

# HOUSE BILL No. 1586

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-11-2; IC 13-20-26; IC 32-21.

**Synopsis:** Methamphetamine decontamination grant program. Establishes a program under which the department of environmental management (department) may award matching grants to property owners for the decontamination of property contaminated by the manufacture of methamphetamine. Establishes a methamphetamine decontamination grant fund for purposes of the program. Specifies that a grant to a property owner under the program may not exceed the lesser of: (1) 50% of the costs of decontaminating the property; or (2) \$10,000. Requires a property owner awarded a grant to meet at least 50% of the total eligible costs of the decontamination of the property with personal assets. Provides that the disclosure form adopted by the Indiana real estate commission must indicate that the owner of a property on which methamphetamine was manufactured is not required to disclose that methamphetamine was manufactured on the property if the property has been certified as decontaminated by a person certified by the department to inspect and clean property polluted by contaminants. Provides that the law shielding the owner of psychologically affected property from civil liability for failing to disclose that a controlled substance was illegally manufactured on the property does not apply to a property on which methamphetamine was manufactured unless the property has been certified as free of methamphetamine contamination by a person certified by the department to inspect and clean property polluted by contaminants.

**Effective:** July 1, 2015.

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January 22, 2015, read first time and referred to Committee on Environmental Affairs.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1586

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A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 13-11-2-62.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2015]: **Sec. 62.5. "Eligible project cost", for**  
4 **purposes of IC 13-20-26, has the meaning set forth in**  
5 **IC 13-20-26-1(b).**

6 SECTION 2. IC 13-11-2-109.3 IS ADDED TO THE INDIANA  
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2015]: **Sec. 109.3. "Ineligible project cost",**  
9 **for purposes of IC 13-20-26, has the meaning set forth in**  
10 **IC 13-20-26-1(a).**

11 SECTION 3. IC 13-20-26 IS ADDED TO THE INDIANA CODE  
12 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2015]:

14 **Chapter 25. Methamphetamine Decontamination Grant**  
15 **Program**



1           **Sec. 1. (a)** For purposes of this chapter, a cost incurred in a  
 2 methamphetamine decontamination project is an "ineligible  
 3 project cost" if it is any of the following:

4           (1) A cost incurred before the grant application for the  
 5 project is approved.

6           (2) A cost incurred more than twenty-four (24) months after  
 7 the grantee accepted the grant for the project.

8           (3) A cost incurred by the grantee, to the extent that the  
 9 amount of the cost exceeds the estimate for the cost that was  
 10 included in the grant application for the project under section  
 11 4(b)(2) of this chapter.

12           (4) A cost not specifically related to the decontamination of  
 13 the property, as determined by the department.

14           **(b)** For purposes of this chapter, a cost incurred in a  
 15 methamphetamine decontamination project is an "eligible project  
 16 cost" if it is not an ineligible project cost under subsection (a).

17           **Sec. 2.** The department shall award matching grants under this  
 18 chapter for projects for the decontamination of property  
 19 contaminated through the illegal manufacture of  
 20 methamphetamine. Grants awarded under this chapter must be  
 21 made with money from the fund established by section 3 of this  
 22 chapter.

23           **Sec. 3. (a)** The methamphetamine decontamination grant fund  
 24 is established to provide grants to property owners for the  
 25 decontamination of property contaminated through the illegal  
 26 manufacture of methamphetamine. The fund shall be administered  
 27 by the department.

28           **(b)** The fund consists of appropriations made by the general  
 29 assembly.

30           **(c)** The expenses of administering the fund shall be paid from  
 31 money in the fund.

32           **(d)** The treasurer of state shall invest the money in the fund not  
 33 currently needed to meet the obligations of the fund in the same  
 34 manner as other public money may be invested. Interest that  
 35 accrues from these investments shall be deposited in the fund.

36           **(e)** Money in the fund at the end of a state fiscal year does not  
 37 revert to the state general fund.

38           **(f)** Money in the fund is continuously appropriated to carry out  
 39 the purposes of the fund.

40           **Sec. 4. (a)** To apply for a grant under this chapter, an owner of  
 41 property contaminated through the illegal manufacture of  
 42 methamphetamine must:



- 1 (1) develop a decontamination plan for the property; and  
 2 (2) use the application form prepared and supplied by the  
 3 department under section 14 of this chapter.  
 4 (b) A grant application must include the following:  
 5 (1) A statement of the decontamination plan for the property,  
 6 setting forth:  
 7 (A) the scope of the proposed decontamination work;  
 8 (B) the timetable and scope of work of the plan; and  
 9 (C) the identity of persons responsible for implementing  
 10 the plan, including, for purposes of section 5(a)(2) of this  
 11 chapter, an indication of which of the persons have been  
 12 certified by the department under IC 13-14-1-15 to inspect  
 13 and clean property polluted by contaminants.  
 14 (2) A budget for the plan showing all estimated:  
 15 (A) eligible project costs; and  
 16 (B) ineligible project costs;  
 17 that the applicant anticipates incurring in the  
 18 methamphetamine decontamination project.  
 19 (3) A commitment by the applicant to:  
 20 (A) maintain appropriate records that document all  
 21 expenditures made in the methamphetamine  
 22 decontamination project; and  
 23 (B) submit to the department a final report:  
 24 (i) describing all work performed; and  
 25 (ii) documenting all expenditures made for eligible  
 26 project costs and ineligible project costs;  
 27 in the methamphetamine decontamination project.  
 28 **Sec. 5. (a) A grant may be awarded to a property owner for the**  
 29 **decontamination of property under this chapter only if:**  
 30 (1) the property was contaminated through the illegal  
 31 manufacture of methamphetamine by a person other than the  
 32 property owner; and  
 33 (2) subject to subsection (b), the decontamination of the  
 34 property will be conducted by or under the supervision of a  
 35 person certified by the department under IC 13-14-1-15 to  
 36 inspect and clean property polluted by contaminants.  
 37 (b) A property owner applying for a grant under this chapter  
 38 may request an exemption from the requirement in subsection  
 39 (a)(2) that the methamphetamine decontamination project be  
 40 conducted or supervised by a person certified by the department  
 41 under IC 13-14-1-15. A request under this subsection:  
 42 (1) must be submitted to the department in writing; and



- 1           (2) must explain why compliance with the requirement would  
2           constitute an undue hardship for the applicant.
- 3           **In considering a request submitted under this subsection, the**  
4           **department shall consider whether a person who is not certified by**  
5           **the department under IC 13-14-1-15 could adequately and safely**  
6           **carry out the decontamination plan described in the property**  
7           **owner's grant application.**
- 8           **Sec. 6. Upon the grantee's acceptance of a grant award under**  
9           **this chapter, the department shall pay to the grantee seventy-five**  
10           **percent (75%) of the amount of the grant. The remaining**  
11           **twenty-five percent (25%) of the grant shall be paid to the grantee**  
12           **after:**
- 13           (1) the grantee submits the final report to the department  
14           under section 11 of this chapter; and
- 15           (2) the department audits and approves in writing the  
16           expenditures made by the grantee under the decontamination  
17           plan, as documented in the grantee's final report.
- 18           **Sec. 7. (a) A person awarded a grant for a methamphetamine**  
19           **decontamination project under this chapter is responsible for**  
20           **paying all costs of the project except the costs of the project that**  
21           **are paid through the grant.**
- 22           (b) Only the eligible project costs of a methamphetamine  
23           decontamination project may be paid with money from a grant  
24           awarded under this chapter. Ineligible project costs may not be  
25           paid with money from a grant awarded under this chapter.
- 26           (c) A person awarded a grant for a methamphetamine  
27           decontamination project under this chapter may satisfy the  
28           person's match requirement under section 8(b) of this chapter by  
29           paying eligible project costs with the person's own funds rather  
30           than with money from the grant.
- 31           (d) Ineligible project costs that a person awarded a grant under  
32           this chapter pays with the person's own funds may not be counted  
33           toward fulfilling the person's match requirement under section  
34           8(b) of this chapter.
- 35           **Sec. 8. (a) The amount of a grant awarded for a**  
36           **methamphetamine decontamination project under this chapter**  
37           **may not exceed the lesser of:**
- 38           (1) fifty percent (50%) of the total eligible costs of the project,  
39           as estimated in the grant application under section 4(b)(2) of  
40           this chapter; or
- 41           (2) ten thousand dollars (\$10,000).
- 42           (b) A person awarded a grant for a methamphetamine



1 decontamination project under this chapter must meet at least fifty  
2 percent (50%) of the total eligible costs of the methamphetamine  
3 decontamination project, as estimated in the grant application  
4 under section 4(b)(2) of this chapter, by:

- 5 (1) paying those costs with the person's own funds;
- 6 (2) contributing labor, materials, or something else of tangible  
7 and verifiable value to the project; or
- 8 (3) a combination of paying under subdivision (1) and  
9 contributing under subdivision (2).

10 **Sec. 9.** The department, in compliance with the rules adopted  
11 under section 14 of this chapter, shall develop criteria for  
12 establishing a priority among grant applications submitted under  
13 this chapter. In developing the criteria, the department shall  
14 consider the extent to which a particular contaminated property  
15 constitutes:

- 16 (1) a potential nuisance; and
- 17 (2) a hazard to public health or safety.

18 If the department determines that two (2) or more applications  
19 meet the criteria equally, the department shall give priority to the  
20 application that the department received first.

21 **Sec. 10. (a)** A property owner may apply for more than one (1)  
22 grant under this chapter if each grant would be for the  
23 decontamination of a separate parcel of property.

24 (b) A person who has received a grant for the decontamination  
25 of a parcel of property under this chapter in a calendar year may  
26 apply for another grant for another parcel of property in the same  
27 calendar year only if sufficient money remains in the fund  
28 established by section 3 of this chapter after grants are awarded to  
29 all other applicants who applied for and were awarded grants  
30 during that year.

31 **Sec. 11.** A grantee shall submit to the department a final report  
32 as described in section 4(b)(3)(B) of this chapter before whichever  
33 of the following deadlines occurs first:

- 34 (1) Thirty (30) days after completion of the methamphetamine  
35 decontamination project.
- 36 (2) Twelve (12) months after the grant is awarded.

37 **Sec. 12. (a)** The department may terminate a grant awarded  
38 under this chapter if the department determines that:

- 39 (1) there has been no sustained progress in meeting the  
40 timetable included in the grant application under section  
41 4(b)(1)(B) of this chapter; or
- 42 (2) there is:



1 (A) substantial evidence that the grant was obtained by  
2 fraud; or

3 (B) substantial evidence of gross abuse or corrupt practices  
4 in the administration or implementation of the  
5 decontamination plan.

6 (b) If the department terminates a grant under this section, the  
7 grantee shall return to the department the full amount of the grant  
8 received by the grantee.

9 Sec. 13. (a) Before February 1, 2016, and each succeeding year,  
10 the department shall submit an annual report to:

- 11 (1) the governor;  
12 (2) the legislative council; and  
13 (3) the budget director;

14 concerning the grant program operated under this chapter. A  
15 report submitted under this subsection to the legislative council  
16 must be in an electronic format under IC 5-14-6.

17 (b) The report submitted under subsection (a) must contain the  
18 following:

- 19 (1) A description of each project funded through a grant  
20 under this chapter in the previous calendar year.  
21 (2) A statement of the total amount of money expended by the  
22 department under this chapter during the previous calendar  
23 year.  
24 (3) An estimate of the amount of money required to meet the  
25 eligible grant requests in the current year.  
26 (4) Any recommendations for change, in funding or otherwise,  
27 that the department may wish to make concerning the grant  
28 program operated under this chapter.

29 Sec. 14. The environmental rules board, under IC 4-22-2 and  
30 IC 13-14-9, shall adopt rules for the administration of this chapter.  
31 In compliance with these rules, the department shall prepare and  
32 supply to applicants a grant application form for the purposes of  
33 this chapter.

34 SECTION 4. IC 32-21-5-7, AS AMENDED BY P.L.180-2014,  
35 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2015]: Sec. 7. The Indiana real estate commission established  
37 by IC 25-34.1-2-1 shall adopt a specific disclosure form that contains  
38 the following:

- 39 (1) Disclosure by the owner of the known condition of the  
40 following:  
41 (A) The foundation.  
42 (B) The mechanical systems.



- 1 (C) The roof.  
 2 (D) The structure.  
 3 (E) The water and sewer systems.  
 4 (F) Additions that may require improvements to the sewage  
 5 disposal system.  
 6 (G) Other areas that the Indiana real estate commission  
 7 determines are appropriate.  
 8 (2) Disclosure by the owner of known:  
 9 (A) contamination caused by the manufacture of a controlled  
 10 substance on the property; ~~that has not been certified as~~  
 11 ~~decontaminated by an inspector approved under~~  
 12 ~~IC 13-14-1-15~~; or  
 13 (B) manufacture of methamphetamine or dumping of waste  
 14 from the manufacture of methamphetamine in a residential  
 15 structure on the property.
- 16 **However, the form must indicate that an owner is not**  
 17 **required to disclose a fact described in clause (A) or (B) if the**  
 18 **property has been certified as decontaminated by a person**  
 19 **certified by the department of environmental management**  
 20 **under IC 13-14-1-15 to inspect and clean property polluted by**  
 21 **contaminants.**
- 22 (3) A notice to the prospective buyer that contains substantially  
 23 the following language:  
 24 "The prospective buyer and the owner may wish to obtain  
 25 professional advice or inspections of the property and provide for  
 26 appropriate provisions in a contract between them concerning any  
 27 advice, inspections, defects, or warranties obtained on the  
 28 property."  
 29 (4) A notice to the prospective buyer that contains substantially  
 30 the following language:  
 31 "The representations in this form are the representations of the  
 32 owner and are not the representations of the agent, if any. This  
 33 information is for disclosure only and is not intended to be a part  
 34 of any contract between the buyer and owner."  
 35 (5) A disclosure by the owner that an airport is located within a  
 36 geographical distance from the property as determined by the  
 37 Indiana real estate commission. The commission may consider the  
 38 differences between an airport serving commercial airlines and an  
 39 airport that does not serve commercial airlines in determining the  
 40 distance to be disclosed.

41 SECTION 5. IC 32-21-6-3 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. As used in this





1 chapter, "psychologically affected property" includes real estate or a  
 2 dwelling that is for sale, rent, or lease and to which one (1) or more of  
 3 the following facts or a reasonable suspicion of facts apply:

4 (1) That an occupant of the property was afflicted with or died  
 5 from a disease related to the human immunodeficiency virus  
 6 (HIV).

7 (2) That an individual died on the property.

8 (3) That the property was the site of:

9 (A) a felony under IC 35;

10 (B) criminal gang (as defined in IC 35-45-9-1) activity;

11 (C) the discharge of a firearm involving a law enforcement  
 12 officer while engaged in the officer's official duties; or

13 (D) the illegal manufacture or distribution of a controlled  
 14 substance, **not including the illegal manufacture of**  
 15 **methamphetamine.**

16 SECTION 6. IC 32-21-6-6 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. **(a) Except as**  
 18 **provided in subsection (b)**, an owner or agent is not liable for the  
 19 refusal to disclose to a transferee:

20 (1) that a dwelling or real estate is a psychologically affected  
 21 property; or

22 (2) details concerning the psychologically affected nature of the  
 23 dwelling or real estate.

24 However, an owner or agent may not intentionally misrepresent a fact  
 25 concerning a psychologically affected property in response to a direct  
 26 inquiry from a transferee.

27 **(b) An owner or agent may be civilly liable for refusing to**  
 28 **disclose to a transferee of property that methamphetamine was**  
 29 **manufactured on the property unless the property has been**  
 30 **certified as free of methamphetamine contamination by a person**  
 31 **certified by the department under IC 13-14-1-15 to inspect and**  
 32 **clean property polluted by contaminants.**

