

1 establishment of requirements for persons
2 authorized to perform clandestine laboratory
3 cleanup; permitting decontamination specialists
4 to request specified documents; providing for
5 specified reports by decontamination
6 specialists; providing for the placement of
7 liens on contaminated property for certain
8 costs and removal of such liens; requiring
9 clandestine laboratory cleanup specialists to
10 repair, replace, or remediate damaged materials
11 on a property such that the property
12 successfully tests less than or equal to
13 specified values; providing for a form to
14 indicate that appropriate cleanup of a
15 clandestine laboratory has occurred; providing
16 for issuance of a certificate of fitness;
17 amending ss. 465.016, 465.023, 856.015,
18 893.135, 944.47, 951.22, and 985.4046, F.S.;
19 conforming cross-references; providing an
20 effective date.

21
22 WHEREAS, methamphetamine use and production is growing
23 throughout the state, and

24 WHEREAS, in places where methamphetamine production has
25 occurred, significant levels of chemical contamination may be
26 found, especially in residential properties when the
27 contamination is not remediated, and

28 WHEREAS, children are susceptible to environmental
29 toxicants via the skin, and the ingestion of residual
30 methamphetamine is considered to be a result of hand-to-mouth
31 activities, and

1 WHEREAS, studies on methamphetamine use during
2 pregnancy showed an increased incidence of intrauterine growth
3 retardation, prematurity, and perinatal complications, and

4 WHEREAS, once clandestine laboratories have been
5 seized, the public may continue to be harmed by the illegal
6 dumping of chemical byproducts and the chemical residues that
7 remain on the property, and

8 WHEREAS, there are no statewide standards for
9 determining when a site of a seized clandestine laboratory has
10 been successfully remediated, and

11 WHEREAS, the Legislature finds that this act is
12 necessary for the immediate preservation of the public health,
13 safety, and welfare and fulfills an important state interest,
14 NOW, THEREFORE,

15
16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsection (4), subsections (5)-(20), and
19 subsection (21) of section 893.02, Florida Statutes, are
20 renumbered as subsection (6), subsections (9)-(24), and
21 subsection (27), respectively, and new subsections (4), (5),
22 (7), (8), (25), and (26) are added to that section, to read:

23 893.02 Definitions.--The following words and phrases
24 as used in this chapter shall have the following meanings,
25 unless the context otherwise requires:

26 (4) "Clandestine laboratory" means any location and
27 proximate areas set aside or used that are likely to be
28 contaminated as a result of manufacturing, processing,
29 cooking, disposing of, or storing, either temporarily or
30 permanently, any substances regulated under this chapter,
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1 except as such activities are authorized in this chapter and
2 chapter 499.

3 (5) "Contaminated" or "contamination" means containing
4 levels of chemicals at or above the levels established under
5 s. 893.123(1) as a result of clandestine laboratory activity.

6 (7) "Decontamination" means the process of reducing
7 the level of a known contaminant to an amount that is deemed
8 safe for human reoccupancy using currently available methods
9 and processes.

10 (8) "Decontamination specialist" means a certified
11 industrial hygienist, local health officer, environmental
12 specialist, or other employee of the department that the
13 department deems qualified to determine if a clandestine
14 laboratory is contaminated.

15 (25) "Property" means anything that may be the subject
16 of ownership, including, but not limited to, land, buildings,
17 and structures.

18 (26) "Property owner" for the purposes of real
19 property, means the person holding record fee title to real
20 property and, for the purposes of a manufactured home, means
21 the person holding the title to the manufactured home.

22 Section 2. Section 893.121, Florida Statutes, is
23 created to read:

24 893.121 Quarantine of property.--

25 (1) The purpose of the quarantine provided for in this
26 section is to prevent exposure of any person to the hazards
27 associated with clandestine laboratory activities and provide
28 protection from unsafe conditions that pose a threat to public
29 health. The department has the authority to quarantine
30 property under s. 381.0011.

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1 (2) Upon seizure of any property or structure where
2 illegal clandestine laboratory activities have occurred, the
3 law enforcement agency seizing the property or structure
4 shall, pursuant to ss. 381.0012(5) and 893.12, quarantine the
5 property or structure until it is deemed safe for human
6 reoccupancy. The property shall remain quarantined until a
7 decontamination specialist determines that the property is not
8 contaminated or the law enforcement agency receives
9 documentation that the property is safe for human reoccupancy.

10 (3) The law enforcement agency that quarantines the
11 property shall be responsible for posting signs indicating:

12 (a) That the property has been quarantined and a
13 clandestine laboratory was seized on or inside the property.

14 (b) The date of the seizure.

15 (c) The name and contact telephone number of the
16 agency posting the quarantine.

17 (d) A statement specifying that hazardous substances,
18 toxic chemicals, or other hazardous waste products may have
19 been present and may remain on or inside the property and that
20 exposure to the substances may be harmful and may pose a
21 threat to public health and the environment.

22 (e) A statement that it is unlawful for an
23 unauthorized person to enter the contaminated property and
24 that the removal of any signs of the quarantine is a
25 second-degree misdemeanor under s. 381.0025(1).

26 (f) A statement explaining how to have the quarantine
27 lifted.

28 (4) The law enforcement agency that quarantines the
29 property shall, to the extent possible, notify all parties
30 having any right, title, or interest in the quarantined
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1 property, including lienholders, within 3 working days from
2 the date of quarantine.

3 (5) Upon quarantine, the law enforcement agency shall
4 immediately notify the local health officer that a property in
5 the officer's area was quarantined. Within 3 working days
6 after receiving the notification, the health officer shall
7 dispatch a decontamination specialist to determine whether the
8 property is contaminated.

9 (6) Any person who has an interest in a property that
10 is quarantined pursuant to this section may file a petition in
11 the circuit court in which the property is located to request
12 that the quarantine of the property be lifted for one of the
13 following reasons:

14 (a) The property was wrongfully quarantined; or

15 (b) The property has been properly decontaminated as
16 specified in s. 893.122(1) or s. 893.123 and is now safe for
17 human reoccupancy, but the law enforcement agency or the
18 department that imposed the quarantine refuses or fails to
19 lift the quarantine.

20 (7) No person shall inhabit the quarantined property,
21 offer such property to the public for temporary or indefinite
22 habitation, or remove any signs or notice of the quarantine.
23 Any person who willfully violates a provision of this
24 subsection commits a second-degree misdemeanor under s.
25 381.0025(1).

26 Section 3. Section 893.122, Florida Statutes, is
27 created to read:

28 893.122 Option of demolition; immunity from liability
29 from health-based civil actions.--

30 (1) Upon notification from a law enforcement agency
31 that clandestine laboratory activities have occurred on a

1 property or when such activity is discovered and the property
2 owner has received notice of a quarantine and documentation
3 that the property is contaminated, the owner of such property
4 shall meet the clandestine laboratory decontamination
5 standards in compliance with s. 893.123 unless the property
6 owner, at the owner's discretion, elects to demolish the
7 contaminated property.

8 (2) A property owner who has met the clandestine
9 laboratory decontamination standards, as evidenced by
10 documentation completed by persons authorized to perform
11 cleanup of properties where clandestine laboratory activities
12 have occurred and as evidenced by a copy of the results that
13 were provided to the law enforcement agency and the department
14 to remove the quarantine, or has demolished the property in
15 compliance with subsection (1), shall have immunity from
16 health-based civil actions brought by any future owner,
17 renter, or other person who occupies such property, or a
18 neighbor of such property, in which the alleged cause of the
19 injury or loss is the existence of the clandestine laboratory.
20 However, a person with a conviction, as defined in s. 944.607,
21 for the manufacture of any substance regulated under this
22 chapter on the property where clandestine laboratory
23 activities occurred shall not have the immunity provided in
24 this subsection.

25 Section 4. Section 893.123, Florida Statutes, is
26 created to read:

27 893.123 Clandestine laboratory decontamination
28 standards.--

29 (1) The department shall adopt rules pursuant to ss.
30 120.536(1) and 120.54 establishing standards for the cleanup
31 and testing of clandestine laboratories. Property contaminated

1 by clandestine laboratory activity is safe for human
2 reoccupancy only if all of the following standards are met
3 with regard to that property:

4 (a) The total level of lead is less than or equal to
5 20 micrograms per cubic meter.

6 (b) The level of methamphetamine on any indoor surface
7 is less than or equal to 0.1 micrograms per 100 square
8 centimeters.

9 (c) The level of mercury is less than or equal to 50
10 nanograms per cubic meter for indoor air.

11 (d) The level of volatile organic compounds, as
12 defined in 40 C.F.R. s. 51.100, is less than or equal to 1
13 part per million for indoor air.

14 (2) The department shall adopt rules pursuant to ss.
15 120.536(1) and 120.54 to establish a certificate of fitness
16 that shall act as appropriate documentation to submit to the
17 law enforcement agency that the property has been properly
18 decontaminated. The certificate of fitness shall:

19 (a) Be issued by a decontamination specialist who
20 determines that the quarantined property is safe for human
21 reoccupancy using the standards specified in subsection (1);
22 or

23 (b) Be issued to the property owner at the completion
24 of decontamination by a person authorized to perform cleanup
25 of clandestine laboratories that have been quarantined.

26 Section 5. Section 893.124, Florida Statutes, is
27 created to read:

28 893.124 Decontamination and clandestine laboratory
29 cleanup specialists.--

30 (1)(a) The department shall compile and maintain a
31 list of decontamination specialists and a list of persons

1 authorized to perform clandestine laboratory cleanup of
2 properties where clandestine laboratory activities have
3 occurred. These lists shall be posted on the department's
4 Internet website.

5 (b) Persons authorized to perform clandestine
6 laboratory cleanup of properties should have knowledge and
7 skill in handling toxic substances, such as certified
8 industrial hygienists. The department shall adopt rules
9 pursuant to ss. 120.536(1) and 120.54 specifying the
10 requirements for persons authorized to perform clandestine
11 laboratory cleanup.

12 (2) In determining whether a clandestine laboratory is
13 contaminated, the decontamination specialist may request
14 copies of any law enforcement reports, forensic chemist
15 reports, and any hazardous waste manifests to evaluate the
16 following:

17 (a) The length of time the property was used as a
18 clandestine laboratory.

19 (b) The extent to which the property was exposed to
20 chemicals used in clandestine laboratory activities.

21 (c) The chemical process that was involved in the
22 clandestine laboratory activities.

23 (d) The chemicals that were removed from the property.

24 (e) The location of the clandestine laboratory
25 activities in relation to the habitable areas of the property.

26 (3) If the decontamination specialist determines that
27 the property is not contaminated, the decontamination
28 specialist shall send a copy of the documentation to the
29 property owner and the local law enforcement agency, remove
30 all quarantine notices posted pursuant to s. 893.121, and
31 prepare a written document that includes the following:

1 (a) Findings and conclusions.

2 (b) The name of the property owner and mailing and
3 street address of the property or the parcel identification of
4 the property, if applicable.

5 (4) If the decontamination specialist determines that
6 the property is contaminated, the decontamination specialist
7 shall:

8 (a) Prepare a written document containing the
9 findings, conclusions, and test results and a statement
10 specifying that the property is contaminated and will remain
11 quarantined until the property is decontaminated pursuant to
12 s. 893.122(1) or s. 893.123.

13 (b) Send a copy of the written document to the
14 property owner within 3 working days along with a list of
15 clandestine laboratory cleanup specialists who have been
16 authorized to perform cleanup by the department and
17 information on how to have the quarantine lifted.

18 (c) Send a copy of the written document to the law
19 enforcement agency within 3 working days from the time of
20 completion of the report.

21 (5)(a) Upon receipt of documentation from the
22 department that a property is contaminated, the law
23 enforcement agency shall, if the property is real property,
24 file a lien on the property with the clerk of the circuit
25 court. The lien shall specify all of the following:

26 1. The name of the agency on whose behalf the lien is
27 imposed.

28 2. The date on which the property was determined to be
29 contaminated.

30 3. The legal description and the assessor's parcel
31 number.

1 4. The record owner of the property.

2 5. The amount of the lien, which shall be the greater
3 of \$200 or the costs incurred by the department to determine
4 if the property is contaminated, including, but not limited
5 to, the cost of inspection by the decontamination specialist
6 and the recording fee.

7 (b) The lien recorded pursuant to this subsection
8 shall have the force, effect, and priority of a judgment lien.
9 The law enforcement agency shall not release the lien until
10 either of the following occurs:

11 1. The property owner satisfies the lien and submits
12 proof, such as a certificate of fitness, that the property has
13 been decontaminated pursuant to s. 893.122(1) or s. 893.123
14 and the law enforcement agency lifts the quarantine; or

15 2. The lien is otherwise released under applicable
16 law.

17 (6) The clandestine laboratory cleanup specialist
18 shall repair, replace, or remediate damaged materials on a
19 property such that, upon the conclusion of the cleanup, the
20 property successfully tests less than or equal to the values
21 specified in s. 893.123(1). The department shall adopt by rule
22 pursuant to ss. 120.536(1) and 120.54 an appropriate form that
23 a clandestine laboratory specialist shall complete and submit
24 to the department as proof that the appropriate cleanup of a
25 clandestine laboratory has occurred. The information in the
26 form shall include, but is not limited to, the:

27 (a) Name of the property owner and legal description
28 of the property.

29 (b) Date the cleanup was completed.

30 (c) Test results, findings, and conclusions.

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1 (d) Method of repair, replacement, or remediation of
2 the property.

3 (e) Name, address, and contact information of the
4 company or individual who performed the cleanup.

5 (f) Documentation that all hazardous substances, toxic
6 chemicals, or other hazardous waste products that may have
7 been present were removed from the property and disposed of
8 properly.

9 (7) Upon receipt of the completed form and all
10 supporting documentation submitted by the clandestine cleanup
11 specialist, the department shall issue a certificate of
12 fitness to the clandestine cleanup specialist. The clandestine
13 cleanup specialist shall submit the certificate of fitness to
14 the property owner and the law enforcement agency as
15 documentation that the property is deemed safe for human
16 reoccupancy.

17 Section 6. Paragraph (s) of subsection (1) of section
18 465.016, Florida Statutes, is amended to read:

19 465.016 Disciplinary actions.--

20 (1) The following acts constitute grounds for denial
21 of a license or disciplinary action, as specified in s.
22 456.072(2):

23 (s) Dispensing any medicinal drug based upon a
24 communication that purports to be a prescription as defined by
25 s. 465.003(14) or s. 893.02~~(20)~~ when the pharmacist knows or
26 has reason to believe that the purported prescription is not
27 based upon a valid practitioner-patient relationship.

28 Section 7. Paragraph (e) of subsection (1) of section
29 465.023, Florida Statutes, is amended to read:

30 465.023 Pharmacy permittee; disciplinary action.--

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1 (1) The department or the board may revoke or suspend
2 the permit of any pharmacy permittee, and may fine, place on
3 probation, or otherwise discipline any pharmacy permittee who
4 has:

5 (e) Dispensed any medicinal drug based upon a
6 communication that purports to be a prescription as defined by
7 s. 465.003(14) or s. 893.02~~(20)~~ when the pharmacist knows or
8 has reason to believe that the purported prescription is not
9 based upon a valid practitioner-patient relationship that
10 includes a documented patient evaluation, including history
11 and a physical examination adequate to establish the diagnosis
12 for which any drug is prescribed and any other requirement
13 established by board rule under chapter 458, chapter 459,
14 chapter 461, chapter 463, chapter 464, or chapter 466.

15 Section 8. Paragraph (c) of subsection (1) of section
16 856.015, Florida Statutes, is amended to read:

17 856.015 Open house parties.--

18 (1) Definitions.--As used in this section:

19 (c) "Drug" means a controlled substance, as that term
20 is defined in ss. 893.02~~(4)~~ and 893.03.

21 Section 9. Subsection (6) of section 893.135, Florida
22 Statutes, is amended to read:

23 893.135 Trafficking; mandatory sentences; suspension
24 or reduction of sentences; conspiracy to engage in
25 trafficking.--

26 (6) A mixture, as defined in s. 893.02~~(14)~~, containing
27 any controlled substance described in this section includes,
28 but is not limited to, a solution or a dosage unit, including
29 but not limited to, a pill or tablet, containing a controlled
30 substance. For the purpose of clarifying legislative intent
31 regarding the weighing of a mixture containing a controlled

1 substance described in this section, the weight of the
2 controlled substance is the total weight of the mixture,
3 including the controlled substance and any other substance in
4 the mixture. If there is more than one mixture containing the
5 same controlled substance, the weight of the controlled
6 substance is calculated by aggregating the total weight of
7 each mixture.

8 Section 10. Paragraph (a) of subsection (1) of section
9 944.47, Florida Statutes, is amended to read:

10 944.47 Introduction, removal, or possession of certain
11 articles unlawful; penalty.--

12 (1)(a) Except through regular channels as authorized
13 by the officer in charge of the correctional institution, it
14 is unlawful to introduce into or upon the grounds of any state
15 correctional institution, or to take or attempt to take or
16 send or attempt to send therefrom, any of the following
17 articles which are hereby declared to be contraband for the
18 purposes of this section, to wit:

19 1. Any written or recorded communication or any
20 currency or coin given or transmitted, or intended to be given
21 or transmitted, to any inmate of any state correctional
22 institution.

23 2. Any article of food or clothing given or
24 transmitted, or intended to be given or transmitted, to any
25 inmate of any state correctional institution.

26 3. Any intoxicating beverage or beverage which causes
27 or may cause an intoxicating effect.

28 4. Any controlled substance as defined in s. 893.02~~(4)~~
29 or any prescription or nonprescription drug having a hypnotic,
30 stimulating, or depressing effect.

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1 5. Any firearm or weapon of any kind or any explosive
2 substance.

3 Section 11. Subsection (1) of section 951.22, Florida
4 Statutes, is amended to read:

5 951.22 County detention facilities; contraband
6 articles.--

7 (1) It is unlawful, except through regular channels as
8 duly authorized by the sheriff or officer in charge, to
9 introduce into or possess upon the grounds of any county
10 detention facility as defined in s. 951.23 or to give to or
11 receive from any inmate of any such facility wherever said
12 inmate is located at the time or to take or to attempt to take
13 or send therefrom any of the following articles which are
14 hereby declared to be contraband for the purposes of this act,
15 to wit: Any written or recorded communication; any currency or
16 coin; any article of food or clothing; any tobacco products as
17 defined in s. 210.25(11); any cigarette as defined in s.
18 210.01(1); any cigar; any intoxicating beverage or beverage
19 which causes or may cause an intoxicating effect; any
20 narcotic, hypnotic, or excitative drug or drug of any kind or
21 nature, including nasal inhalators, sleeping pills,
22 barbiturates, and controlled substances as defined in s.
23 893.02~~(4)~~; any firearm or any instrumentality customarily used
24 or which is intended to be used as a dangerous weapon; and any
25 instrumentality of any nature that may be or is intended to be
26 used as an aid in effecting or attempting to effect an escape
27 from a county facility.

28 Section 12. Paragraph (a) of subsection (1) of section
29 985.4046, Florida Statutes, is amended to read:

30 985.4046 Introduction, removal, or possession of
31 certain articles unlawful; penalty.--

1 (1)(a) Except as authorized through program policy or
2 operating procedure or as authorized by the facility
3 superintendent, program director, or manager, a person may not
4 introduce into or upon the grounds of a juvenile detention
5 facility or commitment program, or take or send, or attempt to
6 take or send, from a juvenile detention facility or commitment
7 program, any of the following articles, which are declared to
8 be contraband under this section:

9 1. Any unauthorized article of food or clothing.

10 2. Any intoxicating beverage or any beverage that
11 causes or may cause an intoxicating effect.

12 3. Any controlled substance, as defined in s.
13 893.02~~(4)~~, or any prescription or nonprescription drug that
14 has a hypnotic, stimulating, or depressing effect.

15 4. Any firearm or weapon of any kind or any explosive
16 substance.

17 Section 13. This act shall take effect July 1, 2006.

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