



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 1112 (Substitute S-1 as passed by the Senate)
Senate Bill 1113 (Substitute S-1 as passed by the Senate)
Senate Bill 1114 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Patricia L. Birkholz (S.B. 1112)
Senator Tom George (S.B. 1113)
Senator Cameron S. Brown (S.B. 1114)
Committee: Health Policy

Date Completed: 5-15-06

RATIONALE

Legislation enacted in recent years has taken various approaches to combat the use and production of methamphetamine ("meth"), which has been a growing problem in the State—particularly in southwestern Michigan—since the 1990s. The legislation includes measures that address the contamination created by meth labs, which can pollute dwellings, furnishings, soil, and water supplies. Reportedly, for every pound of methamphetamine, meth labs produce five to six pounds of toxic waste, which requires specialized cleanup and disposal procedures. Although meth labs apparently have been found in motel rooms, barns, recreational vehicles, and yards, the vast majority of meth "cookers" use rental property to manufacture meth, according to the Department of Community Health (DCH). This can be problematic for landlords, realtors, and prospective tenants or home-buyers, who do not always know whether property has been contaminated or properly cleaned. In addition, the presence of meth labs evidently can be a disincentive to operate, or invest in, rental property in some urban areas.

Under amendments to the Housing Law enacted in 2003, law enforcement agencies are required to notify a local enforcing agency and the Department of Environmental Quality (DEQ) regarding the potential contamination of property that has been the site of an illegal drug lab, and the DEQ must determine whether the premises are likely to be contaminated. Because the DEQ does not deal with indoor contamination, however, and the

Department of Community Health is actively involved in State efforts to address meth activity, it has been suggested that these DEQ responsibilities should be transferred to the DCH. It also has been suggested that statewide guidance on meth lab cleanup should be developed, to provide a standardized approach for local health departments.

CONTENT

Senate Bill 1112 (S-1) would amend the Housing Law of Michigan to transfer from the Department of Environmental Quality to the Department of Community Health responsibilities regarding potential contamination of property that was the site of illegal drug manufacturing.

Senate Bill 1113 (S-1) would amend the Public Health Code to require the DCH, in consultation with the DEQ, to develop a cleanup of clandestine drug labs guidance document.

Senate Bill 1114 (S-2) would Part 201 (Environmental Response) of the Natural Resources and Environmental Protection Act to require the DEQ to report to the Legislature on environmental contamination caused by releases that were associated with clandestine drug labs.

The bills are described in more detail below.

Senate Bill 1112 (S-1)

Under the Housing Law, a State or local law enforcement agency must notify the enforcing agency and the DEQ regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. Within 14 days after receiving the notification or as soon thereafter as is practically possible, the DEQ, in cooperation with the enforcing agency, must review the information received from the law enforcement agency, emergency first responders, or hazardous materials team that was called to the site and make a determination regarding whether the premises are likely to be contaminated and whether that contamination may constitute a hazard to the health or safety of those who may occupy the premises. The fact that property or a dwelling has been used as a site for illegal drug manufacturing must be treated by the DEQ as prima facie evidence of likely contamination that may constitute a hazard to the health or safety of those who may occupy the premises.

The bill would refer to the DCH, rather than the DEQ, in these provisions. The bill also would require a law enforcement agency to give notice of potential contamination to the local health department, if it were not the enforcing agency.

Currently, the DEQ must promulgate rules and procedures necessary to implement this section of the Law. Under the bill, the DCH would have this responsibility.

Senate Bill 1113 (S-1)

The bill would require the Department of Community Health, in consultation with the Department of Environmental Quality, to develop a cleanup of clandestine drug labs guidance document, within six months after the bill's effective date. The document would have to include detailed protocols for the preliminary site assessment, remediation, and postcleanup assessment of indoor environments and structures. The DCH would have to make the document available to the public on its website and provide a local health department, upon request, with a physical copy of the document.

The bill also would add to the Public Health Code language parallel to that in the

Housing Law (described above under Senate Bill 1112 (S-1)) requiring a State or local law enforcement agency to give notice of the potential contamination of property that was the site of illegal drug manufacturing, and requiring determinations of whether the premises were likely to be contaminated and whether the contamination could constitute a hazard to the occupants. Under Senate Bill 1113 (S-1), a law enforcement agency would have to give the required notice to the DCH and the local health department, and the DCH would have to make the required determinations. If the property were determined likely to be contaminated, the DCH or the local health department would have to issue an order requiring the property to be vacated until the owner established that it was decontaminated or the risk of likely contamination ceased to exist.

Senate Bill 1114 (S-2)

The bill would require the Department of Environmental Quality to report to the Legislature on environmental contamination caused by releases that were associated with clandestine drug laboratories, that had been reported to the Department, and that were subject to response activity under Part 201. The report would have to be made to the legislative standing committees with jurisdiction over issues pertaining to natural resources and the environment.

The report would have to include all of the following:

- The number of releases described above.
- The status of the responses to the releases.
- The identity of the agency or department that undertook the response activity.

The DEQ would have to make the report within 12 months after the bill's effective date and biennially after that.

(Under Part 201, "response activity" means evaluation, interim response activity, remedial action, demolition, or the taking of other actions necessary to protect the public health, safety, or welfare, or the environment or natural resources. The term also includes health assessments and health effect studies carried out under the supervision, or with the approval, of the

DCH, and enforcement actions related to any response activity.)

MCL 125.485a (S.B. 1112)
MCL 333.12103 (S.B. 1113)
Proposed MCL 324.20112b (S.B. 1114)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

While the production of methamphetamine presents a direct danger to those involved in the operation, it also contaminates the environment where the drug is produced. In addition to the tangible waste that may be left behind, noxious gases may saturate walls, furniture, drapery, and carpet. What appears to be a clean dwelling might in fact be a hazardous waste site. Without adequate notice of contamination or response activity, landlords, realtors, property inspectors, and residents do not know whether property is habitable or marketable. Combined with potential cleanup costs and liability for unsafe conditions, this can discourage landlords from owning or managing rental units where meth labs have operated, and give investors a disincentive to purchase inner-city property—contributing to a lack of affordable urban housing.

Although Public Act 307 of 2003 established a mechanism within the Housing Law for communication between local enforcing agencies and the DEQ regarding potential contamination from drug labs, that Department does not focus on the safety of indoor environments. The Department of Community Health, on the other hand, already has responsibilities for ensuring safe housing under the Lead Abatement Act, and is actively involved with the State Police in implementing Michigan's methamphetamine control strategy. Under Senate Bills 1112 (S-1) and 1113 (S-1), the DCH would be responsible for determining whether premises were likely to be contaminated by meth production and whether the contamination posed a hazard to the health or safety of occupants.

Supporting Argument

According to testimony before the Senate Health Policy Committee, the Kalamazoo

County Health Department has developed regulations concerning the cleanup of meth lab property. It is likely that other local health departments have developed or are in the process of developing their own regulations, as well. Under Senate Bill 1113 (S-1), the DEQ would have to develop guidelines for the cleanup of meth labs, which would provide a uniform approach for municipalities that must assess and remediate structures contaminated by meth production.

Supporting Argument

In addition to contaminating the premises where methamphetamine is produced, meth labs pollute their surroundings. Waste products include corrosive liquids, acid vapors, and heavy metals. Reportedly, the toxic waste is often left in public places or abandoned buildings or vehicles where the labs were set up, or it is dumped on the ground, in waterways, or down sewers, contaminating soil, recreational water, and sources of drinking water. By requiring the DEQ to report biennially to the Legislature on releases associated with illegal drug labs that were subject to response activity, Senate Bill 1114 (S-2) would help ensure that lawmakers were kept informed of the extent of environmental contamination caused by meth production.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bills 1112 (S-1) and 1113 (S-1)

The Department of Community Health has indicated that it currently does not have staff with the expertise to make determinations on whether property used for the manufacture of illegal drugs is contaminated. The Department has estimated it would need to hire an additional 2 FTEs to meet the requirements of the bill. Assuming an average cost of \$70,000 in salary, wages, and support for each additional FTE, this could increase administrative costs by about \$140,000 GF/GP. The State also would see a small increase in administrative cost associated with the creation and distribution of a guidance document and rules and procedures for the proper cleanup of suspected illegal drug sites.

Local health departments that are not currently providing guidance to law enforcement related to the cleanup of illegal drug sites also could see an indeterminate increase in cost.

Senate Bill 1114 (S-2)

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: David Fosdick
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.