

1 State of Arkansas
2 89th General Assembly
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4

A Bill

HOUSE BILL 1972

5 By: Representative Lowery
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE STATUTES GOVERNING THE ABATEMENT
9 OF NUISANCES THAT ARE USED FOR THE MANUFACTURE, SALE,
10 OR USE OF A CONTROLLED SUBSTANCE; AND FOR OTHER
11 PURPOSES.
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Subtitle

14 TO AMEND THE STATUTES GOVERNING THE
15 ABATEMENT OF NUISANCES THAT ARE USED FOR
16 THE MANUFACTURE, SALE, OR USE OF A
17 CONTROLLED SUBSTANCE.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 16-105-402 is amended to read as follows:
24 16-105-402. Common nuisance declared.

25 ~~Any store, shop, warehouse, dwelling house, building, boat, airplane,~~
26 ~~or any place whatever, used for the purpose of unlawfully selling, storing,~~
27 ~~keeping, manufacturing, using, or giving away any controlled substance,~~
28 ~~precursor, or analog specified in § 5-64-101 et seq., is declared detrimental~~
29 ~~to the public morals and shall be deemed a common nuisance which shall be~~
30 ~~enjoined, abated, and prevented, and for which costs of abatement and damages~~
31 ~~may be recovered.~~

32 (a) As used in this section, "owner" means any person in whom is
33 vested the ownership and title of property, and who is the owner of record,
34 including without limitation a local, city, state, or federal governmental
35 entity.

36 (b) A person or entity listed under § 16-105-403 may bring a cause of



1 action against the owner of any of the following that is used for the purpose
 2 of unlawfully selling, storing, keeping, manufacturing, using, or
 3 distributing a controlled substance, precursor, or analog specified in § 5-
 4 64-101 et seq.:

- 5 (1) A store or shop;
- 6 (2) A warehouse;
- 7 (3) A dwelling house;
- 8 (4) A building;
- 9 (5) A boat;
- 10 (6) An airplane;
- 11 (7) Abandoned governmental or municipal property; or
- 12 (8) Any other property or structure.

13 (c)(1) If a place listed in subsection (b) of this section is deemed a
 14 common nuisance by a court, the court shall order that the common nuisance be
 15 enjoined, abated, and prevented.

16 (2) Costs of enjoinder, abatement, and prevention as well as
 17 damages may be recovered against any person or entity found to be the owner
 18 of the common nuisance property.

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 20 SECTION 2. Arkansas Code § 16-105-403 is amended to read as follows:

21 16-105-403. Action to abate – Permanent injunction.

22 ~~Whenever there is reason to believe such a common nuisance is kept,~~
 23 ~~maintained, or exists in any county, the prosecuting attorney of the county,~~
 24 ~~in the name of the people, or the city attorney of any incorporated city, or~~
 25 ~~any citizen of the state, resident of the county, in his or her own name, may~~
 26 ~~maintain an action to abate and prevent the nuisance and perpetually to~~
 27 ~~enjoin the person conducting or maintaining it and the owner, lessee, or~~
 28 ~~agent of the building or place, in or upon which the nuisance exists, from~~
 29 ~~directly or indirectly maintaining or permitting the nuisance.~~

30 (a) As used in this section "established neighborhood or community
 31 organization" means a group, whether or not incorporated, that:

32 (1) Consists of persons who reside or work at or in a building,
 33 complex of buildings, street, block, or neighborhood any part of which is
 34 located on or within one thousand feet (1,000') of the premises alleged to be
 35 a common nuisance; and

36 (2) Has the purpose of benefitting the quality of life in its

1 neighborhood or community, including without limitation treatment programs.

2 (b) The following persons or entities may bring a cause of action
 3 under this subchapter to enjoin, abate, and prevent a common nuisance that is
 4 being kept, maintained, or that exists to prevent the common nuisance, and to
 5 perpetually enjoin the person, entity, owner, lessee, or agent of the place
 6 listed under § 16-105-402(b), in or upon which the common nuisance exists,
 7 from directly or indirectly maintaining or permitting the common nuisance:

8 (1) The prosecuting attorney of the county;

9 (2) The city attorney of any incorporated city;

10 (3) Any citizen of the state or resident of the county, in his
 11 or her own name;

12 (4) The county attorney;

13 (5) The Attorney General; or

14 (6) Any established neighborhood or community organization.

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 16 SECTION 3. Arkansas Code § 16-105-408 is amended to read as follows:
 17 16-105-408. Dismissal for want of prosecution.

18 If ~~the~~ a complaint under this subchapter is filed by a citizen of the
 19 state, resident of the county, or established neighborhood or community
 20 organization, ~~it~~ the complaint shall not be dismissed by ~~him or her~~ the
 21 citizen of the state, resident of the county, or established neighborhood
 22 community organization or for want of prosecution except upon a sworn
 23 statement ~~made by him and his attorney,~~ setting forth the reasons why the
 24 ~~action~~ complaint should be dismissed, and by dismissal ordered by the court.

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 26 SECTION 4. Arkansas Code § 16-105-409 is amended to read as follows:
 27 16-105-409. Costs.

28 If ~~the action~~ a cause of action under this subchapter is brought by a
 29 citizen of the state, resident of the county, or established neighborhood or
 30 community organization, and the court finds there was no reasonable ground or
 31 cause for the cause of action, the costs incurred by the defendant shall be
 32 taxed against ~~that~~ the citizen of the state, resident of the county, or
 33 established neighborhood or community organization.

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 36 APPROVED: 04/12/2013