

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 711

Introduced by Watermeier, 1.

Read first time January 08, 2014

Committee:

A BILL

1 FOR AN ACT relating to public health and welfare; to amend sections
2 71-2433 and 71-2434, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to clandestine
4 drug labs; to provide for a hearing before the Department
5 of Health and Human Services for the property owner; to
6 harmonize provisions; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-2433, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-2433 (1) A property owner with knowledge of a
4 clandestine drug lab on his or her property shall report such
5 knowledge and location as soon as practicable to the local law
6 enforcement agency or to the Nebraska State Patrol. A law enforcement
7 agency that discovers a clandestine drug lab in the State of Nebraska
8 shall report the location of such lab to the Nebraska State Patrol
9 within thirty days after making such discovery. Such report shall
10 include the date of discovery of such lab, the county where the
11 property containing such lab is located, and a legal description of
12 the property or other description or address of such property
13 sufficient to clearly establish its location. As soon as practicable
14 after such discovery, the appropriate law enforcement agency shall
15 provide the Nebraska State Patrol with a complete list of the
16 chemicals, including methamphetamine, its precursors, solvents, and
17 related reagents, found at or removed from the location of such lab.
18 Upon receipt, the Nebraska State Patrol shall promptly forward a copy
19 of such report and list to the department, the Department of
20 Environmental Quality, the municipality or county where the lab is
21 located, the director of the local public health department serving
22 such municipality or county, and the property owner or owners.

23 (2) It shall be prima facie evidence of contamination of
24 the property if a clandestine drug lab has been reported under
25 subsection (1) of this section.

1 (3) The owner or owners of the property may request an
2 administrative hearing pursuant to the Administrative Procedure Act
3 before the department to dispute a mistake of fact. A mistake of fact
4 is:

5 (a) An error in the report as to the ownership of the
6 property;

7 (b) An error in the determination that the property was
8 the site of a clandestine drug lab; or

9 (c) An error in the determination that the property needs
10 rehabilitation.

11 (4) The owner or owners of the property may send a
12 written request for a hearing to the department. The request must be
13 postmarked within fifteen calendar days of the date of the report. If
14 the request is not postmarked within fifteen calendar days of the
15 date of the report, or the request is not based on a mistake of fact,
16 the department shall deny the request. The hearing shall be held
17 within fifteen calendar days of the date of the receipt of the
18 hearing request. The department shall notify the requesting party of
19 the hearing results within fifteen calendar days of the hearing.

20 (5) The owner or owners of contaminated property shall
21 not permit the human habitation or use of such property until the
22 rehabilitation of such property has been completed and the property
23 has been released for such habitation or use under this section or
24 section 71-2434. An owner who knowingly violates this subsection may
25 be subject to a civil penalty not to exceed one thousand dollars.

1 Sec. 2. Section 71-2434, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-2434 (1) The local public health department serving
4 the municipality or county where a clandestine drug lab has been
5 discovered shall monitor the rehabilitation of any contaminated
6 property at such location in accordance with standards and procedures
7 established or approved by the department. The department shall adopt
8 and promulgate rules and regulations to establish such standards and
9 procedures. ~~no later than July 15, 2007.~~ Such procedures shall
10 include deadlines for completion of the various stages of
11 rehabilitation and proper disposal of the contaminated property.

12 (2) A local public health department may charge and
13 collect fees from the owner or owners of contaminated property to
14 cover the costs directly associated with monitoring the
15 rehabilitation of such property under this section as provided in
16 rules and regulations of the department. A local public health
17 department may contract with other local public health departments or
18 other appropriate entities to assist in the monitoring of such
19 rehabilitation. Upon the completion of such rehabilitation, the local
20 public health department shall release the property for human
21 habitation and commercial or other use in a timely manner.

22 ~~(3) The owner or owners of contaminated property shall~~
23 ~~not permit the human habitation or use of such property until the~~
24 ~~rehabilitation of such property has been completed and the property~~
25 ~~has been released for such habitation or use under this section. An~~

1 ~~owner who knowingly violates this subsection may be subject to a~~
2 ~~civil penalty not to exceed one thousand dollars. The department~~
3 ~~shall enforce this subsection.~~

4 Sec. 3. Original sections 71-2433 and 71-2434, Reissue
5 Revised Statutes of Nebraska, are repealed.