

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 12-0798.01 Jennifer Berman x3286

SENATE BILL 12-162

SENATE SPONSORSHIP

Tochtrop,

HOUSE SPONSORSHIP

Peniston,

Senate Committees

Business, Labor and Technology
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING REMEDIATION PERFORMED ON PROPERTY**
102 **CONTAMINATED BY AN ILLEGAL DRUG LABORATORY, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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;

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.

SENATE
3rd Reading Unamended
May 2, 2012

SENATE
Amended 2nd Reading
May 1, 2012

- ! Retests a property to confirm that the property owner's 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**

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

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

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

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

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

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

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

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

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

1 (3) "CLEAN-UP STANDARDS" MEANS THE ACCEPTABLE STANDARDS
2 FOR THE REMEDIATION OF AN ILLEGAL DRUG LABORATORY INVOLVING
3 METHAMPHETAMINE, AS ESTABLISHED BY THE BOARD PURSUANT TO
4 SECTION 25-18.5-102.

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

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

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

15 (b) CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION
16 25-18.5-106.

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

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

25 ~~(2.7)~~ (8) "Illegal drug laboratory" means the areas where
26 controlled substances, as defined by section 18-18-102, C.R.S., have been
27 manufactured, processed, cooked, disposed of, used, or stored and all

1 proximate areas that are likely to be contaminated as a result of such THE
2 manufacturing, processing, cooking, disposal, use, or storing STORAGE.

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

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

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

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

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

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

1 ASSESSMENT, DECONTAMINATION, AND SAMPLING OF ILLEGAL DRUG
2 LABORATORIES.

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

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

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

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

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

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

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

27 **25-18.5-103. Discovery of illegal drug laboratory - property**

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

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

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

1 CERTIFICATES OF COMPLIANCE FROM A CONTRACTOR AND A CONSULTANT,
2 PURSUANT TO SECTION 25-18.5-102 (1) (d), or has demolished the
3 property:

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

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

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

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

1 **25-18.5-103.5. Methamphetamine laboratory clean-up cash**
2 **fund - rules.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
3 METHAMPHETAMINE LABORATORY CLEAN-UP CASH FUND, REFERRED TO
4 IN THIS SECTION AS THE "FUND". THE STATE TREASURER SHALL CREDIT
5 MONEYS COLLECTED PURSUANT TO THIS ARTICLE TO THE FUND. THE
6 MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE
7 GENERAL ASSEMBLY TO THE BOARD FOR THE DIRECT AND INDIRECT COSTS
8 ASSOCIATED WITH IMPLEMENTING THIS ARTICLE. THE STATE TREASURER
9 MAY INVEST ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE
10 OF THIS ARTICLE AS PROVIDED BY LAW. THE STATE TREASURER SHALL
11 CREDIT ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND
12 DEPOSIT OF MONEYS IN THE FUND TO THE FUND. ANY UNEXPENDED AND
13 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY
14 FISCAL YEAR REMAIN IN THE FUND AND ARE NOT CREDITED OR
15 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

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

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

1 person to have access to the structure or vehicle unless:

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

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

6 **25-18.5-105. Drug laboratories - governing body - authority.**

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

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

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

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

26 (b) THE APPROVAL OF INDIVIDUALS AND COMPANIES THAT
27 PROVIDE TRAINING FOR CONSULTANTS AND CONTRACTORS WHO PERFORM

1 ASSESSMENT, DECONTAMINATION, OR SAMPLING OF ILLEGAL DRUG
2 LABORATORIES.

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

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

14 (b) THE DEPARTMENT SHALL EITHER:

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

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

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

24 (d) WITHIN FIFTEEN DAYS AFTER RECEIVING NOTICE OF AN
25 ALLEGED VIOLATION, THE ALLEGED VIOLATOR MAY REQUEST AN
26 INFORMAL CONFERENCE WITH DEPARTMENT PERSONNEL TO DISCUSS THE
27 NOTICE. THE DEPARTMENT SHALL HOLD THE INFORMAL CONFERENCE

1 WITHIN THE THIRTY-DAY PERIOD ALLOWED FOR A WRITTEN RESPONSE, AS
2 SET FORTH IN PARAGRAPH (c) OF THIS SUBSECTION (2).

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

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

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

23 (I) THE SERIOUSNESS OF THE VIOLATION;

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

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

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

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

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

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

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

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

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

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

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

1 **25-18.5-108. Judicial review.** THE DEPARTMENT'S DECISIONS ARE
2 SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106, C.R.S.

3 **SECTION 4.** In Colorado Revised Statutes, 38-35.7-103, **amend**
4 (2) (c) and (4) as follows:

5 **38-35.7-103. Disclosure - methamphetamine laboratory.**

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

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

27 (a) The seller shall IS not be required to disclose that the property

1 was used as a methamphetamine laboratory to a buyer; and

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

5 **SECTION 5. Appropriation.** (1) In addition to any other
6 appropriation, there is hereby appropriated, out of any moneys in the
7 methamphetamine laboratory clean-up cash fund created in section
8 25-18.5-103.5 (1), Colorado Revised Statutes, not otherwise appropriated,
9 to the department of public health and environment, for the fiscal year
10 beginning July 1, 2012, the sum of \$210,920 and 1.2 FTE, or so much
11 thereof as may be necessary, to be allocated for the implementation of this
12 act as follows:

13 (a) \$91,802 and 1.2 FTE for the hazardous waste control program,
14 personal services;

15 (b) \$103,976 for the hazardous waste control program, operating
16 expenses; and

17 (c) \$15,142 for the hazardous materials and waste management
18 division, purchase of legal services.

19 (2) In addition to any other appropriation, there is hereby
20 appropriated to the department of law, for the fiscal year beginning July
21 1, 2012, the sum of \$15,142 and 0.1 FTE, or so much thereof as may be
22 necessary, for the provision of legal services for the department of public
23 health and environment related to the implementation of this act. Said
24 sum is from reappropriated funds received from the department of public
25 health and environment out of the appropriation made in paragraph (c) of
26 subsection (1) of this section.

27 **SECTION 6. Applicability.** The provisions of this act apply to

1 offenses committed on or after the effective date of this act.

2 **SECTION 7. Safety clause.** The general assembly hereby finds,

3 determines, and declares that this act is necessary for the immediate

4 preservation of the public peace, health, and safety.