

TITLE 6
ACTIONS IN PARTICULAR CASES

CHAPTER 26
CLANDESTINE DRUG LABORATORY CLEANUP ACT

6-2601. SHORT TITLE. This chapter shall be known and may be cited as the "Clandestine Drug Laboratory Cleanup Act."

[6-2601, added 2005, ch. 215, sec. 1, p. 687.]

6-2602. PURPOSE. The legislature finds that some residential properties are being contaminated with hazardous chemical residues created by the manufacture of clandestine drugs. Innocent members of the public may be harmed when they are exposed to chemical residues if the residential properties are not decontaminated prior to any subsequent rental, sale or use of the properties. The purpose of this chapter is to protect the public health, safety and welfare by authorizing the department of health and welfare to establish a program providing a process and standards for the cleanup of clandestine drug laboratories.

[6-2602, added 2005, ch. 215, sec. 1, p. 687.]

6-2603. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

(1) "Clandestine drug laboratory" means the areas where controlled substances or their immediate precursors, as those terms are defined in section 37-2701, Idaho Code, have been, or were attempted to be, manufactured, processed, cooked, disposed of or stored, and all proximate areas that are likely to be contaminated as a result of such manufacturing, processing, cooking, disposing or storing.

(2) "Department" means the Idaho department of health and welfare.

(3) "Law enforcement agency" means any policing agency of the state or of any political subdivision of the state.

(4) "Residential property" means any building or structure to be primarily occupied by people, either as a dwelling or as a business, including a storage facility, mobile home, manufactured home or recreational vehicle that may be sold, leased or rented for any length of time. "Residential property" does not include any water system, sewer system, land or water outside of a building or structure.

(5) "Residential property owner" means the person holding record title to residential property, as defined in this section.

[6-2603, added 2005, ch. 215, sec. 1, p. 687.]

6-2604. RULES. The department shall promulgate rules establishing the acceptable process and standards for the cleanup of clandestine drug laboratories. The department shall also promulgate rules establishing a program for addition to, and removal from, a list of residential properties that housed a clandestine drug laboratory.

[6-2604, added 2005, ch. 215, sec. 1, p. 687.]

6-2605. LAW ENFORCEMENT AGENCY RESPONSIBILITY. Following the adoption of rules pursuant to section 6-2604, Idaho Code, and using a format established by the department, a law enforcement agency, upon locating chemicals, equipment, supplies or immediate precursors indicative of a clandestine

drug laboratory on a residential property, shall notify the residential property owner and the department.

[6-2605, added 2005, ch. 215, sec. 1, p. 688.]

6-2606. RESIDENTIAL PROPERTY OWNER CLEANUP RESPONSIBILITY. (1) Except as otherwise provided in subsection (2) of this section, and pursuant to rules adopted as provided in this chapter, upon notification to a residential property owner by a law enforcement agency that chemicals, equipment, supplies or immediate precursors indicative of a clandestine drug laboratory have been located on the owner's residential property, the residential property owner shall meet the cleanup standards established by the department. The residential property shall remain vacant from the time the residential property owner is notified, in accordance with rules adopted as provided in this chapter, of the clandestine drug laboratory until such time as the residential property owner has received a certificate issued by the department evidencing that the cleanup standards have been met.

(2) A residential property owner may, at his or her option, elect to demolish the residential property instead of meeting the cleanup standards established by the department.

[6-2606, added 2005, ch. 215, sec. 1, p. 688.]

6-2607. RESIDENTIAL PROPERTY OWNER IMMUNITY. Once a residential property meets the cleanup standards established by the department pursuant to rules adopted as provided in this chapter, the residential property owner and any representative or agent of the residential property owner shall be immune from civil actions involving health claims brought by any future owner, renter or other person who occupies the residential property, and by any neighbor of such residential property, where the alleged cause of injury or loss is based upon the use of the residential property for the purposes of a clandestine drug laboratory, provided however, that such immunity shall not apply to any person alleged to have produced the clandestine drugs.

[6-2607, added 2005, ch. 215, sec. 1, p. 688.]

6-2608. VOLUNTARY COMPLIANCE. Any residential property owner who chooses to voluntarily and successfully accomplish the cleanup standards established by the department pursuant to rules adopted as provided in this chapter, whether or not such owner was notified by a law enforcement agency, shall be afforded the protections from civil actions provided in section 6-2607, Idaho Code.

[6-2608, added 2005, ch. 215, sec. 1, p. 688.]