

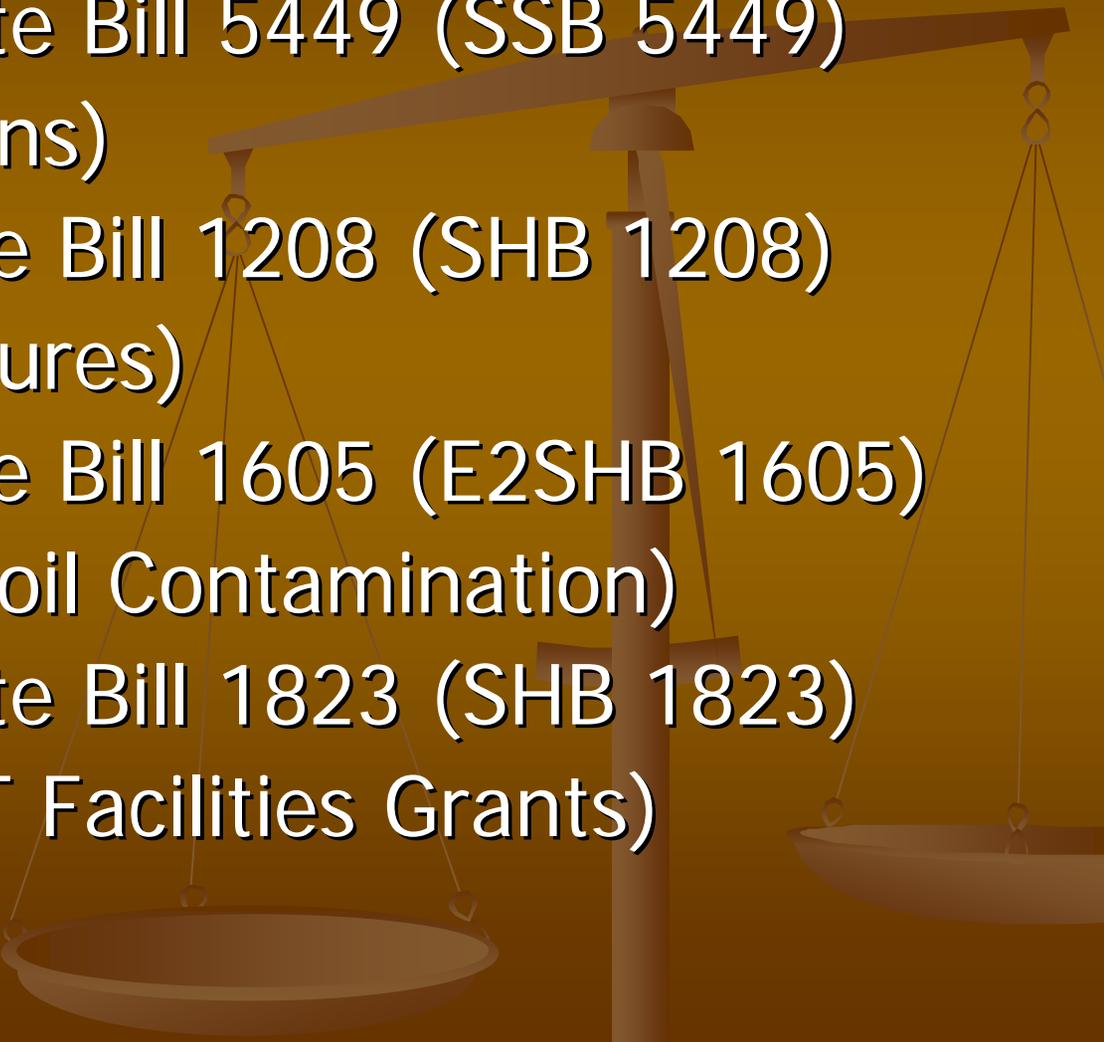
2005 & 2006 Legislative Sessions Update

Pete Kmet

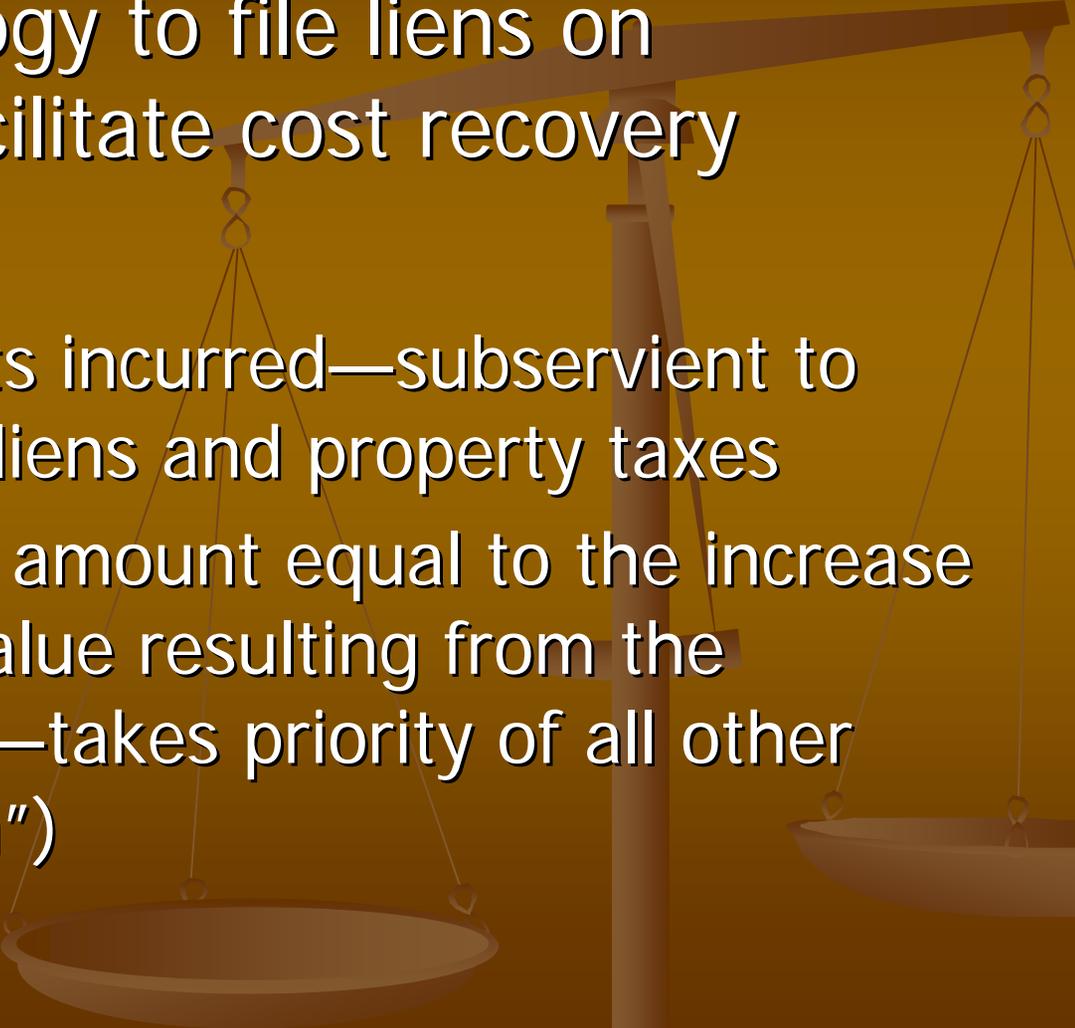
Ecology's Toxics Cleanup Program

pkme461@ecy.wa.gov

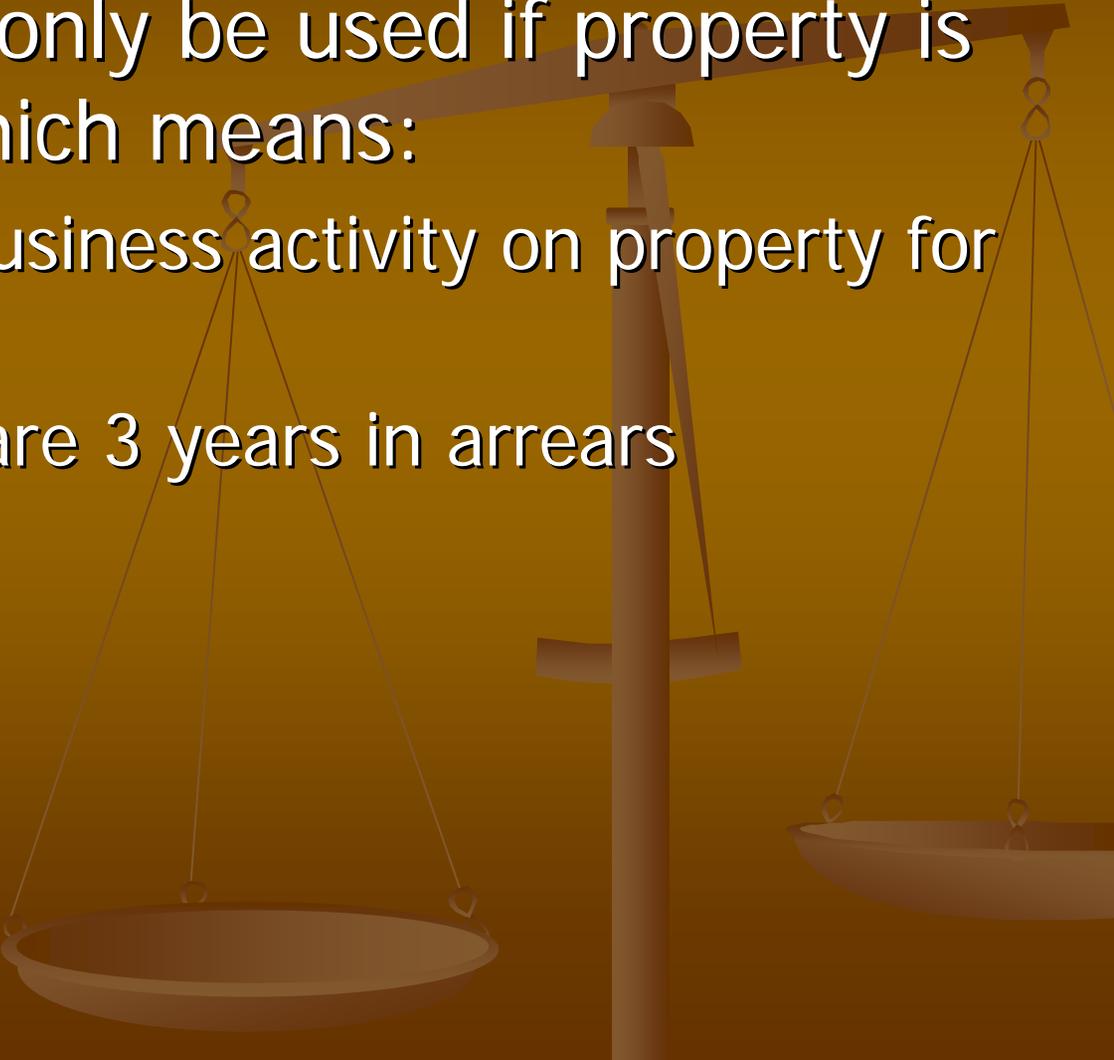
2005 Session Bills of Interest

- Substitute Senate Bill 5449 (SSB 5449)
(Property Liens)
 - Substitute House Bill 1208 (SHB 1208)
(Drug Forfeitures)
 - Substitute House Bill 1605 (E2SHB 1605)
(Area-wide Soil Contamination)
 - Substitute Senate Bill 1823 (SHB 1823)
(Remote UST Facilities Grants)
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SSB 5449 (Property Liens)

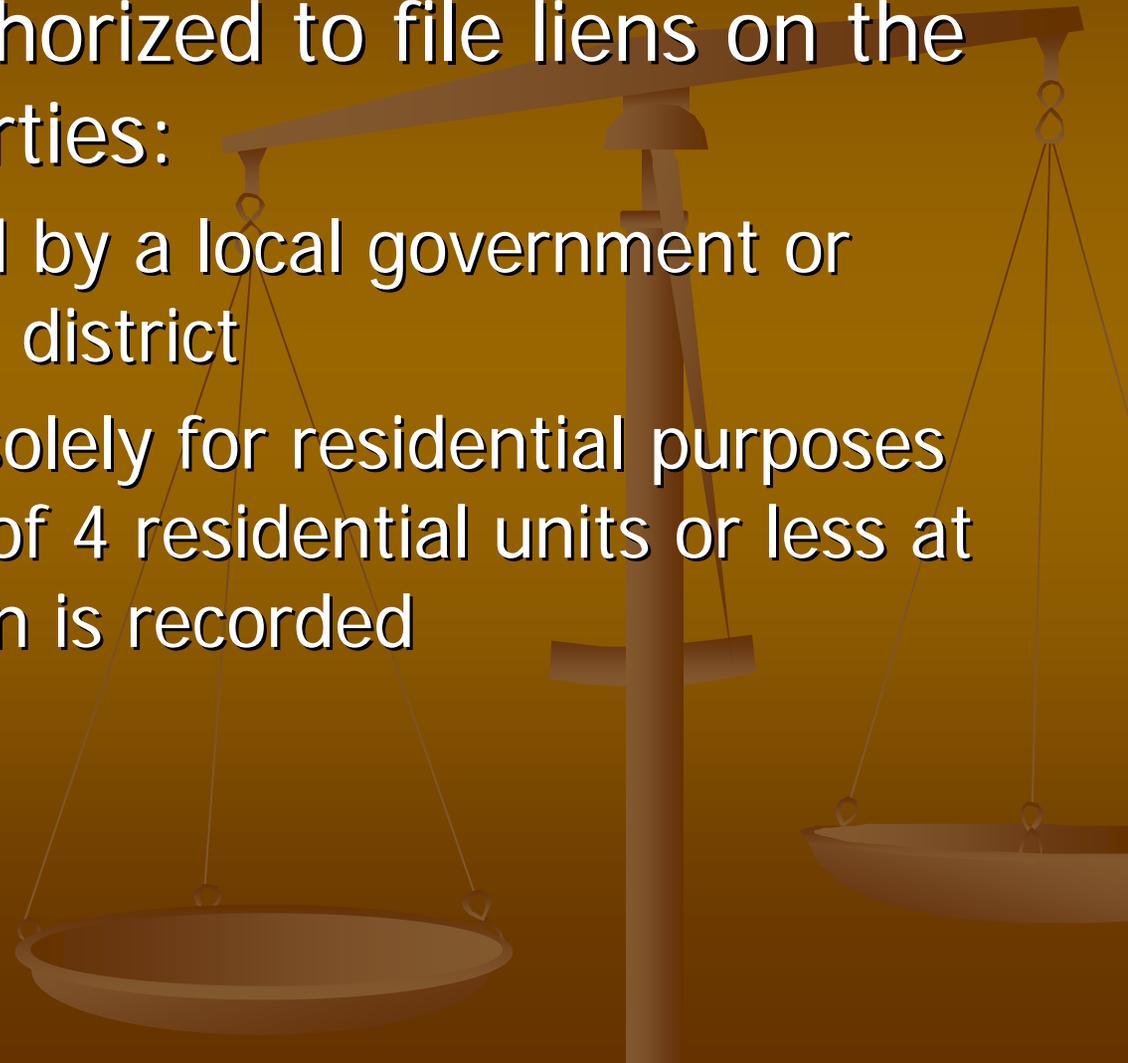
- Authorizes Ecology to file liens on properties to facilitate cost recovery
 - Two Options
 - Lien for full costs incurred—subservient to prior mortgage liens and property taxes
 - Lien only for an amount equal to the increase in fair market value resulting from the remedial action—takes priority of all other liens (“superlien”)
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SSB 5449 (Property Liens)

- “Superlien” can only be used if property is “abandoned” which means:
 - No significant business activity on property for 3 years
 - Property taxes are 3 years in arrears
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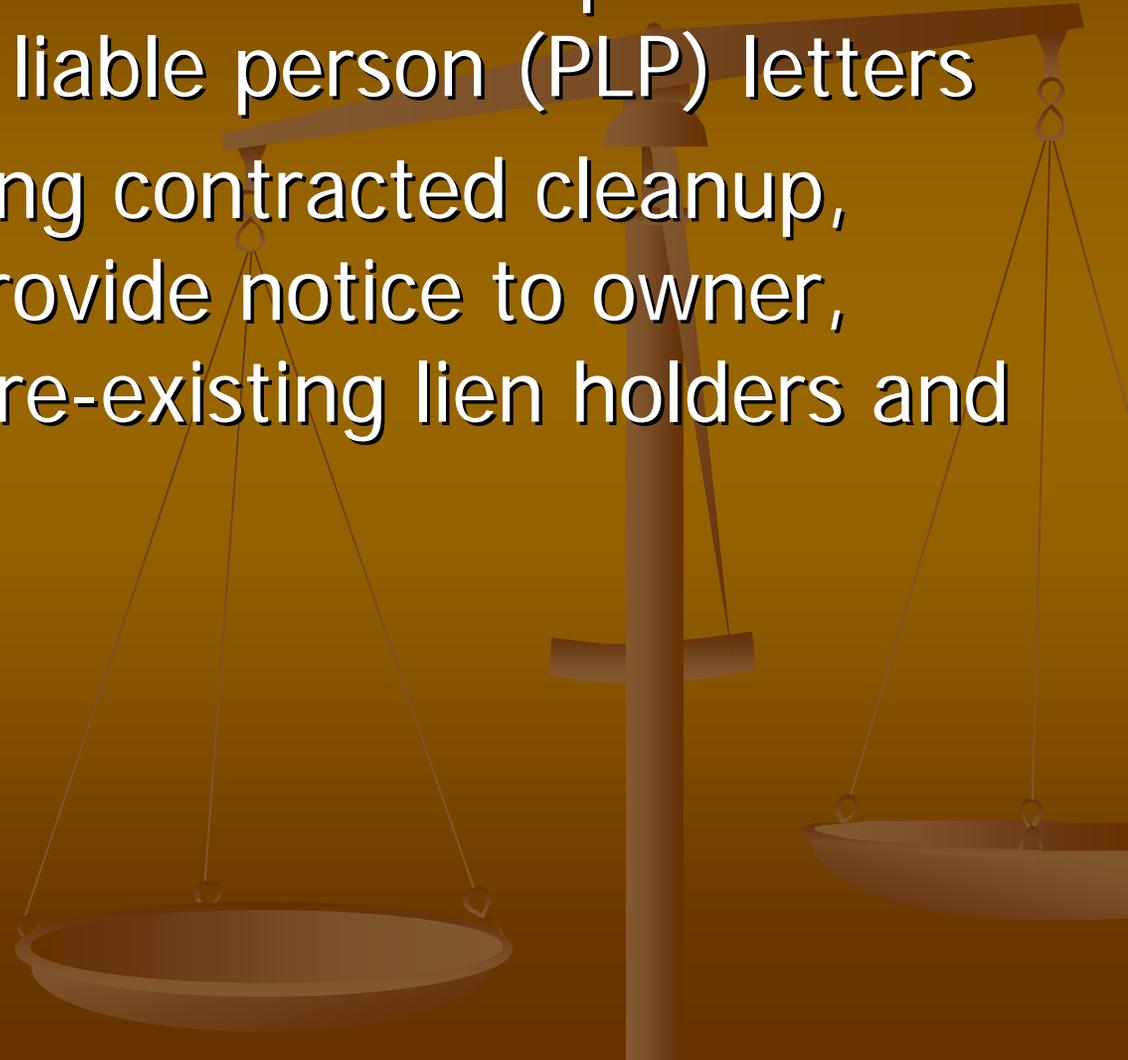
SSB 5449 (Property Liens)

- Ecology not authorized to file liens on the following properties:
 - Property owned by a local government or special purpose district
 - Property used solely for residential purposes and consisting of 4 residential units or less at the time the lien is recorded



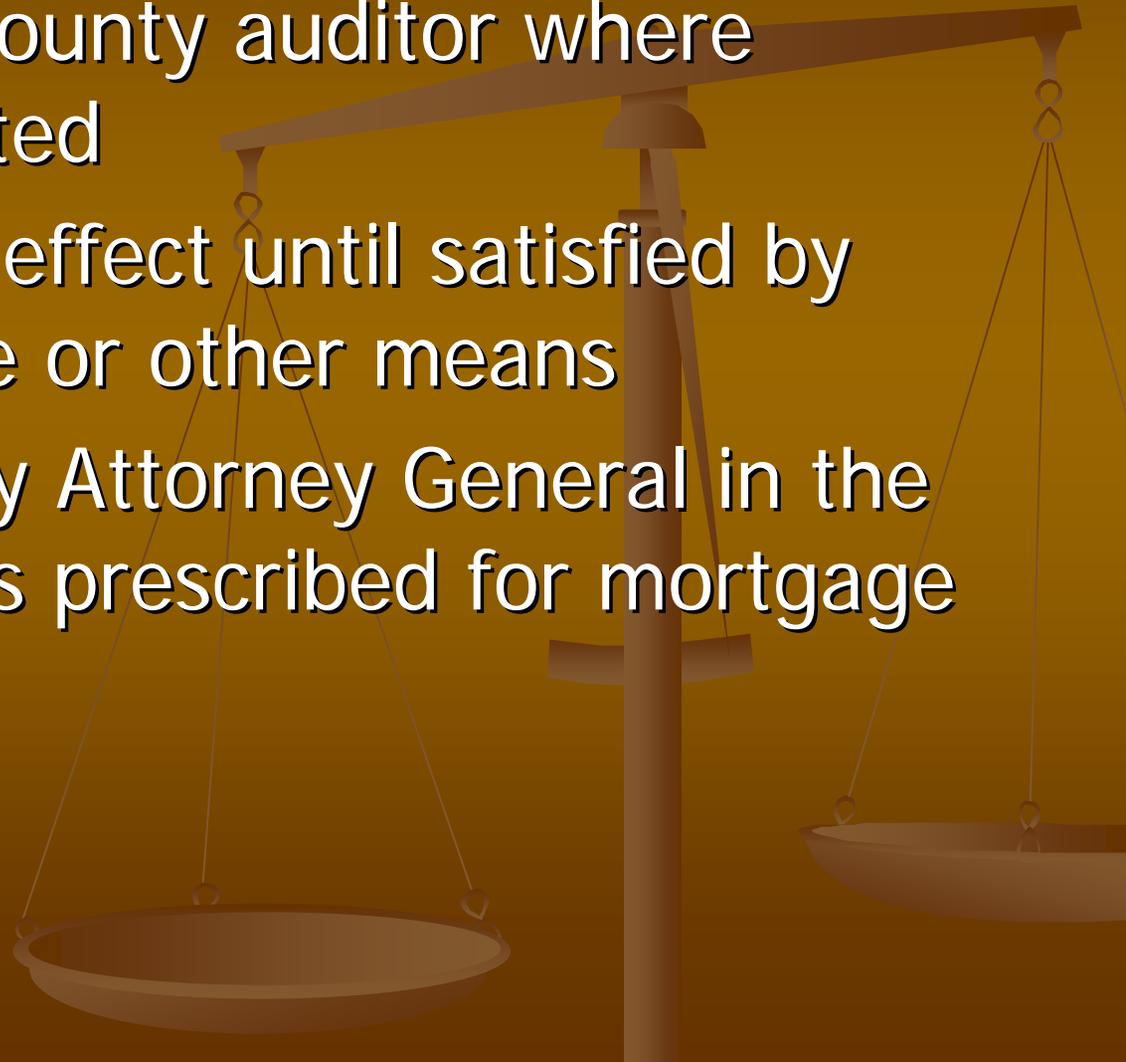
SSB 5449 (Property Liens)

- Ecology must include notice of possible lien in potential liable person (PLP) letters
- Before conducting contracted cleanup, Ecology must provide notice to owner, mortgagees, pre-existing lien holders and contractors.



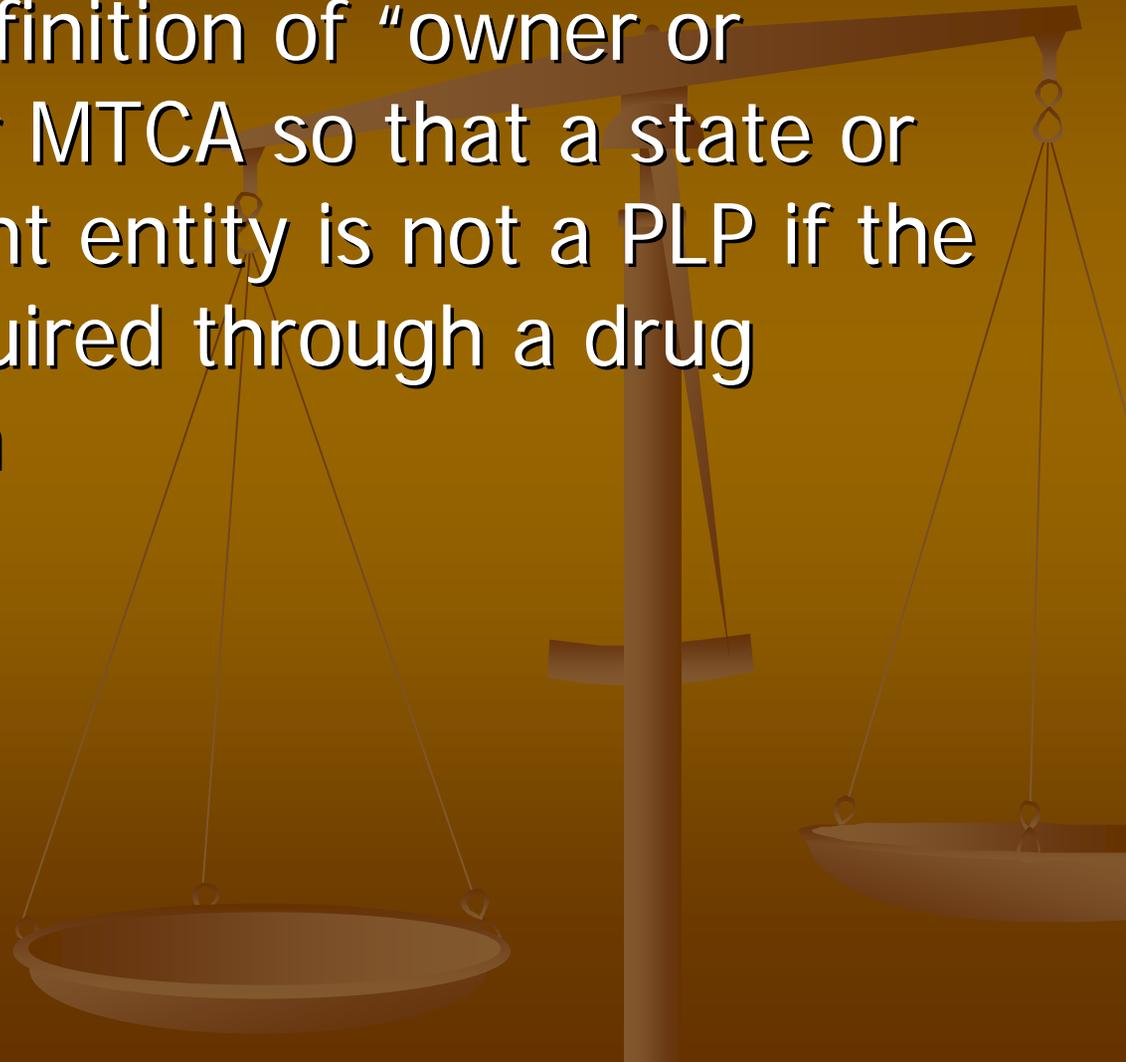
SSB 5449 (Property Liens)

- Lien filed with county auditor where property is located
- Lien remains in effect until satisfied by sale, foreclosure or other means
- Lien enforced by Attorney General in the same manner as prescribed for mortgage foreclosures

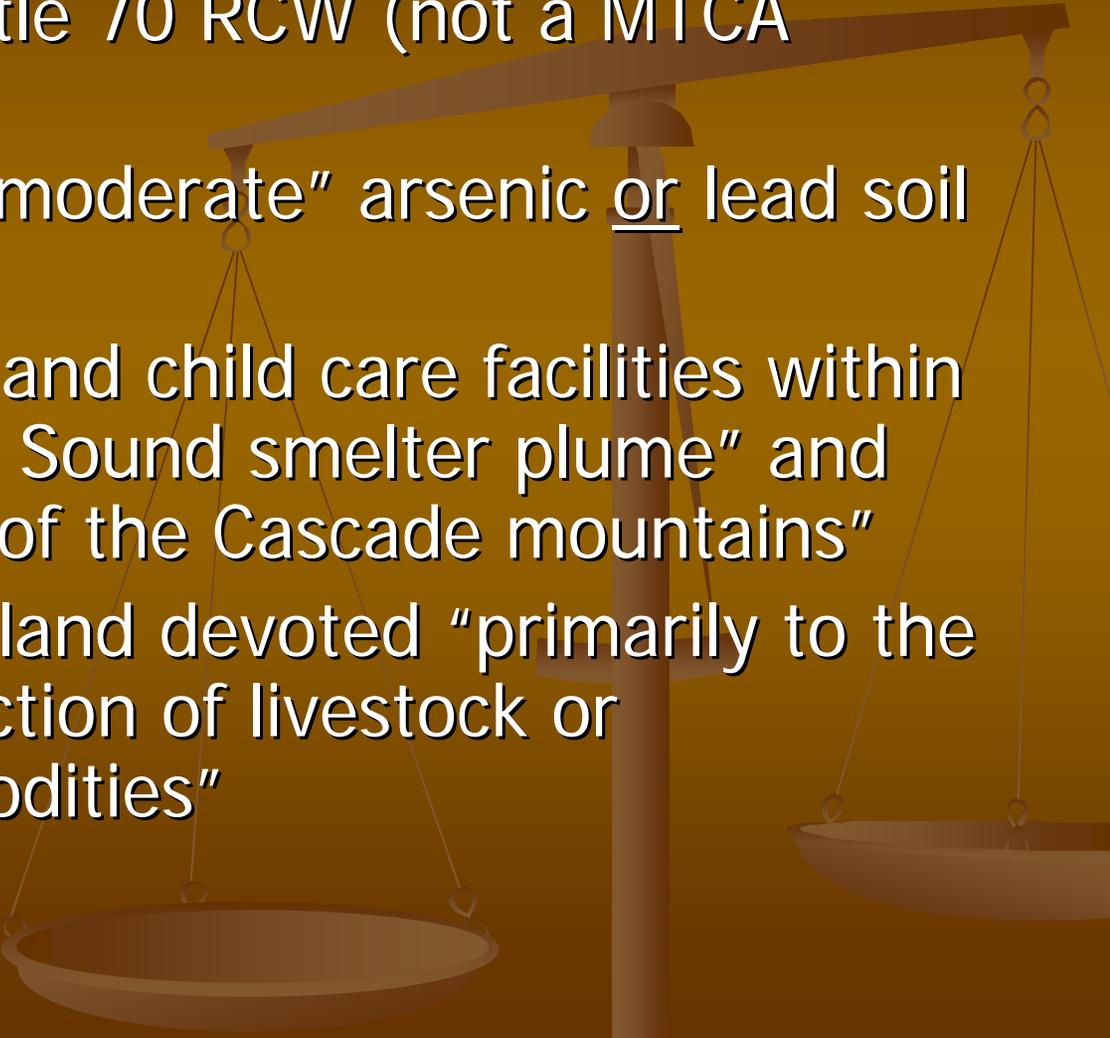


SHB 1208 (Drug Forfeitures)

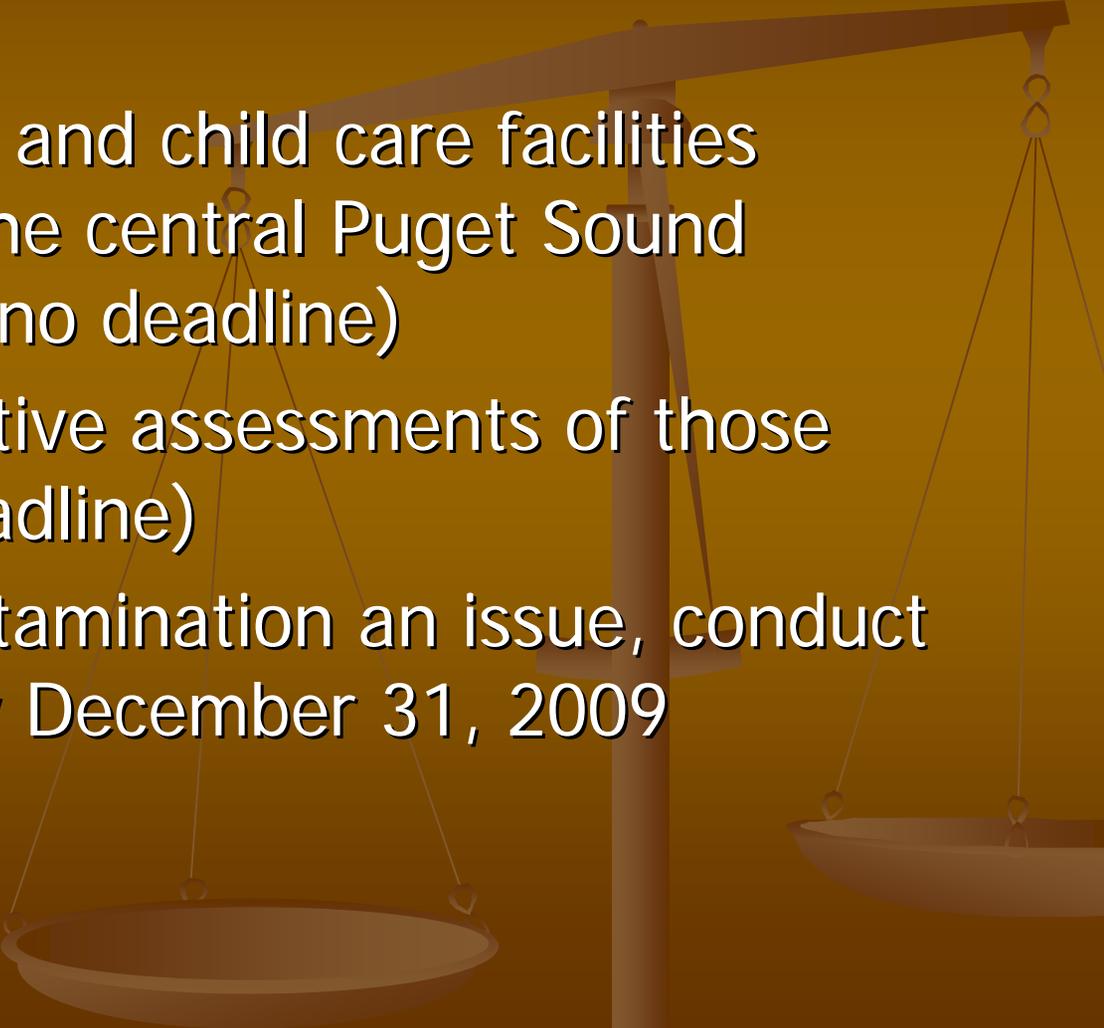
- Changes the definition of “owner or operator” under MTCA so that a state or local government entity is not a PLP if the facility was acquired through a drug forfeiture action



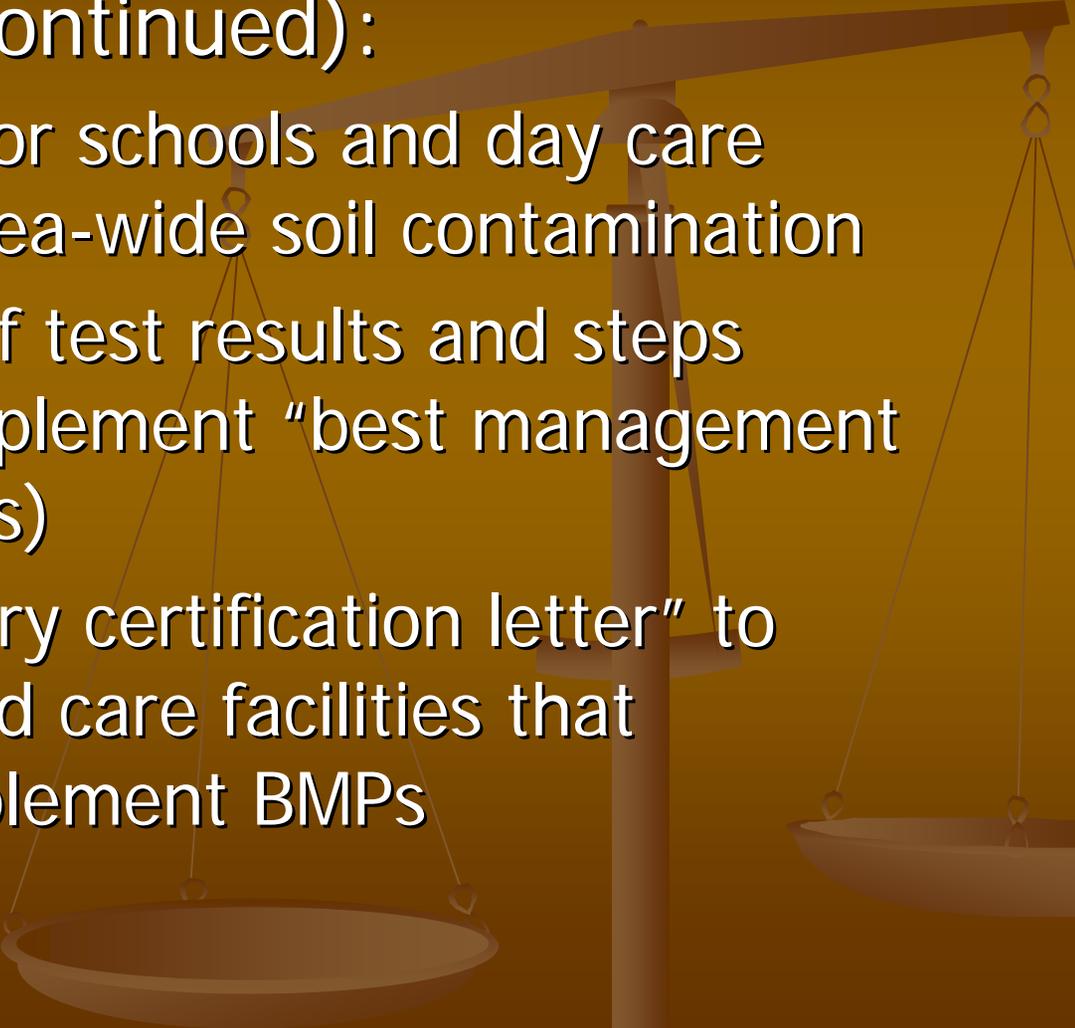
E2SHB 1605 (Areawide Soil)

- New Chapter to Title 70 RCW (not a MTCA amendment)
 - Applies to “low to moderate” arsenic or lead soil contamination
 - Applies to schools and child care facilities within the “Central Puget Sound smelter plume” and “west of the crest of the Cascade mountains”
 - Does not apply to land devoted “primarily to the commercial production of livestock or agricultural commodities”
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E2SHB 1605 (Areawide Soil)

- Ecology must:
 - Identify schools and child care facilities located within the central Puget Sound smelter plume (no deadline)
 - Conduct qualitative assessments of those facilities (no deadline)
 - If areawide contamination an issue, conduct soil sampling by December 31, 2009
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E2SHB 1605 (Areawide Soil)

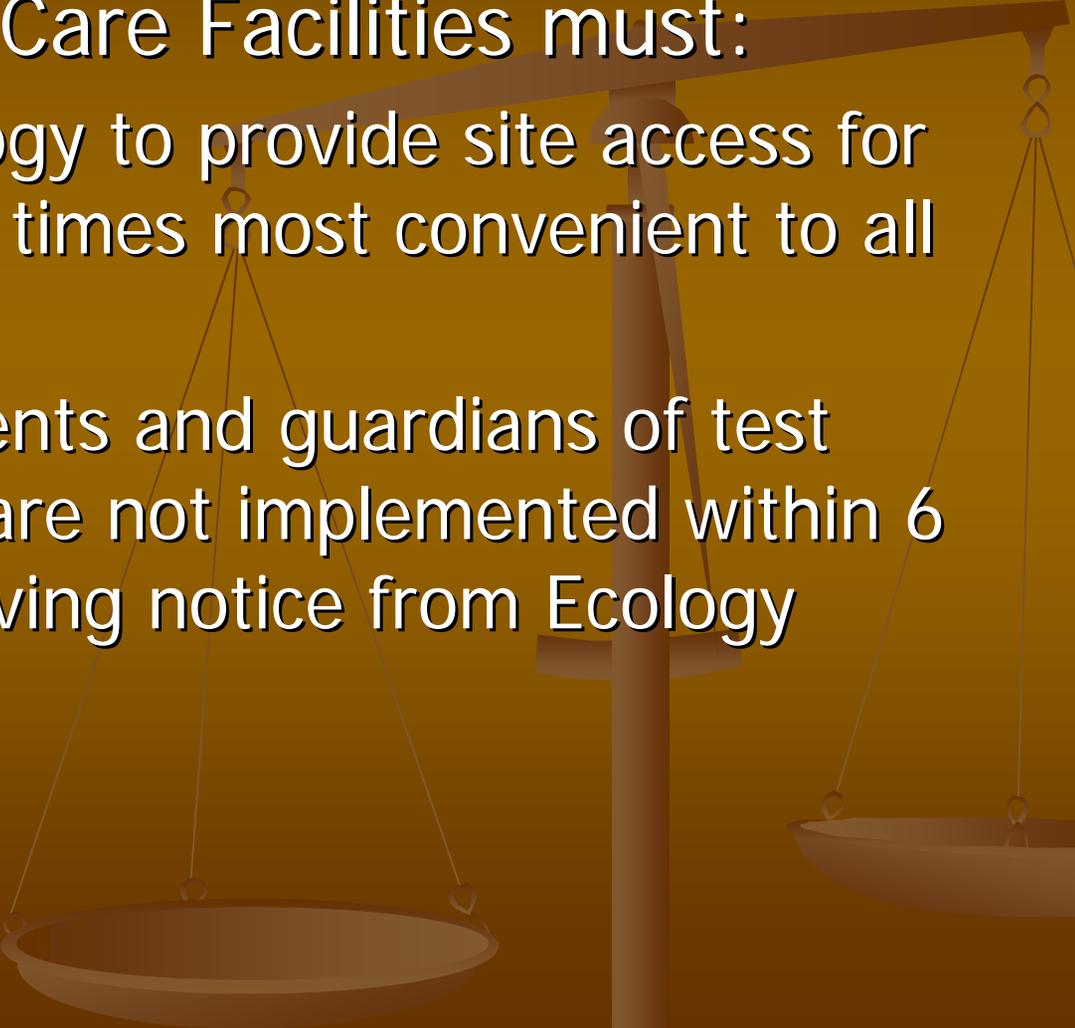
- Ecology must (continued):
 - Develop BMPs for schools and day care facilities with area-wide soil contamination
 - Notify schools of test results and steps necessary to implement “best management practices” (BMPs)
 - Send a “voluntary certification letter” to schools and child care facilities that successfully implement BMPs
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E2SHB 1605 (Areawide Soil)

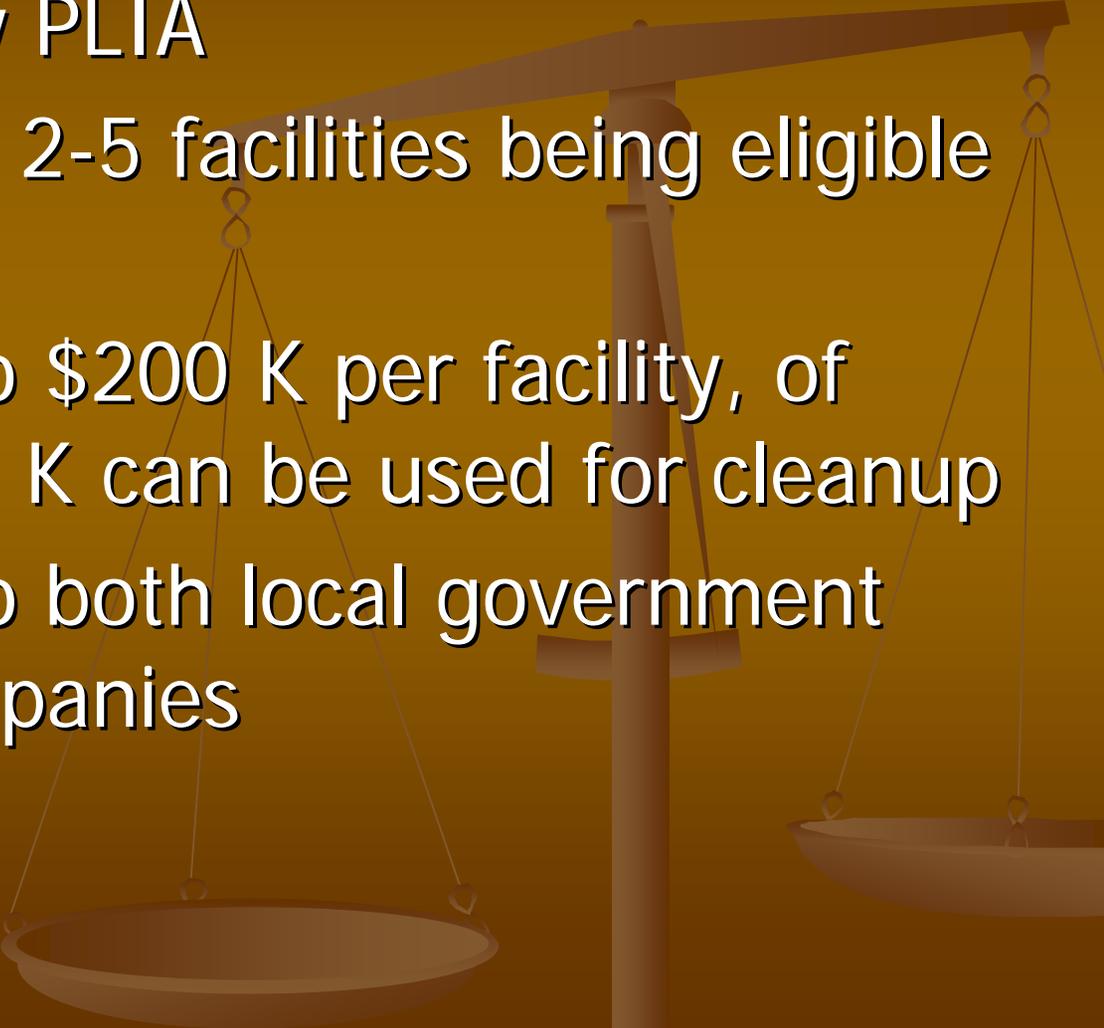
- Ecology must (continued):
 - Develop a grant program to assist schools and child care facilities with implementing BMPs
 - Submit progress reports to the Governor and Legislature by:
 - December 31, 2006
 - December 31, 2008



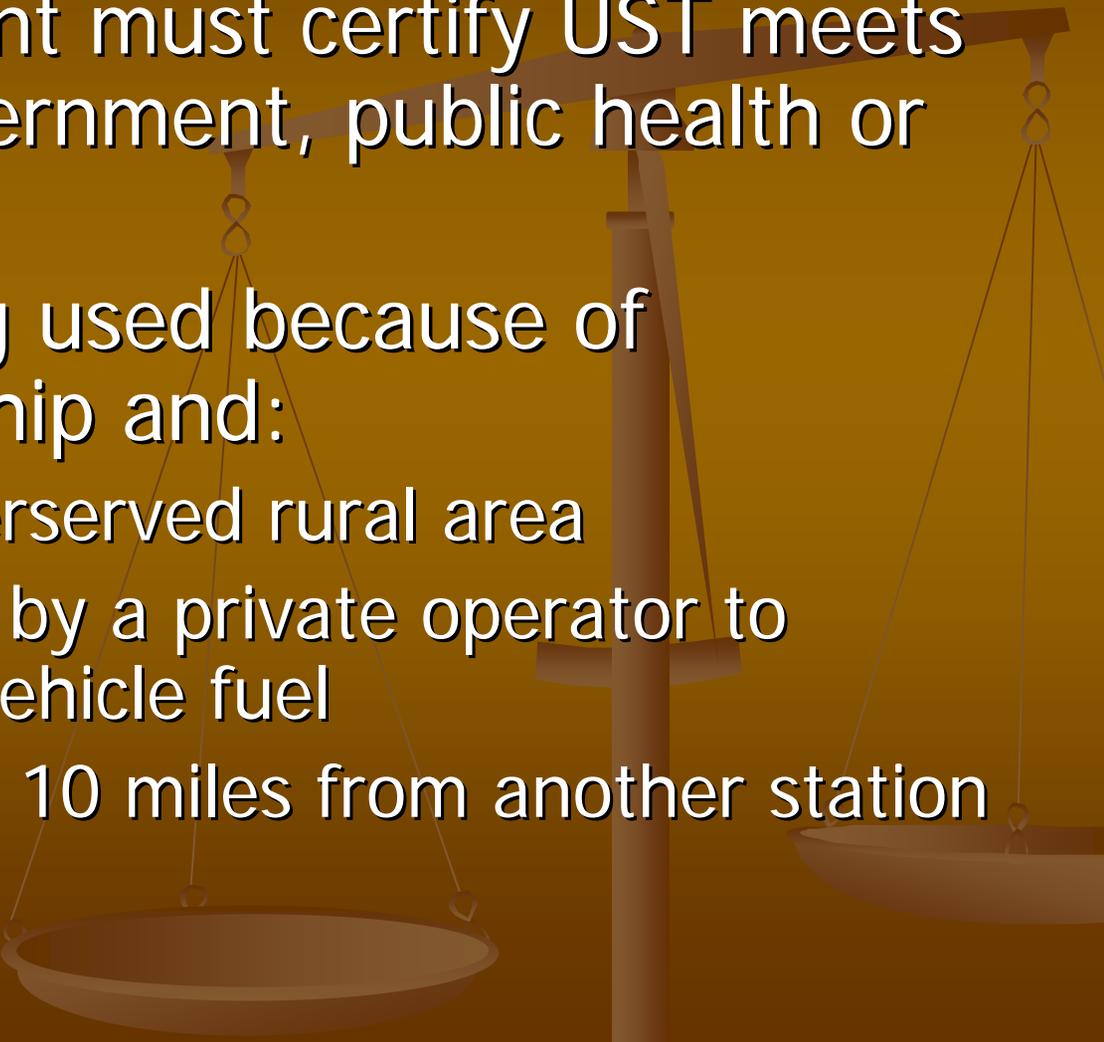
E2SHB 1605 (Areawide Soil)

- Schools & Child Care Facilities must:
 - Work with Ecology to provide site access for soil sampling at times most convenient to all parties
 - Must notify parents and guardians of test results if BMPs are not implemented within 6 months of receiving notice from Ecology
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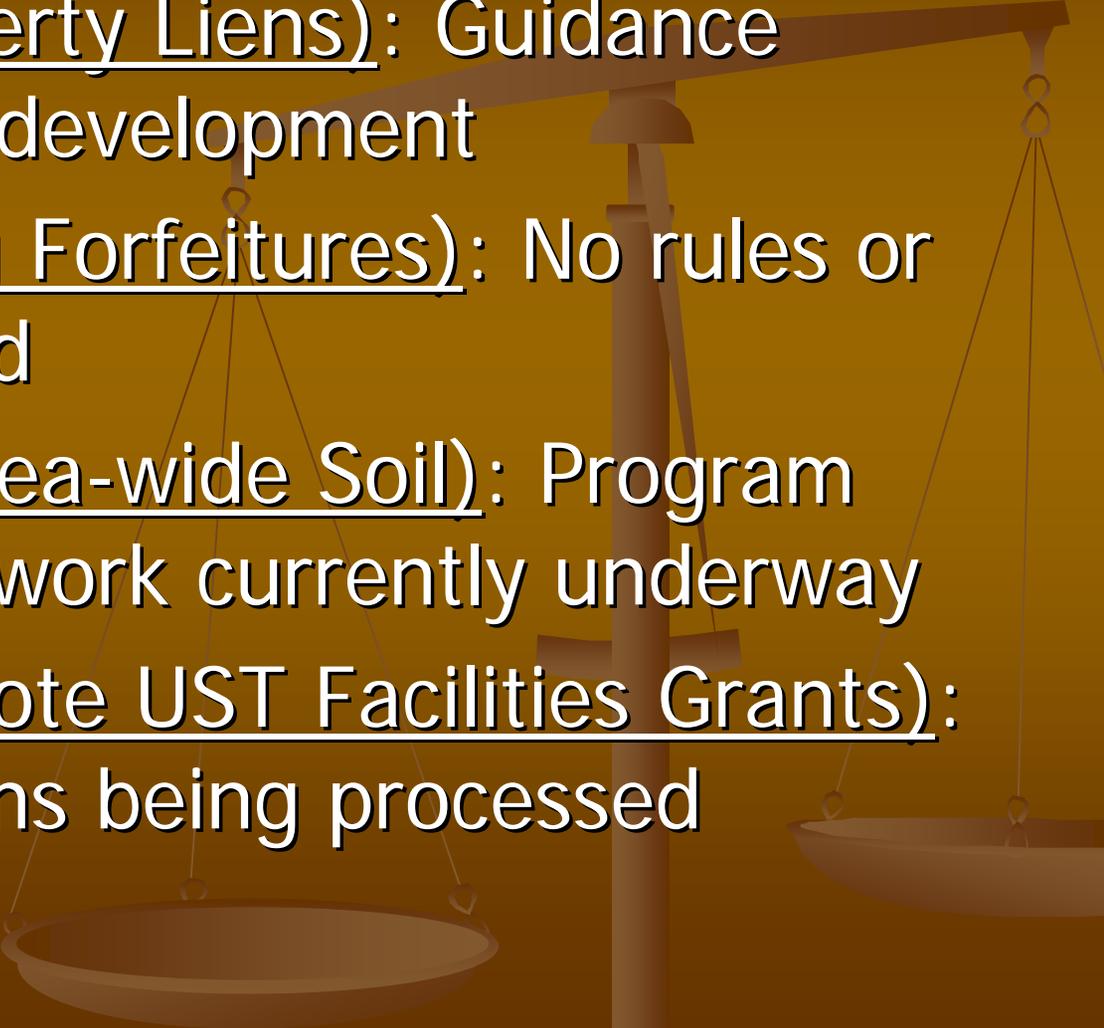
SHB 1823 (UST Grants)

- Implemented by PLIA
 - PLIA anticipates 2-5 facilities being eligible for grants
 - Grants limited to \$200 K per facility, of which up to \$75 K can be used for cleanup
 - Grants can go to both local government and private companies
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SHB 1823 (UST Grants)

- Local government must certify UST meets a vital local government, public health or safety need; OR
 - UST is not being used because of economic hardship and:
 - Located in underserved rural area
 - Previously used by a private operator to provide motor vehicle fuel
 - Located at least 10 miles from another station
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Summary of Current Status

- SSB 5449 (Property Liens): Guidance currently under development
 - SHB 1208 (Drug Forfeitures): No rules or guidance needed
 - E2SHB 1605 (Area-wide Soil): Program development & work currently underway
 - SHB 1823 (Remote UST Facilities Grants): Grant applications being processed
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Bills Anticipated in 2006 Session

Uniform Environmental Covenants Act:

- This is an act that was drafted by a national workgroup, driven by military interests.
- Would increase enforceability of institutional controls.
- Senator Fraser has indicated she intends to introduce this act for possible consideration this session. For more information on this act, see the following web site.

<http://www.environmentalcovenants.org/ueca/DesktopDefault.aspx>