



ARIZONA STATE SENATE

Fiftieth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1438

drug lab remediation; investigators

Purpose

Institutes guidelines and penalties for the remediation of property used for clandestine drug laboratories. Establishes a Criminal Investigations Unit (Unit) within the State Board of Technical Registration (Board).

Background

The State Board of Technical Registration provides for the safety, health and welfare of the public by circulating and enforcing standards of qualification for those who are registered or certified or seeking registration and certification (A.R.S. § 32-101).

Current statute states that a tenant or customer may void a rental agreement or agreement if the landlord, owner or manager fails to disclose in writing that methamphetamine, ecstasy or LSD was manufactured in the unit or room. If an owner does not provide notice, he or she is subject to a civil penalty of one thousand dollars and is held liable for any harm caused. If a person knowingly violates an order or notice of removal, issued by a peace officer, that person is guilty of a class 6 felony. A person who knowingly disturbs a notice of removal posted on property is guilty of a class 2 misdemeanor (A.R.S. § 12-1000).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires a notice of removal to be sent to the Department of Transportation five days after the discovery or arrest if the seizure occurs in a mobile home or recreational vehicle.
2. Prohibits the owner from allowing the posted notice of removal to be disturbed.
3. Includes the identification of a commercial unit in the notice of removal.
4. Requires a statement on the notice of removal asserting that:
 - a) a owner of real property who knowingly allows the posting to be removed is subject to a civil penalty the first time and a class 5 felony a second or subsequent time; and
 - b) a person other than the owner who disturbs the notice of removal is subject to a class 5 felony.

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5. Allows a county, city or town to apply to the Technical Registration Fund (Fund) after remediating real property, for fees incurred.
6. Requires the board of the Fund to place a lien on remediated real property to replenish monies.
7. Requires the State Board of Technical Registration (Board) to maintain and make available, documents on remediation.
8. Removes the county health department from maintaining remediation documents.
9. Permits the SBTR upon determining that a posted notice of removal is missing to:
 - a) repost the site;
 - b) impose a civil penalty on the real property owner of no more than two thousand dollars per violation for the first time; or
 - c) criminally prosecute the real property owner for second or subsequent violations.
10. Requires owners when selling remediated property to notify a buyer if LSD was manufactured on the property and failure to disclose may result in criminal prosecution.
11. Exempts a landlord, owner or manager from notifying a prospective tenant or customer occupying a room, that methamphetamine, ecstasy or LSD was manufactured on the property or in the room, and from the civil penalties or liability involved.
12. Requires owners, selling mobile homes or recreational vehicles, within five days after the purchase contract to notify a buyer in writing that methamphetamine, ecstasy or LSD was manufactured on the property and failure to disclose may result in criminal prosecution.
13. Requires owners of mobile homes or recreational vehicles to follow rules adopted by the SBTR regarding removal of the unit.
14. Stipulates that it is a class 4 felony if an owner allows a child or vulnerable adult to enter or occupy remediated property.
15. Stipulates that it is a class 5 felony if a person who is not a peace officer or employee lawfully following his or her duties does any of the following:
 - a) occupies property that is not remediated except for necessary managerial duties or lawful remediation;
 - b) sells items from the contaminated portion of the property, mobile home, recreational vehicle, or unit before remediation;
 - c) disturbs or removes the notice of removal if the person is not the property owner;
 - d) leases or rents the property before the remediation is complete; or
 - e) removes a mobile home or recreational vehicle before authorization from the Board.
16. Stipulates that it is a class 5 felony when an owner:
 - a) knowingly allows a posted sign of removal to be disturbed after a civil penalty has been imposed on a person;

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- b) fails to notify a buyer of remediation on the property or unit; or
 - c) knowingly contracts with a person who is not a Drug Laboratory Site Remediation Firm.
17. Establishes a Unit within the Board which is a law enforcement agency that works with other criminal justice agencies.
18. Allows the Executive Director of the Board (Director) to administer the Unit, investigate any act related to remediation or the practice of the professions or occupations regulated by the Board, and employ investigators who:
- a) are required to be certified by the Arizona Peace Officers Standards and Training Board;
 - b) exercises the law enforcement powers of a peace officer in this state; and
 - c) are not eligible to participate in the public safety personnel retirement system.
19. Requires the Director to adopt guidelines for the conduct of investigations that are similar to the investigative policy and procedural guidelines of the Department of Public Safety for Peace Officers.
20. Prohibits the Director from preempting the authority and jurisdiction of other law enforcement agencies.
21. Requires a person convicted of a violation regarding clandestine drug laboratories to pay an additional ten dollar assessment which is not subject to legislative appropriation and will be deposited in the Fund for:
- a) board expenses associated with the Unit; and
 - b) a county, city or town for remediation purposes.
22. Includes definitions.
23. Makes technical and conforming changes.
24. Becomes effective on the general effective date.

Prepared by Senate Research

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