

LEGISLATIVE BILL 915

Approved by the Governor April 6, 2006

Introduced by Aguilar, 35; Bourne, 8; Combs, 32; Erdman, 47; Flood, 19; Friend, 10; Howard, 9; Mines, 18; Pahls, 31; Preister, 5; Stuthman, 22; Thompson, 14; Burling, 33; Smith, 48

AN ACT relating to public health; to define terms; to provide for standards and procedures for rehabilitation of clandestine drug lab sites; and to provide powers and duties.

Be it enacted by the people of the State of Nebraska,

Section 1. For purposes of sections 1 to 4 of this act:

(1) Clandestine drug lab means any area where glassware, heating devices, or other equipment or precursors, solvents, or related articles or reagents are used to unlawfully manufacture methamphetamine;

(2) Contaminated property means an enclosed area of any property or portion thereof intended for human habitation or use which has been contaminated by chemicals, chemical residue, methamphetamine, methamphetamine residue, or other substances from a clandestine drug lab;

(3) Department means the Department of Health and Human Services Regulation and Licensure;

(4) Law enforcement agency has the meaning found in section 81-1401;

(5) Local public health department has the meaning found in section 71-1626;

(6) Methamphetamine means methamphetamine, its salts, optical isomers, and salts of its isomers; and

(7) Rehabilitate or rehabilitation means all actions necessary to ensure that contaminated property is safe for human habitation or use.

Sec. 2. A property owner with knowledge of a clandestine drug lab on his or her property shall report such knowledge and location as soon as practicable to the local law enforcement agency or to the Nebraska State Patrol. A law enforcement agency that discovers a clandestine drug lab in the State of Nebraska shall report the location of such lab to the Nebraska State Patrol within thirty days after making such discovery. Such report shall include the date of discovery of such lab, the county where the property containing such lab is located, and a legal description of the property or other description or address of such property sufficient to clearly establish its location. As soon as practicable after such discovery, the appropriate law enforcement agency shall provide the Nebraska State Patrol with a complete list of the chemicals, including methamphetamine, its precursors, solvents, and related reagents, found at or removed from the location of such lab. Upon receipt, the Nebraska State Patrol shall promptly forward a copy of such report and list to the department, the Department of Environmental Quality, the municipality or county where the lab is located, the director of the local public health department serving such municipality or county, and the property owner or owners.

Sec. 3. (1) The local public health department serving the municipality or county where a clandestine drug lab has been discovered shall monitor the rehabilitation of any contaminated property at such location in accordance with standards and procedures established or approved by the department. The department shall adopt and promulgate rules and regulations to establish such standards and procedures no later than July 15, 2007. Such procedures shall include deadlines for completion of the various stages of rehabilitation and proper disposal of the contaminated property.

(2) A local public health department may charge and collect fees from the owner or owners of contaminated property to cover the costs directly associated with monitoring the rehabilitation of such property under this section as provided in rules and regulations of the department. A local public health department may contract with other local public health departments or other appropriate entities to assist in the monitoring of such rehabilitation. Upon the completion of such rehabilitation, the local public health department shall release the property for human habitation and commercial or other use in a timely manner.

(3) The owner or owners of contaminated property shall not permit the human habitation or use of such property until the rehabilitation of such property has been completed and the property has been released for such habitation or use under this section. An owner who knowingly violates this subsection may be subject to a civil penalty not to exceed one thousand dollars. The department shall enforce this subsection.

Sec. 4. Notwithstanding any other provision of law, if leased

property contains a clandestine drug lab, an owner may terminate the lease agreement upon three days' written notice for the purpose of rehabilitating the contaminated property in accordance with the rules and regulations adopted and promulgated pursuant to section 3 of this act.