

CLERK'S OFFICE

APPROVED

Date: 2-25-03

Submitted by: Assemblymember Tesche

Prepared by: Department of Assembly

For reading: February 25, 2003

ANCHORAGE, ALASKA

AR NO. 2003- 45

1 A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING  
2 SENATE BILL NO. 9, AN ACT RELATING TO THE EVALUATION AND CLEANUP OF  
3 SITES WHERE CERTAIN CONTROLLED SUBSTANCES MAY HAVE BEEN  
4 MANUFACTURED OR STORED.

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7 WHEREAS, Alaska currently has no requirements or standards for the cleanup of illegal drug  
8 labs, such as methamphetamine labs, which are rising in Alaska with seizures doubling in number  
9 from 2000 to 2001; and

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11  
12 WHEREAS, the chemicals used in the manufacture of illegal drugs such as  
13 methamphetamines can be made using many different chemical processes, which include the use of  
14 metals such as mercury and lead, explosives, acids, chemical salts, and volatile organic compounds,  
15 exposure to which can cause respiratory irritation, decreased mental function, anemia, kidney  
16 damage and birth defects, nose and throat irritation, headaches, dizziness, nausea, vomiting,  
17 confusion, and breathing difficulties; and

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19  
20 WHEREAS, many of the chemical agents used in the production of methamphetamines are  
21 caustic, corrosive, or create noxious and harmful fumes producing vapors which permeate the  
22 interior materials of buildings, including sheet rock, carpets, and other porous surfaces and continue  
23 to volatilize from these reservoirs long after the laboratory is dismantled and create a potential for  
24 long-term exposure, resulting in adverse health effects if a building is re-occupied without  
25 decontamination, and many of the chemicals in illegal drug manufacture are known to be  
26 carcinogenic (cancer causing), mutagenic (causing malformations of an embryo or fetus), and  
27 teratogenic (an agent that can induce or increase the frequency of mutation in an organism) based  
28 upon animal and human studies; and

29  
30 WHEREAS, these contaminants in the methamphetamine cooking process can be harmful  
31 if someone is exposed to them; and

32  
33 WHEREAS, children are susceptible to these chemical hazards and are more likely to be  
34 exposed to contaminants on surfaces due to crawling or toddling, and a child touching a surface may  
35 be then exposed to a contaminant;

36  
37 NOW THEREFORE BE IT RESOLVED that the Anchorage Assembly supports the passage  
38 of Senate Bill No. 9 which pertains to the cleanup of illegal drug sites, requires the provision of  
39 notice of an illegal drug manufacturing site to the property owner, and places restrictions on property  
40 contaminated by illegal substances; provides testing procedures, standards for determining fitness,  
41 decontamination requirements and conditions for fitness for use, as well as provisions for securing  
42 the property; and the requirement that Department of Environmental Conservation adopt regulations  
43 pertaining to cleanup of sites where certain controlled substances have been manufactured or stored;  
44 and  
45

1 BE IT FURTHER RESOLVED that passage of Senate Bill No. 9, if adopted, will protect the  
2 public's health, safety, and welfare, and particularly the welfare of children who are susceptible to  
3 the chemical hazards and contaminants, from the properties where certain controlled substances  
4 have been manufactured or stored.

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7 PASSED AND APPROVED by the Anchorage Assembly this 25<sup>th</sup> day of February,  
8 2003.

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Chair

ATTEST:

  
Municipal Clerk (acting)

**SENATE BILL NO. 9**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY SENATORS GUESS, Ellis**

**Introduced: 1/21/03**

**Referred: State Affairs, Judiciary**

**A BILL**  
**FOR AN ACT ENTITLED**

1    **"An Act relating to the evaluation and cleanup of sites where certain controlled**  
2    **substances may have been manufactured or stored; and providing for an effective date."**

3    **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4       **\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
5    to read:

6           **PURPOSE.** The purpose of this Act is to provide a just, equitable, and practicable  
7    method, to be cumulative with and in addition to any other remedy provided by law, whereby  
8    property that endangers the life, safety, or welfare of the general public or occupants of the  
9    property because of toxic chemical contamination that may result from illegal drug  
10   manufacturing may be required to be decontaminated or vacated and secured against use.

11    **\* Sec. 2.** AS 46.03 is amended by adding new sections to read:

12                   **Article 7A. Cleanup of Illegal Drug Sites.**

13                   **Sec. 46.03.500. Notice of illegal drug manufacturing site.** (a) When a law  
14   enforcement officer, qualified under federal regulations to investigate and dismantle

illegal drug manufacturing sites, determines that a site constitutes an illegal drug manufacturing site, the law enforcement agency that employs the officer shall notify the owner of the property, the occupants and users of the property, and the department that the determination has been made. The owner of the property may appeal the determination to the superior court for review of whether the determination was made in compliance with this subsection. In the appeal, the burden of proving by a preponderance of the evidence that the determination was made in compliance with this subsection is on the law enforcement agency that employed the officer who made the determination.

(b) The notice to the property owner required under (a) of this section shall be given in a manner that is consistent with the Alaska Rules of Civil Procedure for the service of process in a civil action in this state and must include the following information:

(1) the parcel identification number and legal description of the property where the site is located;

(2) a statement of the determination made by the law enforcement officer that the site was an illegal drug manufacturing site and the findings that formed the basis for the determination;

(3) a citation to, and short summary of, AS 46.03.510, which restricts transfer and occupancy of the site until it is determined to be fit for use; and

(4) the following information, which shall be provided to the law enforcement agency by the department:

(A) a copy of the standards contained in regulations adopted under AS 46.03.530 that determine whether the property is fit for use;

(B) a copy of the testing procedures established under AS 46.03.520(b) and a copy of the list of laboratories maintained under AS 46.03.520(c) that must be used for determining whether the property is fit for use; and

(C) a copy of the guidelines for decontamination established by the department under AS 46.03.540(b).

(c) The notice to the department required under (a) of this section must

1 include

3 (1) the parcel identification number and legal description of the  
property where the site is located;

4 (2) a statement of the determination made by the law enforcement  
5 officer that the site was an illegal drug manufacturing site and the findings that formed  
6 the basis for the determination; and

7 (3) the name and mailing address of the person who owns the property  
8 where the site is located.

9 (d) The notice required under (a) of this section for the occupants and users of  
10 the property shall be accomplished by immediate posting of the entryway of the  
11 property with a notice that includes the location of the property, the information  
12 described in (b)(2) and (3) of this section, and a statement that the property may pose a  
13 substantial risk of physical harm to persons or animals that enter or occupy the  
14 property.

15 (e) If a person other than the owner, such as a property manager or rental  
16 agency, is authorized to let others use or occupy property for which an owner has  
17 received a notice under (a) of this section or is authorized to transfer, sell, lease, or  
18 rent the property to others, the owner of the property shall communicate the substance  
19 of the notice to that person within four days after receiving the notice.

20 **Sec. 46.03.510. Restrictions on property.** (a) Until determined to be fit for  
21 use under AS 46.03.550, the property for which a notice has been issued under  
22 AS 46.03.500(a) may not be transferred, sold, leased, or rented to another person  
23 except as provided in (b) of this section, and a person may not use or occupy the  
24 property at any time after the fourth day following the day on which the property was  
25 posted with the notice required under AS 46.03.500(d), except as necessary for testing  
26 or decontamination under AS 46.03.520 and 46.03.540. An oral or written contract  
27 that would transfer, sell, lease, rent, or otherwise allow the use of the property in  
28 violation of this subsection is voidable between the parties at the option of the  
29 purchaser, transferee, user, lessee, or renter. However, this subsection does not

30 (1) make voidable a promissory note or other evidence of indebtedness  
31 or a mortgage, trust deed, or other security interest securing the promissory note or

evidence of indebtedness, if the note or evidence of indebtedness, mortgage, trust deed, or other security interest was given to a person other than the person transferring, selling, using, leasing, or renting the property to induce the person to finance the transfer, sale, use, leasing, or rental of the property;

(2) make voidable a lease or rental agreement between the property owner and the person who caused the property to be contaminated and determined unfit for use; or

(3) impair obligations or duties required to be performed on termination of a contract, as required by the contract, such as payment of damages or return of refundable deposits.

(b) Notwithstanding (a) of this section, property covered by (a) of this section may be transferred or sold if full written disclosure is made to the prospective transferee or purchaser that the property has been determined to be an illegal drug manufacturing site and the property has not been determined to be fit for use. The disclosure shall be attached to the earnest money receipt, if any, and shall accompany the transfer or sale document. The disclosure is not considered to be part of the transfer or sale document, however, and may not be recorded. The property shall continue to be subject to the restrictions in (a) of this section after transfer or sale under this subsection.

(c) A person who knowingly transfers, sells, leases, or rents property to another, knowingly allows another to use or occupy property, or, being the owner of property, knowingly occupies or uses the property, in violation of this section is guilty of a class A misdemeanor. In this subsection, "knowingly" has the meaning given in AS 11.81.900(a).

(d) It is an affirmative defense to a prosecution under (c) of this section for allowing another to use or occupy the property that the defendant or an agent of the defendant, within four days after receiving a notice under AS 46.03.500, filed an appropriate civil action to remove the user or occupier from the property for which the notice was received.

**Sec. 46.03.520. Testing procedures.** (a) If the owner of the property for which notice was received under AS 46.03.500(b) desires to determine if the property

1 is fit for use, the owner shall cause the site to be tested for the substances specified in  
2 AS 46.03.530, using the procedures and laboratory services specified under (b) and (c)  
3 of this section. The property owner shall inform the laboratory used for a test under  
4 this subsection that the test is related to property that has been determined to be an  
5 illegal drug manufacturing site.

6 (b) The department shall establish procedures for testing property that may  
7 have been an illegal drug manufacturing site.

8 (c) The department shall establish and maintain a list of laboratories in the  
9 state that have the capacity to perform the testing procedures and have notified the  
10 department that they wish to be on the list maintained under this subsection. A  
11 laboratory may not be included on the list unless the laboratory agrees to send the  
12 department a copy of test results related to properties whose owners have informed the  
13 laboratory that the test results are for property that has been determined to be an illegal  
14 drug manufacturing site.

15 **Sec. 46.03.530. Standards for determining fitness.** (a) Property for which a  
16 notice was received under AS 46.03.500(b) is not fit for use if a test of the property  
17 shows the presence of one of the following substances above the limit set by the  
18 department for that substance: lead, mercury, methamphetamines, and volatile organic  
19 compounds.

20 (b) The department shall adopt regulations that set the limit for each substance  
21 listed in (a) of this section for purposes of determining whether the property for which  
22 a notice was received under AS 46.03.500 is fit for use.

23 **Sec. 46.03.540. Decontamination requirements.** (a) If the owner desires to  
24 decontaminate the property for which a notice has been issued under AS 46.03.500,  
25 the owner shall follow the guidelines established by the department under (b) of this  
26 section.

27 (b) The department shall establish guidelines for decontamination of sites that  
28 are determined to be unfit for use under AS 46.03.530. The department shall provide  
29 a copy of the guidelines to any person who requests a copy.

30 **Sec. 46.03.550. Fitness for use.** (a) Property for which a notice has been  
31 issued under AS 46.03.500 shall be determined by the department to be fit for use if

1 the owner submits satisfactory evidence to the department that

2 (1) based on testing procedures established by the department under  
3 AS 46.03.520(b) and performed by laboratories that are on the list maintained by the  
4 department under AS 46.03.520(c), the limits on substances specified in AS 46.03.530  
5 are not exceeded on the property;

6 (2) if the property was ever tested under AS 46.03.520 and the test  
7 results showed the property to be unfit for use under AS 46.03.530, decontamination  
8 procedures were performed in accordance with the guidelines established under  
9 AS 46.03.540(b) and the requirements of (1) of this subsection have been met; or

10 (3) a court has held that the determination that the property was an  
11 illegal drug manufacturing site was not made in compliance with AS 46.03.500(a).

12 (b) The department shall maintain a list of properties for which the department  
13 has received notice under AS 46.03.500(c). When the department determines under  
14 (a) of this section that a property on the list is fit for use, the department shall remove  
15 the property from the list and notify the owner of the property that the property is fit  
16 for use. On request, the department shall give a copy of the list maintained under this  
17 section to any person who requests the list.

18 **Sec. 46.03.560. Securing the property.** The owner of property for which a  
19 notice was received under AS 46.03.500(b) shall ensure that the property is vacated  
20 and secured against use

21 (1) within four days after receiving the notice if the owner does not test  
22 the property under AS 46.03.520 within four days after receiving the notice; or

23 (2) within four days after receiving the test results if the owner tests  
24 the property within four days after receiving the notice, the test shows the presence of  
25 a substance that exceeds the limits set in regulations adopted under AS 46.03.530, and  
26 the owner does not begin decontamination procedures under AS 46.03.540 within four  
27 days after receiving the test results.

28 **Sec. 46.03.570. Duties of the department; regulations.** (a) The department  
29 shall adopt regulations implementing AS 46.03.500 - 46.03.599.

30 (b) The department shall periodically review information related to  
31 decontamination of illegal drug manufacturing sites to determine whether substances



1 should be added to or deleted from AS 46.03.530. The department shall report written  
 2 findings to the governor if the department determines that a change should be made to  
 3 the list of substances in AS 46.03.530. The governor shall notify the legislature when  
 4 written findings have been made under this subsection and provide a copy of the  
 5 findings to a legislator on request.

6 **Sec. 46.03.599. Definitions.** In AS 46.03.500 - 46.03.599,

7 (1) "illegal drug manufacturing site" means property on which there is  
 8 reasonable cause to suspect contamination with chemicals associated with the  
 9 manufacturing of a controlled substance and where

10 (A) activity involving the unauthorized manufacture of a  
 11 controlled substance listed on schedule I or II in AS 11.71 or a precursor  
 12 chemical for the substances has occurred; or

13 (B) there are kept, stored, or located any of the devices,  
 14 equipment, things, or substances used for the unauthorized manufacture of a  
 15 controlled substance listed on schedule I or II in AS 11.71;

16 (2) "site" means an illegal drug manufacturing site.

17 \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
 18

19 **REGULATIONS.** The Department of Environmental Conservation may immediately  
 20 begin to develop and adopt regulations to implement this Act. The regulations take effect  
 21 under AS 44.62 (Administrative Procedure Act).

22 \* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to  
 23

24 **CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS.** The lieutenant  
 25 governor shall certify to the revisor of statutes the effective date of the initial regulations  
 26 adopted by the Department of Environmental Conservation under sec. 3 of this Act.

27 \* Sec. 5. Sections 1 and 2 of this Act take effect on the effective date of the initial  
 28 regulations adopted by the Department of Environmental Conservation under sec. 3 of this  
 29 Act.

30 \* Sec. 6. Sections 3 and 4 of this Act take effect immediately under AS 01.10.070(c)

# ALASKA STATE LEGISLATURE



SENATOR GRETCHEN GUESS

## General Information About Illegal Drug Manufacturing Labs and Their Health Effects

### No Requirements to Clean Up Illegal Labs

Illegal drug manufacturing labs, such as "meth labs," are rising in Alaska with seizures doubling in number from 2000 to 2001. Often these labs are in homes, apartments, and hotels where chemical contamination can pose a serious health hazard to future residents.

Currently Alaska has no standards or requirements for the clean up of illegal drug labs. Once law enforcement discovers an illegal lab it falls to the property owner to clean up the hazardous material. If this clean up is not done properly it could pose a serious health risk to future occupants of the property, especially children.

### Chemicals Used in the Manufacture of Illegal Drugs

Illegal drugs such as methamphetamines can be made using many different chemical processes. Most of these include the use of metals (such as mercury and lead), explosives, acids, chemical salts and volatile organic compounds (VOCs). Exposure to metals and salts can cause respiratory irritation, decreased mental function, anemia, kidney damage and birth defects. Lead and mercury are particularly hazardous. Exposure to VOCs may cause nose and throat irritation, headaches, dizziness, nausea, vomiting, confusion and breathing difficulties.

Many of the chemical agents used in the production of (meth) are caustic, corrosive, or create noxious and harmful fumes. The cooking of these chemicals produces vapors which permeate the interior materials of buildings, including sheet rock, carpets, and other porous surfaces. These chemical residues continue to volatilize from these reservoirs long after the laboratory is dismantled. This creates a potential for long-term exposure resulting in adverse health effects if a building is reoccupied without decontamination. Many of the chemicals in illegal drug manufacture are known to be carcinogenic (cancer causing), mutagenic (an agent that can induce or increase the frequency of mutation in an organism), and teratogenic (causing malformations of an embryo or fetus) in animal and human studies.

### General Impacts

Many of the contaminants present during meth's cooking process can be harmful if someone is exposed to them. These contaminants can cause health problems including respiratory (breathing) problems, skin and eye irritation, headaches, nausea and dizziness. Acute (short-term) exposures to high concentrations of some of these chemicals can cause severe health problems including lung damage and burns to different parts of the body. In extreme cases a child's entire respiratory system could shut down with acute exposure to meth fumes.

**Impacts on Children**

Children are more susceptible to chemical hazards than adults because they grow rapidly, have higher metabolic rates, and have greater intake of food and water. They are also more likely to be exposed to contaminants on surfaces. Crawling or toddling children touch many surfaces and then put their dirty hands in their mouths.

Exposure to methamphetamine, heavy metals, and other ingredients used in methamphetamine manufacture, and their residues, put children at risk for damage to the nervous system. Exposure of a developing nervous system to neurotoxins can be insidiously amplified as a child grows. Cells killed leave a gap in the total number of cells that make up the mature brain. Damaged cells that survive can pass on the deficit as they multiply. Damage to the developing brain can have greater effect than the same exposure once development is complete (as in adults).

# ALASKA STATE LEGISLATURE



## SENATOR GRETCHEN GUESS

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Municipality of Anchorage  
MUNICIPAL CLERK'S OFFICE  
**Agenda Document Control Sheet**

Apr 2003 - 45

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

<b>1</b>	SUBJECT OF AGENDA DOCUMENT		DATE PREPARED	
	A Resolution Supporting Senate Bill No. 9, an Act Relating to the Evaluation and Cleanup of Sites Where Certain Controlled Substances May Have Been Manufactured or Stored		2/5/03	
Indicate Documents Attached				
			<input type="checkbox"/> AO <input checked="" type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM	
<b>2</b>	DEPARTMENT NAME		DIRECTOR'S NAME	
	Assembly			
<b>3</b>	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY		HIS/HER PHONE NUMBER	
	Assembly Counsel		4420	
<b>4</b>	<b>COORDINATED WITH AND REVIEWED BY</b>	<b>INITIALS</b>	<b>DATE</b>	
	<b>Mayor</b>			
	Heritage Land Bank			
	Merrill Field Airport			
	Municipal Light & Power			
	Port of Anchorage			
	Solid Waste Services			
	Water & Wastewater Utility			
	<b>Municipal Manager</b>			
	Cultural & Recreational Services			
	Employee Relations			
	Finance, Chief Fiscal Officer			
	Fire			
	Health & Human Services			
	Office of Management and Budget			
	Management Information Services			
	Police			
	Planning, Development & Public Works			
	Development Services			
	Facility Management			
	Planning			
	Project Management & Engineering			
	Street Maintenance			
	Traffic			
	Public Transportation Department			
	Purchasing			
	<b>Municipal Attorney</b>			
	<b>Municipal Clerk</b>			
	<b>Other</b>			
<b>5</b>	<b>Special Instructions/Comments</b>			
	<div style="position: relative; width: 100%;"> <div style="position: absolute; top: 0; right: 0; font-size: 0.8em; color: gray;">           M.O.A. 2003 FEB -5 AM 8:27 CLERK'S OFFICE         </div> <div style="position: absolute; top: 50%; left: 50%; transform: translate(-50%, -50%) rotate(-15deg); font-family: cursive; font-size: 1.5em;"> <i>Adrian</i> </div> </div>			
<b>6</b>	ASSEMBLY HEARING DATE REQUESTED			
	2/25/03			
<b>7</b>	PUBLIC HEARING DATE REQUESTED			