



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2491

Introduced 2/20/2009, by Rep. Michael K. Smith

SYNOPSIS AS INTRODUCED:

415 ILCS 135/20
415 ILCS 135/40
415 ILCS 135/60
415 ILCS 135/65
415 ILCS 135/69 new

Amends the Drycleaner Environmental Response Trust Fund Act. Provides that any notice of assessment of civil penalties under the Act is subject to appeal to the Administrator of the Drycleaner Environmental Response Trust Fund Council within 60 days of the final decision. Sets out the procedure for appealing the Council's decision. Authorizes the Council to appoint an administrative law judge to preside at hearings resulting from the appeal of Council decisions. Eliminates a time period for the submission of invoices and bills relating to reimbursement for remediation work. Provides that, in the case of a renewal applicant, the amount of drycleaning solvents used for purposes of determining the annual licensing fee under the Act is determined by the quantity of drycleaning solvents actually purchased (now "used") in the preceding license year. Relocates provisions setting out penalties for (i) a dry cleaning facility that has failed to pay the licensing fee and (ii) a person who knowingly sells or transfers drycleaning solvents to an unlicensed drycleaning facility. Deletes a provision setting out a penalty for a person who provides a false certification for purposes of purchasing dry cleaning solvent. Provides a tax reimbursement for sellers of dry cleaning solvents that timely submit a tax return. Creates a new Section setting out civil penalties and procedures under the Act. Authorizes the Attorney General to institute civil actions in specified circumstances under the Act on behalf of the people of the State of Illinois.

LRB096 10484 JDS 20656 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Drycleaner Environmental Response Trust
5 Fund Act is amended by changing Sections 20, 40, 60, and 65 and
6 by adding Section 69 as follows:

7 (415 ILCS 135/20)

8 Sec. 20. Council rules.

9 (a) The Council may adopt rules in accordance with the
10 emergency rulemaking provisions of Section 5-45 of the Illinois
11 Administrative Procedure Act for one year after the effective
12 date of this Act. Thereafter, the Council shall conduct general
13 rulemaking as provided under the Illinois Administrative
14 Procedure Act.

15 (b) The Council shall adopt rules regarding its practice
16 and procedures for investigating and settling claims made
17 against the Fund, determining reimbursement guidelines,
18 coordinating with the Agency, and otherwise implementing and
19 administering the Fund under this Act.

20 (c) The Council shall adopt rules regarding its practice
21 and procedures to develop underwriting standards, establish
22 insurance account coverage and risk factors, settle claims made
23 against the insurance account of the Fund, determine

1 appropriate deductibles or retentions in coverages or benefits
2 offered under the insurance account of the Fund, determine
3 reimbursement guidelines, and otherwise implement and
4 administer the insurance account under this Act.

5 (d) The Council shall adopt rules necessary for the
6 implementation and collection of insurance account premiums
7 prior to offering insurance to an owner or operator of a
8 drycleaning facility or other person.

9 (e) The Council shall adopt rules prescribing requirements
10 for the retention of records by an owner or operator and the
11 periods for which he or she must retain those records.

12 (f) The Council shall adopt rules describing the manner in
13 which all disbursed moneys received from the Agency shall be
14 deposited with a bank or savings and loan association to be
15 approved by the Council. For purposes of this subsection, the
16 Council shall be considered a public agency and, therefore, no
17 bank or savings and loan association shall receive public funds
18 from the Council, and the Council shall not make any
19 investments, unless in accordance with the Public Funds
20 Investment Act.

21 (g) All final Council decisions regarding the Fund or any
22 reimbursement from the Fund and any decision concerning the
23 classification of drycleaning solvents pursuant to subsection
24 (a) of Section 65 of this Act and any notice of the assessment
25 of civil penalties under Section 69 of this Act shall be
26 subject to appeal to the Administrator of the Council, by the

1 affected parties, within 60 days after the final decision. The
2 Council shall determine by rule persons who have standing to
3 appeal final Council decisions. Any written decision by the
4 Administrator may be appealed to the Council within 60 days
5 after the Administrator's final decision. Any decision by the
6 Council may be appealed to the Council's administrative law
7 judge within 60 days after the Council's final decision. Notice
8 of any hearing provided for by this Act shall be given not less
9 than 7 days before the day fixed for the hearing ~~All appeals of~~
10 ~~final Council decisions shall be presented to and reviewed by~~
11 ~~the Council's administrative hearing officer.~~ An appeal of the
12 administrative law judge's ~~hearing officer's~~ decision will be
13 subject to judicial review in accordance with the
14 Administrative Review Law.

15 Any decision not timely appealed shall become a final
16 administrative decision without the necessity of a final
17 administrative decision being issued and shall be deemed to be
18 a final administrative decision.

19 The Council shall adopt rules relating to appeal
20 procedures.

21 The Council may designate an attorney, employed by the
22 Council or privately employed, to act as an administrative law
23 judge to preside at any administrative hearing resulting from
24 the appeal of a Council decision. The Council and the
25 Department of Revenue are authorized to enter into an agreement
26 whereby an administrative law judge employed by the Department

1 may be assigned to preside at the administrative hearings.

2 Proof of the Council's administrative decision may be made
3 at any administrative or legal proceeding by a reproduced copy
4 of the Council's record relating to the decision under the
5 certificate of the Council. A reproduced copy shall, without
6 further proof, be admitted into evidence and shall be prima
7 facie proof of the decision.

8 The provisions of the Administrative Review Law, and any
9 rules adopted under the Administrative Review law by the
10 Council, shall govern all proceedings for the judicial review
11 of final administrative decisions of the Council. The term
12 "administrative decision" has the same meaning as it does in
13 Section 3-101 of the Code of Civil Procedure.

14 Venue for an administrative review action challenging the
15 results of an administrative hearing upholding an
16 administrative decision issued by the Council shall be proper
17 in the Circuit Court of the county where the plaintiff has its
18 principal place of business, or Sangamon County if the
19 plaintiff's principal place of business is located outside
20 Illinois. ~~that shall require the Council to deliver notice of~~
21 ~~appeal to the affected parties within 30 days of receipt of~~
22 ~~notice, require that the hearing be held within 180 days of the~~
23 ~~filing of the petition unless good cause is shown for the~~
24 ~~delay, and require that a final decision be issued no later~~
25 ~~than 120 days following the close of the hearing. The time~~
26 ~~restrictions in this subsection may be waived by mutual~~

1 ~~agreement of the parties.~~

2 (Source: P.A. 90-502, eff. 8-19-97.)

3 (415 ILCS 135/40)

4 Sec. 40. Remedial action account.

5 (a) The remedial action account is established to provide
6 reimbursement to eligible claimants for drycleaning solvent
7 investigation, remedial action planning, and remedial action
8 activities for existing drycleaning solvent contamination
9 discovered at their drycleaning facilities.

10 (b) The following persons are eligible for reimbursement
11 from the remedial action account:

12 (1) In the case of claimant who is the owner or
13 operator of an active drycleaning facility licensed by the
14 Council under this Act at the time of application for
15 remedial action benefits afforded under the Fund, the
16 claimant is only eligible for reimbursement of remedial
17 action costs incurred in connection with a release from
18 that drycleaning facility, subject to any other
19 limitations under this Act.

20 (2) In the case of a claimant who is the owner of an
21 inactive drycleaning facility and was the owner or operator
22 of the drycleaning facility when it was an active
23 drycleaning facility, the claimant is only eligible for
24 reimbursement of remedial action costs incurred in
25 connection with a release from the drycleaning facility,

1 subject to any other limitations under this Act.

2 (c) An eligible claimant requesting reimbursement from the
3 remedial action account shall meet all of the following:

4 (1) The claimant demonstrates that the source of the
5 release is from the claimant's drycleaning facility.

6 (2) At the time the release was discovered by the
7 claimant, the claimant and the drycleaning facility were in
8 compliance with the Agency reporting and technical
9 operating requirements.

10 (3) The claimant reported the release in a timely
11 manner to the Agency in accordance with State law.

12 (4) The claimant applying for reimbursement has not
13 filed for bankruptcy on or after the date of his or her
14 discovery of the release.

15 (5) If the claimant is the owner or operator of an
16 active drycleaning facility, the claimant has provided to
17 the Council proof of implementation and maintenance of the
18 following pollution prevention measures:

19 (A) That all drycleaning solvent wastes generated
20 at a drycleaning facility be managed in accordance with
21 applicable State waste management laws and rules.

22 (B) A prohibition on the discharge of wastewater
23 from drycleaning machines or of drycleaning solvent
24 from drycleaning operations to a sanitary sewer or
25 septic tank or to the surface or in groundwater.

26 (C) That every drycleaning facility:

1 (I) install a containment dike or other
2 containment structure around each machine, item of
3 equipment, drycleaning area, and portable waste
4 container in which any drycleaning solvent is
5 utilized, which shall be capable of containing
6 leaks, spills, or releases of drycleaning solvent
7 from that machine, item, area, or container. The
8 containment dike or other containment structure
9 shall be capable of at least the following: (i)
10 containing a capacity of 110% of the drycleaning
11 solvent in the largest tank or vessel within the
12 machine; (ii) containing 100% of the drycleaning
13 solvent of each item of equipment or drycleaning
14 area; and (iii) containing 100% of the drycleaning
15 solvent of the largest portable waste container or
16 at least 10% of the total volume of the portable
17 waste containers stored within the containment
18 dike or structure, whichever is greater.

19 Petroleum underground storage tank systems
20 that are upgraded in accordance with USEPA upgrade
21 standards pursuant to 40 CFR Part 280 for the tanks
22 and related piping systems and use a leak detection
23 system approved by the USEPA or IEPA are exempt
24 from this secondary containment requirement; and

25 (II) seal or otherwise render impervious those
26 portions of diked floor surfaces on which a

1 drycleaning solvent may leak, spill, or otherwise
2 be released.

3 (D) A requirement that all drycleaning solvent
4 shall be delivered to drycleaning facilities by means
5 of closed, direct-coupled delivery systems.

6 (6) An active drycleaning facility has maintained
7 continuous financial assurance for environmental liability
8 coverage in the amount of at least \$500,000 at least since
9 the date of award of benefits under this Section or July 1,
10 2000, whichever is earlier. An uninsured drycleaning
11 facility that has filed an application for insurance with
12 the Fund by January 1, 2004, obtained insurance through
13 that application, and maintained that insurance coverage
14 continuously shall be considered to have conformed with the
15 requirements of this subdivision (6). To conform with this
16 requirement the applicant must pay the equivalent of the
17 total premiums due for the period beginning June 30, 2000
18 through the date of application plus a 20% penalty of the
19 total premiums due for that period.

20 (7) The release was discovered on or after July 1, 1997
21 and before July 1, 2006.

22 (d) A claimant shall submit a completed application form
23 provided by the Council. The application shall contain
24 documentation of activities, plans, and expenditures
25 associated with the eligible costs incurred in response to a
26 release of drycleaning solvent from a drycleaning facility.

1 Application for remedial action account benefits must be
2 submitted to the Council on or before June 30, 2005.

3 (e) Claimants shall be subject to the following deductible
4 requirements, unless modified pursuant to the Council's
5 authority under Section 75:

6 (1) An eligible claimant submitting a claim for an
7 active drycleaning facility is responsible for the first
8 \$5,000 of eligible investigation costs and for the first
9 \$10,000 of eligible remedial action costs incurred in
10 connection with the release from the drycleaning facility
11 and is only eligible for reimbursement for costs that
12 exceed those amounts, subject to any other limitations of
13 this Act.

14 (2) An eligible claimant submitting a claim for an
15 inactive drycleaning facility is responsible for the first
16 \$10,000 of eligible investigation costs and for the first
17 \$10,000 of eligible remedial action costs incurred in
18 connection with the release from that drycleaning
19 facility, and is only eligible for reimbursement for costs
20 that exceed those amounts, subject to any other limitations
21 of this Act.

22 (f) Claimants are subject to the following limitations on
23 reimbursement:

24 (1) Subsequent to meeting the deductible requirements
25 of subsection (e), and pursuant to the requirements of
26 Section 75, reimbursement shall not exceed \$300,000 per

1 active drycleaning facility and \$50,000 per inactive
2 drycleaning facility.

3 (2) A contract in which one of the parties to the
4 contract is a claimant, for goods or services that may be
5 payable or reimbursable from the Council, is void and
6 unenforceable unless and until the Council has found that
7 the contract terms are within the range of usual and
8 customary rates for similar or equivalent goods or services
9 within this State and has found that the goods or services
10 are necessary for the claimant to comply with Council
11 standards or other applicable regulatory standards.

12 (3) A claimant may appoint the Council as an agent for
13 the purposes of negotiating contracts with suppliers of
14 goods or services reimbursable by the Fund. The Council may
15 select another contractor for goods or services other than
16 the one offered by the claimant if the scope of the
17 proposed work or actual work of the claimant's offered
18 contractor does not reflect the quality of workmanship
19 required or if the costs are determined to be excessive, as
20 determined by the Council.

21 (4) The Council may require a claimant to obtain and
22 submit 3 bids and may require specific terms and conditions
23 in a contract subject to approval.

24 (5) The Council may enter into a contract or an
25 exclusive contract with the supplier of goods or services
26 required by a claimant or class of claimants, in connection

1 with an expense reimbursable from the Fund, for a specified
2 good or service at a gross maximum price or fixed rate, and
3 may limit reimbursement accordingly.

4 (6) Unless emergency conditions exist, a service
5 provider shall obtain the Council's approval of the budget
6 for the remediation work before commencing the work. No
7 expense incurred that is above the budgeted amount shall be
8 paid unless the Council approves the expense prior to its
9 being incurred. All invoices and bills relating to the
10 remediation work shall be submitted with appropriate
11 documentation, as deemed necessary by the Council, ~~not~~
12 ~~later than 30 days after the work has been performed.~~

13 (7) Neither the Council nor an eligible claimant is
14 responsible for payment for costs incurred that have not
15 been previously approved by the Council, unless an
16 emergency exists.

17 (8) The Council may determine the usual and customary
18 costs of each item for which reimbursement may be awarded
19 under this Section. The Council may revise the usual and
20 customary costs from time to time as necessary, but costs
21 submitted for reimbursement shall be subject to the rates
22 in effect at the time the costs were incurred.

23 (9) If a claimant has pollution liability insurance
24 coverage other than coverage provided by the insurance
25 account under this Act, that coverage shall be primary.
26 Reimbursement from the remedial account shall be limited to

1 the deductible amounts under the primary coverage and the
2 amount that exceeds the policy limits of the primary
3 coverage, subject to the deductible amounts of this Act. If
4 there is a dispute between the claimant and the primary
5 insurance provider, reimbursement from the remedial action
6 account may be made to the claimant after the claimant
7 assigns all of his or her interests in the insurance
8 coverage to the Council.

9 (g) The source of funds for the remedial action account
10 shall be moneys allocated to the account by the Council
11 according to the Fund budget approved by the Council.

12 (h) A drycleaning facility will be classified as active or
13 inactive for purposes of determining benefits under this
14 Section based on the status of the facility on the date a claim
15 is filed.

16 (i) Eligible claimants shall conduct remedial action in
17 accordance with the Site Remediation Program under the
18 Environmental Protection Act and Part 740 of Title 35 of the
19 Illinois Administrative Code and the Tiered Approach to Cleanup
20 Objectives under Part 742 of Title 35 of the Illinois
21 Administrative Code.

22 (Source: P.A. 93-201, eff. 1-1-04.)

23 (415 ILCS 135/60)

24 (Section scheduled to be repealed on January 1, 2020)

25 Sec. 60. Drycleaning facility license.

1 (a) On and after January 1, 1998, no person shall operate a
2 drycleaning facility in this State without a license issued by
3 the Council.

4 (b) The Council shall issue an initial or renewal license
5 to a drycleaning facility on submission by an applicant of a
6 completed form prescribed by the Council and proof of payment
7 of the required fee to the Department of Revenue.

8 (c) On or after January 1, 2004, the annual fees for
9 licensure are as follows:

10 (1) \$500 for a facility that uses (i) 50 gallons or
11 less of chlorine-based or green drycleaning solvents
12 annually, (ii) 250 or less gallons annually of
13 hydrocarbon-based drycleaning solvents in a drycleaning
14 machine equipped with a solvent reclaimer, or (iii) 500
15 gallons or less annually of hydrocarbon-based drycleaning
16 solvents in a drycleaning machine without a solvent
17 reclaimer.

18 (2) \$500 for a facility that uses (i) more than 50
19 gallons but not more than 100 gallons of chlorine-based or
20 green drycleaning solvents annually, (ii) more than 250
21 gallons but not more 500 gallons annually of
22 hydrocarbon-based solvents in a drycleaning machine
23 equipped with a solvent reclaimer, or (iii) more than 500
24 gallons but not more than 1,000 gallons annually of
25 hydrocarbon-based drycleaning solvents in a drycleaning
26 machine without a solvent reclaimer.

1 (3) \$500 for a facility that uses (i) more than 100
2 gallons but not more than 150 gallons of chlorine-based or
3 green drycleaning solvents annually, (ii) more than 500
4 gallons but not more than 750 gallons annually of
5 hydrocarbon-based solvents in a drycleaning machine
6 equipped with a solvent reclaimer, or (iii) more than 1,000
7 gallons but not more than 1,500 gallons annually of
8 hydrocarbon-based drycleaning solvents in a drycleaning
9 machine without a solvent reclaimer.

10 (4) \$1,000 for a facility that uses (i) more than 150
11 gallons but not more than 200 gallons of chlorine-based or
12 green drycleaning solvents annually, (ii) more than 750
13 gallons but not more than 1,000 gallons annually of
14 hydrocarbon-based solvents in a drycleaning machine
15 equipped with a solvent reclaimer, or (iii) more than 1,500
16 gallons but not more than 2,000 gallons annually of
17 hydrocarbon-based drycleaning solvents in a drycleaning
18 machine without a solvent reclaimer.

19 (5) \$1,000 for a facility that uses (i) more than 200
20 gallons but not more than 250 gallons of chlorine-based or
21 green drycleaning solvents annually, (ii) more than 1,000
22 gallons but not more than 1,250 gallons annually of
23 hydrocarbon-based solvents in a drycleaning machine
24 equipped with a solvent reclaimer, or (iii) more than 2,000
25 gallons but not more than 2,500 gallons annually of
26 hydrocarbon-based drycleaning solvents in a drycleaning

1 machine without a solvent reclaimer.

2 (6) \$1,000 for a facility that uses (i) more than 250
3 gallons but not more than 300 gallons of chlorine-based or
4 green drycleaning solvents annually, (ii) more than 1,250
5 gallons but not more than 1,500 gallons annually of
6 hydrocarbon-based solvents in a drycleaning machine
7 equipped with a solvent reclaimer, or (iii) more than 2,500
8 gallons but not more than 3,000 gallons annually of
9 hydrocarbon-based drycleaning solvents in a drycleaning
10 machine without a solvent reclaimer.

11 (7) \$1,000 for a facility that uses (i) more than 300
12 gallons but not more than 350 gallons of chlorine-based or
13 green drycleaning solvents annually, (ii) more than 1,500
14 gallons but not more than 1,750 gallons annually of
15 hydrocarbon-based solvents in a drycleaning machine
16 equipped with a solvent reclaimer, or (iii) more than 3,000
17 gallons but not more than 3,500 gallons annually of
18 hydrocarbon-based drycleaning solvents in a drycleaning
19 machine without a solvent reclaimer.

20 (8) \$1,500 for a facility that uses (i) more than 350
21 gallons but not more than 400 gallons of chlorine-based or
22 green drycleaning solvents annually, (ii) more than 1,750
23 gallons but not more than 2,000 gallons annually of
24 hydrocarbon-based solvents in a drycleaning machine
25 equipped with a solvent reclaimer, or (iii) more than 3,500
26 gallons but not more than 4,000 gallons annually of

1 hydrocarbon-based drycleaning solvents in a drycleaning
2 machine without a solvent reclaimer.

3 (9) \$1,500 for a facility that uses (i) more than 400
4 gallons but not more than 450 gallons of chlorine-based or
5 green drycleaning solvents annually, (ii) more than 2,000
6 gallons but not more than 2,250 gallons annually of
7 hydrocarbon-based solvents in a drycleaning machine
8 equipped with a solvent reclaimer, or (iii) more than 4,000
9 gallons but not more than 4,500 gallons annually of
10 hydrocarbon-based drycleaning solvents in a drycleaning
11 machine without a solvent reclaimer.

12 (10) \$1,500 for a facility that uses (i) more than 450
13 gallons but not more than 500 gallons of chlorine-based or
14 green drycleaning solvents annually, (ii) more than 2,250
15 gallons but not more than 2,500 gallons annually of
16 hydrocarbon-based solvents used in a drycleaning machine
17 equipped with a solvent reclaimer, or (iii) more than 4,500
18 gallons but not more than 5,000 gallons annually of
19 hydrocarbon-based drycleaning solvents in a drycleaning
20 machine without a solvent reclaimer.

21 (11) \$1,500 for a facility that uses (i) more than 500
22 gallons but not more than 550 gallons of chlorine-based or
23 green drycleaning solvents annually, (ii) more than 2,500
24 gallons but not more than 2,750 gallons annually of
25 hydrocarbon-based solvents in a drycleaning machine
26 equipped with a solvent reclaimer, or (iii) more than 5,000

1 gallons but not more than 5,500 gallons annually of
2 hydrocarbon-based drycleaning solvents in a drycleaning
3 machine without a solvent reclaimer.

4 (12) \$1,500 for a facility that uses (i) more than 550
5 gallons but not more than 600 gallons of chlorine-based or
6 green drycleaning solvents annually, (ii) more than 2,750
7 gallons but not more than 3,000 gallons annually of
8 hydrocarbon-based solvents in a drycleaning machine
9 equipped with a solvent reclaimer, or (iii) more than 5,500
10 gallons but not more than 6,000 gallons annually of
11 hydrocarbon-based drycleaning solvents in a drycleaning
12 machine without a solvent reclaimer.

13 (13) \$1,500 for a facility that uses (i) more than 600
14 gallons of chlorine-based or green drycleaning solvents
15 annually, (ii) more than 3,000 gallons but not more than
16 3,250 gallons annually of hydrocarbon-based solvents in a
17 drycleaning machine equipped with a solvent reclaimer, or
18 (iii) more than 6,000 gallons of hydrocarbon-based
19 drycleaning solvents annually in a drycleaning machine
20 equipped without a solvent reclaimer.

21 (14) \$1,500 for a facility that uses more than 3,250
22 gallons but not more than 3,500 gallons annually of
23 hydrocarbon-based solvents in a drycleaning machine
24 equipped with a solvent reclaimer.

25 (15) \$1,500 for a facility that uses more than 3,500
26 gallons but not more than 3,750 gallons annually of

1 hydrocarbon-based solvents used in a drycleaning machine
2 equipped with a solvent reclaimer.

3 (16) \$1,500 for a facility that uses more than 3,750
4 gallons but not more than 4,000 gallons annually of
5 hydrocarbon-based solvents in a drycleaning machine
6 equipped with a solvent reclaimer.

7 (17) \$1,500 for a facility that uses more than 4,000
8 gallons annually of hydrocarbon-based solvents in a
9 drycleaning machine equipped with a solvent reclaimer.

10 For purpose of this subsection, the quantity of drycleaning
11 solvents used annually shall be determined as follows:

12 (1) in the case of an initial applicant, the quantity
13 of drycleaning solvents that the applicant estimates will
14 be used during his or her initial license year. A fee
15 assessed under this subdivision is subject to audited
16 adjustment for that year; or

17 (2) in the case of a renewal applicant, the quantity of
18 drycleaning solvents actually purchased ~~used~~ in the
19 preceding license year.

20 The Council may adjust licensing fees annually based on the
21 published Consumer Price Index - All Urban Consumers ("CPI-U")
22 or as otherwise determined by the Council.

23 (d) A license issued under this Section shall expire one
24 year after the date of issuance and may be renewed on
25 reapplication to the Council and submission of proof of payment
26 of the appropriate fee to the Department of Revenue in

1 accordance with subsections (c) and (e). At least 30 days
2 before payment of a renewal licensing fee is due, the Council
3 shall attempt to:

4 (1) notify the operator of each licensed drycleaning
5 facility concerning the requirements of this Section; and

6 (2) submit a license fee payment form to the licensed
7 operator of each drycleaning facility.

8 (e) An operator of a drycleaning facility shall submit the
9 appropriate application form provided by the Council with the
10 license fee in the form of cash or guaranteed remittance to the
11 Department of Revenue. The license fee payment form and the
12 actual license fee payment shall be administered by the
13 Department of Revenue under rules adopted by that Department.

14 (f) The Department of Revenue shall issue a proof of
15 payment receipt to each operator of a drycleaning facility who
16 has paid the appropriate fee in cash or by guaranteed
17 remittance. However, the Department of Revenue shall not issue
18 a proof of payment receipt to a drycleaning facility that is
19 liable to the Department of Revenue for a tax imposed under
20 this Act. The original receipt shall be presented to the
21 Council by the operator of a drycleaning facility.

22 (g) (Blank). ~~An operator of a dry cleaning facility who is~~
23 ~~required to pay a license fee under this Act and fails to pay~~
24 ~~the license fee when the fee is due may be assessed a penalty~~
25 ~~of \$5 for each day after the license fee is due and until the~~
26 ~~license fee is paid. The penalty shall be effective for license~~

1 ~~fees due on or after July 1, 1999.~~

2 (h) The Council and the Department of Revenue may adopt
3 rules as necessary to administer the licensing requirements of
4 this Act.

5 (Source: P.A. 93-201, eff. 1-1-04.)

6 (415 ILCS 135/65)

7 (Section scheduled to be repealed on January 1, 2020)

8 Sec. 65. Drycleaning solvent tax.

9 (a) On and after January 1, 1998, a tax is imposed upon the
10 use of drycleaning solvent by a person engaged in the business
11 of operating a drycleaning facility in this State at the rate
12 of \$3.50 per gallon of perchloroethylene or other chlorinated
13 drycleaning solvents used in drycleaning operations, \$0.35 per
14 gallon of petroleum-based drycleaning solvent, and \$1.75 per
15 gallon of green solvents, unless the green solvent is used at a
16 virgin facility, in which case the rate is \$0.35 per gallon.
17 The Council shall determine by rule which products are
18 chlorine-based solvents, which products are petroleum-based
19 solvents, and which products are green solvents. All
20 drycleaning solvents shall be considered chlorinated solvents
21 unless the Council determines that the solvents are
22 petroleum-based drycleaning solvents or green solvents.

23 (b) The tax imposed by this Act shall be collected from the
24 purchaser at the time of sale by a seller of drycleaning
25 solvents maintaining a place of business in this State and

1 shall be remitted to the Department of Revenue under the
2 provisions of this Act.

3 (c) The tax imposed by this Act that is not collected by a
4 seller of drycleaning solvents shall be paid directly to the
5 Department of Revenue by the purchaser or end user who is
6 subject to the tax imposed by this Act.

7 (d) No tax shall be imposed upon the use of drycleaning
8 solvent if the drycleaning solvent will not be used in a
9 drycleaning facility or if a floor stock tax has been imposed
10 and paid on the drycleaning solvent. Prior to the purchase of
11 the solvent, the purchaser shall provide a written and signed
12 certificate to the drycleaning solvent seller stating:

13 (1) the name and address of the purchaser;

14 (2) the purchaser's signature and date of signing; and

15 (3) one of the following:

16 (A) that the drycleaning solvent will not be used
17 in a drycleaning facility; or

18 (B) that a floor stock tax has been imposed and
19 paid on the drycleaning solvent.

20 ~~A person who provides a false certification under this~~
21 ~~subsection shall be liable for a civil penalty not to exceed~~
22 ~~\$500 for a first violation and a civil penalty not to exceed~~
23 ~~\$5,000 for a second or subsequent violation.~~

24 (e) On January 1, 1998, there is imposed on each operator
25 of a drycleaning facility a tax on drycleaning solvent held by
26 the operator on that date for use in a drycleaning facility.

1 The tax imposed shall be the tax that would have been imposed
2 under subsection (a) if the drycleaning solvent held by the
3 operator on that date had been purchased by the operator during
4 the first year of this Act.

5 (f) On or before the 25th day of the 1st month following
6 the end of the calendar quarter, a seller of drycleaning
7 solvents who has collected a tax pursuant to this Section
8 during the previous calendar quarter, or a purchaser or end
9 user of drycleaning solvents required under subsection (c) to
10 submit the tax directly to the Department, shall file a return
11 with the Department of Revenue. The return shall be filed on a
12 form prescribed by the Department of Revenue and shall contain
13 information that the Department of Revenue reasonably
14 requires, but at a minimum will require the reporting of the
15 volume of drycleaning solvent sold to each licensed drycleaner.
16 The Department of Revenue shall report quarterly to the Council
17 the volume of drycleaning solvent purchased for the quarter by
18 each licensed drycleaner. Each seller of drycleaning solvent
19 maintaining a place of business in this State who is required
20 or authorized to collect the tax imposed by this Act shall pay
21 to the Department the amount of the tax at the time when he or
22 she is required to file his or her return for the period during
23 which the tax was collected. Purchasers or end users remitting
24 the tax directly to the Department under subsection (c) shall
25 file a return with the Department of Revenue and pay the tax so
26 incurred by the purchaser or end user during the preceding

1 calendar quarter.

2 Except as provided in this Section, the seller of
3 drycleaning solvents filing the return under this Section
4 shall, at the time of filing the return, pay to the Department
5 the amount of tax imposed by this Act less a discount of 1.75%,
6 or \$5 per calendar year, whichever is greater. Failure to
7 timely file the returns and provide to the Department the data
8 requested under this Act will result in disallowance of the
9 reimbursement discount.

10 (g) The tax on drycleaning solvents used in drycleaning
11 facilities and the floor stock tax shall be administered by
12 Department of Revenue under rules adopted by that Department.

13 (h) On and after January 1, 1998, no person shall knowingly
14 sell or transfer drycleaning solvent to an operator of a
15 drycleaning facility that is not licensed by the Council under
16 Section 60. ~~A person who violates this subsection is liable for~~
17 ~~a civil penalty not to exceed \$500 for a first violation and a~~
18 ~~civil penalty not to exceed \$5,000 for a second or subsequent~~
19 ~~violation.~~

20 (i) The Department of Revenue may adopt rules as necessary
21 to implement this Section.

22 (Source: P.A. 93-201, eff. 1-1-04.)

23 (415 ILCS 135/69 new)

24 Sec. 69. Civil penalties.

25 (a) Except as provided in this Section, any person who

1 violates any provision of this Act or any regulation adopted by
2 the Council, or any license or registration or term or
3 condition thereof, or that violates any order of the Council
4 under this Act, shall be liable for a civil penalty as provided
5 in this Section. The penalties may, upon order of the Council
6 or a court of competent jurisdiction, be made payable to the
7 Drycleaner Environmental Response Trust Fund, to be used in
8 accordance with the provisions of the Drycleaner Environmental
9 Response Trust Fund Act.

10 (b) Notwithstanding the provisions of subsection (a) of
11 this Section:

12 (1) Any person who violates Sections 60(a) of this Act
13 by failing to pay the license fee when due, may be assessed
14 a civil penalty of \$5 per day for each day after the
15 license fee is due until the license fee is paid. The
16 penalty shall be effective for license fees due on or after
17 July 1, 1999.

18 (2) Any person who violates Section 65(d) or 65(h) of
19 this Act shall be liable for a civil penalty not to exceed
20 \$500 for the first violation and a civil penalty not to
21 exceed \$5,000 for a second or subsequent violation.

22 (3) Any person who violates Section 67 of this Act
23 shall be liable for a civil penalty not to exceed \$100 per
24 day for each day the person is not registered to sell
25 drycleaning solvents.

26 (c) The Council shall issue an administrative assessment

1 setting forth any penalties it imposes under subsection (b) of
2 this Section and shall serve notice of the assessment upon the
3 party assessed. The Council's determination shall be deemed
4 correct and shall serve as evidence of the correctness of the
5 Council's determination that a penalty is due. Proof of a
6 determination by the Council may be made at any administrative
7 hearing or in any legal proceeding by a reproduced copy or
8 computer print-out of the Council's record relating thereto in
9 the name of the Council under the certificate of the Council.

10 If reproduced copies of the Council's records are offered
11 as proof of a penalty assessment, the Council must certify that
12 those copies are true and exact copies of records on file with
13 the Council. If computer print-outs of the Council's records
14 are offered as proof of a determination, the Council Chairman
15 must certify that those computer print-outs are true and exact
16 representations of records properly entered into standard
17 electronic computing equipment, in the regular course of the
18 Council's business, at or reasonably near the time of the
19 occurrence of the facts recorded, from trustworthy and reliable
20 information. A certified reproduced copy or certified computer
21 print-out shall, without further proof, be admitted into
22 evidence in any administrative or legal proceeding and is prima
23 facie proof of the correctness of the Council's determination.

24 Whenever notice is required by this Section, the notice may
25 be given by United States registered or certified mail,
26 addressed to the person concerned at his last known address,

1 and proof of mailing shall be sufficient for the purposes of
2 this Act. Notice of any hearing provided for by this Act shall
3 be given not less than 7 days before the day fixed for the
4 hearing. Following the initial contact of a person represented
5 by an attorney, the Council shall not contact that person but
6 shall only contact the attorney representing that person.

7 (d) The penalties provided for in this Section may be
8 recovered in a civil action instituted by the Attorney General
9 in the name of the people of the State of Illinois.

10 (e) The Attorney General may also, at the request of the
11 Council or on his or her own motion, institute a civil action
12 for an injunction, prohibitory or mandatory, to restrain
13 violations of this Act, any rule or regulation adopted under
14 this Act, any license or registration or term or condition of a
15 license or registration, or any Council order, or to require
16 other actions as may be necessary to address violations
17 thereof.

18 (f) Without limiting any other authority which may exist
19 for the awarding of attorney's fees and costs, the Council, or
20 a court of competent jurisdiction, may award costs and
21 reasonable attorney's fees, including the reasonable costs of
22 expert witnesses and consultants, to the Attorney General in a
23 case where the Attorney General has prevailed against a person
24 who has committed a willful, knowing, or repeated violation of
25 this Act, any rule or regulation adopted under this Act, any
26 license or registration or term or condition of a license or

1 registration, or any Council order. Any funds collected under
2 this subsection (f) in which the Attorney General has prevailed
3 shall be deposited in the Drycleaner Environmental Response
4 Trust Fund created in Section 10 of this Act.

5 (g) All final orders imposing civil penalties under this
6 Section shall prescribe the time for payment of the penalties.
7 If any penalty is not paid within the time prescribed, interest
8 on the penalty shall be paid, at the rate set forth in Section
9 3-2 of the Illinois Uniform Penalty and Interest Act, for the
10 period from the date payment is due until the date payment is
11 received. However, if the time for payment is stayed during the
12 pendency of an appeal, interest shall not accrue during the
13 stay.