

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 11, 2012  
Date

Committee on Business, Labor and Technology.

After consideration on the merits, the Committee recommends the following:

SB12-162 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 18-19-102, **add** (3)  
4 as follows:

5 **18-19-102. Definitions.** (3) "METHAMPHETAMINE OFFENDER"  
6 MEANS:

7 (a) A PERSON CONVICTED OF AN OFFENSE UNDER SECTION  
8 18-18-403.5 (2) (b) OR AN ATTEMPT TO COMMIT SUCH OFFENSE AS  
9 PROVIDED BY PART 1 OF ARTICLE 2 OF THIS TITLE; AND

10 (b) A PERSON CONVICTED OF AN OFFENSE UNDER SECTION  
11 18-18-405 (1) (a) WHEN THE CONTROLLED SUBSTANCE IS  
12 METHAMPHETAMINE.

13 **SECTION 2.** In Colorado Revised Statutes, **add** 18-19-103.7 as  
14 follows:

15 **18-19-103.7. Methamphetamine laboratory clean-up**  
16 **surcharge.** (1) IN ADDITION TO THE SURCHARGES ESTABLISHED IN  
17 SECTIONS 18-19-103 AND 18-19-103.5, EACH METHAMPHETAMINE  
18 OFFENDER WHO IS CONVICTED, OR WHO RECEIVES A DEFERRED SENTENCE  
19 PURSUANT TO SECTION 18-1.3-102, SHALL PAY A SURCHARGE TO THE  
20 CLERK OF THE COURT IN THE COUNTY IN WHICH THE CONVICTION OCCURS  
21 OR IN WHICH THE DEFERRED SENTENCE IS ENTERED. THE SURCHARGE IS IN  
22 AN AMOUNT DETERMINED BY THE JUDGE, BUT MUST NOT BE LESS THAN  
23 FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS.

24 (2) THE CLERK OF THE COURT SHALL DISBURSE THE SURCHARGE

1 REQUIRED BY SUBSECTION (1) OF THIS SECTION AS FOLLOWS:  
2 (a) THE CLERK SHALL RETAIN FIVE PERCENT FOR PURPOSES OF  
3 ADMINISTERING THE DISBURSAL OF THE SURCHARGE PURSUANT TO THIS  
4 SUBSECTION (2).  
5 (b) THE CLERK SHALL DISBURSE NINETY-FIVE PERCENT TO THE  
6 STATE TREASURER, WHO SHALL CREDIT THE MONEYS TO THE LOCAL  
7 GOVERNMENT ASSISTANCE ACCOUNT OF THE METHAMPHETAMINE  
8 LABORATORY CLEAN-UP CASH FUND CREATED IN SECTION 25-18.5-103.5,  
9 C.R.S.  
10 (3) THE SURCHARGE IS MANDATORY, AND THE COURT MAY  
11 SUSPEND OR WAIVE THE SURCHARGE ONLY IF IT DETERMINES THAT THE  
12 DEFENDANT IS INDIGENT.  
13 **SECTION 3.** In Colorado Revised Statutes, **amend** article 18.5  
14 of title 25 as follows:  
15 **25-18.5-101. Definitions.** As used in this article, unless the  
16 context otherwise requires:  
17 (1) "Board" means the state board of health in the department of  
18 public health and environment.  
19 (2) ~~(Deleted by amendment, L. 2009, (SB 09-060), ch. 140, p.~~  
20 ~~600, § 1, effective April 20, 2009.)~~ "CERTIFIED INDUSTRIAL HYGIENIST"  
21 OR "CIH" MEANS AN INDIVIDUAL WHO IS CERTIFIED BY THE AMERICAN  
22 BOARD OF INDUSTRIAL HYGIENE OR ITS SUCCESSOR.  
23 (3) "CLEAN-UP STANDARDS" MEANS THE ACCEPTABLE STANDARDS  
24 FOR THE REMEDIATION OF AN ILLEGAL DRUG LABORATORY INVOLVING  
25 METHAMPHETAMINE, AS ESTABLISHED BY THE BOARD PURSUANT TO  
26 SECTION 25-18.5-102.  
27 (4) "CONSULTANT" MEANS A CERTIFIED INDUSTRIAL HYGIENIST OR  
28 INDUSTRIAL HYGIENIST WHO IS NOT AN EMPLOYEE, AGENT,  
29 REPRESENTATIVE, PARTNER, JOINT VENTURE PARTICIPANT, SHAREHOLDER,  
30 PARENT, OR SUBSIDIARY COMPANY OF THE CONTRACTOR, AND WHO HAS  
31 BEEN CERTIFIED PURSUANT TO SECTION 25-18.5-106.  
32 (5) "CONTRACTOR" MEANS ONE OR MORE INDIVIDUALS OR  
33 COMMERCIAL ENTITIES:  
34 (a) HIRED TO DECONTAMINATE AN ILLEGAL DRUG LABORATORY IN  
35 ACCORDANCE WITH THE PROCEDURES ESTABLISHED BY THE BOARD  
36 PURSUANT TO SECTION 25-18.5-102; AND  
37 (b) CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION  
38 25-18.5-106.  
39 (6) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF  
40 PUBLIC HEALTH AND ENVIRONMENT.  
41 ~~(2.5)~~ (7) "Governing body" means the agency or office designated

1 by the city council or board of county commissioners where the property  
2 in question is located. If there is no such designation, the governing body  
3 shall be the county, district, or municipal public health agency, building  
4 department, and law enforcement agency with jurisdiction over the  
5 property in question.

6 ~~(2.7)~~ (8) "Illegal drug laboratory" means the areas where  
7 controlled substances, as defined by section 18-18-102, C.R.S., have been  
8 manufactured, processed, cooked, disposed of, used, or stored and all  
9 proximate areas that are likely to be contaminated as a result of ~~such~~ THE  
10 manufacturing, processing, cooking, disposal, use, or ~~storing~~ STORAGE.

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

13 ~~(3)~~ (10) "Property" means anything that may be the subject of  
14 ownership, including ~~but not limited to~~, land, buildings, structures, and  
15 vehicles.

16 ~~(4)~~ (11) "Property owner", for the purposes of real property,  
17 means the person holding record fee title to real property. "Property  
18 owner" also means the person holding ~~the~~ title to a manufactured home.

19 **25-18.5-102. Illegal drug laboratories - rules.** (1) The board  
20 shall promulgate ~~health-protective rules that establish procedures for~~  
21 ~~testing and evaluation of contamination and the acceptable standards for~~  
22 ~~the cleanup of illegal drug laboratories involving methamphetamine.~~  
23 PURSUANT TO SECTION 24-4-103, C.R.S., AS NECESSARY TO IMPLEMENT  
24 THIS ARTICLE, INCLUDING:

25 (a) PROCEDURES FOR TESTING CONTAMINATION, EVALUATING  
26 CONTAMINATION, AND ESTABLISHING THE ACCEPTABLE STANDARDS FOR  
27 CLEANUP OF ILLEGAL DRUG LABORATORIES INVOLVING  
28 METHAMPHETAMINE;

29 (b) PROCEDURES FOR A TRAINING AND CERTIFICATION PROGRAM  
30 FOR INDIVIDUALS AND COMPANIES INVOLVED IN THE ASSESSMENT,  
31 DECONTAMINATION, AND SAMPLING OF ILLEGAL DRUG LABORATORIES.  
32 THE BOARD SHALL DEFINE "ASSESSMENT", "DECONTAMINATION", AND  
33 "SAMPLING" FOR PURPOSES OF THIS ARTICLE. THE BOARD MAY DEVELOP  
34 DIFFERENT LEVELS OF TRAINING AND CERTIFICATION REQUIREMENTS  
35 BASED ON AN INDIVIDUAL'S OR COMPANY'S PRIOR EXPERIENCE IN THE  
36 ASSESSMENT, DECONTAMINATION, AND SAMPLING OF ILLEGAL DRUG  
37 LABORATORIES.

38 (c) PROCEDURES FOR THE APPROVAL OF INDIVIDUALS AND  
39 COMPANIES THAT PROVIDE TRAINING FOR CONSULTANTS OR CONTRACTORS  
40 PERFORMING ASSESSMENT, DECONTAMINATION, OR SAMPLING OF ILLEGAL  
41 DRUG LABORATORIES.

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

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

8 (a) CERTIFICATION OF INDIVIDUALS AND COMPANIES INVOLVED IN  
9 THE ASSESSMENT, DECONTAMINATION, AND SAMPLING OF ILLEGAL DRUG  
10 LABORATORIES;

11 (b) MONITORING OF INDIVIDUALS AND COMPANIES INVOLVED IN  
12 THE ASSESSMENT, DECONTAMINATION, AND SAMPLING OF ILLEGAL DRUG  
13 LABORATORIES, IF NECESSARY TO ENSURE COMPLIANCE WITH THIS  
14 ARTICLE; AND

15 (c) APPROVAL OF INDIVIDUALS OR COMPANIES INVOLVED IN  
16 TRAINING FOR CONSULTANTS OR CONTRACTORS PURSUANT TO PARAGRAPH  
17 (c) OF SUBSECTION (1) OF THIS SECTION.

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

21 **25-18.5-103. Discovery of illegal drug laboratory - property**  
22 **owner - cleanup - liability.** (1) (a) Upon notification from a peace  
23 officer that chemicals, equipment, or supplies indicative of an illegal drug  
24 laboratory are located on a property, or when an illegal drug laboratory  
25 used to manufacture methamphetamine is otherwise discovered and the  
26 property owner has received notice, the owner of any contaminated  
27 property shall meet the clean-up standards for property established by the  
28 board in section 25-18.5-102; except that a property owner may, at his or  
29 her option and subject to paragraph (b) of this subsection (1), elect instead  
30 to demolish the contaminated property. If the owner elects to demolish  
31 the contaminated property, the governing body or, if none has been  
32 designated, the county, district, or municipal public health agency,  
33 building department, or law enforcement agency with jurisdiction over  
34 the area where the property is located may require the owner to fence off  
35 the property or otherwise make it inaccessible to persons for occupancy  
36 or intrusion.

37 (b) An owner of any personal property within a structure or  
38 vehicle contaminated by illegal drug laboratory activity ~~shall have~~ HAS ten  
39 days after the date of discovery of the laboratory or contamination to  
40 remove or clean his or her personal property according to board rules. If  
41 the personal property owner fails to remove the personal property within

1 ten days, the owner of the structure or vehicle may dispose of the personal  
2 property during the clean-up process without liability to the owner of the  
3 personal property for ~~such~~ THE disposition.

4 (2) (a) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS  
5 SUBSECTION (2), once a property owner has ~~met the clean-up standards~~  
6 ~~and documentation requirements established by the board, as evidenced~~  
7 ~~by a copy of the results provided to the governing body,~~ RECEIVED  
8 CERTIFICATES OF COMPLIANCE FROM A CONTRACTOR AND A CONSULTANT,  
9 PURSUANT TO SECTION 25-18.5-102 (1) (d), or has demolished the  
10 property:

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

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

26 (b) A person convicted for the ~~production~~ MANUFACTURE of  
27 methamphetamine OR FOR POSSESSION OF CHEMICALS, SUPPLIES, OR  
28 EQUIPMENT WITH INTENT TO MANUFACTURE METHAMPHETAMINE IS NOT  
29 IMMUNE FROM SUIT.

30 (3) A person who removes personal property or debris from a drug  
31 laboratory shall secure the property and debris to prevent theft or  
32 exposing another person to any toxic or hazardous chemicals until the  
33 property and debris is appropriately disposed of or cleaned according to  
34 board rules.

35 **25-18.5-103.5. Methamphetamine laboratory clean-up cash**  
36 **fund - rules.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE  
37 METHAMPHETAMINE LABORATORY CLEAN-UP CASH FUND, REFERRED TO  
38 IN THIS SECTION AS THE "FUND". THE STATE TREASURER SHALL CREDIT  
39 MONEYS COLLECTED PURSUANT TO THIS ARTICLE TO THE FUND. THE  
40 MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE  
41 GENERAL ASSEMBLY TO THE BOARD FOR THE DIRECT AND INDIRECT COSTS

1 ASSOCIATED WITH IMPLEMENTING THIS ARTICLE. THE STATE TREASURER  
2 MAY INVEST ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE  
3 OF THIS ARTICLE AS PROVIDED BY LAW. THE STATE TREASURER SHALL  
4 CREDIT ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND  
5 DEPOSIT OF MONEYS IN THE FUND TO THE FUND. ANY UNEXPENDED AND  
6 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY  
7 FISCAL YEAR REMAIN IN THE FUND AND ARE NOT CREDITED OR  
8 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

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

17 **25-18.5-104. Entry into illegal drug laboratories.** (1) If a  
18 structure or vehicle has been determined to be contaminated or if a  
19 governing body or law enforcement agency issues a notice of probable  
20 contamination, the owner of the structure or vehicle shall not permit any  
21 person to have access to the structure or vehicle unless:

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

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

26 **25-18.5-105. Drug laboratories - governing body - authority.**  
27 (1) ~~An~~ GOVERNING BODIES MAY DEEM AN illegal drug laboratory that has  
28 not met the clean-up standards set by the board in section 25-18.5-102  
29 ~~shall be deemed~~ a public health nuisance.

30 (2) Governing bodies may enact ordinances or resolutions to  
31 enforce this article, including ~~but not limited to~~, preventing unauthorized  
32 entry into contaminated property; requiring contaminated property to meet  
33 clean-up standards before it is occupied; notifying the public of  
34 contaminated property; AND coordinating services and sharing  
35 information between law enforcement, building, public health, and social  
36 services agencies and officials. ~~and charging reasonable inspection and  
37 testing fees.~~

38 **25-18.5-106. Powers and duties of department.** (1) THE  
39 DEPARTMENT SHALL IMPLEMENT, COORDINATE, AND OVERSEE THE RULES  
40 PROMULGATED BY THE BOARD PURSUANT TO THIS ARTICLE, INCLUDING:

41 (a) THE CERTIFICATION OF INDIVIDUALS AND COMPANIES

1 INVOLVED IN THE ASSESSMENT, DECONTAMINATION, OR SAMPLING OF  
2 ILLEGAL DRUG LABORATORIES, AS THE BOARD HAS DEFINED  
3 "ASSESSMENT", "DECONTAMINATION", AND "SAMPLING" PURSUANT TO  
4 SECTION 25-18.5-102.

5 (b) THE APPROVAL OF INDIVIDUALS AND COMPANIES THAT  
6 PROVIDE TRAINING FOR CONSULTANTS AND CONTRACTORS WHO PERFORM  
7 ASSESSMENT, DECONTAMINATION, OR SAMPLING OF ILLEGAL DRUG  
8 LABORATORIES.

9 **25-18.5-107. Enforcement.** (1) AN INDIVIDUAL OR A COMPANY  
10 THAT VIOLATES ANY OF THE RULES PROMULGATED BY THE BOARD  
11 PURSUANT TO SECTION 25-18.5-102 IS SUBJECT TO AN ADMINISTRATIVE  
12 PENALTY NOT TO EXCEED FIFTEEN THOUSAND DOLLARS PER DAY PER  
13 VIOLATION UNTIL THE VIOLATION IS CORRECTED.

14 (2) (a) WHENEVER THE DEPARTMENT HAS REASON TO BELIEVE  
15 THAT AN INDIVIDUAL OR A COMPANY HAS VIOLATED ANY OF THE RULES  
16 PROMULGATED BY THE BOARD PURSUANT TO SECTION 25-18.5-102, THE  
17 DEPARTMENT SHALL NOTIFY THE INDIVIDUAL OR COMPANY. THE  
18 DEPARTMENT SHALL SPECIFY IN THE NOTICE THE RULE ALLEGED TO HAVE  
19 BEEN VIOLATED AND THE FACTS ALLEGED TO CONSTITUTE THE VIOLATION.

20 (b) THE DEPARTMENT SHALL EITHER:

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

24 (II) PERSONALLY SERVE THE NOTICE UPON THE ALLEGED VIOLATOR  
25 OR THE ALLEGED VIOLATOR'S AGENT.

26 (c) THE ALLEGED VIOLATOR HAS THIRTY DAYS FOLLOWING  
27 RECEIPT OF THE NOTICE TO SUBMIT A WRITTEN RESPONSE CONTAINING  
28 DATA, VIEWS, AND ARGUMENTS CONCERNING THE ALLEGED VIOLATION  
29 AND POTENTIAL CORRECTIVE ACTIONS.

30 (d) WITHIN FIFTEEN DAYS AFTER RECEIVING NOTICE OF AN  
31 ALLEGED VIOLATION, THE ALLEGED VIOLATOR MAY REQUEST AN  
32 INFORMAL CONFERENCE WITH DEPARTMENT PERSONNEL TO DISCUSS THE  
33 NOTICE. THE DEPARTMENT SHALL HOLD THE INFORMAL CONFERENCE  
34 WITHIN THE THIRTY-DAY PERIOD ALLOWED FOR A WRITTEN RESPONSE, AS  
35 SET FORTH IN PARAGRAPH (c) OF THIS SUBSECTION (2).

36 (e) AFTER CONSIDERATION OF ANY WRITTEN RESPONSE AND  
37 INFORMAL CONFERENCE, THE DEPARTMENT SHALL ISSUE A LETTER, WITHIN  
38 THIRTY DAYS AFTER THE DATE OF THE INFORMAL CONFERENCE OR  
39 WRITTEN RESPONSE, WHICHEVER IS LATER, AFFIRMING OR DISMISSING THE  
40 VIOLATION. IF THE DEPARTMENT AFFIRMS THE VIOLATION, THE  
41 DEPARTMENT SHALL ISSUE AN ADMINISTRATIVE ORDER WITHIN ONE

1 HUNDRED EIGHTY DAYS AFTER THE TIME FOR A WRITTEN RESPONSE HAS  
2 EXPIRED. THE ADMINISTRATIVE ORDER MUST INCLUDE ANY REMAINING  
3 CORRECTIVE ACTIONS THAT THE VIOLATOR SHALL TAKE AND ANY  
4 ADMINISTRATIVE PENALTY THAT THE DEPARTMENT DETERMINES IS  
5 APPROPRIATE.

6 (f) THE DEPARTMENT SHALL SERVE AN ADMINISTRATIVE ORDER  
7 ISSUED PURSUANT TO THIS SECTION UPON THE INDIVIDUAL OR COMPANY  
8 THAT IS THE SUBJECT OF THE ORDER BY PERSONAL SERVICE OR BY  
9 REGISTERED MAIL, RETURN RECEIPT REQUESTED, AT THE INDIVIDUAL'S OR  
10 COMPANY'S LAST-KNOWN ADDRESS. AN ORDER MAY BE PROHIBITORY OR  
11 MANDATORY IN EFFECT. THE ORDER IS EFFECTIVE IMMEDIATELY UPON  
12 ISSUANCE, UNLESS OTHERWISE PROVIDED IN THE ORDER.

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

15 (I) THE SERIOUSNESS OF THE VIOLATION;

16 (II) WHETHER THE VIOLATION WAS INTENTIONAL, RECKLESS, OR  
17 NEGLIGENT;

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

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

21 (V) WHETHER THE VIOLATOR HAS HAD ANY PRIOR VIOLATIONS  
22 AND, IF SO, THE NATURE AND SEVERITY OF ANY PRIOR VIOLATION OR  
23 VIOLATIONS;

24 (VI) THE ECONOMIC BENEFIT THE VIOLATOR RECEIVED AS A  
25 RESULT OF THE VIOLATION;

26 (VII) WHETHER THE VIOLATOR VOLUNTARILY, TIMELY, AND  
27 COMPLETELY DISCLOSED THE VIOLATION BEFORE THE DEPARTMENT  
28 DISCOVERED IT;

29 (VIII) WHETHER THE VIOLATOR FULLY AND PROMPTLY  
30 COOPERATED WITH THE DEPARTMENT FOLLOWING DISCLOSURE OR  
31 DISCOVERY OF THE VIOLATION; AND

32 (IX) ANY OTHER RELEVANT AGGRAVATING OR MITIGATING  
33 CIRCUMSTANCES.

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

38 (a) SUSPEND OR REVOKE THE INDIVIDUAL'S OR COMPANY'S  
39 CERTIFICATION FOR THE ASSESSMENT, DECONTAMINATION, OR SAMPLING  
40 OF ILLEGAL DRUG LABORATORIES, AS THE BOARD HAS DEFINED  
41 "ASSESSMENT", "DECONTAMINATION", AND "SAMPLING" PURSUANT TO



1 SECTION 25-18.5-102; OR

2 (b) SUSPEND OR REVOKE THE APPROVAL OF AN INDIVIDUAL OR A  
3 COMPANY THAT PROVIDES TRAINING FOR CONSULTANTS OR CONTRACTORS  
4 PERFORMING ASSESSMENT, DECONTAMINATION, OR SAMPLING OF ILLEGAL  
5 DRUG LABORATORIES.

6 **25-18.5-108. Judicial review.** THE DEPARTMENT'S DECISIONS ARE  
7 SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106, C.R.S.

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

10 **38-35.7-103. Disclosure - methamphetamine laboratory.**

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

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

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

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

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

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

- 1 Page 1, strike line 101 and substitute "**CONCERNING REMEDIATION**
- 2 **PERFORMED ON.**"

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