

Assembly Bill No. 1489

CHAPTER 539

An act to amend Sections 25354.5 and 25400.16 of the Health and Safety Code, relating to hazardous materials.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1489, Smyth. Hazardous materials: methamphetamine laboratories.

(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. Existing law requires the department, on or before October 1, 2008, and to the extent funding is available, to develop health-based target remediation standards for iodine, methyl iodide, and phosphine.

This bill would delete the date by which the department is required to develop these standards.

(2) Existing law states that property contaminated by methamphetamine laboratory activity is safe for human occupancy only if the level of methamphetamine on an indoor surface is less than, or equal to, 0.1 micrograms per 100 square centimeters. Existing law establishes additional requirements for safe human occupancy if this activity included the use of lead or mercury.

This bill would increase the methamphetamine level for this purpose from 0.1 micrograms per 100 square centimeters to 1.5 micrograms per 100 square centimeters. This bill would provide that these safety provisions do not preclude the department, in consultation with the Office of Health Hazard Assessment, from adopting stricter standards than the law would otherwise require. This bill would also delete obsolete provisions of law.

The people of the State of California do enact as follows:

SECTION 1. Section 25354.5 of the Health and Safety Code is amended to read:

25354.5. (a) A state or local law enforcement officer or investigator or other law enforcement agency employee who, in the course of an official investigation or enforcement action regarding the manufacture of an illegal controlled substance, comes in contact with, or is aware of, the presence of a substance that the person suspects is a hazardous substance at a site where an illegal controlled substance is or was manufactured, shall notify the

department for the purpose of taking removal action, as necessary, to prevent, minimize, or mitigate damage that might otherwise result from the release or threatened release of the hazardous substance, except for samples required under Section 11479.5 to be kept for evidentiary purposes.

(b) (1) Notwithstanding any other provision of law, upon receipt of a notification pursuant to subdivision (a), the department shall take removal action, as necessary, with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, a material intended to be used in the unlawful manufacture of a controlled substance, and a container for the material, a waste material from the unlawful manufacture of a controlled substance, or any other item contaminated with a hazardous substance used or intended to be used in the manufacture of a controlled substance. The department may expend funds appropriated from the Illegal Drug Lab Cleanup Account created pursuant to subdivision (f) to pay the costs of removal actions required by this section. The department may enter into oral contracts, not to exceed ten thousand dollars (\$10,000) in obligation, when, in the judgment of the department, immediate corrective action to a hazardous substance subject to this section is necessary to remedy or prevent an emergency.

(2) The department shall, as soon as the information is available, report the location of a removal action that will be carried out pursuant to paragraph (1), and the time that the removal action will be carried out, to the local environmental health officer within whose jurisdiction the removal action will take place, if the local environmental officer does both of the following:

(A) Requests, in writing, that the department report this information to the local environmental health officer.

(B) Provides the department with a single 24-hour telephone number to which the information can be reported.

(c) (1) For purposes of Chapter 6.5 (commencing with Section 25100), Chapter 6.9.1 (commencing with Section 25400.10), or this chapter, a person who is found to have operated a site for the purpose of manufacturing an illegal controlled substance or a precursor of an illegal controlled substance is the generator of a hazardous substance at, or released from, the site that is subject to removal action pursuant to this section.

(2) During the removal action, for purposes of complying with the manifest requirements in Section 25160, the department, the county health department, the local environmental health officer, or their designee may sign the hazardous waste manifest as the generator of the hazardous waste. In carrying out that action, the department, the county health department, the local environmental health officer, or their designee shall be considered to have acted in furtherance of their statutory responsibilities to protect the public health and safety and the environment from the release, or threatened release, of hazardous substances, and the department, the county health department, the local environmental health officer, or their designee is not a responsible party for the release, or threatened release, of the hazardous substances.

(3) The officer, investigator, or agency employee specified in subdivision (a) is not a responsible party for the release, or threatened release, of hazardous substances at, or released from, the site.

(d) The department may adopt regulations to implement this section in consultation with appropriate law enforcement and local environmental agencies.

(e) (1) The department shall develop sampling and analytical methods for the collection of methamphetamine residue.

(2) The department shall, to the extent funding is available, develop health-based target remediation standards for iodine, methyl iodide, and phosphine.

(3) To the extent that funding is available, the department, using guidance developed by the Office of Environmental Health Hazard Assessment, may develop additional health-based target remediation standards for additional precursors and byproducts of methamphetamine.

(4) On or before October 1, 2009, the department shall adopt investigation and cleanup procedures for use in the remediation of sites contaminated by the illegal manufacturing of methamphetamine. The procedures shall ensure that contamination by the illegal manufacturing of methamphetamine can be remediated to meet the standards adopted pursuant to paragraphs (2) and (3), to protect the health and safety of all future occupants of the site.

(5) The department shall implement this subdivision in accordance with subdivision (d).

(f) The Illegal Drug Lab Cleanup Account is hereby created in the General Fund and the department may expend any money in the account, upon appropriation by the Legislature, to carry out the removal actions required by this section and to implement subdivision (e), including, but not limited to, funding an interagency agreement entered into with the Office of Environmental Health Hazard Assessment to provide guidance services. The account shall be funded by moneys appropriated directly from the General Fund.

(g) The responsibilities assigned to the department by this section apply only to the extent that sufficient funding is made available for that purpose.

SEC. 2. Section 25400.16 of the Health and Safety Code is amended to read:

25400.16. (a) Property contaminated by methamphetamine laboratory activity is safe for human occupancy for purposes of this chapter only if the level of methamphetamine on an indoor surface is less than, or equal to, 1.5 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) This section does not preclude the department, in consultation with the Office of Health Hazard Assessment, from adopting stricter health-based remediation standards than required under this section.