



Ohio Legislative Service Commission

Bill Analysis

Bill Rowland

Sub. H.B. 33*

128th General Assembly

(As Reported by H. Public Safety & Homeland Security)

Reps. Dyer, Hagan, B. Williams, Boyd, Chandler, Harris, DeBose, Winburn

BILL SUMMARY

- Directs a law enforcement agency to report specified information to the Superintendent of the Bureau of Criminal Identification and Investigation when it discovers an illegal methamphetamine manufacturing laboratory on real property or discovers a laboratory or components in a motor vehicle.
- Requires the Superintendent to establish and maintain on the Attorney General's official web site a database of properties and motor vehicles where illegal laboratories or components were reported.
- Requires the Superintendent to remove real property from the database upon receipt from a property owner of a copy of an affidavit required to be submitted to the property owner under the bill by a contractor hired to conduct the cleanup of the property.
- Requires the Superintendent to develop procedures for the removal of a property from the database if the property was included in the database erroneously or improperly.
- Requires the Attorney General to adopt rules to implement the provisions of the bill governing the duties of the Superintendent of the Bureau of Criminal Identification and Investigation.

* This analysis was prepared before the report of the House Public Safety and Homeland Security Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Authorizes the Director of Health to adopt rules that establish guidelines for the removal of methamphetamine residue from real property on which an illegal methamphetamine manufacturing laboratory has been discovered, and specifies that the rules may be adopted only when a federal agency establishes guidelines for the removal of methamphetamine residue from property.
- Requires rules adopted by the Director to require a contractor responsible for conducting the removal of methamphetamine residue from real property to submit to the owner of the real property a notarized affidavit that attests that methamphetamine residue was removed from the property in accordance with the guidelines.
- Declares that a false statement made on an affidavit is falsification, which is a first degree misdemeanor under existing law.
- Requires the Director of Commerce to revise the property disclosure form required under existing law to require disclosure of information concerning any illegal methamphetamine manufacturing laboratory that has been discovered on real property and inclusion of the property in the database established under the bill.
- Specifies that if real property is removed from the database, a property owner is not required to include any information regarding an illegal methamphetamine laboratory on the disclosure form.
- Requires information regarding the inclusion of a motor vehicle on the illegal methamphetamine manufacturing laboratory database to be recorded on the title of the vehicle when the clerk issues a certificate of title to a law enforcement agency that has seized the vehicle and the clerk is informed by the agency that the vehicle is listed on the database.
- Declares that the bill is to be known as the Methamphetamine Awareness and Notification Act.

CONTENT AND OPERATION

Background

Continuing law requires a law enforcement agency that arrests any person for a violation that is based on the manufacture of methamphetamine or a methamphetamine product, and other specified violations related to the possession of chemicals sufficient to produce methamphetamine or a methamphetamine product, to prepare an annual report that contains specified information related to those arrests and the illegal laboratories. Continuing law directs the agency to submit the report without

information that could identify any person who was arrested to the Superintendent of the Bureau of Criminal Identification and Investigation. The report is considered a statistical report, and nothing in the report or in the information it contains can identify, or enable the identification of, any person who was arrested and whose arrest is included in the information contained in the report. The report includes, in addition to other required content, information on the total number of illegal methamphetamine manufacturing laboratories at which one or more arrests occurred or that the agency discovered in that calendar year, but at which none of the reported arrests occurred. The report is a public record. (R.C. 109.60(C), not in the bill.) Continuing law does not require the report to include the location of laboratories.

Duty to report methamphetamine manufacturing laboratory

On real property

The bill requires any law enforcement agency that discovers an illegal methamphetamine manufacturing laboratory to inform the Superintendent of the Bureau of Criminal Identification and Investigation in writing of the location of the real property on which the laboratory is discovered and provide any other information related to the laboratory or the property that the Superintendent may require. When the laboratory is located in a room of a hotel, motel, or similar establishment, the agency also is to provide the room number or location of the room within that hotel, motel, or establishment. (R.C. 109.5731(B).)

In a motor vehicle

The bill requires any law enforcement agency that discovers an illegal methamphetamine manufacturing laboratory or its components in a motor vehicle to inform the Superintendent of the Bureau of Criminal Identification and Investigation of the vehicle identification number and provide any other information related to the laboratory, components, or motor vehicle that the Superintendent may require. (R.C. 109.5731(C).)

Public database

The bill requires the Superintendent of the Bureau of Criminal Identification and Investigation to establish and maintain, on the Attorney General's official web site, a database of all properties and motor vehicles reported to the Superintendent pursuant to the bill's requirements. The database entry for a motor vehicle is to include the vehicle identification number and for real property, the name of the owner of record, the parcel number in the general tax list of the county, and other information that would cause the property's inclusion in the database to be discovered through a title search. For any laboratory located in the room of a hotel, motel, or similar

establishment, the database entry is to include the room number or the location of the room within the hotel, motel, or establishment. (R.C. 109.5731(D).)

Removal of a property from the public database

The bill requires the Superintendent to remove a property from the database upon the receipt from a property owner of a copy of the affidavit required to be submitted to the property owner by the contractor who conducted the methamphetamine removal. The affidavit is required to attest that methamphetamine residue has been removed from the property in accordance with the rules adopted by the Director of Health under the bill (see "**Rules of the Director of Health for the removal of methamphetamine residue**," below). The Superintendent must not remove a property from the database unless and until the Superintendent has received from the property owner a copy of an affidavit regarding the property or if the property was included in the database erroneously or improperly (see below). The bill authorizes an owner of real property that has been included in the database to submit a copy of the affidavit to the Superintendent and to the Director of Health. (R.C. 109.5731(D) and 3701.181(A).) The bill declares that a false statement made on an affidavit is falsification. Falsification is a criminal offense and is a first degree misdemeanor. (R.C. 2921.13(A)(16) and (F)). The bill also requires the Superintendent to develop procedures for the removal of property from the database if the property was included in the database erroneously or improperly (R.C. 109.5731(E)).

Rules of the Attorney General; date of operation

The bill requires the Attorney General to adopt rules in accordance with the Administrative Procedure Act to implement the provisions of the bill that are applicable to the Superintendent of the Bureau of Identification and Investigation. Further, the bill specifies that the rules adopted by the Attorney General and those provisions of the bill become operative only on the effective date of rules adopted by the Director of Health under the bill (see below). (R.C. 109.5731(F) and (G).)

Rules of the Director of Health for the removal of methamphetamine residue

Under the bill, the Director of Health is authorized to adopt rules in accordance with the Administrative Procedure Act establishing guidelines for the removal of methamphetamine residue from real property on which an illegal methamphetamine laboratory has been discovered when a federal agency establishes guidelines for the removal of methamphetamine residue from real property. The rules must conform with the guidelines established by the federal agency. In addition, the rules must require a contractor responsible for conducting the removal of methamphetamine residue from real property to submit to the owner of the real property a notarized

affidavit that attests that the contractor has removed the methamphetamine residue in compliance with the guidelines that are established in the rules and that conform with the guidelines established by the federal agency. (R.C. 3701.181(B).)

Property disclosure forms

Under current law, the Director of Commerce is required to prescribe a disclosure form to be used by transferors of real property to disclose material matters related to the physical condition of the property to be transferred. The form allows for the disclosure of information regarding the source of water supply to the property, the nature of the sewer system serving the property, the condition of the structure of the property, and the presence of hazardous materials or substances that are within the actual knowledge of the transferor. (R.C. 5302.30.)

The bill requires the Director to revise the disclosure form to require disclosure of information concerning any illegal methamphetamine manufacturing laboratory that has been discovered on the property and inclusion of the property in the database established under the bill. If the property has been removed from the database, the property owner is not required to include any information regarding the illegal methamphetamine manufacturing laboratory on the disclosure form. The Director is required to revise the disclosure form within 30 days of the date on which rules adopted by the Director of Health under the bill take effect (see above). (R.C. 5302.30(D)(3).)

Notation on the title of a motor vehicle included on the database

Under current law, if a motor vehicle was a law enforcement vehicle or taxicab, or if it was in a flood, the clerk of a court of common pleas is required to record that information on the title of the vehicle when the clerk issues a certificate of title for the vehicle, provided that the vehicle was last previously registered in Ohio. The bill requires that when a clerk issues a certificate of title to a law enforcement agency for a motor vehicle that has been seized by the agency and the clerk is informed by the agency that the vehicle is listed on the illegal methamphetamine manufacturing laboratory database established under the bill, the clerk must record that information on the title. (R.C. 4505.08(C).)

Name of the act

The bill specifies that it is to be known as the Methamphetamine Awareness and Notification Act (Section 3).

Definitions

Under the bill, "illegal methamphetamine manufacturing laboratory" has the same meaning as in existing R.C. section 3745.13 (not in the bill). The following are the relevant definitions in continuing law from that section.

"Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine. (R.C. 3745.13(B)(1).)

"Illegal methamphetamine manufacturing laboratory" means any laboratory or other premises that is used for the manufacture or production of methamphetamine in violation of [section 2925.04](#) of the Revised Code, whether or not there has been a prior conviction of that violation. (R.C. 3745.13(B)(2).)

HISTORY

ACTION	DATE
Introduced	02-19-09
Reported, H. Public Safety & Homeland Security	---

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