

As Introduced

131st General Assembly

Regular Session

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S. B. No. 113

**Senators LaRose, Beagle
Cosponsors: Senators Oelslager, Tavares, Cafaro**

A BILL

To amend sections 3745.13 and 4745.01 and to enact
sections 3744.01, 3744.02, 3744.03, 3744.04,
3744.06, 3744.09, 3744.12, 3744.13, 3744.15,
3744.16, 3744.17, 3744.18, 3744.20, and 5302.31
of the Revised Code to provide for the
remediation of real property on which an illegal
methamphetamine manufacturing laboratory has
been discovered.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3745.13 and 4745.01 be amended
and sections 3744.01, 3744.02, 3744.03, 3744.04, 3744.06,
3744.09, 3744.12, 3744.13, 3744.15, 3744.16, 3744.17, 3744.18,
3744.20, and 5302.31 of the Revised Code be enacted to read as
follows:

Sec. 3744.01. As used in this chapter:

(A) "Board of health" means the board of health of a city
or general health district or the authority having the duties of
a board of health under section 3709.05 of the Revised Code.

(B) "Illegal methamphetamine manufacturing laboratory" has

the meaning defined in section 3745.13 of the Revised Code. 19

(C) "Methamphetamine remediation" means a measure or set 20
of measures designed to eliminate methamphetamine contamination. 21
"Methamphetamine remediation" does not include activities 22
performed by a law enforcement agency that discovers an illegal 23
methamphetamine manufacturing laboratory. 24

(D) "Structure" means a walled and roofed building or a 25
mobile home or manufactured home, regardless of whether the 26
building, mobile home, or manufactured home is used as a 27
residence. 28

(E) "Unit" means a room or group of rooms in a hotel, 29
motel, apartment building, nursing home, or other structure that 30
is used as a residence. 31

(F) "Written notice," when used in connection with a 32
notice required by this chapter, includes an electronic notice. 33

Sec. 3744.02. (A) Not later than nine months after the 34
effective date of this section, the director of health shall 35
adopt rules governing methamphetamine remediation. The rules 36
shall include all of the following: 37

(1) Process-based standards and procedures for 38
methamphetamine remediation, including removal and disposal of 39
contaminated material; 40

(2) Standards and procedures for protecting the health and 41
safety of workers engaged in methamphetamine remediation; 42

(3) Record-keeping and reporting requirements for 43
methamphetamine remediation contractors certified under this 44
chapter; 45

(4) Professional liability insurance requirements for 46

<u>methamphetamine remediation contractors certified under this</u>	47
<u>chapter;</u>	48
<u>(5) Record-keeping and reporting requirements for boards</u>	49
<u>of health with reference to methamphetamine remediation;</u>	50
<u>(6) Standards and procedures to be used by a board of</u>	51
<u>health to determine whether a methamphetamine remediation</u>	52
<u>project has been completed in accordance with rules adopted</u>	53
<u>under this section;</u>	54
<u>(7) Fees a board of health may charge if it elects to</u>	55
<u>conduct inspections;</u>	56
<u>(8) Information that must be provided by a law enforcement</u>	57
<u>agency in a notice regarding the discovery of what appears to be</u>	58
<u>an illegal methamphetamine manufacturing laboratory, and a form</u>	59
<u>that may be used to provide the notice; and</u>	60
<u>(9) Any other rules the director considers appropriate to</u>	61
<u>implement this chapter.</u>	62
<u>(B) Not later than one year after the effective date of</u>	63
<u>this section, the director shall adopt rules governing</u>	64
<u>certification of methamphetamine remediation contractors. The</u>	65
<u>rules shall include all of the following:</u>	66
<u>(1) Training and qualifications an applicant must have to</u>	67
<u>be eligible for certification as a methamphetamine remediation</u>	68
<u>contractor;</u>	69
<u>(2) Application forms and procedures;</u>	70
<u>(3) Renewal procedures, including any continuing education</u>	71
<u>requirements;</u>	72
<u>(4) Initial certification fees and renewal fees; and</u>	73

(5) Standards and procedures for suspension and revocation of certificates and reinstatement of certificates that have been revoked. 74
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(C) When adopting rules under this section, the director shall give consideration to process-based recommendations regarding methamphetamine remediation issued by the United States environmental protection agency, including voluntary guidelines for methamphetamine laboratory cleanup and any other recommendations or guidelines the director considers appropriate. 77
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(D) Rules adopted under this section shall be adopted under Chapter 119. of the Revised Code. 84
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Sec. 3744.03. A person seeking a methamphetamine remediation contractor certificate shall apply to the director of health. The person shall apply in the form and manner prescribed by the director in the rules. 86
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Sec. 3744.04. (A) The director of health shall issue a methamphetamine remediation contractor certificate to an applicant who submits a complete application and meets both of the following requirements: 90
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(1) Has the training and qualifications required by the rules; and 94
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(2) Pays the certification fee established in the rules. 96

(B) A certificate issued under this section expires two years after the date of its issuance. The director shall renew a certificate under the standard renewal procedure and procedures established in the rules if the applicant continues to meet training and qualification requirements for certification and pays the renewal fee established in the rules. 97
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(C) An individual licensed, certified, or otherwise approved under the law of another state to perform functions substantially similar to those of a methamphetamine remediation contractor may apply to the director for certification. The director shall issue a certificate to an individual under this division on a determination that the standards for licensure, certification, or approval in that other state are substantially equivalent to those established by this chapter and the rules. 103
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Sec. 3744.06. After providing an opportunity for an adjudication under Chapter 119. of the Revised Code, the director of health may refuse to issue or renew or may suspend or revoke a certificate issued under this chapter for one or more of the following reasons: 111
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(A) Violation of any provision of this chapter or the rules adopted under it; 116
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(B) Failure to pay the fee for issuance or renewal of a certificate; 118
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(C) Any material misrepresentation in an application for a certificate or renewal of a certificate; or 120
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(D) Failure to meet the requirements established in the rules. 122
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Sec. 3744.09. The director of health shall maintain a list of methamphetamine remediation contractors certified under this chapter. The information contained in the list is a public record and is open to inspection and copying. 124
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Sec. 3744.12. A law enforcement agency that discovers what appears to be an illegal methamphetamine manufacturing laboratory on real property shall give written notice to all of the following of the location of the real property, including 128
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the location within the structure and the unit number if the 132
laboratory is in a unit: 133

(A) The owner of record or the owner's statutory agent; 134

(B) The board of health of the city or general health 135
district in which the property is located; and 136

(C) The public children services agency serving the county 137
in which the property is located, if it appears to the law 138
enforcement agency that children are living on the property. 139

The notice shall contain all information specified by the 140
director of health in the rules and may be provided on the form 141
included in the rules. 142

Sec. 3744.13. Not later than thirty days after receiving 143
notice under section 3744.12 of the Revised Code of discovery of 144
what appears to be an illegal methamphetamine manufacturing 145
laboratory on real property, a board of health shall do all of 146
the following: 147

(A) Determine whether a structure or unit on the real 148
property is an illegal methamphetamine manufacturing laboratory, 149
and if so, declare the property, structure, or unit to be a 150
public health hazard that may not be occupied until the board 151
receives certification by affidavit from a methamphetamine 152
remediation contractor certified under this chapter that a 153
remediation project has been completed under standards and 154
procedures established by the rules; 155

(B) If the board declares a public health hazard, deliver 156
written notice to the owner of record or the owner's statutory 157
agent specifying all of the following: 158

(1) That the property or a structure or unit on the 159

property has been declared a public health hazard that may not 160
be occupied until the board receives certification by affidavit 161
from a methamphetamine remediation contractor certified by the 162
Ohio department of health that a remediation project has been 163
completed under standards and procedures established by the 164
rules; 165

(2) The procedure for challenging the declaration; 166

(3) The standards and procedures for methamphetamine 167
remediation as set forth in the rules adopted; 168

(4) That the public health hazard declaration will not be 169
lifted until the board receives certification by affidavit from 170
a methamphetamine remediation contractor certified by the Ohio 171
department of health that a methamphetamine remediation project 172
has been completed in accordance with standards and procedures 173
established by the rules; and 174

(5) Directions for accessing the director of health's list 175
of methamphetamine remediation contractors certified under this 176
chapter. 177

(C) Afford the owner the opportunity for an adjudication 178
under Chapter 119. of the Revised Code in which the owner may 179
present evidence to challenge the public health hazard 180
declaration; and 181

(D) Maintain in the board's records a notice identifying 182
the real property with a complete and accurate description of 183
the property, stating the name of the owner of record of the 184
property, and stating that the property or a structure or unit 185
is a public health hazard that may not be occupied until the 186
board determines that a methamphetamine remediation project has 187
been completed in accordance with standards and procedures 188

established by the rules. 189

Sec. 3744.15. The owner of real property that is declared 190
a public health hazard under section 3744.13 of the Revised Code 191
shall cause remediation of contamination of the property, 192
structure, or unit by a certified methamphetamine remediation 193
contractor and shall pay the costs of the remediation. 194

If the owner of the real property did not create, operate, 195
or consent to the operation of the illegal methamphetamine 196
manufacturing laboratory that resulted in a public health hazard 197
declaration, the owner has a cause of action to recover damages 198
against any person who created or operated the illegal 199
methamphetamine manufacturing laboratory or occupied the 200
structure or unit on the real property and consented to the 201
creation or operation of the illegal methamphetamine 202
manufacturing laboratory for all monetary losses incurred 203
because of contamination of the property, structure, or unit and 204
the declaration, including reasonable attorney's fees. 205

Sec. 3744.16. A methamphetamine remediation contractor 206
certified under this chapter shall conduct methamphetamine 207
remediation projects under standards and procedures established 208
in the rules. In conducting a methamphetamine remediation 209
project, the contractor shall comply with worker protection 210
standards and procedures established by the rules. 211

A board of health may conduct inspections of 212
methamphetamine remediation projects as necessary to monitor 213
compliance with the rules, and may charge fees authorized by the 214
rules. Inspections may be scheduled or random. 215

Sec. 3744.17. On completion of a methamphetamine 216
remediation project, a certified methamphetamine remediation 217

contractor shall certify in an affidavit to the board of health 218
that issued a public health hazard declaration under section 219
3744.13 of the Revised Code that the project has been completed 220
under the rules. 221

Sec. 3744.18. (A) Not later than sixty days after 222
receiving certification by affidavit from a certified 223
methamphetamine remediation contractor under section 3744.17 of 224
the Revised Code, a board of health shall do one of the 225
following: 226

(1) Accept the certification as a final determination that 227
a methamphetamine remediation project has been completed under 228
the rules; or 229

(2) Conduct an independent investigation to determine 230
whether the methamphetamine remediation project has been 231
completed under the rules. 232

(B) A board of health, not later than thirty days after 233
making a determination under division (A) (1) or (2) of this 234
section that a methamphetamine remediation project has been 235
completed under the rules shall certify that the property, 236
structure, or unit is no longer a public health hazard and may 237
be occupied, and shall deliver a written notice of the 238
certification to the owner of record or the owner's statutory 239
agent. The board shall maintain a copy of the certification in 240
its records. 241

If the board's determination under division (A) (2) of this 242
section is that a methamphetamine remediation project has not 243
been completed under the rules, the board shall notify the owner 244
or the owner's statutory agent of the reasons for the 245
determination not later than thirty days after making the 246

determination. Thereafter, if the property owner submits to the 247
board a new certification by affidavit from a certified 248
methamphetamine remediation contractor, the board shall again 249
proceed under division (A) of this section. 250

Sec. 3744.20. This chapter does not limit the authority of 251
the state or any political subdivision of the state to declare 252
real property on which an illegal methamphetamine manufacturing 253
laboratory is located a nuisance requiring abatement, and to 254
order abatement of the nuisance. 255

Sec. 3745.13. (A) When emergency action is required to 256
protect the public health or safety or the environment, any 257
person responsible for causing or allowing an unauthorized 258
spill, release, or discharge of material into or upon the 259
environment or responsible for the operation of an illegal 260
methamphetamine manufacturing laboratory that has caused 261
contamination of the environment is liable to the municipal 262
corporation, county, township, countywide emergency management 263
agency established under section 5502.26 of the Revised Code, 264
regional authority for emergency management established under 265
section 5502.27 of the Revised Code, or emergency management 266
program established by a political subdivision under section 267
5502.271 of the Revised Code, having territorial jurisdiction, 268
or responsibility for emergency management activities in the 269
location of the spill, release, discharge, or contamination, for 270
the necessary and reasonable, additional or extraordinary costs 271
it incurs in investigating, mitigating, minimizing, removing, or 272
abating the spill, release, discharge, or contamination, in the 273
course of its emergency action, but, to the extent criteria and 274
methods for response actions prescribed under 40 C.F.R. 300, as 275
amended, may be applied to the type of material involved and the 276
conditions of the spill, release, discharge, or contamination, 277

that person is liable for those costs only if the political 278
subdivision, countywide agency, or regional authority employed 279
those criteria and methods in its emergency action. 280

The officers of the municipal corporation, county, 281
township, countywide emergency management agency, or regional 282
authority for emergency management performing the emergency 283
action shall keep a detailed record of its costs for 284
investigating, mitigating, minimizing, removing, or abating the 285
unauthorized spill, release, discharge, or contamination; 286
promptly after the completion of those measures, shall certify 287
those costs to the city director of law or village solicitor, as 288
appropriate, of the municipal corporation, the prosecuting 289
attorney of the county in the case of a county, township, or 290
countywide emergency management agency, or the legal counsel 291
retained thereby in the case of a regional authority for 292
emergency management; and may request that the legal officer or 293
counsel bring a civil action for recovery of costs against the 294
person responsible for the unauthorized spill, release, or 295
discharge or responsible for the operation of the illegal 296
methamphetamine manufacturing laboratory that caused 297
contamination of the environment. If the officers request that 298
the legal officer or counsel bring such a civil action regarding 299
emergency action taken in relation to the operation of an 300
illegal methamphetamine manufacturing laboratory that has caused 301
contamination of the environment, the legal officer or counsel 302
also may pursue a forfeiture proceeding against the responsible 303
person under Chapter 2981. of the Revised Code, or in any other 304
manner authorized by law. 305

The legal officer or counsel shall submit a written, 306
itemized claim for the total certified costs incurred by the 307
municipal corporation, county, township, countywide agency, or 308

regional authority for the emergency action to the responsible 309
party and a written demand that those costs be paid to the 310
political subdivision, countywide agency, or regional authority. 311
Not less than thirty days before bringing a civil action for 312
recovery of those costs, the legal officer or counsel shall mail 313
written notice to the responsible party informing the 314
responsible party that, unless the total certified costs are 315
paid to the political subdivision, countywide agency, or 316
regional authority within thirty days after the date of mailing 317
of the notice, the legal officer or counsel will bring a civil 318
action for that amount. Except for emergency action taken in 319
relation to the operation of an illegal methamphetamine 320
manufacturing laboratory that has caused contamination of the 321
environment, in making a determination of an award for 322
reimbursement, the responsible party's status as a taxpayer to 323
the governmental entity shall be taken into consideration. 324
Nothing in this section prevents a political subdivision, 325
countywide emergency management agency, or regional authority 326
for emergency management from entering into a settlement of a 327
claim against a responsible party that compromises the amount of 328
the claim. Moneys recovered as described in this section shall 329
be credited to the appropriate funds of the political 330
subdivision, countywide agency, or regional authority from which 331
moneys were expended in performing the emergency action. 332

(B) As used in this section: 333

(1) "Methamphetamine" means methamphetamine, any salt, 334
isomer, or salt of an isomer of methamphetamine, or any 335
compound, mixture, preparation, or substance containing 336
methamphetamine or any salt, isomer, or salt of an isomer of 337
methamphetamine. 338

(2) "Illegal methamphetamine manufacturing laboratory" 339
means any laboratory or other premises that is used or was used 340
for the manufacture or production of methamphetamine in 341
violation of section 2925.04 of the Revised Code, whether or not 342
there has been a prior conviction of that violation. 343

Sec. 4745.01. (A) "Standard renewal procedure," as used in 344
Chapters 905., 907., 909., 911., 913., 915., 918., 921., 923., 345
927., 942., 943., 953., 1321., 3710., 3713., 3719., 3742., 346
3744., 3748., 3769., 3783., 3921., 3951., 4104., 4105., 4143., 347
4169., 4561., 4703., 4707., 4709., 4713., 4715., 4717., 4723., 348
4725., 4727., 4728., 4729., 4731., 4733., 4734., 4735., 4739., 349
4741., 4747., 4749., 4752., 4753., 4755., 4757., 4758., 4759., 350
4761., 4766., 4773., and 4775. of the Revised Code, means the 351
license renewal procedures specified in this chapter. 352

(B) "Licensing agency," as used in this chapter, means any 353
department, division, board, section of a board, or other state 354
governmental unit subject to the standard renewal procedure, as 355
defined in this section, and authorized by the Revised Code to 356
issue a license to engage in a specific profession, occupation, 357
or occupational activity, or to have charge of and operate 358
certain specified equipment, machinery, or premises. 359

(C) "License," as used in this chapter, means a license, 360
certificate, permit, card, or other authority issued or 361
conferred by a licensing agency by authority of which the 362
licensee has or claims the privilege to engage in the 363
profession, occupation, or occupational activity, or to have 364
control of and operate certain specific equipment, machinery, or 365
premises, over which the licensing agency has jurisdiction. 366

(D) "Licensee," as used in this chapter, means either the 367
person to whom the license is issued or renewed by a licensing 368

agency, or the person, partnership, or corporation at whose 369
request the license is issued or renewed. 370

(E) "Renewal" and "renewed," as used in this chapter and 371
in the chapters of the Revised Code specified in division (A) of 372
this section, includes the continuing licensing procedure 373
provided in Chapter 3748. of the Revised Code and rules adopted 374
under it and in sections 1321.05 and 3921.33 of the Revised 375
Code, and as applied to those continuing licenses any reference 376
in this chapter to the date of expiration of any license shall 377
be construed to mean the due date of the annual or other fee for 378
the continuing license. 379

Sec. 5302.31. (A) As used in this section: 380

(1) "Structure" and "unit" have the meanings defined in 381
section 3744.01 of the Revised Code. 382

(2) "Transfer agreement" means a contract for transfer of 383
real property, including a structure or unit, between a 384
transferor and a transferee. 385

(3) "Transfer," when used in connection with the transfer 386
of real property, includes transfer by sale, land installment 387
contract, lease with the option to purchase, exchange, or lease 388
for a term of ninety-nine years and renewable forever. 389

(4) "Transferee" means a person involved in a transfer who 390
acquires or proposes to acquire a transferor's interest in real 391
property. 392

(5) "Transferor" means a person involved in a transfer who 393
intends to transfer the person's interest in real property. 394

(B) (1) In addition to any disclosures required by section 395
5302.30 of the Revised Code, a transferor of real property shall 396

make the following disclosures to the transferee or the 397
transferee's agent: 398

(a) If the real property or a structure or unit to be 399
transferred has been declared a public health hazard under 400
section 3744.13 of the Revised Code and has not been certified 401
under section 3744.18 of the Revised Code as being no longer a 402
public health hazard, the transferor shall disclose the 403
declaration. 404

(b) If the real property or a structure or unit to be 405
transferred has never been declared a public health hazard under 406
section 3744.13 of the Revised Code but the transferor has 407
actual knowledge that an illegal methamphetamine manufacturing 408
laboratory, as defined in section 3745.13 of the Revised Code, 409
was or is located on the property or in a structure or unit, the 410
transferor shall disclose the existence or former existence of 411
the illegal methamphetamine manufacturing laboratory. 412

(2) The disclosure required by division (B)(1) of this 413
section shall be made by delivering to the transferee or the 414
transferee's agent a written, signed, and dated disclosure 415
document. If the disclosure is of a declaration described in 416
division (B)(1)(a) of this section, the document shall be 417
accompanied by a copy of the declaration. 418

(C)(1) Subject to division (C)(2) of this section, if the 419
transferor of real property that is subject to this section does 420
not provide the disclosure required by division (B) of this 421
section before entering into a transfer agreement with respect 422
to the property, the transferee may rescind the transfer 423
agreement in a written, signed, and dated document of rescission 424
that is delivered to the transferor or the transferor's agent 425
without incurring any legal liability to the transferor because 426

of the rescission, including a civil action for specific 427
performance of the transfer agreement. On rescission of the 428
transfer agreement, the transferee is entitled to the return of, 429
and the transferor shall return, any deposits made by the 430
transferee in connection with the proposed transfer. 431

(2) To rescind a transfer agreement under division (C) (1) 432
of this section the transferee shall cause the document of 433
rescission to be delivered to the transferor or the transferor's 434
agent by the earlier of the following: 435

(a) Five o'clock p.m. of the third business day following 436
the date on which the transferee or the transferee's agent 437
receives the disclosure required by division (B) of this 438
section; or 439

(b) Prior to closing on the date of the proposed closing 440
of the transfer. 441

(D) (1) Except as provided in division (D) (2) of this 442
section, if the transferor fails to provide the disclosure 443
required by division (B) of this section prior to the closing of 444
the transfer, the transferee has a cause of action to recover 445
damages for all monetary loss incurred because of the failure, 446
including the cost of remediation; damages for injury, death, or 447
loss to person or property; and reasonable attorney's fees. 448

(2) A transferor is not liable under division (D) (1) of 449
this section, if at the time of the closing of the transfer the 450
transferor did not have actual knowledge that the real property 451
or a structure or unit had been declared a public health hazard 452
or that an illegal methamphetamine manufacturing laboratory was 453
or had been located on the property or in a structure or unit. 454

(E) Any document delivered pursuant to this section shall 455

be delivered to the other party or the other party's agent by 456
personal delivery, by ordinary mail, by certified mail, return 457
receipt requested, or by facsimile transmission. 458

(F) The specification of information that must be 459
disclosed in the disclosure required by division (B) of this 460
section does not limit or abridge any obligation to disclose an 461
item of information that is created by any other provision of 462
the Revised Code or the common law of this state or that may 463
exist in order to preclude fraud, either by misrepresentation, 464
concealment, or nondisclosure in a transaction involving the 465
transfer of real property. The disclosure requirements of this 466
section do not bar the application of any legal or equitable 467
defense that a transferor of real property may assert in a civil 468
action commenced against the transferor by a transferee of that 469
property. 470

(G) The right of rescission of a transfer agreement 471
described in this section or the absence of that right does not 472
affect any other legal causes of action or other remedies that a 473
transferee of real property may possess against the transferor 474
of that property. 475

Section 2. That existing sections 3745.13 and 4745.01 of 476
the Revised Code are hereby repealed. 477

Section 3. The enactment of sections 3744.12, 3744.13, 478
3744.15, 3744.17, 3744.18, and 5302.31 of the Revised Code takes 479
effect fifteen months after the effective date of this act. 480