

State of Arkansas  
89th General Assembly  
Regular Session, 2013

# A Bill

HOUSE BILL 1972

By: Representative Lowery

## For An Act To Be Entitled

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

### Subtitle

TO AMEND THE STATUTES GOVERNING THE ABATEMENT OF NUISANCES THAT ARE USED FOR THE MANUFACTURE, SALE, OR USE OF A CONTROLLED SUBSTANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16-105-402 is amended to read as follows:  
16-105-402. Common nuisance declared.

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

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

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



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

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

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

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

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

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

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

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

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

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

neighborhood or community, including without limitation treatment programs.

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

- (1) The prosecuting attorney of the county;
- (2) The city attorney of any incorporated city;
- (3) Any citizen of the state or resident of the county, in his

or her own name;

- (4) The county attorney;
- (5) The Attorney General; or
- (6) Any established neighborhood or community organization.

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

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

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

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

APPROVED: 04/12/2013