may
11 charge a reasonable fee for review of the work plan. If the work plan
12 is approved and the decontamination, demolition, or disposal is
13 completed and the property is retested according to the plan and
14 properly documented, then the health officer shall allow reuse of the
15 property. A release for reuse document shall be recorded in the real
16 property records indicating the property has been decontaminated,
17 demolished, or disposed of in accordance with rules of the state
18 department of health. The property owner is responsible for: (a) The
19 costs of any property testing which may be required to demonstrate the
20 presence or absence of hazardous chemicals; and (b) the costs of the
21 property's decontamination, demolition, and disposal expenses, as well
22 as costs incurred by the local health officer resulting from the
23 enforcement of this chapter.

24 (2)(a) In a case where the contaminated property is a motor vehicle
25 as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or
26 a vessel as defined in RCW 88.02.010, and methamphetamine or any of its
27 salts, isomers, and salts of isomers were found inside, and the local
28 health officer has issued an order declaring the property unfit and
29 prohibiting its use, the city or county in which the property is
30 located shall take action to prohibit use, occupancy, or removal, and

1 shall require demolition, disposal, or decontamination of the property.
2 The city, county, or local law enforcement agency may impound the
3 vehicle or vessel to enforce this chapter.

4 (b) The property owner shall have the property demolished, disposed
5 of, or decontaminated by an authorized contractor, or under a written
6 work plan approved by the local health officer, within thirty days of
7 receiving the order declaring the property unfit and prohibited from
8 use. After all procedures granting the right of notice and the
9 opportunity to appeal in RCW 64.44.030 have been exhausted, if the
10 property owner has not demolished, disposed of, or decontaminated the
11 property using an authorized contractor, or under a written work plan
12 approved by the local health officer within thirty days, then the local
13 health officer or the local law enforcement agency may demolish,
14 dispose of, or decontaminate the property. The property owner is
15 responsible for the costs of the property's demolition, disposal, or
16 decontamination, as well as all costs incurred by the local health
17 officer or the local law enforcement agency resulting from the
18 enforcement of this chapter, except as otherwise provided for under
19 this subsection.

20 (c) The legal owner of a motor vehicle as defined in RCW 46.04.320,
21 a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW
22 88.02.010 whose sole basis of ownership is a bona fide security
23 interest is responsible for costs under this subsection if the legal
24 owner had knowledge of or consented to any act or omission that caused
25 contamination of the vehicle or vessel.

26 (d) If the vehicle or vessel has been stolen and the property owner
27 neither had knowledge of nor consented to any act or omission that
28 contributed to the theft and subsequent contamination of the vehicle or
29 vessel, the owner is not responsible for costs under this subsection,
30 except if the registered owner is insured, the registered owner shall
31 within fifteen calendar days of receiving an order declaring the
32 property unfit and prohibiting its use, submit a claim to his or her
33 insurer for reimbursement of costs of the property's demolition,
34 disposal, or decontamination, as well as all costs incurred by the
35 local health officer or the local law enforcement agency resulting from
36 the enforcement of this chapter, and shall provide proof of claim to
37 the local health officer or the local law enforcement agency.

1 (e) If the property owner has not acted to demolish, dispose of, or
2 decontaminate as set forth in this subsection regardless of
3 responsibility for costs, and the local health officer or local law
4 enforcement agency has taken responsibility for demolition, disposal,
5 or decontamination, including all associated costs, then all rights,
6 title, and interest in the property shall be deemed forfeited to the
7 local health jurisdiction or the local law enforcement agency.

8 (f) This subsection may not be construed to limit the authority of
9 a city, county, local law enforcement agency, or local health officer
10 to take action under this chapter to require the owner of the real
11 property upon which the contaminated vehicle or vessel is located to
12 comply with the requirements of this chapter, including provisions for
13 the right of notice and opportunity to appeal as provided in RCW
14 64.44.030.

15 (3) Except as provided in subsection (2) of this section, the local
16 health officer has thirty days from the issuance of an order declaring
17 a property unfit and prohibiting its use to establish a reasonable
18 timeline for decontamination. The department of health shall establish
19 the factors to be considered by the local health officer in
20 establishing the appropriate amount of time.

21 The local health officer shall notify the property owner of the
22 proposed time frame by United States mail to the last known address.
23 Notice shall be postmarked no later than the thirtieth day from the
24 issuance of the order. The property owner may request a modification
25 of the time frame by submitting a letter identifying the circumstances
26 which justify such an extension to the local health officer within
27 thirty-five days of the date of the postmark on the notification
28 regardless of when received.

29 NEW SECTION. Sec. 2. A new section is added to chapter 64.44 RCW
30 to read as follows:

31 (1) The Washington state department of licensing shall take action
32 to place notification on the title of any motor vehicle as defined in
33 RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as
34 defined in RCW 88.02.010, that the vehicle or vessel has been declared
35 unfit and prohibited from use by order of the local health officer
36 under this chapter. When satisfactory decontamination has been
37 completed and the contaminated property has been retested according to

1 the written work plan approved by the local health officer, a release
2 for reuse document shall be issued by the local health officer, and the
3 department shall place notification on the title of that vehicle or
4 vessel as having been decontaminated and released for reuse.

5 (2)(a) A person is guilty of a gross misdemeanor if he or she
6 advertises for sale or sells a motor vehicle as defined in RCW
7 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as
8 defined in RCW 88.02.010, that has been declared unfit and prohibited
9 from use by the local health officer under this chapter when:

10 (i) The person has knowledge that the vehicle or vessel has been
11 found to be contaminated with methamphetamine or any of its salts,
12 isomers, and salts of isomers; or

13 (ii) A notification has been placed on the title under subsection
14 (1) of this section that the vehicle or vessel has been declared unfit
15 and prohibited from use.

16 (b) A person may advertise or sell a vehicle or vessel when a
17 release for reuse document has been issued by the local health officer
18 under this chapter or a notification has been placed on the title under
19 subsection (1) of this section that the vehicle or vessel has been
20 decontaminated and released for reuse.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.55 RCW
22 to read as follows:

23 An impound under RCW 64.44.050 shall not be considered an impound
24 under this chapter. A tow operator who contracts with a law
25 enforcement agency for transporting a vehicle impounded under RCW
26 64.44.050 shall only remove the vehicle to a secure public facility,
27 and not be required to store or dispose of the vehicle. The vehicle
28 shall remain in the care, custody, and control of the law enforcement
29 agency to be demolished, disposed of, or decontaminated as under RCW
30 64.44.050. The law enforcement agency shall pay for all costs incurred
31 as a result of the towing if the vehicle owner does not pay within
32 thirty days. The law enforcement agency may seek reimbursement from
33 the owner.

34 NEW SECTION. **Sec. 4.** If specific funding for the purposes of this
35 act, referencing this act by bill or chapter number, is not provided by

1 June 30, 2008, in the omnibus appropriations act, this act is null and
2 void."

3 Correct the title.

EFFECT: (1) Clarifies responsibility if property was stolen, and for insurance reporting.

(2) Adds that the city, county, or local law enforcement agency may impound a contaminated vessel.

(3) Clarifies the responsibility of a legal property owner.

(4) Affirms no loss of authority to address contaminated vehicles and vessels on real property.

(5) Clarifies that advertising and sale of a vehicle or vessel is permitted after a release for reuse is issued by the local health officer.

(6) Changes it is "unlawful" to advertise for sale or to sell a contaminated vehicle or vessel, to a person is guilty of a "gross misdemeanor."

(7) Adds it a gross misdemeanor to advertise for sale or sell a vehicle or vessel if notice of contamination has been placed on the title, unless there is also notice on the title that the vehicle or vessel has been decontaminated.

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