



ARIZONA STATE SENATE

Fiftieth Legislature, Second Regular Session

FINAL AMENDED FACT SHEET FOR S.B. 1438

drug lab remediation; investigators

Purpose

Establishes guidelines and penalties for the remediation of property used for clandestine drug laboratories.

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. Removes a mobile home and a recreational vehicle from the definition of *real property* as it applies to drug lab remediation.
2. Includes property that is used primarily for commercial services in the definition of *real property* as it relates to drug lab remediation.
3. Prohibits an owner of real property from knowingly allowing the posted notice of removal to be disturbed.
4. Requires a statement on the notice of removal asserting that:
 - a) an 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 for funds from the Technical Registration Fund (Fund) after remediating real property, for fees incurred.
6. Requires the Board to place a lien on remediated real property to replenish monies in the Fund.
7. Requires Board to maintain and make available, documents on remediation.
8. Permits the Board 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.
9. States that the failure 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.
10. States that it is a class 4 felony if an owner allows a child or vulnerable adult to enter or occupy un remediated property.
11. Establishes the following, for a person who is not a peace officer or employee lawfully following his or her duties, as a class 5 felony to knowingly:
 - a) occupy property that is not remediated except for necessary managerial duties or lawful remediation;
 - b) sell items from the contaminated portion of the property, mobile home, recreational vehicle, or unit before remediation;
 - c) disturb or remove the notice of removal if the person is not the property owner;
 - d) lease or rents the property before the remediation is complete; or
 - e) remove a mobile home or recreational vehicle before authorization from the Board.
12. Stipulates that it is a class 5 felony when an owner, knowingly:
 - a) allows a posted sign of removal to be disturbed after a civil penalty has been imposed on a person;
 - b) fails to notify a buyer of remediation on the property or unit; or
 - c) contracts with a person who is not a Drug Laboratory Site Remediation Firm.
13. Requires a person convicted of a violation regarding clandestine drug laboratories to pay an additional \$15 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.
14. Exempts the Board from rulemaking requirements regarding drug lab remediation for one year.
15. Includes definitions.

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16. Makes technical and conforming changes.

17. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

- Clarifies that a person must knowingly commit an act in order to be charged with a Class 5 Felony

Amendments Adopted by House of Representatives

1. Increases penalty assessment.
2. Eliminates the Department of Transportation from notice requirements.
3. Exempts the Board from rulemaking.

Amendments Adopted by Conference Committee

- Removes provisions that established a criminal investigations unit.

Senate Action

GR	2/15/12	DP	6-0-1-0
3 rd read	2/29/12		30-0-0-0-0
Final Read	4/30/12		23-7-0-0

House Action

MAPS	3/14/12	DPA	7-0-0-2
3 rd Read	3/22/12		58-0-2-0
Final Read	5/1/12		53-3-4-0

Signed by the Governor 5/3/12
Chapter 327

Prepared by Senate Research
May 24, 2012
BB/CP/ly