

12-1000. Clandestine drug laboratories; notice; cleanup; residual contamination; civil penalty; immunity; restitution; violation; classification

A. If a peace officer discovers a clandestine drug laboratory or arrests a person for having on any real property chemicals or equipment used in manufacturing methamphetamine, ecstasy or LSD or a derivative of methamphetamine, ecstasy or LSD, the peace officer:

1. At the time of the discovery or arrest, shall deliver a copy of the notice of removal pursuant to subsection B of this section to the owner of the real property if the owner is on the site at the time of delivery, the on-site manager if the manager is on the site at the time of delivery or the on-site drop box if available. In the case of a tenant-owned unit in a space rental mobile home or recreational vehicle park, the officer shall deliver a copy of the notice of removal to the occupant of the unit if the occupant is on site at the time of delivery and to the on-site park landlord if the park landlord is on site at the time of delivery.

2. Within two business days after the discovery or arrest, shall send the notice of removal by certified mail to the owner of the real property and the owner's on-site manager or, in the case of a space rental mobile home or recreational vehicle park, to the owner of the mobile home or recreational vehicle, if applicable, and to the park landlord. These persons are deemed to receive the notice of removal five days after the notice is mailed. The notice shall be sent to the following:

(a) The owner's address on file with the county assessor. The county shall waive any fee or charge for the owner's address information.

(b) The county health department.

(c) The appropriate local fire department.

(d) The state board of technical registration.

3. After a law enforcement or other agency removes the gross contamination on the real property, shall order the removal of all persons from the residually contaminated portion of the real property or dwelling unit, if applicable, or, in the case of a space rental mobile home or recreational vehicle park, from the unit located on the real property.

4. After the peace officer removes all persons pursuant to paragraph 3 of this subsection, shall affix the notice of removal in a conspicuous place on the real property or, in the case of a space rental mobile home or recreational vehicle park, on the unit located on the real property. The notice of removal shall state that it is unlawful for any person other than the owner, landlord or manager to enter the residually contaminated portion of the property until the owner remediates the

residually contaminated portion of the property.

B. The notice of removal shall be in writing and shall contain all of the following:

1. The word "warning" in large bold type at the top and bottom of the notice.
2. A statement that a clandestine drug laboratory was seized or a person was arrested on the real property for having chemicals or equipment used in the manufacturing of methamphetamine, ecstasy or LSD on the real property.
3. The date of the seizure or arrest.
4. The address or location of the real property, including the identification of any dwelling unit, room number, apartment number or vehicle number.
5. The name of the law enforcement agency or other agency that seized the clandestine drug laboratory or made the arrest and the agency's contact telephone number.
6. A statement that hazardous substances, toxic chemicals or other waste products may still be present on the real property or, in the case of a space rental mobile home or recreational vehicle park, in the unit located on the real property.
7. A statement that it is unlawful for any unauthorized person to enter the residually contaminated portion of the real property or, in the case of a space rental mobile home or recreational vehicle park, the unit located on the real property, until the owner, landlord or manager establishes that the portion of the real property noticed as residually contaminated has been remediated by a drug laboratory site remediation firm.
8. A statement that it is a class 6 felony to violate this section.
9. A statement that it is a class 2 misdemeanor to disturb the notice of removal posted on the real property.
10. A statement that the owner of the real property shall remediate the residually contaminated portion of the property in compliance with subsection C of this section.
11. A statement that if an owner fails to provide any notice required by this section, the owner is subject to a civil penalty and a buyer, tenant or customer may void a purchase contract, rental agreement or other agreement.

C. The owner of the real property shall remediate the residually contaminated portion of the real property within twelve months after the date of notice of removal by retaining a registered drug laboratory site remediation firm pursuant to

title 32, chapter 1. If the owner of the real property fails to remediate the property under this subsection, a county or city in this state may remediate the property using a registered remediation firm contracted by any county or city in this state with the cost of remediation passed on to the property owner in the form of a lien on the property title.

D. A drug laboratory site remediation firm that remediates the residually contaminated portion of any real property pursuant to this section shall comply with the requirements established and the best practices and standards for remediation of residual contamination adopted by the state board of technical registration pursuant to title 32, chapter 1. When remediation is complete, the drug laboratory site remediation firm shall remove the posted notice and shall issue a document stating that the residually contaminated portion of the real property has been remediated. Within twenty-four hours after the remediation is complete, the drug laboratory site remediation firm shall deliver the document or send the document by certified mail to each person and entity listed in subsection A, paragraph 2 of this section and the law enforcement agency that issued the notice under that subsection. After the document has been issued, both of the following apply:

1. The owner, landlord or manager of the real property is not required to comply with subsection F of this section.

2. Any person may use, enter, occupy, rent or sell the real property.

E. The county health department shall maintain and make available on request any documents that are received pursuant to subsection D of this section.

F. The following notice requirements apply until the remediation is complete as provided in subsection D of this section:

1. Within five days after a buyer signs a contract to purchase the real property, the owner shall notify the buyer in writing that methamphetamine, ecstasy or LSD was manufactured on the real property or that an arrest was made pursuant this section. The buyer shall acknowledge receipt of the notice. A buyer may cancel the real estate purchase contract within five days after receiving the notice. If the owner does not comply with this paragraph, the buyer may cancel the purchase contract.

2. The landlord shall notify a prospective tenant for a dwelling unit that was the subject of the notice in writing that methamphetamine, ecstasy or LSD was manufactured on the real property or that an arrest was made pursuant to this section. The tenant shall acknowledge receipt of the notice before taking possession of the real property or before signing a rental agreement for the real property. The notice shall be attached to the rental agreement. If the landlord does

not comply with this paragraph, the tenant may void the rental agreement.

3. Before a customer occupies a room that was the subject of the notice, the owner or manager shall notify the customer in writing that methamphetamine, ecstasy or LSD was manufactured in the room or that an arrest was made pursuant to this section. If the owner or manager does not comply with this paragraph, the customer may void the agreement.

4. The owner shall notify a buyer or prospective tenant in writing that methamphetamine, ecstasy or LSD was manufactured in the mobile home or recreational vehicle or that an arrest was made pursuant to this section. The buyer shall acknowledge receipt of the notice before taking possession of the mobile home or recreational vehicle. A buyer may cancel the purchase contract within five days after receiving the notice. The tenant shall acknowledge receipt of the notice before taking possession of the mobile home or recreational vehicle or before signing a rental agreement for the mobile home or recreational vehicle. The notice shall be attached to the rental agreement. If the owner does not comply with this paragraph, the tenant may void the rental agreement.

5. If a mobile home or recreational vehicle in a space rental park contains a clandestine drug laboratory, the landlord, on receipt of a notice pursuant to this section, shall notify the lienholder of record and the owner of record of the unit to remove it from the park within thirty days. If the unit is not removed within thirty days, the landlord may remove or demolish the unit and dispose of it as junk and shall notify the department of transportation of the demolition. A landlord that complies with this subsection is not liable for such action.

G. If an owner fails to provide any notice required by this section, the owner is subject to a civil penalty of one thousand dollars and is liable for any harm resulting from the owner's failure to comply with the requirements of this section.

H. A state or local government and a state or local government's employees or authorized representatives are not responsible parties as prescribed by section 49-283 and are not liable for costs or damages incurred as a result of action taken in compliance with this section. This subsection does not preclude liability for costs or damages that result from gross negligence or intentional misconduct by a state or local government. For the purposes of this subsection, "gross negligence" means reckless, wilful or wanton misconduct.

I. A person who operates a clandestine drug laboratory and who is not the owner of the real property shall pay restitution to the owner of the real property for all costs that the owner incurred to remediate the property.

J. A person who knowingly violates an order or notice of removal that is issued by a peace officer under this section is guilty of a class 6 felony. A person who knowingly disturbs a notice of removal posted on the real property is guilty of a

class 2 misdemeanor.

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