
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 619 Session of
2015

INTRODUCED BY RAFFERTY, YAW, FONTANA, TARTAGLIONE, VULAKOVICH,
MENSCH, BREWSTER, COSTA, SCARNATI, BOSCOLA AND YUDICHAK,
MARCH 13, 2015

REFERRED TO PUBLIC HEALTH AND WELFARE, MARCH 13, 2015

AN ACT

1 Providing for remediation of real property contaminated by
2 methamphetamine production, for decontamination guidelines 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 Methamphetamine Contaminated Property 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 "Applicable authority" or "authority." A county agency or
18 local health department.

19 "Clandestine lab site." Any real property occupied or
20 affected by conditions or chemicals typically associated with

1 the manufacturing of methamphetamine.

2 "Contaminated." In reference to a property, that the
3 property is polluted by precursor substances or waste substances
4 as a result of the use, production, storage or presence of
5 methamphetamine in excess of decontamination guidelines adopted
6 by the Department of Health under this act.

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

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

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

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

22 "Precursor substance." A hazardous material used to
23 manufacture a controlled substance.

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

27 "Real estate professional." A person licensed under the act
28 of February 19, 1980 (P.L.15, No.9), known as the Real Estate
29 Licensing and Registration Act.

30 "Remediation." Proper cleanup, treatment or containment of

1 precursor substance or methamphetamine at or in a clandestine
2 lab site, including demolition or disposal of structures or
3 other property when an assessment so indicates.

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

8 "Waste substance." A hazardous material, chemical or other
9 substance used in, and that remains after, the manufacture of a
10 controlled substance, excluding the controlled substance.

11 Section 3. Department responsibilities.

12 (a) Scientifically based guidelines.--The department shall
13 adopt scientifically based guidelines for the removal and
14 remediation of precursor substances and waste substances
15 affecting property as a result of the use, production, storage
16 or presence of methamphetamine on the property and shall
17 promulgate regulations relating to such guidelines.

18 (b) List of approved contractors.--The department may
19 establish a list of contractors that have been approved by the
20 department to remove and remediate contamination affecting
21 properties according to the adopted guidelines. Any list shall
22 be published on the department's publicly accessible Internet
23 website.

24 Section 4. Restitution.

25 (a) Public entities.--A court may require a person convicted
26 of manufacturing or attempting to manufacture a controlled
27 substance or of an illegal activity involving a precursor
28 substance or waste substance, if the response to the crime
29 involved an emergency response, to pay restitution to all public
30 entities that participated in the response. The restitution

1 ordered may cover the reasonable costs of their participation in
2 the response.

3 (b) Property owner.--In addition to the restitution
4 authorized under subsection (a), a court may require a person
5 convicted of manufacturing or attempting to manufacture a
6 controlled substance or of an illegal activity involving a
7 precursor substance or waste substance to pay restitution to a
8 property owner who incurred removal or remediation costs because
9 of the crime.

10 Section 5. Property-related prohibitions.

11 (a) Notification by law enforcement.--A law enforcement
12 officer who arrests a person at a clandestine lab site shall
13 notify the department and applicable authority of the arrest and
14 the location of the site.

15 (b) Occupation prohibited.--The applicable authority shall
16 order that any property or portion of a property that has been
17 found to be a clandestine lab site and contaminated by precursor
18 substances and waste substances, be prohibited from being
19 occupied or used until it has been assessed and removal and
20 remediation has occurred as provided in the department's
21 guidelines. The removal and remediation shall be accomplished by
22 a contractor who must make the verification required under
23 subsection (d).

24 (c) Applicability.--Unless otherwise provided, any law
25 addressing the enforcement of public health laws, the removal
26 and abatement of public health nuisances and the remedies
27 available to property owners or occupants shall apply to this
28 section.

29 (d) Verification.--

30 (1) Upon the proper removal and remediation of any

1 property used as a clandestine lab site, the contractor shall
2 verify to the property owner and the applicable authority
3 that issued the order under subsection (b) that the work was
4 completed according to the department's guidelines.

5 (2) The contractor shall provide the verification to the
6 property owner and the applicable authority within five days
7 from the completion of the removal and remediation.

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

10 (e) Liability.--

11 (1) If a contractor issues a verification and the
12 department's guidelines were not followed, the contractor
13 shall be liable to the property owner for the additional
14 costs relating to the proper removal and remediation of the
15 contamination according to the guidelines and for reasonable
16 attorney fees for collection of costs by the property owner.

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

20 (f) Motor vehicles.--

21 (1) If the applicable authority determines under
22 subsection (b) that a motor vehicle has been contaminated by
23 precursor substances or waste substances used in the
24 manufacture of methamphetamine or any part of the
25 manufacturing process, or the by-products or degradates of
26 manufacturing methamphetamine, and if the authority is able
27 to obtain the certificate of title for the motor vehicle, the
28 authority shall notify the Department of Transportation and
29 shall forward the certificate of title to the Department of
30 Transportation.

1 (2) The authority shall notify the Department of
2 Transportation when the authority vacates its order under
3 subsection (d).

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

5 (1) The applicable authority issuing an order under
6 subsection (b) shall record with the county recorder of the
7 county where the clandestine lab site is located an affidavit
8 containing the name of the owner, a legal description of the
9 property where the clandestine lab site was located and a map
10 drawn from available information showing the boundary of the
11 property and the location of the contaminated area on the
12 property that is prohibited from being occupied or used that
13 discloses to any potential transferee all of the following:

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

16 (ii) The location, condition and circumstances of
17 the clandestine lab to the full extent known or
18 reasonably ascertainable.

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

21 (2) If an inaccurate drawing or description is recorded
22 as provided by paragraph (1), the authority, on request of
23 the owner or another interested person, shall record a
24 supplemental affidavit with a corrected drawing or
25 description.

26 (3) If the authority vacates its order under subsection
27 (b), the authority shall record an affidavit that contains
28 the recording information of the affidavit filed under this
29 subsection and states that the order is vacated.

30 (h) Disclosure.--The applicable authority shall ensure all

1 affidavits presented under subsection (g) are recorded in a
2 manner that ensures their disclosure in the ordinary course of a
3 title search of the subject property.

4 (i) Maintenance.--Each applicable authority shall maintain
5 information related to property within the applicable
6 authority's jurisdiction that is currently or was previously
7 subject to an order issued under subsection (b). The information
8 maintained must include the name of the owner, the location of
9 the property, the extent of the contamination, the status of the
10 removal and remediation work on the property and whether the
11 order has been vacated. The applicable authority shall make the
12 information available to the public either upon request or by
13 other means.

14 (j) Disclosure.--Before signing an agreement to sell or
15 transfer real property, the seller or transferor must disclose
16 in writing to the buyer or transferee if, to the seller's or
17 transferor's knowledge, methamphetamine production has occurred
18 on the property. If methamphetamine production has occurred on
19 the property, the disclosure shall include a statement to the
20 buyer or transferee informing the buyer or transferee of any of
21 the following:

22 (1) Whether an order has been issued on the property as
23 described under subsection (b).

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

26 (3) If there was no order issued against the property
27 and the seller or transferor is aware that methamphetamine
28 production has occurred on the property, the status of
29 removal and remediation on the property.

30 (k) Liability.--Unless the buyer or transferee and seller or

1 transferor agree to the contrary in writing, a seller or
2 transferor who fails to disclose, to the best of the seller's or
3 transferor's knowledge, prior to the transfer of the property
4 any of the facts required, and who knew or had reason to know of
5 methamphetamine production on the property, is liable to the
6 buyer or transferee for all of the following:

7 (1) Costs relating to the removal and remediation of
8 contamination according to the department's guidelines.

9 (2) Reasonable attorney fees for collection of costs
10 from the seller or transferor. An action under this paragraph
11 must be commenced within six years after the date on which
12 the buyer or transferee closed the purchase or transfer of
13 the property where the methamphetamine production occurred.

14 Section 6. Enforcement.

15 (a) Right of action.--A property owner entitled to
16 restitution under section 4 may file a civil action to enforce
17 compliance with the provisions of this act.

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

20 (c) Court costs and attorney fees.--A court may award a
21 prevailing party in a civil action initiated under subsection

22 (a) court costs and reasonable attorney fees.

23 Section 7. Immunity for real estate professionals.

24 A real estate professional shall be immune from liability
25 under this act for the failure of an owner or lessor of real
26 property to comply with the provisions of this act, unless the
27 real estate professional is also the owner or lessor of the real
28 property or had actual knowledge of the failure to disclose.

29 Section 8. Limitation on applicable authority.

30 The applicable authority may not prohibit an owner or lessor

1 of property from decontaminating the property in accordance with
2 department guidelines.

3 Section 9. Effective date.

4 This act shall take effect in 60 days.