

REFERENCE TITLE: drug laboratory remediation; transfer

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

## **SB 1062**

Introduced by  
Senator Kavanagh

### AN ACT

AMENDING SECTIONS 12-116.08, 12-990, 12-1000, 32-101, 32-106 AND 32-109, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-112, 32-122.03, 32-122.04 AND 32-131, ARIZONA REVISED STATUTES; AMENDING SECTION 32-141, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.1; AMENDING SECTIONS 49-218 AND 49-927, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO DRUG LABORATORY REMEDIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-116.08, Arizona Revised Statutes, is amended to  
3 read:

4 12-116.08. Assessment for drug offenses

5 In addition to any other penalty prescribed by law, the court shall  
6 order a person who is convicted of a violation of title 13, chapter 34 to pay  
7 an additional assessment of fifteen dollars. This assessment is not subject  
8 to any surcharge. The court shall transmit the monies received pursuant to  
9 this section to the county treasurer. The county treasurer shall transmit  
10 the monies received to the state treasurer. The state treasurer shall  
11 deposit the monies received in the ~~technical registration fund established by~~  
12 ~~section 32-109~~ HAZARDOUS WASTE MANAGEMENT FUND ESTABLISHED BY SECTION 49-927.

13 Sec. 2. Section 12-990, Arizona Revised Statutes, is amended to read:

14 12-990. Definitions

15 In this article, unless the context otherwise requires:

16 1. "Clandestine drug laboratory" means real property on which  
17 methamphetamine, ecstasy or LSD is being manufactured or where a person is  
18 arrested for having on any real property chemicals or equipment used in  
19 manufacturing methamphetamine, ecstasy or LSD. In the case of a space rental  
20 mobile home or recreational vehicle park, clandestine drug laboratory means  
21 the mobile home or recreational vehicle in which methamphetamine, ecstasy or  
22 LSD is being manufactured or where a person is arrested for having in the  
23 mobile home or recreational vehicle chemicals or equipment used in  
24 manufacturing methamphetamine, ecstasy or LSD.

25 2. "Drug laboratory site remediation firm" means a firm that is  
26 certified by the ~~state board of technical registration~~ DEPARTMENT OF  
27 ENVIRONMENT QUALITY pursuant to title ~~32, chapter 1~~ 49 and that performs  
28 remediation of residual contamination from the manufacture of  
29 methamphetamine, ecstasy or LSD or the storage of chemicals or equipment used  
30 in manufacturing methamphetamine, ecstasy or LSD.

31 3. "Ecstasy" has the same meaning prescribed in section 13-3401,  
32 paragraph 6 and includes any of the precursor chemicals, regulated chemicals,  
33 other substances or equipment used in the unlawful manufacture of the  
34 dangerous drug.

35 4. "Gross contamination" means the chemicals, equipment and other  
36 items that are found in a clandestine drug laboratory and that are removed by  
37 a law enforcement agency or other agency.

38 5. "LSD" has the same meaning prescribed in section 13-3401, paragraph  
39 6 and includes any of the precursor chemicals, regulated chemicals, other  
40 substances or equipment used in the unlawful manufacture of the dangerous  
41 drug.

42 6. "Methamphetamine" has the same meaning prescribed in section  
43 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated  
44 chemicals, other substances or equipment used in the unlawful manufacture of  
45 the dangerous drug.

1           7. "Real property" includes the area within a structure and, except in  
2 a mobile home park or a recreational vehicle park, the area that surrounds a  
3 structure and that is within the land boundary or property lines of any of  
4 the following:

5           (a) Property that is used primarily for residential or commercial  
6 purposes.

7           (b) Property that is governed by the Arizona residential landlord and  
8 tenant act as prescribed by title 33, chapter 10.

9           8. "Residually contaminated portion of the real property" means the  
10 structure or unit where gross contamination was removed and the area of any  
11 adjacent structure, unit or land where visible evidence of residual  
12 contamination is observed by a peace officer, including any of the following:

13           (a) If gross contamination is removed from a house, mobile home or  
14 recreational vehicle and the notice of removal is posted for the entire  
15 house, mobile home or recreational vehicle, the entire house, mobile home or  
16 recreational vehicle, not just the room or rooms in which the gross  
17 contamination is found.

18           (b) If gross contamination is removed from a detached shed or garage,  
19 the other structures on the land are not affected and the notice of removal  
20 is posted only for the detached shed or garage, the detached shed or garage  
21 unless visible evidence of residual contamination is found in any of the  
22 other structures.

23           (c) If gross contamination is removed from a hotel, motel room or  
24 apartment unit, or any commercial unit in a multiunit structure, the adjacent  
25 rooms are not affected and the notice of removal is posted only for the  
26 contaminated room or unit, the contaminated room or unit unless visible  
27 evidence of residual contamination is found in an adjacent room or unit.

28           Sec. 3. Section 12-1000, Arizona Revised Statutes, is amended to read:

29           12-1000. Clandestine drug laboratories; notice; cleanup;  
30                           residual contamination; civil penalty; immunity;  
31                           restitution; violation; classification

32           A. If a peace officer discovers a clandestine drug laboratory or  
33 arrests a person for having on any real property chemicals or equipment used  
34 in manufacturing methamphetamine, ecstasy or LSD or a derivative of  
35 methamphetamine, ecstasy or LSD, the peace officer:

36           1. At the time of the discovery or arrest, shall deliver a copy of the  
37 notice of removal pursuant to subsection B of this section to the owner of  
38 the real property if the owner is on the site at the time of delivery, the  
39 on-site manager if the manager is on the site at the time of delivery or the  
40 on-site drop box if available. In the case of a tenant-owned unit in a space  
41 rental mobile home or recreational vehicle park, the officer shall deliver a  
42 copy of the notice of removal to the occupant of the unit if the occupant is  
43 on site at the time of delivery and to the on-site park landlord if the park  
44 landlord is on site at the time of delivery.

1           2. Within two business days after the discovery or arrest, shall send  
2 the notice of removal by certified mail to the owner of the real property and  
3 the owner's on-site manager or, in the case of a space rental mobile home or  
4 recreational vehicle park, to the owner of the mobile home or recreational  
5 vehicle, if applicable, and to the park landlord. These persons are deemed  
6 to receive the notice of removal five days after the notice is mailed. The  
7 notice shall be sent to the following:

8           (a) The owner's address on file with the county assessor. The county  
9 shall waive any fee or charge for the owner's address information.

10           (b) The county health department.

11           (c) The appropriate local fire department.

12           ~~(d) The state board of technical registration.~~

13           (d) THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

14           3. After a law enforcement or other agency removes the gross  
15 contamination on the real property, shall order the removal of all persons  
16 from the residually contaminated portion of the real property or dwelling  
17 unit, if applicable, or, in the case of a space rental mobile home or  
18 recreational vehicle park, from the unit located on the real property.

19           4. After the peace officer removes all persons pursuant to paragraph 3  
20 of this subsection, shall affix the notice of removal in a conspicuous place  
21 on the real property or, in the case of a space rental mobile home or  
22 recreational vehicle park, on the unit located on the real property. The  
23 notice of removal shall state that it is unlawful for any person other than  
24 the owner, landlord or manager to enter the residually contaminated portion  
25 of the property until the owner remediates the residually contaminated  
26 portion of the property. The owner shall not knowingly allow the posted  
27 notice of removal to be disturbed.

28           B. The notice of removal shall be in writing and shall contain all of  
29 the following:

30           1. The word "warning" in large bold type at the top and bottom of the  
31 notice.

32           2. A statement that a clandestine drug laboratory was seized or a  
33 person was arrested on the real property for having chemicals or equipment  
34 used in the manufacturing of methamphetamine, ecstasy or LSD on the real  
35 property.

36           3. The date of the seizure or arrest.

37           4. The address or location of the real property, including the  
38 identification of any dwelling unit, room number, apartment number,  
39 commercial unit or vehicle number.

40           5. The name of the law enforcement agency or other agency that seized  
41 the clandestine drug laboratory or made the arrest and the agency's contact  
42 telephone number.

43           6. A statement that hazardous substances, toxic chemicals or other  
44 waste products may still be present on the real property or, in the case of a

1 space rental mobile home or recreational vehicle park, in the unit located on  
2 the real property.

3 7. A statement that it is unlawful for any unauthorized person to  
4 enter the residually contaminated portion of the real property or, in the  
5 case of a space rental mobile home or recreational vehicle park, the unit  
6 located on the real property, until the owner, landlord or manager  
7 establishes that the portion of the real property noticed as residually  
8 contaminated has been remediated by a drug laboratory site remediation firm.

9 8. A statement that the owner of real property who knowingly allows  
10 the notice of removal posted on the real property to be disturbed is subject  
11 to:

12 (a) A civil penalty the first time the notice of removal posted on the  
13 real property is disturbed.

14 (b) A class 5 felony a second or subsequent time the notice of removal  
15 posted on the real property is disturbed.

16 9. A statement that it is a class 5 felony for a person other than the  
17 owner to disturb the notice of removal posted on the real property.

18 10. A statement that the owner of the real property shall remediate the  
19 residually contaminated portion of the property in compliance with subsection  
20 C of this section.

21 11. A statement that if an owner fails to provide any notice required  
22 by this section, the owner is subject to a civil penalty or criminal  
23 prosecution, or both, and a buyer, tenant or customer may void a purchase  
24 contract, rental agreement or other agreement.

25 C. The owner of the real property shall remediate the residually  
26 contaminated portion of the real property within twelve months after the date  
27 of notice of removal by retaining a ~~registered~~ drug laboratory site  
28 remediation firm **THAT IS CERTIFIED** pursuant to title ~~32 49~~, chapter 1. If  
29 the owner of the real property fails to remediate the property under this  
30 subsection, a county or city in this state may remediate the property using a  
31 registered remediation firm contracted by any county or city in this state  
32 with the cost of remediation passed on to the property owner in the form of a  
33 lien on the property title.

34 ~~D. If a county, city or town remediates real property pursuant to~~  
35 ~~subsection C of this section, the county, city or town may apply to the~~  
36 ~~technical registration fund established by section 32-109 for remediation~~  
37 ~~monies. After the real property is remediated, the board of technical~~  
38 ~~registration shall place a lien on the property with the intent to replenish~~  
39 ~~the monies on the sale of the property.~~

40 ~~E. D.~~ A drug laboratory site remediation firm that remediates the  
41 residually contaminated portion of any real property pursuant to this section  
42 shall comply with the requirements established ~~and the best practices and~~  
43 ~~standards for remediation of residual contamination adopted~~ by the ~~state~~  
44 ~~board of technical registration pursuant to title 32, chapter 1~~ **DEPARTMENT OF**  
45 **ENVIRONMENTAL QUALITY**. When remediation is complete, the drug laboratory

1 site remediation firm shall remove the posted notice and shall issue a  
2 document stating that the residually contaminated portion of the real  
3 property has been remediated. Within twenty-four hours after the remediation  
4 is complete, the drug laboratory site remediation firm shall deliver the  
5 document or send the document by certified mail to each person and entity  
6 listed in subsection A, paragraph 2 of this section and the law enforcement  
7 agency that issued the notice under that subsection. After the document has  
8 been issued, both of the following apply:

9 1. The owner, landlord or manager of the real property is not required  
10 to comply with subsection ~~H~~ G of this section.

11 2. Any person may use, enter, occupy, rent or sell the real property.  
12 ~~F~~ E. The ~~state board of technical registration~~ DEPARTMENT OF  
13 ENVIRONMENTAL QUALITY shall maintain and make available on request any public  
14 documents that are received pursuant to subsection ~~E~~ D of this section.

15 ~~G~~ F. If the ~~state board of technical registration~~ DEPARTMENT OF  
16 ENVIRONMENTAL QUALITY conducts an investigation and determines that the  
17 posted notice of removal is missing, the ~~state board of technical~~  
18 ~~registration~~ DEPARTMENT OF ENVIRONMENTAL QUALITY may repost the site. If the  
19 ~~state board of technical registration~~ DEPARTMENT OF ENVIRONMENTAL QUALITY  
20 determines that this is the first occurrence in which the real property owner  
21 has knowingly allowed the posted notice of removal to be disturbed, the ~~state~~  
22 ~~board of technical registration~~ DEPARTMENT OF ENVIRONMENTAL QUALITY may  
23 impose a civil penalty of not more than two thousand dollars per violation.  
24 If the ~~state board of technical registration~~ DEPARTMENT OF ENVIRONMENTAL  
25 QUALITY conducts subsequent investigations and determines that the posted  
26 notice of removal is missing, the real property owner may be subject to  
27 criminal prosecution pursuant to subsection ~~L~~ K of this section.

28 ~~H~~ G. The following notice requirements apply until the remediation  
29 is complete as provided in subsection ~~E~~ D of this section:

30 1. Within five days after a buyer signs a contract to purchase the  
31 real property, the owner shall notify the buyer in writing that  
32 methamphetamine, ecstasy or LSD was manufactured on the real property or that  
33 an arrest was made pursuant to this section. The buyer shall acknowledge  
34 receipt of the notice. A buyer may cancel the real estate purchase contract  
35 within five days after receiving the notice. An owner who does not comply  
36 with this paragraph is subject to criminal prosecution for failure to  
37 disclose.

38 2. The owner shall notify a buyer in writing within five days after  
39 signing a purchase contract. The notification shall state that  
40 methamphetamine, ecstasy or LSD was manufactured in the mobile home or  
41 recreational vehicle or that an arrest was made pursuant to this section.  
42 The buyer shall acknowledge receipt of the notice before taking possession of  
43 the mobile home or recreational vehicle. A buyer may cancel the purchase  
44 contract within five days after receiving the notice. An owner who does not

1 comply with this paragraph is subject to criminal prosecution for failure to  
2 disclose.

3 3. If a mobile home or recreational vehicle in a space rental park  
4 contains a clandestine drug laboratory, the landlord, on receipt of a notice  
5 pursuant to this section, shall notify the lienholder of record and the owner  
6 of record of the unit to remove it from the park within thirty days pursuant  
7 to rules adopted by the ~~state board of technical registration~~ DEPARTMENT OF  
8 ENVIRONMENTAL QUALITY. If the unit is not removed within thirty days, the  
9 landlord may remove or demolish the unit pursuant to rules adopted by the  
10 ~~state board of technical registration~~ DEPARTMENT OF ENVIRONMENTAL QUALITY and  
11 dispose of it in an authorized manner and shall notify the department of  
12 transportation and the ~~state board of technical registration~~ DEPARTMENT OF  
13 ENVIRONMENTAL QUALITY of the demolition. A landlord that complies with this  
14 subsection is not liable for such action.

15 ~~I-~~ H. A state or local government and a state or local government's  
16 employees or authorized representatives are not responsible parties as  
17 prescribed by section 49-283 and are not liable for costs or damages incurred  
18 as a result of action taken in compliance with this section. This subsection  
19 does not preclude liability for costs or damages that result from gross  
20 negligence or intentional misconduct by a state or local government. For the  
21 purposes of this subsection, "gross negligence" means reckless, wilful or  
22 wanton misconduct.

23 ~~J-~~ I. A person who operates a clandestine drug laboratory and who is  
24 not the owner of the real property shall pay restitution to the owner of the  
25 real property for all costs that the owner incurred to remediate the  
26 property.

27 ~~K-~~ J. A real property owner is guilty of a class 4 felony if the  
28 owner knowingly allows a child or vulnerable adult, as defined in section  
29 13-3623, to enter or occupy the real property.

30 ~~L-~~ K. It is a class 5 felony for a person to knowingly do any of the  
31 following:

32 1. Occupy real property that is not remediated except to perform  
33 necessary managerial duties or lawfully conduct remediation.

34 2. Sell any items from the residually contaminated portion of the real  
35 property, mobile home, recreational vehicle or dwelling unit before  
36 remediation.

37 3. If the person is not the real property owner, disturb or remove the  
38 notice of removal posted on the real property.

39 4. If the person is the real property owner:

40 (a) Allow a posted notice of removal to be disturbed on the real  
41 property after a civil penalty was imposed against the person pursuant to  
42 subsection ~~G-~~ F of this section.

43 (b) Fail to notify a buyer as prescribed in subsection ~~H-~~ G of this  
44 section.

1 (c) Contract with a person who is not a drug laboratory site  
2 remediation firm to attempt a cleanup of the residually contaminated portion  
3 of the real property or dwelling unit.

4 5. Lease or rent real property before remediation is complete.

5 6. Remove a mobile home as defined in section 33-1409 or a  
6 recreational vehicle as defined in section 33-2102 from the real property  
7 before authorization from the ~~state board of technical registration~~  
8 DEPARTMENT OF ENVIRONMENTAL QUALITY.

9 ~~M.~~ L. Subsection ~~L.~~ K of this section does not apply to peace  
10 officers or employees of the ~~state board of technical registration~~ DEPARTMENT  
11 OF ENVIRONMENTAL QUALITY who are lawfully performing their duties.

12 Sec. 4. Section 32-101, Arizona Revised Statutes, is amended to read:

13 32-101. Purpose; definitions

14 A. The purpose of this chapter is to provide for the safety, health  
15 and welfare of the public through the promulgation and enforcement of  
16 standards of qualification for those individuals WHO ARE registered or  
17 certified and seeking registration or certification pursuant to this chapter.

18 B. In this chapter, unless the context otherwise requires:

19 1. "Advertising" includes business cards, signs or letterhead provided  
20 by a person to the public.

21 2. "Alarm" or "alarm system":

22 (a) Means any mechanical or electrical device that is designed to emit  
23 an audible alarm or transmit a signal or message if activated and that is  
24 used to detect an unauthorized entry into a building or other facility or  
25 alert other persons of the occurrence of a medical emergency or the  
26 commission of an unlawful act against a person or in a building or other  
27 facility.

28 (b) Includes a silent, panic, holdup, robbery, duress, burglary,  
29 medical alert or proprietor alarm that requires emergency personnel to  
30 respond.

31 (c) Does not include a telephone call diverter or a system that is  
32 designed to report environmental and other occurrences and that is not  
33 designed or used to alert or cause other persons to alert public safety  
34 personnel.

35 3. "Alarm agent":

36 (a) Means a person, whether an employee, an independent contractor or  
37 otherwise, who acts on behalf of an alarm business and who tests, maintains,  
38 services, repairs, sells, rents, leases or installs alarm systems.

39 (b) Does not include any action by a person that:

40 (i) Is performed in connection with an alarm system located on the  
41 person's own property or the property of the person's employer.

42 (ii) Is acting on behalf of an alarm business whose work duties do not  
43 include visiting the location where an alarm system installation occurs.



1           4. "Alarm business":

2           (a) Means any person who, either alone or through a third party,  
3 engages in the business of either of the following:

4           (i) Providing alarm monitoring services.

5           (ii) Selling, leasing, renting, maintaining, repairing or installing a  
6 nonproprietor alarm system or service.

7           (b) Does not include any of the following:

8           (i) A person or company that purchases, rents or uses an alarm that is  
9 affixed to a motor vehicle.

10           (ii) A person who owns or conducts a business of selling, leasing,  
11 renting, installing, maintaining or monitoring an alarm that is affixed to a  
12 motor vehicle.

13           (iii) A person who installs a nonmonitored proprietor alarm for a  
14 business that the person owns, is employed by or manages.

15           (iv) The installation or monitoring of fire alarm systems.

16           (v) An alarm system that is operated by a city or town.

17           5. "Alarm subscriber" means any person who:

18           (a) Leases, rents or purchases any monitored alarm system or service  
19 from an alarm business.

20           (b) Leases or rents an alarm system.

21           (c) Contracts with an alarm business for alarm monitoring,  
22 installation, repair or maintenance services.

23           6. "Architect" means a person who, by reason of knowledge of the  
24 mathematical and physical sciences and the principles of architecture and  
25 architectural engineering acquired by professional education and practical  
26 experience, is qualified to engage in the practice of architecture as  
27 attested by registration as an architect.

28           7. "Architect-in-training" means a candidate for registration as a  
29 professional architect who is a graduate of a school approved by the board or  
30 who has five years or more of education or experience, or both, in  
31 architectural work ~~which~~ THAT meets standards specified by the board in its  
32 rules. In addition, the candidate shall have passed the architect-in-training  
33 examination.

34           8. "Architectural practice" means any professional service or creative  
35 work requiring architectural education, training and experience, and the  
36 application of the mathematical and physical sciences and the principles of  
37 architecture and architectural engineering to such professional services or  
38 creative work as consultation, evaluation, design and review of construction  
39 for conformance with contract documents and design, in connection with any  
40 building, planning or site development. A person shall be deemed to practice  
41 or offer to practice architecture who in any manner represents that the  
42 person is an architect, ~~or~~ or is able to perform any architectural service or  
43 other services recognized by educational authorities as architecture.

44           9. "Assayer" means a person who analyzes metals, ores, minerals, ~~or~~  
45 alloys in order to ascertain the quantity of gold or silver or any other

1 substance present in them. A person employed on a full-time basis as an  
2 assayer by an employer engaged in the business of developing, mining or  
3 treating ores or other minerals shall not be deemed to be engaged in assaying  
4 practice for the purposes of this chapter if the person engages in assaying  
5 practice exclusively for and as an employee of such employer and does not  
6 represent that the person is available and is not represented as being  
7 available to perform any assaying services for anyone other than the person's  
8 employer.

9 10. "Assayer-in-training" means a candidate for registration as a  
10 professional assayer who is a graduate of a school and curriculum approved by  
11 the board or who has four years or more of education or experience, or both,  
12 in assaying work ~~which~~ THAT meets standards specified by the board in its  
13 rules. In addition, the candidate shall have passed the assayer-in-training  
14 examination.

15 11. "Assaying practice" means any professional service or work  
16 requiring assaying education, training and experience and the application of  
17 special knowledge of the mineral sciences to such service or work as  
18 consultation and the evaluation of minerals. A person is deemed to practice  
19 or offer to practice assaying who in any manner represents that the person is  
20 an assayer or is able to perform any assaying service or other services  
21 recognized by educational authorities as assaying.

22 12. "Board" means the state board of technical registration.

23 ~~13. "Certified remediation specialist" means a person who has been  
24 certified by the board to perform, supervise and review environmental  
25 remediations if the use of a certified remediation specialist is specifically  
26 authorized by title 49 and rules adopted pursuant to title 49.~~

27 ~~14.~~ 13. "Controlling person":

28 (a) Means a person who is designated by an alarm business.

29 (b) Does not include an alarm agent.

30 ~~15. "Drug laboratory site remediation firm" means a firm that is  
31 licensed by the registrar of contractors pursuant to chapter 10 of this title  
32 and that performs remediation of residual contamination from the manufacture  
33 of methamphetamine, ecstasy or LSD or the storage of chemicals or equipment  
34 used in manufacturing methamphetamine, ecstasy or LSD. For the purposes of  
35 this paragraph:~~

36 ~~(a) "Ecstasy" has the same meaning prescribed in section 13-3401,  
37 paragraph 6 and includes any of the precursor chemicals, regulated chemicals,  
38 other substances or equipment used in the unlawful manufacture of the  
39 dangerous drug.~~

40 ~~(b) "LSD" has the same meaning prescribed in section 13-3401,  
41 paragraph 6 and includes any of the precursor chemicals, regulated chemicals,  
42 other substances or equipment used in the unlawful manufacture of the  
43 dangerous drug.~~

44 ~~(c) "Methamphetamine" has the same meaning prescribed in section  
45 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated~~

~~chemicals, other substances or equipment used in the unlawful manufacture of the dangerous drug.~~

~~16.~~ 14. "Engineer" means a person who, by reason of special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design acquired by professional education and practical experience, is qualified to practice engineering as attested by registration as a professional engineer.

~~17.~~ 15. "Engineering practice" means any professional service or creative work requiring engineering education, training and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, research investigation, evaluation, planning, surveying as defined in paragraph ~~27~~ 25, subdivisions (d) and (e) of this subsection, design, location, development, and review of construction for conformance with contract documents and design, in connection with any public or private utility, structure, building, machine, equipment, process, work or project. Such services and work include plans and designs relating to the location, development, mining and treatment of ore and other minerals. A person shall be deemed to be practicing or offering to practice engineering if the person practices any branch of the profession of engineering, or by verbal claim, sign, advertisement, letterhead, card or any other manner represents that the person is a professional engineer, ~~or~~ or is able to perform or does perform any engineering service or other service recognized by educational authorities as engineering. A person employed on a full-time basis as an engineer by an employer engaged in the business of developing, mining and treating ores and other minerals shall not be deemed to be practicing engineering for the purposes of this chapter if the person engages in the practice of engineering exclusively for and as an employee of such employer and does not represent that the person is available and is not represented as being available to perform any engineering services for persons other than the person's employer.

~~18.~~ 16. "Engineer-in-training" means a candidate for registration as a professional engineer who is a graduate in an approved engineering curriculum of four years or more of a school approved by the board or who has ~~had~~ four years or more of education or experience, or both, in engineering work ~~which~~ THAT meets standards specified by the board in its rules. In addition, the candidate shall have passed the engineer-in-training examination.

~~19.~~ 17. "Firm" means any individual or partnership, corporation or other type of association, including the association of a nonregistrant and a registrant who offers to the public professional services regulated by the board.

~~20.~~ 18. "Geological practice" means any professional service or work requiring geological education, training and experience, ~~and~~ and the application of special knowledge of the earth sciences to such professional services as consultation, evaluation of mining properties, petroleum properties and

1 groundwater resources, professional supervision of exploration for mineral  
 2 natural resources including metallic and nonmetallic ores, petroleum and  
 3 groundwater, and the geological phases of engineering investigations.

4 ~~21-~~ 19. "Geologist" means a person, not of necessity an engineer, who  
 5 by reason of special knowledge of the earth sciences and the principles and  
 6 methods of search for and appraisal of mineral or other natural resources  
 7 acquired by professional education and practical experience is qualified to  
 8 practice geology as attested by registration as a professional geologist. A  
 9 person employed on a full-time basis as a geologist by an employer engaged in  
 10 the business of developing, mining or treating ores and other minerals shall  
 11 not be deemed to be engaged in geological practice for the purposes of this  
 12 chapter if the person engages in geological practice exclusively for and as  
 13 an employee of such employer and does not represent that the person is  
 14 available and is not represented as being available to perform any geological  
 15 services for persons other than the person's employer.

16 ~~22-~~ 20. "Geologist-in-training" means a candidate for registration  
 17 as a professional geologist who is a graduate of a school approved by  
 18 the board or who has ~~had~~ four years or more of education or experience, or  
 19 both, in geological work ~~which~~ THAT meets standards specified by the  
 20 board in its rules. In addition, the candidate shall have passed the  
 21 geologist-in-training examination.

22 ~~23-~~ 21. "Home inspection" means a visual analysis for the purposes of  
 23 providing a professional opinion of the building, any reasonably accessible  
 24 installed components and the operation of the building's systems, including  
 25 the controls normally operated by the owner, for the following components of  
 26 a residential building of four units or less:

- 27 (a) Heating system.
- 28 (b) Cooling system.
- 29 (c) Plumbing system.
- 30 (d) Electrical system.
- 31 (e) Structural components.
- 32 (f) Foundation.
- 33 (g) Roof covering.
- 34 (h) Exterior and interior components.
- 35 (i) Site aspects as they affect the building.
- 36 (j) Pursuant to rules adopted by the board, swimming pool and spa.

37 ~~24-~~ 22. "Home inspection report" means a written report that is  
 38 prepared for compensation, that is issued after a home inspection and that  
 39 clearly describes and identifies the inspected systems, structures and  
 40 components of a completed dwelling and any visible major defects found to be  
 41 in need of immediate major repair and any recommendations for additional  
 42 evaluation by appropriate persons.

43 ~~25-~~ 23. "Home inspector" means an individual who is certified pursuant  
 44 to this chapter as a home inspector and who engages in the business of  
 45 performing home inspections and writing home inspection reports.

1       ~~26.~~ 24. "Home inspector-in-training" means a candidate for  
2 certification as a home inspector who has completed a course of study  
3 approved by the board and who is participating in a training program that  
4 complies with standards recommended by the home inspector rules and standards  
5 committee and approved by the board.

6       ~~27.~~ 25. "Land surveying practice" means the performance of one or more  
7 of the following professional services:

8           (a) Measurement of land to determine the position of any monument or  
9 reference point ~~which~~ THAT marks a property line, boundary or corner for the  
10 purpose of determining the area or description of the land.

11           (b) Location, relocation, establishment, reestablishment, setting,  
12 resetting or replacing of corner monuments or reference points which identify  
13 land boundaries, rights-of-way or easements.

14           (c) Platting or plotting of lands for the purpose of subdividing.

15           (d) Measurement by angles, distances and elevations of natural or  
16 artificial features in the air, on the surface and immediate subsurface of  
17 the earth, within underground workings and on the surface or within bodies of  
18 water for the purpose of determining or establishing their location, size,  
19 shape, topography, grades, contours or water surface and depths, and the  
20 preparation and perpetuation of field note records and maps depicting these  
21 features.

22           (e) Setting, resetting or replacing of points to guide the location of  
23 new construction.

24       ~~28.~~ 26. "Land surveyor" means a person who by reason of knowledge of  
25 the mathematical and physical sciences, principles of land surveying and  
26 evidence gathering acquired by professional education or practical  
27 experience, or both, is qualified to practice land surveying as attested by  
28 registration as a land surveyor. A person employed on a full-time basis as a  
29 land surveyor by an employer engaged in the business of developing, mining or  
30 treating ores or other minerals shall not be deemed to be engaged in land  
31 surveying practice for purposes of this chapter if the person engages in land  
32 surveying practice exclusively for and as an employee of such employer and  
33 does not represent that the person is available and is not represented as  
34 being available to perform any land surveying services for persons other than  
35 the person's employer.

36       ~~29.~~ 27. "Land surveyor-in-training" means a candidate for registration  
37 as a professional land surveyor who is a graduate of a school and curriculum  
38 approved by the board, ~~—~~ or who has four years or more of education or  
39 experience, or both, in land surveying work ~~which~~ THAT meets standards  
40 specified by the board in its rules. In addition, the candidate shall have  
41 passed the land surveyor-in-training examination.

42       ~~30.~~ 28. "Landscape architect" means a person who, by reason of  
43 professional education or practical experience, or both, is qualified to  
44 engage in the practice of landscape architecture as attested by registration  
45 as a landscape architect.

1       ~~31.~~ 29. "Landscape architect-in-training" means a candidate for  
2 registration as a professional landscape architect who is a graduate of a  
3 school approved by the board or who has ~~had~~ four years or more of education  
4 or experience, or both, in landscape architectural work ~~which~~ THAT meets  
5 standards specified by the board in its rules. In addition, the candidate  
6 shall have passed the landscape architect-in-training examination.

7       ~~32.~~ 30. "Landscape architectural practice" means the performance of  
8 professional services such as consultations, investigation, reconnaissance,  
9 research, planning, design or responsible supervision in connection with the  
10 development of land and incidental water areas where, and to the extent that,  
11 the dominant purpose of such services is the preservation, enhancement or  
12 determination of proper land uses, natural land features, ground cover and  
13 planting, naturalistic and aesthetic values, the settings of and approaches  
14 to buildings, structures, facilities or other improvements, natural drainage  
15 and the consideration and the determination of inherent problems of the land  
16 relating to erosion, wear and tear, light or other hazards. This practice  
17 shall include the location and arrangement of such tangible objects and  
18 features as are incidental and necessary to the purposes outlined in this  
19 paragraph but shall not include the making of cadastral surveys or final land  
20 plats for official recording or approval, nor mandatorily include planning  
21 for governmental subdivisions.

22       ~~33.~~ 31. "Monitored alarm" means a device that is designed for the  
23 detection of an entry on any premises and that if activated generates a  
24 notification signal.

25       ~~34. "On site supervisor" means the employee of a drug laboratory site  
26 remediation firm who is authorized to oversee on site workers in the  
27 performance of their duties.~~

28       ~~35. "On site worker" means an employee of a drug laboratory site  
29 remediation firm who has on site duties or who handles contaminated  
30 materials, chemicals or contaminated equipment.~~

31       ~~36.~~ 32. "Person" means any individual, firm, partnership, corporation,  
32 association or other organization.

33       ~~37.~~ 33. "Principal" means an individual who is an officer of the  
34 corporation or is designated by a firm as having full authority and  
35 responsible charge of the services offered by the firm.

36       ~~38.~~ 34. "Proprietor alarm" means any alarm or alarm system that is  
37 owned by an alarm subscriber who has not contracted with an alarm business.

38       ~~39.~~ 35. "Registrant" means a person registered or certified by the  
39 board.

40       ~~40.~~ 36. "Registration" means a registration or certification issued by  
41 the board.

42       Sec. 5. Section 32-106, Arizona Revised Statutes, is amended to read:

43       ~~32-106.~~ Powers and duties

44       A. The board shall:

- 1           1. Adopt rules for the conduct of its meetings and performance of  
2 duties imposed ~~upon~~ ON it by law.
- 3           2. Adopt an official seal for attestation of certificates of  
4 registration and other official papers and documents.
- 5           3. Consider and pass upon applications for registration or  
6 certification.
- 7           4. Conduct examinations for in-training and professional registration  
8 except for an alarm business or an alarm agent.
- 9           5. Hear and pass upon complaints or charges or direct an  
10 administrative law judge to hear and pass on complaints and charges.
- 11           6. Compel attendance of witnesses, administer oaths and take testimony  
12 concerning all matters coming within its jurisdiction. In exercising these  
13 powers, the board may issue subpoenas for the attendance of witnesses and the  
14 production of books, records, documents and other evidence it deems relevant  
15 to an investigation or hearing.
- 16           7. Keep a record of its proceedings.
- 17           8. Keep a register ~~which shall show~~ THAT SHOWS the date of each  
18 application for registration or certification, the name of the applicant, the  
19 practice or branch of practice in which the applicant has applied for  
20 registration, if applicable, and the disposition of the application.
- 21           9. Do other things necessary to carry out the purposes of this  
22 chapter.
  - 23           B. The board shall specify the proficiency designation in the branch  
24 of engineering in which the applicant has designated proficiency on the  
25 certificate of registration and renewal card issued to each registered  
26 engineer and shall authorize the engineer to use the title of registered  
27 professional engineer. The board shall decide what branches of engineering  
28 it shall recognize.
  - 29           C. The board may hold membership in and be represented at national  
30 councils or organizations of proficiencies registered under this chapter and  
31 may pay the appropriate membership fees. The board may conduct standard  
32 examinations on behalf of national councils and may establish fees for those  
33 examinations.
  - 34           D. The board may employ and pay on a fee basis persons, including  
35 full-time employees of a state institution, bureau or department, to prepare  
36 and grade examinations given to applicants for registration and may fix the  
37 fee to be paid for these services. These employees are authorized to  
38 prepare, grade and monitor examinations and perform other services the board  
39 authorizes, and to receive payment for these services from the technical  
40 registration fund. The board may contract with an organization to administer  
41 the registration examination, including selecting the test site, scheduling  
42 the examination, billing and collecting the fee directly from the applicant  
43 and grading the examination if a national council of which the board is a  
44 member or a professional association approved by the board does not provide  
45 these services. If a national council of which the board is a member or a

1 professional association approved by the board does provide these services,  
2 the board shall enter into an agreement with the national council or  
3 professional association to administer the registration examination.

4 E. The board may rent necessary office space and pay the cost of this  
5 office space from the technical registration fund.

6 F. The board may adopt rules establishing rules of professional  
7 conduct for registrants.

8 G. The board may require evidence it deems necessary to establish the  
9 continuing competency of registrants as a condition of renewal of licenses.

10 H. Subject to title 41, chapter 4, article 4, the board may employ  
11 persons as it deems necessary.

~~12 I. The board shall issue a certificate and renewal card to each drug  
13 laboratory site remediation firm, remediation supervisor and on-site worker.~~

14 ~~I.~~ I. The board shall issue or may authorize the executive director  
15 to issue a certificate or renewal certificate to each alarm business and a  
16 certification or renewal certification card to each alarm agent if the  
17 qualifications prescribed by this chapter are met.

18 Sec. 6. Section 32-109, Arizona Revised Statutes, is amended to read:

19 32-109. Technical registration fund

20 A. Pursuant to sections 35-146 and 35-147, the executive director  
21 shall deposit ten ~~per cent~~ PERCENT of all fees or other revenues received by  
22 the board in the state general fund to assist in defraying the cost of  
23 maintaining the state government and shall deposit the remaining ninety ~~per~~  
24 ~~cent~~ PERCENT in a separate fund, known as the technical registration fund, to  
25 be used only in defraying expenses of the board and in prosecuting violations  
26 of this chapter.

27 B. Monies deposited in the technical registration fund pursuant to  
28 subsection A of this section are subject to section 35-143.01.

~~29 C. In addition to the monies deposited in the technical registration  
30 fund pursuant to subsection A of this section, the technical registration  
31 fund consists of monies received pursuant to section 12-116.08. The monies  
32 that are received in the fund pursuant to this subsection shall be used:~~

~~33 1. To pay the board's expenses associated with investigations and  
34 enforcement actions pursuant to section 12-1000.~~

~~35 2. For a county, city or town for remediation pursuant to section  
36 12-1000, subsection D. Notwithstanding section 35-143.01, the monies  
37 received pursuant to section 12-116.08 are not subject to legislative  
38 appropriation.~~

39 Sec. 7. Repeal

40 Sections 32-112, 32-122.03, 32-122.04 and 32-131, Arizona Revised  
41 Statutes, are repealed.

42 Sec. 8. Section 32-141, Arizona Revised Statutes, is amended to read:

43 32-141. Firm registration

44 A. A firm shall not engage in the practice of any board-regulated  
45 profession or occupation unless the firm is registered with the board and the



1 professional services are conducted under the full authority and responsible  
2 charge of a principal of the firm, who is also a registrant.

3 B. A person shall file a registration application for each branch  
4 office that is located in this state and that is part of a firm registered  
5 with the board. The branch office application shall list a designated  
6 registrant having full authority and responsible charge of the professional  
7 services of that branch office. The designated registrant in a branch office  
8 need not be a principal of the firm.

9 C. A firm wishing to offer professional services in this state shall  
10 file with the board an application for registration on a form THAT IS  
11 provided by the board and accompanied by the appropriate application fee as  
12 prescribed by the board. Firms shall also identify responsible registrants  
13 by the registrant's registration certificate number. Each firm shall list a  
14 description of the services the firm is offering to the public. The board  
15 shall be notified in writing within thirty days of any change occurring in  
16 the registered principals, any change in the firm's name or address or any  
17 change in a branch office address or designated registrant. Except as  
18 provided in section 32-4301, a new application shall be filed each year by  
19 the firm within thirty days of the anniversary date of the original firm  
20 registration.

21 D. No firm may advertise its availability to perform home inspections  
22 by home inspectors certified pursuant to this chapter unless each home  
23 inspection is performed by a home inspector certified pursuant to this  
24 chapter and each home inspection report is prepared as a result of the  
25 inspector's on-site observation.

26 ~~E. A drug laboratory site remediation firm shall provide both of the  
27 following:~~

28 ~~1. The name of the on site supervisor who is authorized and  
29 responsible for the services being offered.~~

30 ~~2. Proof that the firm is licensed by the registrar of contractors  
31 pursuant to chapter 10 of this title.~~

32 Sec. 9. Title 49, chapter 1, Arizona Revised Statutes, is amended by  
33 adding article 4.1, to read:

34 ARTICLE 4.1. DRUG LABORATORY REMEDIATION

35 49-161. Definitions

36 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

37 1. "DRUG LABORATORY SITE REMEDIATION FIRM" MEANS A FIRM THAT IS  
38 LICENSED BY THE REGISTRAR OF CONTRACTORS PURSUANT TO TITLE 32, CHAPTER 10 AND  
39 THAT PERFORMS REMEDIATION OF RESIDUAL CONTAMINATION FROM THE MANUFACTURE OF  
40 METHAMPHETAMINE, ECSTASY OR LSD OR THE STORAGE OF CHEMICALS OR EQUIPMENT USED  
41 IN MANUFACTURING METHAMPHETAMINE, ECSTASY OR LSD. FOR THE PURPOSES OF THIS  
42 PARAGRAPH:

43 (a) "ECSTASY" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3401,  
44 PARAGRAPH 6 AND INCLUDES ANY OF THE PRECURSOR CHEMICALS, REGULATED CHEMICALS,

1 OTHER SUBSTANCES OR EQUIPMENT USED IN THE UNLAWFUL MANUFACTURE OF THE  
2 DANGEROUS DRUG.

3 (b) "LSD" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3401,  
4 PARAGRAPH 6 AND INCLUDES ANY OF THE PRECURSOR CHEMICALS, REGULATED CHEMICALS,  
5 OTHER SUBSTANCES OR EQUIPMENT USED IN THE UNLAWFUL MANUFACTURE OF THE  
6 DANGEROUS DRUG.

7 (c) "METHAMPHETAMINE" HAS THE SAME MEANING PRESCRIBED IN SECTION  
8 13-3401, PARAGRAPH 6 AND INCLUDES ANY OF THE PRECURSOR CHEMICALS, REGULATED  
9 CHEMICALS, OTHER SUBSTANCES OR EQUIPMENT USED IN THE UNLAWFUL MANUFACTURE OF  
10 THE DANGEROUS DRUG.

11 2. "REMEDIATION SPECIALIST" MEANS A PERSON WHO IS AUTHORIZED BY THE  
12 DEPARTMENT TO PERFORM, SUPERVISE AND REVIEW ENVIRONMENTAL REMEDIATIONS.

13 49-162. Remediation specialists; drug laboratory site  
14 remediation firms; certification; renewal; fees;  
15 rules

16 A. THE DEPARTMENT SHALL CERTIFY REMEDIATION SPECIALISTS AND DRUG  
17 LABORATORY SITE REMEDIATION FIRMS.

18 B. AN APPLICANT FOR A REMEDIATION SPECIALIST OR A DRUG LABORATORY SITE  
19 REMEDIATION FIRM MUST DO BOTH OF THE FOLLOWING:

20 1. FILE AN APPLICATION WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE  
21 DEPARTMENT.

22 2. PAY A FEE IN AN AMOUNT TO BE DETERMINED BY THE DEPARTMENT.

23 C. THE DEPARTMENT SHALL ESTABLISH A SYSTEM FOR RENEWING CERTIFICATIONS  
24 ISSUED PURSUANT TO THIS ARTICLE.

25 D. THE DEPARTMENT SHALL ESTABLISH A RENEWAL FEE FOR EACH CERTIFICATE  
26 ISSUED PURSUANT TO THIS ARTICLE.

27 E. THE DEPARTMENT MAY DENY A CERTIFICATION TO A PERSON OR SUSPEND OR  
28 REVOKE A CERTIFICATION IF THE DEPARTMENT HAS SUFFICIENT CAUSE AS DETERMINED  
29 BY THE DEPARTMENT BY RULE. THE APPLICANT OR CERTIFICATE HOLDER MAY REQUEST A  
30 HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

31 F. THE DEPARTMENT MAY ADOPT RULES NECESSARY TO IMPLEMENT THIS ARTICLE.

32 Sec. 10. Section 49-218, Arizona Revised Statutes, is amended to read:

33 49-218. Definitions

34 In this article, unless the context otherwise requires:

35 1. "CERCLA brownfields cleanup revolving loan fund program" means the  
36 program established by the UNITED STATES environmental protection agency to  
37 provide financial assistance in the form of loans or grants to eligible  
38 persons to remediate contamination at eligible sites as provided in section  
39 104(k) of CERCLA and applicable guidance documents prepared by the UNITED  
40 STATES environmental protection agency to implement this program.

41 2. "Eligible activities" means removal as defined by section 101(23)  
42 of CERCLA and includes required engineering evaluations, cost analysis of  
43 cleanup alternatives, public participation requirements and reasonable and  
44 necessary site monitoring activities during the remediation.

1           3. "Eligible person" means a person who is eligible to receive a loan  
2 or grant under the CERCLA brownfields cleanup revolving loan fund program.

3           4. "Eligible site" means a site that is a brownfields site as defined  
4 by section 101(39) of CERCLA, that is within an area designated in a  
5 cooperative agreement between the department and the UNITED STATES  
6 environmental protection agency and that is one of the following:

7           (a) Accepted into the department's voluntary remediation program.

8           (b) Subject to a remediation agreement with the department's water  
9 quality assurance revolving fund program.

10           (c) Being addressed by a remediation specialist who is ~~certified by~~  
11 ~~the board of technical registration pursuant to section 32-131~~ CERTIFIED BY  
12 THE DEPARTMENT PURSUANT TO CHAPTER 1, ARTICLE 4.1 OF THIS TITLE.

13           (d) Being addressed through another program or oversight mechanism  
14 that is approved by the department.

15           Sec. 11. Section 49-927, Arizona Revised Statutes, is amended to read:

16           49-927. Hazardous waste management fund

17           A. ~~A~~ THE hazardous waste management fund is established to be  
18 administered by the department. The fund consists of monies appropriated by  
19 the legislature, monies collected pursuant to ~~section~~ SECTIONS 12-116.08 AND  
20 49-931 and monies collected as fees for issuing permits under section 49-922,  
21 subsection B, paragraph 5. Monies in the fund are subject to legislative  
22 appropriation and are exempt from section 35-190 relating to lapsing of  
23 appropriations. On notice from the director, the state treasurer shall invest  
24 and divest monies in the fund as provided by section 35-313, and monies  
25 earned from investment shall be credited to the fund.

26           B. Monies in the hazardous waste management fund shall be used for the  
27 following purposes:

28           1. Informing, educating and training the general public, treatment,  
29 storage and disposal facility operators, hazardous waste handlers and others.

30           2. Supporting statewide hazardous waste planning and program  
31 development activities.

32           3. Processing, issuing and maintaining permits for treatment, storage  
33 or disposal facilities.

34           4. Compliance monitoring, investigation and enforcement activities  
35 pertaining to generating, transporting, treating, storing and disposing of  
36 hazardous waste under this article.

37           5. Funding the pollution prevention technical assistance program  
38 established in section 49-965 and providing matching funds under section 6605  
39 of the pollution prevention act of 1990 (P.L. 101-508).

40           6. Administration of the pollution prevention program pursuant to  
41 article 4 of this chapter.

42           7. Reimbursement of appropriations received for fiscal year 1991-1992  
43 to the state general fund as provided by law.

44           C. Ten ~~per cent~~ PERCENT of the monies in the fund shall be transmitted  
45 to the emergency response fund established pursuant to section 26-352 to be

1 used for staffing local emergency planning committees and equipping local  
2 fire departments, fire districts and public safety agencies for the  
3 development of hazardous materials emergency response teams.

4 Sec. 12. Transfer of monies

5 All unexpended and unencumbered monies remaining in the board of  
6 technical registration fund established by section 32-109, Arizona Revised  
7 Statutes, that were deposited pursuant to section 32-109, subsection C,  
8 Arizona Revised Statutes, as repealed by this act, are transferred to the  
9 hazardous waste management fund established by section 49-927, Arizona  
10 Revised Statutes, on the effective date of this act.

11 Sec. 13. Transfer of powers; effect

12 A. All matters, including contracts, orders and judicial or  
13 quasi-judicial actions, relating to drug laboratory remediation, whether  
14 completed or pending, of the board of technical registration are transferred,  
15 on the effective date of this act, and retain the same status with the  
16 department of environmental quality.

17 B. Rules relating to drug laboratory remediation adopted by the board  
18 of technical registration are effective and enforceable by the department of  
19 environmental quality and are deemed to have been adopted by the department  
20 of environmental quality in conformance with title 41, chapter 6, Arizona  
21 Revised Statutes, until superseded by rules adopted by the department of  
22 environmental quality.

23 C. All property, records, data and investigative findings of the board  
24 of technical registration relating to drug laboratory remediation are  
25 transferred to the department of environmental quality and may be used for  
26 the purposes of this act.