

FIRST REGULAR SESSION

# HOUSE BILL NO. 163

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE NORR.

0556H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 442.606, RSMo, and to enact in lieu thereof six new sections relating to the remediation of properties contaminated by the manufacture of controlled substances, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 442.606, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 192.970, 192.971, 192.972, 192.973, 192.974, and 442.606, to read as follows:

**192.970. 1. The provisions of sections 192.970 to 192.974 shall be known and may be cited as the “Controlled Substances Contaminated Property Cleanup Act”.**

**2. The department of health and senior services shall:**

**(1) Establish and administer a certification program to:**

**(a) Certify contractors who choose to undertake the inspection, sampling, remediation, and removal of contaminated materials from property contaminated through the manufacture of controlled substances; and**

**(b) Require as a condition of certification that the contractors demonstrate that they have qualifications required to undertake inspection, sampling, remediation, and removal of contaminated materials from property contaminated through the manufacture of controlled substances;**

**(2) Have established the certification program and standards for the remediation of properties contaminated through the manufacture of controlled substances by July 1, 2016;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           **(3) Make the certification program rules and remediation standards available to**  
16 **law enforcement officials and the public on the department's website and in hard copy**  
17 **upon request to the department;**

18           **(4) Annually review and update the remediation standards; and**

19           **(5) Develop guidelines for property owners who wish to perform remediation of**  
20 **their property contaminated through the manufacture of controlled substances.**

21           **3. The department shall promulgate rules and regulations to implement the**  
22 **provisions of this section. Such rules shall include, but not be limited to:**

23           **(1) Application forms for certification;**

24           **(2) Continuing education requirements;**

25           **(3) Professional and technical standards for certification;**

26           **(4) Renewals of certification;**

27           **(5) Procedures for revocation and other actions that affect the status of**  
28 **certification; and**

29           **(6) Reasonable fees.**

30           **4. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
31 **created under the authority delegated in this section shall become effective only if it**  
32 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
33 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
34 **vested with the general assembly under chapter 536 to review, to delay the effective date,**  
35 **or to disapprove and annul a rule are subsequently held unconstitutional, then the grant**  
36 **of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be**  
37 **invalid and void.**

**192.971. 1. If a private property owner finds an abandoned laboratory for the**  
2 **manufacture of controlled substances on his or her property and there has been no active**  
3 **law enforcement involvement, the property owner shall notify local law enforcement for**  
4 **proper removal of contaminated material.**

5           **2. If a property owner finds or becomes aware of evidence of a laboratory for the**  
6 **manufacture of controlled substances on his or her property, the property owner shall**  
7 **notify the department of health and senior services, and the department shall inspect the**  
8 **property.**

9           **3. If the department verifies that a laboratory for the manufacture of controlled**  
10 **substances has been found on the property, it shall place the property on the contaminated**  
11 **properties list required under section 192.972.**

192.972. 1. Beginning July 1, 2016, the department of health and senior services shall maintain records concerning properties contaminated through the manufacture of controlled substances.

2. The department shall:

(1) Create a list of properties contaminated through the manufacture of controlled substances;

(2) Place a contaminated property on the contaminated properties list;

(3) Determine that a property has been adequately remediated if:

(a) The inspection, sampling, remediation, and removal of contaminated materials is performed by or under the direction of:

a. An individual who has obtained a certification under the rules established by the department under sections 192.970 to 192.974;

b. An employee of a public agency that has the responsibility of regulatory enforcement, emergency response, the protection of public health and welfare, or the protection of the environment while the employee is acting in the course of such employment; or

c. A property owner who performs the remediation according to the guidelines established by the department for remediation and the department has completed the post-remediation testing; and

(b) The property has met the remediation standards developed by the department;

(4) Post the results of a cleanup on the department's website for ten business days after the department determines that the property has been adequately remediated; and

(5) Remove a property from the list when the department finds that the property has been adequately remediated.

3. The department shall make the list of properties contaminated through the manufacture of controlled substances available to law enforcement officials and to the public on the department's website and in hard copy upon request to the department. The department shall keep hard copies of the information required under this section until the department has removed the property from the list of properties contaminated through the manufacture of controlled substances.

192.973. 1. If a law enforcement officer discovers a laboratory for the manufacture of controlled substances or arrests a person for having equipment used in manufacturing controlled substances on any real property, the law enforcement officer shall at the time of discovery or arrest deliver a copy of the notice of removal required under subsection 4 of this section to:

6           (1) The owner of the real property if the owner is present at the time of the  
7 discovery or arrest;

8           (2) The on-site manager if the on-site manager is present at the time of the  
9 discovery or arrest;

10          (3) An on-site drop box if available; or

11          (4) In the case of a tenant-owner unit in a space rental mobile home or a  
12 recreational vehicle park, the occupant if the occupant is present at the time of the  
13 discovery or arrest or the on-site park landlord if the on-site park landlord is present at  
14 the time of the discovery or arrest.

15          2. (1) If neither the owner nor the on-site manager of a property used in  
16 manufacturing controlled substances is on the property at the time of the discovery of or  
17 arrest regarding a laboratory for the manufacture of controlled substances, the law  
18 enforcement officer shall make every reasonable effort to obtain the necessary contact  
19 information concerning the owner from the tenant, property manager, or neighbors.

20          (2) Within five business days after the discovery of or arrest regarding a laboratory  
21 for the manufacture of controlled substances, the law enforcement officer shall send the  
22 notice of removal required under subsection 4 of this section by certified mail to the owner  
23 of the property and the owner's on-site manager or, in the case of a space rental mobile  
24 home or a recreational vehicle park, to the park landlord.

25          (3) The department of health and senior services shall cooperate with the state  
26 highway patrol to create a computer link that will allow the highway patrol to transfer to  
27 the department information from the National Clandestine Laboratory Seizure Report  
28 required under 28 CFR Part 23 that is relevant to the notice of removal required under  
29 subsection 4 of this section.

30          3. (1) At the time a law enforcement officer removes the gross contamination from  
31 property used as a laboratory for the manufacture of controlled substances, the law  
32 enforcement officer shall order the removal of all persons from the residually contaminated  
33 portion of the property or dwelling unit or, in the case of a space rental mobile home or a  
34 recreational vehicle park, from the unit located on the property.

35          (2) After the law enforcement officer removes all persons under subdivision (1) of  
36 this subsection, the law enforcement officer shall affix the notice of removal required under  
37 subsection 4 of this section in a conspicuous place on the property or, in the case of a space  
38 rental mobile home or a recreational vehicle park, on the unit located on the property.

39          4. The notice of removal under this section shall be in writing and shall contain all  
40 of the following:

- 41           (1) The word “WARNING” in large bold type at the top and the bottom of the  
42 notice;
- 43           (2) The date of the seizure and removal;
- 44           (3) The address or location of the property including the identification of any  
45 dwelling unit, room number, apartment number, or vehicle number;
- 46           (4) The name of the law enforcement agency that seized the laboratory for the  
47 manufacture of controlled substances and the agency’s contact telephone number;
- 48           (5) A list of telephone numbers and contact information for all local and state  
49 agencies involved in the process of remediation;
- 50           (6) The contact telephone numbers for local and state agencies associated with the  
51 cleanup of laboratories for the manufacture of controlled substances; and
- 52           (7) A statement that:
- 53           (a) A laboratory for the manufacture of controlled substances was discovered on  
54 the property;
- 55           (b) Chemicals, equipment, or both that were used in the manufacture of controlled  
56 substances were seized at the property;
- 57           (c) Hazardous substances, toxic chemicals, or other waste products may still be  
58 present on the property or, in the case of a space rental mobile home or recreational vehicle  
59 park, in the unit located on the property;
- 60           (d) It is unlawful for any unauthorized person to enter a residually contaminated  
61 property or, in the case of a space rental mobile home or recreational vehicle park, the unit  
62 located on the property until the department establishes that the portion of the property  
63 identified as residually contaminated has been properly remediated. As used in this  
64 section, the term “authorized person” means:
- 65           a. An employee of the department of health and senior services;
- 66           b. A law enforcement officer;
- 67           c. The owner of a residually contaminated property; and
- 68           d. A representative of an owner of a residually contaminated property if the  
69 representative has signed a waiver of liability. No employer shall coerce an employee to  
70 sign such a waiver of liability as a condition of employment;
- 71           (e) A violation of the provisions of this section shall be a class B misdemeanor; and
- 72           (f) The owner of the property is responsible for remediating the residually  
73 contaminated portion of the property in compliance with the department’s rules  
74 concerning the cleanup of laboratories for the manufacture of controlled substances.

192.974. 1. After property contaminated through the manufacture of controlled  
2 substances is remediated and the property owner receives official notification from the

3 department of health and senior services, no person including the property owner,  
4 landlord, or real estate agent is required to report or otherwise disclose the past  
5 contamination.

6 2. Unless retention is mandated by federal law, the department shall destroy all  
7 copies of information required to be kept under sections 192.970 to 192.974 that refer to  
8 a specific property location once the property is officially removed from the contaminated  
9 properties list.

442.606. 1. In the event that any parcel of real property to be sold, exchanged or  
2 transferred is or was used as a site for methamphetamine production, the seller or transferor shall  
3 disclose in writing to the buyer or transferee the fact that methamphetamine was produced on the  
4 premises, provided that the seller or transferor had knowledge of such prior methamphetamine  
5 production. The seller or transferor shall disclose any prior knowledge of methamphetamine  
6 production, regardless of whether the persons involved in the production were convicted for such  
7 production.

8 2. A seller or transferor of any parcel of real property shall disclose in writing the fact  
9 that any premises to be sold or transferred either was the place of residence of a person convicted  
10 of any of the following crimes, or was the storage site or laboratory for any of the substances for  
11 which a person was convicted of any of the following crimes, provided that the seller or  
12 transferor knew or should have known of such convictions:

13 (1) Creation of a controlled substance in violation of section 195.420;

14 (2) Possession of ephedrine with intent to manufacture methamphetamine in violation  
15 of section 195.246;

16 (3) Unlawful use of drug paraphernalia with the intent to manufacture methamphetamine  
17 in violation of subsection 2 of section 195.233;

18 (4) Endangering the welfare of a child by any of the means described in subdivision (4)  
19 or (5) of subsection 1 of section 568.045; or

20 (5) Any other crime related to methamphetamine, its salts, optical isomers and salts of  
21 its optical isomers either in chapter 195, or in any other provision of law.

22 3. The provisions of this section regarding disclosure shall not apply to property  
23 that has been properly remediated under sections 192.970 to 192.974.

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