

1 ENGROSSED SENATE  
2 BILL NO. 2241

By: Ballenger of the Senate  
and  
Rousselot of the House

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5  
6 [ public health and safety - creating Clandestine  
7 Drug Laboratories Remediation Act - codification -  
8 effective date ]  
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 2-450 of Title 63, unless there  
14 is created a duplication in numbering, reads as follows:

15 This act shall be known and may be cited as the "Clandestine  
16 Drug Laboratories Remediation Act".

17 SECTION 2. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 2-451 of Title 63, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. If a law enforcement officer discovers a laboratory used for  
21 the production of methamphetamine or arrests a person for having,  
22 within any real property, chemicals or equipment used in  
23 manufacturing methamphetamine, the law enforcement officer shall:  
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1           1. At the time of the discovery or arrest, deliver a copy of  
2 the notice of removal pursuant to subsection B of this section to  
3 the owner of the real property if the owner is on the site at the  
4 time of delivery, the on-site manager if the manager is on the site  
5 at the time of delivery or the on-site drop box if available. In  
6 the case of a tenant-owned unit in a mobile home park or  
7 recreational vehicle park, the officer shall deliver a copy of the  
8 notice of removal to the occupant of the unit if the occupant is on  
9 site at the time of delivery and to the on-site park landlord if the  
10 park landlord is on site at the time of delivery;

11           2. Within two (2) business days after the discovery or arrest,  
12 send the notice of removal by certified mail to the owner of the  
13 real property and the owner's on-site manager or, in the case of a  
14 space rental mobile home or recreational vehicle park, to the owner  
15 of the mobile home or recreational vehicle, if applicable, and to  
16 the park landlord. These persons are deemed to receive the notice  
17 of removal five (5) days after the notice is mailed. The notice  
18 shall be sent to the following:

- 19           a. the owner's address on file with the county assessor.  
20                 The county shall waive any fee or charge for the  
21                 owner's address information,
- 22           b. the county health department, and
- 23           c. the appropriate local fire department;

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1           3. After a law enforcement or other agency removes the gross  
2 contamination on the real property, order the removal of all persons  
3 from the real property or dwelling unit, or, in the case of a mobile  
4 home park or recreational vehicle park, from the unit located on the  
5 real property, until the property is determined not to be  
6 contaminated, or until the owner remediates the property; and

7           4. After removing all persons pursuant to paragraph 3 of this  
8 subsection, affix the notice of removal in a conspicuous place on  
9 the real property or, in the case of a space rental mobile home or  
10 recreational vehicle park, on the unit located on the real property.  
11 The notice of removal shall state that it is unlawful for any person  
12 other than the owner, landlord, manager, or employee of a certified  
13 clandestine drug laboratory remediation contractor to enter the  
14 property or unit until the property is determined not to be  
15 contaminated, or until the owner remediates the property.

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

18           1. The word "warning" in large bold type at the top and bottom  
19 of the notice;

20           2. A statement that a clandestine drug laboratory was seized or  
21 a person was arrested on the real property for having chemicals or  
22 equipment used in the manufacturing of methamphetamine on the real  
23 property;

24           3. The date of the seizure or arrest;

1       4. The address or location of the real property, including the  
2 identification of any dwelling unit, room number, apartment number  
3 or vehicle number;

4       5. The name of the law enforcement agency or other agency that  
5 seized the clandestine drug laboratory or made the arrest and the  
6 agency's contact telephone number;

7       6. A statement that hazardous substances, toxic chemicals or  
8 other waste products may still be present on the real property or,  
9 in the case of a space rental mobile home or recreational vehicle  
10 park, in the unit located on the real property;

11       7. A statement that it is unlawful for any unauthorized person  
12 to enter the real property or, in the case of a space rental mobile  
13 home or recreational vehicle park, the unit located on the real  
14 property, until the owner, landlord or manager establishes that the  
15 property or unit has been determined not to be contaminated or has  
16 been remediated by a certified clandestine drug laboratory  
17 remediation contractor;

18       8. A statement that it is a felony to violate this section;

19       9. A statement that it is a misdemeanor to disturb the notice  
20 of removal posted on the real property;

21       10. A statement that the owner of the real property shall  
22 retain the services of a certified clandestine drug lab remediation  
23 contractor to determine contamination and, if necessary, remediate  
24 the contaminated property; and

1 11. A statement that if an owner fails to provide any notice  
2 required by this section, the owner is subject to a civil penalty  
3 and a buyer may void a purchase contract.

4 C. The owner of the real property shall have the level of  
5 contamination within the property assessed. If, upon completion of  
6 the assessment, it is determined that the level of contamination  
7 within the property:

8 1. Does not exceed the standard established by subsection E of  
9 this section, the posted notice shall be removed and a document  
10 stating that the property has been determined not to be contaminated  
11 shall be issued. Within twenty-four (24) hours, the document shall  
12 be delivered in person or by certified mail to each person and  
13 entity listed in paragraph 2 of subsection A of this section, and to  
14 the law enforcement agency that issued the notice under subsection A  
15 of this section. After the document has been issued, any person may  
16 use, enter, occupy, lease or rent the real property; or

17 2. Does exceed the standard established by subsection E of this  
18 section, the owner of the real property shall either:

- 19 a. demolish the contaminated property, or  
20 b. retain the services of a clandestine drug laboratory  
21 remediation contractor to remediate the contaminated  
22 property.

23 D. The presence of methamphetamine in excess of one-tenth of  
24 one microgram (0.1 mcg) per one hundred square centimeters (100 cm<sup>2</sup>)

1 of surface materials within any property used for the manufacture of  
2 methamphetamine shall constitute contamination requiring  
3 remediation, unless a different standard is adopted by rule by the  
4 Department of Environmental Quality. The Department may promulgate  
5 rules to establish the number and location of surface material  
6 samples to be collected based on the circumstances of the  
7 contamination and acceptable testing methods. Rules promulgated by  
8 the Department under this subsection shall be developed in  
9 consultation with the Oklahoma State Bureau of Narcotics and  
10 Dangerous Drugs Control, the Oklahoma State Bureau of Investigation,  
11 and the State Department of Health.

12 E. The county health department shall maintain and make  
13 available to the public upon request a list of properties identified  
14 pursuant to paragraph 2 of subsection A of this section, along with  
15 any documents concerning the properties that are received pursuant  
16 to subsection C or D of this section.

17 F. The following notice requirements apply to any real  
18 property, dwelling unit within real property, or unit located on  
19 real property that has been the subject of a notice in writing  
20 pursuant to subsection A of this section, until the owner of the  
21 property meets the requirements of subsection D of this section:

22 If a mobile home or recreational vehicle in a space rental park  
23 contains a clandestine drug laboratory, the landlord, on receipt of  
24 a notice pursuant to this section, shall notify the lienholder of

1 record and the owner of record of the unit to remove it from the  
2 park within thirty (30) days. If the unit is not removed within  
3 thirty (30) days, the landlord may remove or demolish the unit and  
4 dispose of it as junk and shall notify the Department of  
5 Transportation of the demolition. A landlord that complies with  
6 this subsection is not liable for such action.

7 G. If an owner fails to provide any notice required by this  
8 section, the owner is subject to a civil penalty of One Thousand  
9 Dollars (\$1,000.00) and is liable for any harm resulting from the  
10 failure of the owner to comply with the requirements of this  
11 section.

12 H. If an owner meets the all requirements of this section, the  
13 owner shall be immune from any suit for alleged health-based civil  
14 actions brought by any future owner, tenant, occupant, or neighbor  
15 of the owner's property, in which the alleged cause of injury or  
16 loss is the prior existence of a clandestine drug laboratory used to  
17 manufacture methamphetamine within the property; provided, however,  
18 an owner convicted of an offense associated with the operation or  
19 ownership of such lab, the materials used to construct or operate  
20 such lab, or the sale, distribution, trafficking, or use of any  
21 controlled substances produced by such lab shall have no immunity  
22 under this subsection.

23 I. A state or local government and a state or local  
24 government's employees or authorized representatives are not

1 responsible parties and are not liable for costs or damages incurred  
2 as a result of action taken in compliance with this section. This  
3 subsection does not preclude liability for costs or damages that  
4 result from gross negligence or intentional misconduct by a state or  
5 local government. For the purposes of this subsection, "gross  
6 negligence" means reckless, willful or wanton misconduct.

7 J. A person convicted of an offense associated with the  
8 operation or ownership of a clandestine drug laboratory used to  
9 manufacture methamphetamine, the materials used to construct or  
10 operate such lab, or the sale, distribution, trafficking, or use of  
11 any controlled substances produced by such lab, and who is not the  
12 owner of the real property in which such lab was operated, shall pay  
13 restitution to the owner of the real property for all costs that the  
14 owner incurred to assess or remediate the property.

15 K. A person who knowingly violates an order or notice of  
16 removal that is issued by a peace officer under this section is  
17 guilty of a felony. A person who knowingly disturbs a notice of  
18 removal posted on the real property is guilty of a misdemeanor.

19 SECTION 3. This act shall become effective November 1, 2010.  
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