

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0798.01 Jennifer Berman x3286

SENATE BILL 12-162

SENATE SPONSORSHIP

Tochtrop,

HOUSE SPONSORSHIP

(None),

Senate Committees
Business, Labor and Technology
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING REMEDIATION PERFORMED ON PROPERTY**
102 **CONTAMINATED BY AN ILLEGAL DRUG LABORATORY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 4 of the bill creates a verification process for remediation of properties contaminated by illegal drug laboratories. A local governing body:

- ! Reviews documentation of a property owner's remediation;
- ! Retests a property to confirm that the property owner's

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

remediation complied with the clean-up standards established by the state board of health;

! Issues a certificate of compliance to a property owner whose remediation meets the clean-up standards; and

! Files an action to abate a public nuisance against a property that the property owner fails to remediate upon receiving notice that prior remediation efforts did not meet the clean-up standards.

Section 2 of the bill imposes a surcharge on persons convicted of methamphetamine-related offenses to fund implementation of the verification process. **Section 5** creates the methamphetamine laboratory clean-up cash fund.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. In Colorado Revised Statutes, 18-19-102, add (3)**

3 as follows:

4 **18-19-102. Definitions. (3) "METHAMPHETAMINE OFFENDER"**

5 MEANS:

6 (a) A PERSON CONVICTED OF AN OFFENSE UNDER SECTION

7 18-18-403.5 (2) (b) OR AN ATTEMPT TO COMMIT SUCH OFFENSE AS

8 PROVIDED BY PART 1 OF ARTICLE 2 OF THIS TITLE; AND

9 (b) A PERSON CONVICTED OF AN OFFENSE UNDER SECTION

10 18-18-405 (1) (a) WHEN THE CONTROLLED SUBSTANCE IS

11 METHAMPHETAMINE.

12 **SECTION 2. In Colorado Revised Statutes, add 18-19-103.7 as**

13 follows:

14 **18-19-103.7. Methamphetamine laboratory clean-up**

15 **surcharge. (1) IN ADDITION TO THE SURCHARGES ESTABLISHED IN**

16 **SECTIONS 18-19-103 AND 18-19-103.5, EACH METHAMPHETAMINE**

17 **OFFENDER WHO IS CONVICTED, OR WHO RECEIVES A DEFERRED SENTENCE**

18 **PURSUANT TO SECTION 18-1.3-102, SHALL PAY A SURCHARGE TO THE**

19 **CLERK OF THE COURT IN THE COUNTY IN WHICH THE CONVICTION OCCURS**

1 OR IN WHICH THE DEFERRED SENTENCE IS ENTERED. THE SURCHARGE IS IN
2 AN AMOUNT DETERMINED BY THE JUDGE, BUT MUST NOT BE LESS THAN
3 FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS.

4 (2) THE CLERK OF THE COURT SHALL DISBURSE THE SURCHARGE
5 REQUIRED BY SUBSECTION (1) OF THIS SECTION AS FOLLOWS:

6 (a) THE CLERK SHALL RETAIN FIVE PERCENT FOR PURPOSES OF
7 ADMINISTERING THE DISBURSAL OF THE SURCHARGE PURSUANT TO THIS
8 SUBSECTION (2).

9 (b) THE CLERK SHALL DISBURSE NINETY-FIVE PERCENT TO THE
10 STATE TREASURER, WHO SHALL CREDIT THE MONEYS TO THE LOCAL
11 GOVERNMENT ASSISTANCE ACCOUNT OF THE METHAMPHETAMINE
12 LABORATORY CLEAN-UP CASH FUND CREATED IN SECTION 25-18.5-103.5,
13 C.R.S.

14 (3) THE SURCHARGE IS MANDATORY, AND THE COURT MAY
15 SUSPEND OR WAIVE THE SURCHARGE ONLY IF IT DETERMINES THAT THE
16 DEFENDANT IS INDIGENT.

17 **SECTION 3.** In Colorado Revised Statutes, **amend** article 18.5
18 of title 25 as follows:

19 **25-18.5-101. Definitions.** As used in this article, unless the
20 context otherwise requires:

21 (1) "Board" means the state board of health in the department of
22 public health and environment.

23 (2) ~~(Deleted by amendment, L. 2009, (SB 09-060), ch. 140, p.~~
24 ~~600, § 1, effective April 20, 2009.) "CERTIFIED INDUSTRIAL HYGIENIST"~~
25 ~~OR "CIH" MEANS AN INDIVIDUAL WHO IS CERTIFIED BY THE AMERICAN~~
26 ~~BOARD OF INDUSTRIAL HYGIENE OR ITS SUCCESSOR.~~

27 (3) "CLEAN-UP STANDARDS" MEANS THE ACCEPTABLE STANDARDS

1 FOR THE REMEDIATION OF AN ILLEGAL DRUG LABORATORY INVOLVING
2 METHAMPHETAMINE, AS ESTABLISHED BY THE BOARD PURSUANT TO
3 SECTION 25-18.5-102.

4 (4) "CONSULTANT" MEANS A CERTIFIED INDUSTRIAL HYGIENIST OR
5 INDUSTRIAL HYGIENIST WHO IS NOT AN EMPLOYEE, AGENT,
6 REPRESENTATIVE, PARTNER, JOINT VENTURE PARTICIPANT, SHAREHOLDER,
7 PARENT, OR SUBSIDIARY COMPANY OF THE CONTRACTOR, AND WHO HAS
8 BEEN CERTIFIED PURSUANT TO SECTION 25-18.5-106.

9 (5) "CONTRACTOR" MEANS ONE OR MORE INDIVIDUALS OR
10 COMMERCIAL ENTITIES:

11 (a) HIRED TO DECONTAMINATE AN ILLEGAL DRUG LABORATORY IN
12 ACCORDANCE WITH THE PROCEDURES ESTABLISHED BY THE BOARD
13 PURSUANT TO SECTION 25-18.5-102; AND

14 (b) CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION
15 25-18.5-106.

16 (6) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF
17 PUBLIC HEALTH AND ENVIRONMENT.

18 ~~(2.5)~~ (7) "Governing body" means the agency or office designated
19 by the city council or board of county commissioners where the property
20 in question is located. If there is no such designation, the governing body
21 shall be the county, district, or municipal public health agency, building
22 department, and law enforcement agency with jurisdiction over the
23 property in question.

24 ~~(2.7)~~ (8) "Illegal drug laboratory" means the areas where
25 controlled substances, as defined by section 18-18-102, C.R.S., have been
26 manufactured, processed, cooked, disposed of, used, or stored and all
27 proximate areas that are likely to be contaminated as a result of such THE

1 manufacturing, processing, cooking, disposal, use, or storing STORAGE.

2 (9) "INDUSTRIAL HYGIENIST" HAS THE SAME MEANING AS SET
3 FORTH IN SECTION 24-30-1402 (2.2), C.R.S.

4 (3) (10) "Property" means anything that may be the subject of
5 ownership, including but not limited to, land, buildings, structures, and
6 vehicles.

7 (4) (11) "Property owner", for the purposes of real property,
8 means the person holding record fee title to real property. "Property
9 owner" also means the person holding the title to a manufactured home.

10 **25-18.5-102. Illegal drug laboratories - rules.** (1) The board
11 shall promulgate health-protective rules that establish procedures for
12 testing and evaluation of contamination and the acceptable standards for
13 the cleanup of illegal drug laboratories involving methamphetamine.
14 PURSUANT TO SECTION 24-4-103, C.R.S., AS NECESSARY TO IMPLEMENT
15 THIS ARTICLE, INCLUDING:

16 (a) PROCEDURES FOR TESTING CONTAMINATION, EVALUATING
17 CONTAMINATION, AND ESTABLISHING THE ACCEPTABLE STANDARDS FOR
18 CLEANUP OF ILLEGAL DRUG LABORATORIES INVOLVING
19 METHAMPHETAMINE;

20 (b) PROCEDURES FOR A TRAINING AND CERTIFICATION PROGRAM
21 FOR INDIVIDUALS AND COMPANIES INVOLVED IN THE ASSESSMENT,
22 DECONTAMINATION, AND SAMPLING OF ILLEGAL DRUG LABORATORIES.
23 THE BOARD SHALL DEFINE "ASSESSMENT", "DECONTAMINATION", AND
24 "SAMPLING" FOR PURPOSES OF THIS ARTICLE. THE BOARD MAY DEVELOP
25 DIFFERENT LEVELS OF TRAINING AND CERTIFICATION REQUIREMENTS
26 BASED ON AN INDIVIDUAL'S OR COMPANY'S PRIOR EXPERIENCE IN THE
27 ASSESSMENT, DECONTAMINATION, AND SAMPLING OF ILLEGAL DRUG

1 LABORATORIES.

2 (c) PROCEDURES FOR THE APPROVAL OF INDIVIDUALS AND
3 COMPANIES THAT PROVIDE TRAINING FOR CONSULTANTS OR CONTRACTORS
4 PERFORMING ASSESSMENT, DECONTAMINATION, OR SAMPLING OF ILLEGAL
5 DRUG LABORATORIES.

6 (d) PROCEDURES FOR CONTRACTORS AND CONSULTANTS TO ISSUE
7 CERTIFICATES OF COMPLIANCE TO PROPERTY OWNERS UPON COMPLETION
8 OF ASSESSMENT, DECONTAMINATION, AND SAMPLING OF ILLEGAL DRUG
9 LABORATORIES TO CERTIFY THAT THE REMEDIATION OF THE PROPERTY
10 MEETS THE CLEAN-UP STANDARDS ESTABLISHED BY THE BOARD PURSUANT
11 TO PARAGRAPH (a) OF THIS SUBSECTION (1).

12 (2) THE BOARD SHALL ESTABLISH FEES FOR THE FOLLOWING:

13 (a) CERTIFICATION OF INDIVIDUALS AND COMPANIES INVOLVED IN
14 THE ASSESSMENT, DECONTAMINATION, AND SAMPLING OF ILLEGAL DRUG
15 LABORATORIES;

16 (b) MONITORING OF INDIVIDUALS AND COMPANIES INVOLVED IN
17 THE ASSESSMENT, DECONTAMINATION, AND SAMPLING OF ILLEGAL DRUG
18 LABORATORIES, IF NECESSARY TO ENSURE COMPLIANCE WITH THIS
19 ARTICLE; AND

20 (c) APPROVAL OF INDIVIDUALS OR COMPANIES INVOLVED IN
21 TRAINING FOR CONSULTANTS OR CONTRACTORS PURSUANT TO PARAGRAPH
22 (c) OF SUBSECTION (1) OF THIS SECTION.

23 (3) THE BOARD SHALL ADOPT RULES FOR DETERMINING
24 ADMINISTRATIVE PENALTIES FOR VIOLATIONS OF THIS ARTICLE, BASED ON
25 THE FACTORS ENUMERATED IN SECTION 25-18.5-107 (2) (g).

26 **25-18.5-103. Discovery of illegal drug laboratory - property**
27 **owner - cleanup - liability. (1) (a) Upon notification from a peace**

1 officer that chemicals, equipment, or supplies indicative of an illegal drug
2 laboratory are located on a property, or when an illegal drug laboratory
3 used to manufacture methamphetamine is otherwise discovered and the
4 property owner has received notice, the owner of any contaminated
5 property shall meet the clean-up standards for property established by the
6 board in section 25-18.5-102; except that a property owner may, at his or
7 her option and subject to paragraph (b) of this subsection (1), elect instead
8 to demolish the contaminated property. If the owner elects to demolish
9 the contaminated property, the governing body or, if none has been
10 designated, the county, district, or municipal public health agency,
11 building department, or law enforcement agency with jurisdiction over
12 the area where the property is located may require the owner to fence off
13 the property or otherwise make it inaccessible to persons for occupancy
14 or intrusion.

15 (b) An owner of any personal property within a structure or
16 vehicle contaminated by illegal drug laboratory activity shall have HAS ten
17 days after the date of discovery of the laboratory or contamination to
18 remove or clean his or her personal property according to board rules. If
19 the personal property owner fails to remove the personal property within
20 ten days, the owner of the structure or vehicle may dispose of the personal
21 property during the clean-up process without liability to the owner of the
22 personal property for such THE disposition.

23 (2) (a) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS
24 SUBSECTION (2), once a property owner has met the clean-up standards
25 and documentation requirements established by the board, as evidenced
26 by a copy of the results provided to the governing body, RECEIVED
27 CERTIFICATES OF COMPLIANCE FROM A CONTRACTOR AND A CONSULTANT,

1 PURSUANT TO SECTION 25-18.5-102 (1) (d), or has demolished the
2 property:

3 (I) compliance with subsection (1) of this section shall establish
4 immunity for the property owner HE OR SHE SHALL FURNISH COPIES OF
5 THE CERTIFICATES OF COMPLIANCE TO THE GOVERNING BODY; AND

6 (II) HE OR SHE IS IMMUNE from a suit BROUGHT BY A CURRENT OR
7 FUTURE OWNER, RENTER, OCCUPANT, OR NEIGHBOR OF THE PROPERTY for
8 alleged health-based civil actions brought by any future owner, renter, or
9 other person who occupies such property, or a neighbor of such property,
10 in which the alleged cause of the injury or loss is the existence of the
11 illegal drug laboratory used to manufacture methamphetamine; except
12 that immunity from a civil suit is not established for the THAT ALLEGE
13 INJURY OR LOSS ARISING FROM THE ILLEGAL DRUG LABORATORY. A
14 PROPERTY OWNER WHO MET THE CLEAN-UP STANDARDS AND
15 DOCUMENTATION REQUIREMENTS OF THIS SECTION AS IT EXISTED BEFORE
16 THE EFFECTIVE DATE OF THIS SUBSECTION (2), AS AMENDED, IS LIKEWISE
17 IMMUNE FROM SUIT.

18 (b) A person convicted for the production MANUFACTURE of
19 methamphetamine OR FOR POSSESSION OF CHEMICALS, SUPPLIES, OR
20 EQUIPMENT WITH INTENT TO MANUFACTURE METHAMPHETAMINE IS NOT
21 IMMUNE FROM SUIT.

22 (3) A person who removes personal property or debris from a drug
23 laboratory shall secure the property and debris to prevent theft or
24 exposing another person to any toxic or hazardous chemicals until the
25 property and debris is appropriately disposed of or cleaned according to
26 board rules.

27 **25-18.5-103.5. Methamphetamine laboratory clean-up cash**

1 **fund - rules.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
2 METHAMPHETAMINE LABORATORY CLEAN-UP CASH FUND, REFERRED TO
3 IN THIS SECTION AS THE "FUND". THE STATE TREASURER SHALL CREDIT
4 MONEYS COLLECTED PURSUANT TO THIS ARTICLE TO THE FUND. THE
5 MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE
6 GENERAL ASSEMBLY TO THE BOARD FOR THE DIRECT AND INDIRECT COSTS
7 ASSOCIATED WITH IMPLEMENTING THIS ARTICLE. THE STATE TREASURER
8 MAY INVEST ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE
9 OF THIS ARTICLE AS PROVIDED BY LAW. THE STATE TREASURER SHALL
10 CREDIT ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND
11 DEPOSIT OF MONEYS IN THE FUND TO THE FUND. ANY UNEXPENDED AND
12 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY
13 FISCAL YEAR REMAIN IN THE FUND AND ARE NOT CREDITED OR
14 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

15 (2) GOVERNING BODIES MAY APPLY TO THE BOARD FOR
16 REIMBURSEMENT FROM THE LOCAL GOVERNMENT ASSISTANCE ACCOUNT
17 OF THE FUND, WHICH IS HEREBY CREATED, FOR COSTS INCURRED BY THE
18 GOVERNING BODIES FOR METHAMPHETAMINE LABORATORY CLEAN-UP
19 EFFORTS THAT FALL OUTSIDE OF THIS ARTICLE. THE BOARD SHALL
20 PROMULGATE RULES FOR DETERMINING ELIGIBLE ACTIVITIES UNDERTAKEN
21 BY GOVERNING BODIES AND PROCEDURES FOR REVIEWING APPLICATIONS
22 AND REIMBURSING GOVERNING BODIES.

23 **25-18.5-104. Entry into illegal drug laboratories.** (1) If a
24 structure or vehicle has been determined to be contaminated or if a
25 governing body or law enforcement agency issues a notice of probable
26 contamination, the owner of the structure or vehicle shall not permit any
27 person to have access to the structure or vehicle unless:

1 (a) The person is trained or certified to handle contaminated
2 property pursuant to board rules or federal law; OR

3 (b) UNTIL THE OWNER HAS RECEIVED CERTIFICATES OF
4 COMPLIANCE PURSUANT TO SECTION 25-18.5-102 (1) (d).

5 **25-18.5-105. Drug laboratories - governing body - authority.**

6 (1) ~~An~~ GOVERNING BODIES MAY DEEM AN illegal drug laboratory that has
7 not met the clean-up standards set by the board in section 25-18.5-102
8 shall be deemed a public health nuisance.

9 (2) Governing bodies may enact ordinances or resolutions to
10 enforce this article, including ~~but not limited to,~~ preventing unauthorized
11 entry into contaminated property; requiring contaminated property to meet
12 clean-up standards before it is occupied; notifying the public of
13 contaminated property; AND coordinating services and sharing
14 information between law enforcement, building, public health, and social
15 services agencies and officials. ~~and charging reasonable inspection and~~
16 testing fees.

17 **25-18.5-106. Powers and duties of department.** (1) THE
18 DEPARTMENT SHALL IMPLEMENT, COORDINATE, AND OVERSEE THE RULES
19 PROMULGATED BY THE BOARD PURSUANT TO THIS ARTICLE, INCLUDING:

20 (a) THE CERTIFICATION OF INDIVIDUALS AND COMPANIES
21 INVOLVED IN THE ASSESSMENT, DECONTAMINATION, OR SAMPLING OF
22 ILLEGAL DRUG LABORATORIES, AS THE BOARD HAS DEFINED
23 "ASSESSMENT", "DECONTAMINATION", AND "SAMPLING" PURSUANT TO
24 SECTION 25-18.5-102.

25 (b) THE APPROVAL OF INDIVIDUALS AND COMPANIES THAT
26 PROVIDE TRAINING FOR CONSULTANTS AND CONTRACTORS WHO PERFORM
27 ASSESSMENT, DECONTAMINATION, OR SAMPLING OF ILLEGAL DRUG

1 LABORATORIES.

2 **25-18.5-107. Enforcement.** (1) AN INDIVIDUAL OR A COMPANY
3 THAT VIOLATES ANY OF THE RULES PROMULGATED BY THE BOARD
4 PURSUANT TO SECTION 25-18.5-102 IS SUBJECT TO AN ADMINISTRATIVE
5 PENALTY NOT TO EXCEED FIFTEEN THOUSAND DOLLARS PER DAY PER
6 VIOLATION UNTIL THE VIOLATION IS CORRECTED.

7 (2) (a) WHENEVER THE DEPARTMENT HAS REASON TO BELIEVE
8 THAT AN INDIVIDUAL OR A COMPANY HAS VIOLATED ANY OF THE RULES
9 PROMULGATED BY THE BOARD PURSUANT TO SECTION 25-18.5-102, THE
10 DEPARTMENT SHALL NOTIFY THE INDIVIDUAL OR COMPANY. THE
11 DEPARTMENT SHALL SPECIFY IN THE NOTICE THE RULE ALLEGED TO HAVE
12 BEEN VIOLATED AND THE FACTS ALLEGED TO CONSTITUTE THE VIOLATION.

13 (b) THE DEPARTMENT SHALL EITHER:

14 (I) SEND THE NOTICE BY CERTIFIED OR REGISTERED MAIL, RETURN
15 RECEIPT REQUESTED, TO THE ALLEGED VIOLATOR'S LAST-KNOWN
16 ADDRESS; OR

17 (II) PERSONALLY SERVE THE NOTICE UPON THE ALLEGED VIOLATOR
18 OR THE ALLEGED VIOLATOR'S AGENT.

19 (c) THE ALLEGED VIOLATOR HAS THIRTY DAYS FOLLOWING
20 RECEIPT OF THE NOTICE TO SUBMIT A WRITTEN RESPONSE CONTAINING
21 DATA, VIEWS, AND ARGUMENTS CONCERNING THE ALLEGED VIOLATION
22 AND POTENTIAL CORRECTIVE ACTIONS.

23 (d) WITHIN FIFTEEN DAYS AFTER RECEIVING NOTICE OF AN
24 ALLEGED VIOLATION, THE ALLEGED VIOLATOR MAY REQUEST AN
25 INFORMAL CONFERENCE WITH DEPARTMENT PERSONNEL TO DISCUSS THE
26 NOTICE. THE DEPARTMENT SHALL HOLD THE INFORMAL CONFERENCE
27 WITHIN THE THIRTY-DAY PERIOD ALLOWED FOR A WRITTEN RESPONSE, AS

1 SET FORTH IN PARAGRAPH (c) OF THIS SUBSECTION (2).

2 (e) AFTER CONSIDERATION OF ANY WRITTEN RESPONSE AND
3 INFORMAL CONFERENCE, THE DEPARTMENT SHALL ISSUE A LETTER, WITHIN
4 THIRTY DAYS AFTER THE DATE OF THE INFORMAL CONFERENCE OR
5 WRITTEN RESPONSE, WHICHEVER IS LATER, AFFIRMING OR DISMISSING THE
6 VIOLATION. IF THE DEPARTMENT AFFIRMS THE VIOLATION, THE
7 DEPARTMENT SHALL ISSUE AN ADMINISTRATIVE ORDER WITHIN ONE
8 HUNDRED EIGHTY DAYS AFTER THE TIME FOR A WRITTEN RESPONSE HAS
9 EXPIRED. THE ADMINISTRATIVE ORDER MUST INCLUDE ANY REMAINING
10 CORRECTIVE ACTIONS THAT THE VIOLATOR SHALL TAKE AND ANY
11 ADMINISTRATIVE PENALTY THAT THE DEPARTMENT DETERMINES IS
12 APPROPRIATE.

13 (f) THE DEPARTMENT SHALL SERVE AN ADMINISTRATIVE ORDER
14 ISSUED PURSUANT TO THIS SECTION UPON THE INDIVIDUAL OR COMPANY
15 THAT IS THE SUBJECT OF THE ORDER BY PERSONAL SERVICE OR BY
16 REGISTERED MAIL, RETURN RECEIPT REQUESTED, AT THE INDIVIDUAL'S OR
17 COMPANY'S LAST-KNOWN ADDRESS. AN ORDER MAY BE PROHIBITORY OR
18 MANDATORY IN EFFECT. THE ORDER IS EFFECTIVE IMMEDIATELY UPON
19 ISSUANCE, UNLESS OTHERWISE PROVIDED IN THE ORDER.

20 (g) IN DETERMINING THE AMOUNT OF AN ADMINISTRATIVE
21 PENALTY, THE DEPARTMENT SHALL CONSIDER THE FOLLOWING FACTORS:

22 (I) THE SERIOUSNESS OF THE VIOLATION;

23 (II) WHETHER THE VIOLATION WAS INTENTIONAL, RECKLESS, OR
24 NEGLIGENT;

25 (III) ANY IMPACT ON, OR THREAT TO, THE PUBLIC HEALTH OR
26 ENVIRONMENT AS A RESULT OF THE VIOLATION;

27 (IV) THE VIOLATOR'S DEGREE OF RECALCITRANCE, IF ANY;

1 (V) WHETHER THE VIOLATOR HAS HAD ANY PRIOR VIOLATIONS
2 AND, IF SO, THE NATURE AND SEVERITY OF ANY PRIOR VIOLATION OR
3 VIOLATIONS;

4 (VI) THE ECONOMIC BENEFIT THE VIOLATOR RECEIVED AS A
5 RESULT OF THE VIOLATION;

6 (VII) WHETHER THE VIOLATOR VOLUNTARILY, TIMELY, AND
7 COMPLETELY DISCLOSED THE VIOLATION BEFORE THE DEPARTMENT
8 DISCOVERED IT;

9 (VIII) WHETHER THE VIOLATOR FULLY AND PROMPTLY
10 COOPERATED WITH THE DEPARTMENT FOLLOWING DISCLOSURE OR
11 DISCOVERY OF THE VIOLATION; AND

12 (IX) ANY OTHER RELEVANT AGGRAVATING OR MITIGATING
13 CIRCUMSTANCES.

14 (3) WHENEVER THE DEPARTMENT DETERMINES THAT AN
15 INDIVIDUAL OR A COMPANY HAS BEEN GROSSLY NONCOMPLIANT WITH THE
16 RULES PROMULGATED BY THE BOARD PURSUANT TO SECTION 25-18.5-102,
17 THE DEPARTMENT MAY:

18 (a) SUSPEND OR REVOKE THE INDIVIDUAL'S OR COMPANY'S
19 CERTIFICATION FOR THE ASSESSMENT, DECONTAMINATION, OR SAMPLING
20 OF ILLEGAL DRUG LABORATORIES, AS THE BOARD HAS DEFINED
21 "ASSESSMENT", "DECONTAMINATION", AND "SAMPLING" PURSUANT TO
22 SECTION 25-18.5-102; OR

23 (b) SUSPEND OR REVOKE THE APPROVAL OF AN INDIVIDUAL OR A
24 COMPANY THAT PROVIDES TRAINING FOR CONSULTANTS OR CONTRACTORS
25 PERFORMING ASSESSMENT, DECONTAMINATION, OR SAMPLING OF ILLEGAL
26 DRUG LABORATORIES.

27 **25-18.5-108. Judicial review.** THE DEPARTMENT'S DECISIONS ARE

1 SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106, C.R.S.

2 **SECTION 4.** In Colorado Revised Statutes, 38-35.7-103, **amend**

3 (2) (c) and (4) as follows:

4 **38-35.7-103. Disclosure - methamphetamine laboratory.**

5 (2) (c) If the seller receives the notice referred to in paragraph (b) of this
6 subsection (2) or if the seller receives the notice referred to in paragraph
7 (a) of this subsection (2) and does not elect to have the property retested
8 pursuant to paragraph (b) of this subsection (2), then an illegal drug
9 laboratory used to manufacture methamphetamine shall be deemed to
10 have been discovered, and the owner shall be deemed to have received
11 notice pursuant to section 25-18.5-103 (1) (a), C.R.S. Nothing in this
12 section shall prohibit PROHIBITS a buyer from purchasing the property and
13 assuming liability pursuant to section 25-18.5-103, C.R.S., if, on the date
14 of closing, the buyer provides notice to the department of public health
15 and environment of the purchase and assumption of liability and if the
16 remediation required by section 25-18.5-103, C.R.S., is completed within
17 ninety days after the date of closing.

18 (4) If the seller ~~became~~ BECOMES aware that the property was
19 once used for the production of methamphetamine and HE OR SHE
20 REMIEDIATES the property ~~was remediated~~ in accordance with the
21 standards established pursuant to section 25-18.5-102, C.R.S., and
22 evidence of such remediation was received by the applicable governing
23 body in RECEIVES CERTIFICATES OF compliance ~~with the documentation~~
24 requirements established pursuant to section ~~25-18.5-102~~ 25-18.5-103,
25 C.R.S., then:

26 (a) The seller ~~shall~~ IS not be required to disclose that the property
27 was used as a methamphetamine laboratory to a buyer; and

1 **(b) The property shall be removed from IS NO LONGER ELIGIBLE**
2 **FOR INCLUSION IN any government-sponsored informational service listing**
3 **properties that have been used for the production of methamphetamine.**

4 **SECTION 5. Applicability.** The provisions of this act apply to
5 **offenses committed on or after the effective date of this act.**

6 **SECTION 6. Safety clause.** The general assembly hereby finds,
7 **determines, and declares that this act is necessary for the immediate**
8 **preservation of the public peace, health, and safety.**