

CHAPTER 320

HEALTH AND ENVIRONMENT

SENATE BILL 05-217

BY SENATOR(S) Grossman, Bacon, Entz, Evans, Fitz-Gerald, Groff, Hanna, Kester, Shaffer, Tapia, Teck, Tochtrop, Wiens, and Williams;
also REPRESENTATIVE(S) Hodge, Berens, Coleman, Frangas, May M., Merrifield, Ragsdale, and Todd.

AN ACT**CONCERNING THE MITIGATION OF POTENTIAL HEALTH HAZARDS POSED BY PROPERTY CONTAMINATED BY AN ILLEGAL DRUG LABORATORY.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 25-18.5-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-18.5-101. Definitions. As used in this article, unless the context otherwise requires:

(2.5) "GOVERNING BODY" MEANS THE AGENCY OR OFFICE DESIGNATED BY THE CITY COUNCIL OR BOARD OF COUNTY COMMISSIONERS WHERE THE PROPERTY IN QUESTION IS LOCATED. IF THERE IS NO SUCH DESIGNATION, THE GOVERNING BODY SHALL BE THE HEALTH DEPARTMENT, BUILDING DEPARTMENT, AND LAW ENFORCEMENT AGENCY WITH JURISDICTION OVER THE PROPERTY IN QUESTION.

SECTION 2. 25-18.5-103, Colorado Revised Statutes, is amended to read:

25-18.5-103. Discovery of illegal drug laboratory - property owner - clean-up - liability. (1) (a) Upon notification from a peace officer that chemicals, equipment, or supplies indicative of an illegal drug laboratory are located on a property, or when an illegal drug laboratory used to manufacture methamphetamine is otherwise discovered and the property owner has received notice, the owner of ~~such~~ ANY CONTAMINATED property shall meet the cleanup standards for property established by the board in section 25-18.5-102; except that a property owner may, at his or her option AND SUBJECT TO PARAGRAPH (b) OF THIS SUBSECTION (1), elect instead to demolish the contaminated property. If the owner elects to demolish the contaminated

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

property, the governing body OR, IF NONE HAS BEEN DESIGNATED, THE HEALTH DEPARTMENT, BUILDING DEPARTMENT, OR LAW ENFORCEMENT AGENCY with jurisdiction over the area where the property is located may require the owner to fence off the property or otherwise make it inaccessible to persons for occupancy or intrusion.

(b) AN OWNER OF ANY PERSONAL PROPERTY WITHIN A STRUCTURE OR VEHICLE CONTAMINATED BY ILLEGAL DRUG LABORATORY ACTIVITY SHALL HAVE TEN DAYS AFTER THE DATE OF DISCOVERY OF THE LABORATORY OR CONTAMINATION TO REMOVE OR CLEAN HIS OR HER PERSONAL PROPERTY ACCORDING TO BOARD RULES. IF THE PERSONAL PROPERTY OWNER FAILS TO REMOVE THE PERSONAL PROPERTY WITHIN TEN DAYS, THE OWNER OF THE STRUCTURE OR VEHICLE MAY DISPOSE OF THE PERSONAL PROPERTY DURING THE CLEANUP PROCESS WITHOUT LIABILITY TO THE OWNER OF THE PERSONAL PROPERTY FOR SUCH DISPOSITION.

(2) Once a property owner has met the clean-up standards AND DOCUMENTATION REQUIREMENTS established by the board, ~~as evidenced by a test performed by a certified industrial hygienist or an industrial hygienist as defined by section 24-30-1402, C.R.S., and~~ as evidenced by a copy of the results provided to the governing body, or has demolished the property, compliance with subsection (1) of this section shall establish immunity for the property owner from a suit for alleged health-based civil actions brought by any future owner, renter, or other person who occupies such property, or a neighbor of such property, in which the alleged cause of the injury or loss is the existence of the illegal drug laboratory used to manufacture methamphetamine; except that immunity from a civil suit is not established for the person convicted for the production of methamphetamine.

(3) A PERSON WHO REMOVES PERSONAL PROPERTY OR DEBRIS FROM A DRUG LABORATORY SHALL SECURE THE PROPERTY AND DEBRIS TO PREVENT THEFT OR EXPOSING ANOTHER PERSON TO ANY TOXIC OR HAZARDOUS CHEMICALS UNTIL THE PROPERTY AND DEBRIS IS APPROPRIATELY DISPOSED OF OR CLEANED ACCORDING TO BOARD RULES.

SECTION 3. Article 18.5 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

25-18.5-104. Entry into illegal drug laboratories. IF A STRUCTURE OR VEHICLE HAS BEEN DETERMINED TO BE CONTAMINATED OR IF A GOVERNING BODY OR LAW ENFORCEMENT AGENCY ISSUES A NOTICE OF PROBABLE CONTAMINATION, THE OWNER OF THE STRUCTURE OR VEHICLE SHALL NOT PERMIT ANY PERSON TO HAVE ACCESS TO THE STRUCTURE OR VEHICLE UNLESS THE PERSON IS TRAINED OR CERTIFIED TO HANDLE CONTAMINATED PROPERTY PURSUANT TO BOARD RULES OR FEDERAL LAW.

25-18.5-105. Drug laboratories - governing body - authority. (1) AN ILLEGAL DRUG LABORATORY THAT HAS NOT MET THE CLEANUP STANDARDS SET BY THE BOARD IN SECTION 25-18.5-102 SHALL BE DEEMED A PUBLIC HEALTH NUISANCE.

(2) GOVERNING BODIES MAY ENACT ORDINANCES OR RESOLUTIONS TO ENFORCE THIS ARTICLE, INCLUDING, BUT ARE NOT LIMITED TO, PREVENTING UNAUTHORIZED ENTRY INTO CONTAMINATED PROPERTY; REQUIRING CONTAMINATED PROPERTY TO MEET CLEANUP STANDARDS BEFORE IT IS OCCUPIED; NOTIFYING THE PUBLIC OF

CONTAMINATED PROPERTY; COORDINATING SERVICES AND SHARING INFORMATION BETWEEN LAW ENFORCEMENT, BUILDING, PUBLIC HEALTH, AND SOCIAL SERVICES AGENCIES AND OFFICIALS; AND CHARGING REASONABLE INSPECTION AND TESTING FEES.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Became Law: June 9, 2005