
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1243 Session of
2014

INTRODUCED BY RAFFERTY, YAW, KASUNIC, VULAKOVICH, STACK,
BREWSTER, YUDICHAK, SOLOBAY AND SCARNATI, FEBRUARY 28, 2014

REFERRED TO PUBLIC HEALTH AND WELFARE, FEBRUARY 28, 2014

AN ACT

1 Providing for remediation of real property contaminated by
2 methamphetamine production, for decontamination standards to
3 be developed by Department of Health and for restitution;
4 prohibiting certain activity relating to certain property;
5 providing for enforcement; establishing immunity for real
6 estate professionals under certain circumstances; and
7 authorizing fees.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the
12 Decontamination of Clandestine Lab Sites Act.

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Clandestine lab site." Any real property occupied or
18 affected by conditions or chemicals typically associated with
19 the manufacturing of methamphetamine.

20 "Contaminated." In reference to a property, that the

1 property is polluted by precursor substances or waste substances
2 as a result of the use, production, storage or presence of
3 methamphetamine in excess of decontamination standards adopted
4 by the Department of Health under this act.

5 "Decontaminated" or "decontamination." In reference to a
6 property, that the property at one time was contaminated, but
7 that the precursor substances and waste substances have been
8 removed and the property satisfies the decontamination standards
9 adopted by the Department of Health under this act.

10 "Department." The Department of Health of the Commonwealth.

11 "Emergency response." Removing and collecting evidence,
12 securing the site, removal, remediation and hazardous material
13 assessment or inspection of real property where the relevant
14 offense or offenses took place, regardless of whether these
15 actions are performed by the public entities themselves or by
16 private contractors paid by the public entities or the owner.

17 "Owner." A person, including, but not limited to, a
18 shareholder, partner, operator or other legal entity, that holds
19 a legal or equitable title or interest in real property.

20 "Precursor substance." A hazardous material used to
21 manufacture a controlled substance.

22 "Property." Publicly or privately owned real property,
23 including buildings and other structures, and motor vehicles as
24 defined in 75 Pa.C.S. § 102 (relating to definitions).

25 "Real estate professional." A person licensed by the
26 Commonwealth to sell real property.

27 "Remediation." Proper cleanup, treatment or containment of
28 precursor substance or methamphetamine at or in a clandestine
29 lab site, including demolition or disposal of structures or
30 other property when an assessment so indicates.

1 "Removal." The removal from a clandestine lab site of
2 precursor substances or waste chemicals, chemical containers or
3 equipment associated with the manufacture, packaging or storage
4 of illegal drugs.

5 "Waste substance." A hazardous material, chemical or other
6 substance used in, and that remains after, the manufacture of a
7 controlled substance, excluding the controlled substance.

8 Section 3. Decontamination standards to be developed.

9 The department shall develop scientifically based standards
10 for the removal of precursor substances and waste substances
11 that are present at real property as a result of the use,
12 production, storage or presence of methamphetamine on the
13 property and shall promulgate regulations relating to such
14 standards.

15 Section 4. Restitution.

16 (a) Public entities.--A court may require a person convicted
17 of manufacturing or attempting to manufacture a controlled
18 substance or of an illegal activity involving a precursor
19 substance or waste substance, if the response to the crime
20 involved an emergency response, to pay restitution to all public
21 entities that participated in the response. The restitution
22 ordered may cover the reasonable costs of their participation in
23 the response.

24 (b) Property owner.--In addition to the restitution
25 authorized under subsection (a), a court may require a person
26 convicted of manufacturing or attempting to manufacture a
27 controlled substance or of an illegal activity involving a
28 precursor substance or waste substance to pay restitution to a
29 property owner who incurred removal or remediation costs because
30 of the crime.

1 Section 5. Property-related prohibitions.

2 (a) Notification by law enforcement.--A law enforcement
3 officer who arrests a person at a clandestine lab site shall
4 notify the department, the appropriate county or local health
5 department and child protection services of the arrest and the
6 location of the site.

7 (b) Occupation prohibited.--A county or local health
8 department shall order that any property or portion of a
9 property that has been found to be a clandestine lab site and
10 contaminated by precursor substances and waste substances, be
11 prohibited from being occupied or used until it has been
12 assessed and remediated as provided in the department's
13 standards. The remediation shall be accomplished by a contractor
14 who must make the verification required under subsection (d).

15 (c) Applicability.--Unless otherwise provided, any law
16 addressing the enforcement of public health laws, the removal
17 and abatement of public health nuisances and the remedies
18 available to property owners or occupants shall apply to this
19 section.

20 (d) Verification.--

21 (1) Upon the proper removal and remediation of any
22 property used as a clandestine lab site, the contractor shall
23 verify to the property owner and the applicable authority
24 that issued the order under subsection (b) that the work was
25 completed according to the department's standards.

26 (2) The contractor shall provide the verification to the
27 property owner and the applicable authority within five days
28 from the completion of the remediation.

29 (3) Upon receipt of the verification, the applicable
30 authority shall vacate its order.

1 (e) Liability.--

2 (1) If a contractor issues a verification and the
3 property was not remediated according to the department's
4 standards, the contractor shall be liable to the property
5 owner for the additional costs relating to the proper
6 remediation of the property according to the guidelines and
7 for reasonable attorney fees for collection of costs by the
8 property owner.

9 (2) An action under this subsection must be commenced
10 within six years from the date on which the verification was
11 issued by the contractor.

12 (f) Motor vehicles.--

13 (1) If the applicable authority determines under
14 subsection (b) that a motor vehicle has been contaminated by
15 precursor substances or waste substances used in the
16 manufacture of methamphetamine or any part of the
17 manufacturing process, or the by-products or degradates of
18 manufacturing methamphetamine, and if the authority is able
19 to obtain the certificate of title for the motor vehicle, the
20 authority shall notify the Department of Transportation and
21 shall forward the certificate of title to the Department of
22 Transportation.

23 (2) The authority shall notify the Department of
24 Transportation when the authority vacates its order under
25 subsection (d).

26 (g) Record.--Recording shall be as follows:

27 (1) The applicable authority issuing an order under
28 subsection (b) shall record with the county recorder of the
29 county where the clandestine lab is located an affidavit
30 containing the name of the owner, a legal description of the

1 property where the clandestine lab was located and a map
2 drawn from available information showing the boundary of the
3 property and the location of the contaminated area on the
4 property that is prohibited from being occupied or used that
5 discloses to any potential transferee all of the following:

6 (i) That the property, or portion of the property,
7 was the site of a clandestine lab.

8 (ii) The location, condition and circumstances of
9 the clandestine lab to the full extent known or
10 reasonably ascertainable.

11 (iii) That the use of the property or some portion
12 of it may be restricted as provided under subsection (b).

13 (2) If an inaccurate drawing or description is recorded
14 as provided by paragraph (1), the authority, on request of
15 the owner or another interested person, shall record a
16 supplemental affidavit with a corrected drawing or
17 description.

18 (3) If the authority vacates its order under subsection
19 (e), the authority shall record an affidavit that contains
20 the recording information of the affidavit and states that
21 the order is vacated.

22 (4) Upon filing the affidavit vacating the order, the
23 affidavit and the affidavit filed under this subsection,
24 together with the information set forth in the affidavits,
25 shall cease to constitute either actual or constructive
26 notice.

27 (h) Proper removal and remediation.--

28 (1) If proper removal and remediation have occurred on
29 the property, an interested party may record an affidavit
30 indicating the occurrence. Upon recording the affidavit under

1 this subsection, the affidavit and the affidavit filed under
2 subsection (g), together with the information contained in
3 the affidavits, shall cease to constitute either actual or
4 constructive notice.

5 (2) Failure to record an affidavit under this section
6 shall not affect or prevent any transfer of ownership of the
7 property.

8 (i) Disclosure.--The county recorder shall record all
9 affidavits presented under subsection (g) or (h) in a manner
10 that ensures their disclosure in the ordinary course of a title
11 search of the subject property.

12 (j) Maintenance.--Each county health administrator shall
13 maintain information related to property within the
14 administrator's jurisdiction that is currently or was previously
15 subject to an order issued under subsection (b). The information
16 maintained must include the name of the owner, the location of
17 the property, the extent of the contamination, the status of the
18 removal and remediation work on the property and whether the
19 order has been vacated. The administrator shall make the
20 information available to the public either upon request or by
21 other means.

22 (k) Disclosure.--Before signing an agreement to sell or
23 transfer real property, the seller or transferor must disclose
24 in writing to the buyer or transferee if, to the seller's or
25 transferor's knowledge, methamphetamine production has occurred
26 on the property. If methamphetamine production has occurred on
27 the property, the disclosure shall include a statement to the
28 buyer or transferee informing the buyer or transferee of any of
29 the following:

30 (1) Whether an order has been issued on the property as

1 described under subsection (b).

2 (2) Whether any orders issued against the property under
3 subsection (b) have been vacated under subsection (i).

4 (3) If there was no order issued against the property
5 and the seller or transferor is aware that methamphetamine
6 production has occurred on the property, the status of
7 removal and remediation on the property.

8 (1) Liability.--Unless the buyer or transferee and seller or
9 transferor agree to the contrary in writing, a seller or
10 transferor who fails to disclose, to the best of the seller's or
11 transferor's knowledge, prior to the transfer of the property
12 any of the facts required, and who knew or had reason to know of
13 methamphetamine production on the property, is liable to the
14 buyer or transferee for all of the following:

15 (1) Costs relating to remediation of the property
16 according to the department's standards.

17 (2) Reasonable attorney fees for collection of costs
18 from the seller or transferor. An action under this paragraph
19 must be commenced within six years after the date on which
20 the buyer or transferee closed the purchase or transfer of
21 the real property where the methamphetamine production
22 occurred.

23 (m) Preemption.--This section shall preempt any local
24 ordinances relating to the sale or transfer of real property
25 designated as a clandestine lab site.

26 Section 6. Enforcement.

27 (a) Right of action.--Any person may file a civil action to
28 enforce compliance with the provisions of this act.

29 (b) Relief.--A court may issue an injunction or such other
30 relief as necessary to enforce the provisions of this act.

1 (c) Court costs and attorney fees.--A court may award a
2 prevailing party in a civil action initiated under subsection
3 (a) court costs and reasonable attorney fees.

4 Section 7. Immunity for real estate professionals.

5 A real estate professional shall be immune from liability
6 under this act for the failure of an owner or lessor of real
7 property to comply with the provisions of this act, unless the
8 real estate professional is also the owner or lessor of the real
9 property or had actual knowledge of the failure to disclose.

10 Section 8. Fees.

11 The department may establish and impose a fee on an owner or
12 lessor of real property for any of the following:

13 (1) A certificate issued by the department that the
14 property has been decontaminated.

15 (2) Monitoring to determine whether the property has
16 been decontaminated.

17 (3) Any other related service provided by the department
18 under this act.

19 Section 9. Limitation on authority.

20 The department may not prohibit an owner or lessor of real
21 property from decontaminating the property.

22 Section 10. Effective date.

23 This act shall take effect in 60 days.