

Legislative Analysis



ENVIRONMENTAL CONTAMINATION FROM ILLEGAL DRUG MANUFACTURING

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House Bill 5797 (Substitute H-1)

Sponsor: Rep. Rick Jones

House Bill 5798 (Substitute H-2)

Sponsor: Rep. Tonya Schuitmaker

Committee: Health Policy

First Analysis (3-30-06)

BRIEF SUMMARY: House Bill 5797 would require state and local law enforcement agencies to notify the Department of Community Health (rather than the Department of Environmental Quality), and the local health department (if the enforcing agency is not the local health department) about the potential contamination of property where illegal drug manufacturing has occurred.

House Bill 5798 would require the Department of Community Health, within six months after the bill's effective date, to develop a *Cleanup of Clandestine Drug Labs* guidance document that would include detailed protocols for the preliminary site assessment, remediation, and post-cleanup assessment of indoor environments and structures, as well as to promulgate necessary rules. The document would be developed in consultation with the Department of Environmental Quality, and made available to the public on the department's website.

FISCAL IMPACT: House Bills 5797 and 5798, as introduced, have fiscal implications for the Department of Community Health (DCH). Development of a detailed guidance document required by House Bill 5798 will require staff time or contractual expense, or a combination. The Department indicates that one new FTE position could perform this function, and suggested that position would also manage the responsibilities transferred to DCH from DEQ by House Bill 5798. Annual expenses for one additional state level program specialist staff person would be approximately \$90,000-\$100,000.

The Department of Environmental Quality will continue to receive and assess notifications of other types of environmental contamination; therefore, a reduction of costs is not anticipated for DEQ as a consequence of House Bill 5798.

THE APPARENT PROBLEM:

Methamphetamine is a Schedule 2 drug, meaning that it has some legitimate medical uses but also has a high potential for abuse. Physicians prescribe methamphetamine, a stimulant, to treat several conditions including obesity, attention disorders, and sometimes, narcolepsy.

According to a Legislative Brief prepared by the Legislative Service Bureau entitled "Clandestine Methamphetamine Labs", Vol. 2, Issue 5 (March 2005), clandestine meth labs have existed since the 1930s but began to expand in the 1960s when outlaw motorcycle gangs began to produce and traffic methamphetamine. A newer, easier method of producing methamphetamine known as the "ephedrine reduction method" has made meth production simple enough that "cooks" claim it is easier to make than cookies. Even elementary-age children have been known to stir up a "batch." Since the "ingredients" and materials (i.e., lighter fluid, paint thinner, drain cleaner, iodine, rubbing alcohol, rock salt, matchbooks, lye, aluminum foil, lithium batteries, coffee filters, mason jars, etc.) are relatively inexpensive and easy to obtain, illegal meth production is also highly lucrative. A \$100 investment in materials can produce over \$1,000 of methamphetamine.

Meth production also needs anhydrous ammonia (a fertilizer) and ephedrine or pseudoephedrine (used for treatment of colds, allergies, congestion, asthma, etc.). In an attempt to stifle the growth of clandestine meth labs, legislation was recently enacted to prohibit transporting or possessing anhydrous ammonia in anything other than "a container approved by law" (PA 312 of 2003), prohibit the illegal manufacturing of methamphetamine (PA 310 of 2003), and limit possession of ephedrine or pseudoephedrine – the key ingredient in the illegal production of meth – to no more than 12 grams – about 61 Sudafed 24-hour tablets (PA 308 of 2003). Further, in 2005, the Michigan legislature joined 27 other states to restrict the sale of cold and allergy over-the-counter medications that contain ephedrine or pseudoephedrine by enacting PA 86 and PA 87 of 2005. (Officials in Oklahoma, where similar laws were enacted in 2004, reported an 80 percent drop in meth incidents in some parts of the state in just one year.)

Despite these efforts to prohibit meth, the illegal use, manufacture, and trafficking continue to grow. In 1999, 18 meth labs were seized in the state; in 2004, 209 were seized. In the first half of 2005, the Michigan State Police (MSP) report that 120 labs have been found. The majority of the labs are concentrated in Southwest Michigan, but clandestine labs are now spreading throughout the state.

Meth production releases toxic fumes, and it contaminates the area where leftover chemicals are disposed. Reportedly, for every one pound of meth produced, six to seven pounds of toxic waste are also produced. Since meth can be made almost anywhere – the beach, a motel room, a rented storage unit – innocent people can suffer health effects from the chemicals left behind that linger on walls, floors, bedding, sand, etc. Costs to taxpayers are also increased when hazmat teams are called on to detoxify abandoned labs, fires need to be put out from explosions (many of the ingredients are flammable), and courts are jammed with meth cases and prisons filled with meth users. According to an online article published on the Stateline.org website on April 5, 2005, Oklahoma estimates that an average meth case costs \$350,000 (about \$54,000 for treatment costs for the user, \$12,000 in child welfare services, and \$3,500 to decontaminate the area).

Super labs in Mexico produce large amounts of meth that is then smuggled into the U.S.; however, the MSP reports that small, clandestine labs in Michigan produce about 60-70 percent of the drug used here.

In order to ensure that the former sites of toxic meth labs are free of health and safety hazards in the communities where they are located, legislation has been introduced to require the state Department of Community Health and local health departments to take the lead in site assessment and clean-up.

THE CONTENT OF THE BILLS:

House Bill 5797 (H-1) would amend the Housing Law of Michigan (MCL 125.485a) to require state and local law enforcement agencies to notify the Department of Community Health rather than the Department of Environmental Quality, and the local health department (if the enforcing agency is not the local health department) about the potential contamination of property where illegal drug manufacturing has occurred. (The appropriate housing law enforcing agency also must be notified.) Subsequent duties that now fall to the DEQ in the statute would be imposed on the DCH.

House Bill 5798 (H-2) would amend the Public Health Code (MCL 333.12103) to require the Department of Community Health to develop a *Cleanup of Clandestine Drug Labs* guidance document that would include detailed protocols for the preliminary site assessment, remediation, and post-cleanup assessment of indoor environments and structures, as well as to promulgate necessary rules. The document would be developed in consultation with the Department of Environmental Quality and would have to be completed within six months after the bill took effect. Further, the department would be required to make the guidance document available to the public on its website, and upon request from a local health department, provide a physical copy of the document.

Under the bill, a state or local law enforcement agency would be required to notify the local health department and Department of Community Health about the potential contamination of any property or dwelling that was, or had been, the site of illegal drug manufacturing. The law enforcement agency would post a written warning on the premises, stating that potential contamination existed, and that it could constitute a hazard to the health or safety of those who occupied the premises.

Within 14 days after receiving the notification, or as soon as practically possible, the Department of Community Health, in cooperation with the local health department, would be required to review the information received (from law enforcement agencies, emergency first responders, or hazardous materials teams), and make a determination about whether there was likely contamination on the premises, as well as whether any contamination could create a health or safety hazard. (The fact that property or a dwelling had been used as a site for illegal drug manufacturing would be treated by the Department of Community Health as *prima facie* evidence of likely contamination and a health and safety hazard.) If the property or dwelling, or both, was determined likely to be contaminated, then the local health department or the Department of Community Health would issue an order requiring the property or dwelling to be vacated until the

property owner established that the property was decontaminated, or the risk of likely contamination ceased to exist.

BACKGROUND INFORMATION:

Some people describe methamphetamine as the most insidious drug they have ever seen. The drug changes receptors in the user's brain, affects dopamine levels, ages users before their time. Most users lose their teeth within just a few years of addiction. Physical effects include malnutrition (from loss of appetite), heart arrhythmia, stroke, convulsions, amphetamine psychosis (loss of sleep, sometimes for days or weeks on end, causes delusions and hallucinations), and death. Meth addicts abuse and neglect their children. Meth "cooks" endanger themselves, their children, and their neighbors by the threat of explosions (many ingredients are flammable) and by the toxicity of the ingredients. Meth is extremely addictive – 90 percent of those who inject or smoke the drug are hooked by the second use and treatment methods that work with other addictions do not work for meth addiction, meaning that there is a high incidence of falling back into the addiction. Meth gives a brief euphoric pleasure before it takes everything away.

Already, meth is taking its toll on those who use it, their families, their communities, and the environment. The drug has serious long-term (and expensive to treat) physical and mental health effects. About one-third of the meth lab incidents involve children and so increased demands are put on the state's Protective Services agency. Meth users are more likely to engage in aggressive (and often criminal) behavior and engage in high-risk sexual behaviors (meth users are 2.9 times more likely to contract HIV than cocaine users).

(Information in this analysis is derived from the HFA analysis of House Bill 4322 and Senate Bill 189, dated 6-7-05).

ARGUMENTS:

For:

Meth is cheap to make (\$100 of ingredients produces \$1000 worth of product) but costs taxpayers a great deal. Meth addiction is difficult to treat; treatment success is estimated at about six to seven percent. The damage to a person's brain from meth takes six months, perhaps longer, to heal, so the urge to use again is hard to resist. In short, treating the psychological and physical effects of meth per person is expensive.

Other costs to society related to meth production and addiction include the cost of law enforcement (the number of meth labs in the state continues to increase dramatically and arrests continue to increase also), the cost to prosecute offenders (one judge reported that a couple years ago, his drug court had about five meth cases; last year the drug court had over 300), the cost to care for the children left behind when parents are incarcerated for meth related crimes or for crimes committed when on meth, and the costs to clean up the contamination when a lab is shut down or moves on (six to seven pounds of toxic waste

for every pound of meth produced). Estimates by the state of Oklahoma put the cost of each case at around \$350,000.

The Michigan State Police report that though some meth is smuggled in from other states and other countries, the majority (60-70 percent) of what is used in the state is made here. When the lab sites are closed, the sites must be assessed, and the toxic residue removed. These bills would help ensure that site assessment and clean-up would be undertaken by state and local public health officers, working in conjunction with law enforcement officials, and scientists at the Department of Environmental Quality.

POSITIONS:

Michigan Department of Community Health supports the bills. (3-29-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.