



Ohio Revised Code

Section 3745.13 Costs of dealing with unauthorized spill, release or discharge.

Effective: December 20, 2012

Legislation: House Bill 360 - 129th General Assembly

(A) When emergency action is required to protect the public health or safety or the environment, any person responsible for causing or allowing an unauthorized spill, release, or discharge of material into or upon the environment or responsible for the operation of an illegal methamphetamine manufacturing laboratory that has caused contamination of the environment is liable to the municipal corporation, county, township, countywide emergency management agency established under section 5502.26 of the Revised Code, regional authority for emergency management established under section 5502.27 of the Revised Code, or emergency management program established by a political subdivision under section 5502.271 of the Revised Code, having territorial jurisdiction, or responsibility for emergency management activities in the location of the spill, release, discharge, or contamination, for the necessary and reasonable, additional or extraordinary costs it incurs in investigating, mitigating, minimizing, removing, or abating the spill, release, discharge, or contamination, in the course of its emergency action, but, to the extent criteria and methods for response actions prescribed under 40 C.F.R. 300, as amended, may be applied to the type of material involved and the conditions of the spill, release, discharge, or contamination, that person is liable for those costs only if the political subdivision, countywide agency, or regional authority employed those criteria and methods in its emergency action.

The officers of the municipal corporation, county, township, countywide emergency management agency, or regional authority for emergency management performing the emergency action shall keep a detailed record of its costs for investigating, mitigating, minimizing, removing, or abating the unauthorized spill, release, discharge, or contamination; promptly after the completion of those measures, shall certify those costs to the city director of law or village solicitor, as appropriate, of the municipal corporation, the prosecuting attorney of the county in the case of a county, township, or countywide emergency management agency, or the legal counsel retained thereby in the case of a regional authority for emergency management; and may request that the legal officer or counsel bring a civil action for recovery of costs against the person responsible for the unauthorized spill, release, or discharge or responsible for the operation of the illegal methamphetamine manufacturing laboratory that caused contamination of the environment. If the officers request that the legal officer



or counsel bring such a civil action regarding emergency action taken in relation to the operation of an illegal methamphetamine manufacturing laboratory that has caused contamination of the environment, the legal officer or counsel also may pursue a forfeiture proceeding against the responsible person under Chapter 2981. of the Revised Code, or in any other manner authorized by law.

The legal officer or counsel shall submit a written, itemized claim for the total certified costs incurred by the municipal corporation, county, township, countywide agency, or regional authority for the emergency action to the responsible party and a written demand that those costs be paid to the political subdivision, countywide agency, or regional authority. Not less than thirty days before bringing a civil action for recovery of those costs, the legal officer or counsel shall mail written notice to the responsible party informing the responsible party that, unless the total certified costs are paid to the political subdivision, countywide agency, or regional authority within thirty days after the date of mailing of the notice, the legal officer or counsel will bring a civil action for that amount. Except for emergency action taken in relation to the operation of an illegal methamphetamine manufacturing laboratory that has caused contamination of the environment, in making a determination of an award for reimbursement, the responsible party's status as a taxpayer to the governmental entity shall be taken into consideration. Nothing in this section prevents a political subdivision, countywide emergency management agency, or regional authority for emergency management from entering into a settlement of a claim against a responsible party that compromises the amount of the claim. Moneys recovered as described in this section shall be credited to the appropriate funds of the political subdivision, countywide agency, or regional authority from which moneys were expended in performing the emergency action.

(B) As used in this section:

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

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