



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6115

Introduced 2/11/2010, by Rep. Julie Hamos

SYNOPSIS AS INTRODUCED:

415 ILCS 5/13.7 new
415 ILCS 135/5
415 ILCS 135/10
415 ILCS 135/20
415 ILCS 135/65
415 ILCS 135/85
415 ILCS 135/90 new

Amends the Environmental Protection Act. Prohibits, on and after January 1, 2011, the installation of drycleaning machines that use perchloroethylene (PERC). Prohibits, on and after January 1, 2013, the use of PERC in certain drycleaning applications. Bans, beginning on January 1, 2026, the use of PERC in drycleaning. Defines "drycleaning" and "drycleaning machine". Amends the Drycleaner Environmental Response Trust Fund Act. Imposes, and requires the Department of Revenue to collect, 2 additional taxes on PERC. Requires moneys received from these taxes to be deposited into a grant account in the Drycleaner Environmental Trust Fund. Provides that moneys in the grant account may be used, subject to certain limitations, to (i) establish a demonstration program to showcase green solvent drycleaning technologies and (ii) provide grants to encourage a transition to use of those technologies. Authorizes the Drycleaner Environmental Response Trust Fund Council to adopt rules for administering the grant program. Repeals one PERC tax on January 1, 2020 and makes changes to prevent the repeal of another PERC tax on that date. Defines "drycleaning machine" and "green solvent". Effective immediately.

LRB096 20012 JDS 35503 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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 Environmental Protection Act is amended by
5 adding Section 13.7 as follows:

6 (415 ILCS 5/13.7 new)

7 Sec. 13.7. Phase-out of perchloroethylene in drycleaning.

8 (a) Definitions. For the purposes of this Section:

9 "Drycleaning" means the process of cleaning clothing,
10 garments, textiles, fabrics, leather goods, or other like
11 articles using a nonaqueous solvent.

12 "Drycleaning machine" means any machine, device, or
13 other equipment used in drycleaning.

14 (b) Prohibitions.

15 (1) Beginning January 1, 2011, no person shall install
16 a drycleaning machine that uses perchloroethylene.

17 (2) Beginning January 1, 2013, no person shall use
18 perchloroethylene in drycleaning that is conducted in (i) a
19 building that contains a residence or (ii) a facility that
20 shares a common wall, floor, or ceiling with a residence.

21 (3) Beginning January 1, 2013, no person shall use a
22 drycleaning machine that uses perchloroethylene if the
23 machine is 15 years old or older based on its date of

1 manufacture.

2 (4) Beginning January 1, 2026, no person shall use
3 perchloroethylene in drycleaning.

4

5 Section 10. The Drycleaner Environmental Response Trust
6 Fund Act is amended by changing Sections 5, 10, 20, 65, and 85
7 and by adding Section 90 as follows:

8 (415 ILCS 135/5)

9 Sec. 5. Definitions. As used in this Act:

10 (a) "Active drycleaning facility" means a drycleaning
11 facility actively engaged in drycleaning operations and
12 licensed under Section 60 of this Act.

13 (b) "Agency" means the Illinois Environmental Protection
14 Agency.

15 (c) "Claimant" means an owner or operator of a drycleaning
16 facility who has applied for reimbursement from the remedial
17 account or who has submitted a claim under the insurance
18 account with respect to a release.

19 (d) "Council" means the Drycleaner Environmental Response
20 Trust Fund Council.

21 (e) "Drycleaner Environmental Response Trust Fund" or
22 "Fund" means the fund created under Section 10 of this Act.

23 (f) "Drycleaning facility" means a facility located in this
24 State that is or has been engaged in drycleaning operations for

1 the general public, other than a:

2 (1) facility located on a United States military base;

3 (2) industrial laundry, commercial laundry, or linen
4 supply facility;

5 (3) prison or other penal institution that engages in
6 drycleaning only as part of a Correctional Industries
7 program to provide drycleaning to persons who are
8 incarcerated in a prison or penal institution or to
9 resident patients of a State-operated mental health
10 facility;

11 (4) not-for-profit hospital or other health care
12 facility; or a

13 (5) facility located or formerly located on federal or
14 State property.

15 (f-5) "Drycleaning machine" means any machine, device, or
16 other equipment used in drycleaning operations.

17 (g) "Drycleaning operations" means drycleaning of apparel
18 and household fabrics for the general public, as described in
19 Standard Industrial Classification Industry No. 7215 and No.
20 7216 in the Standard Industrial Classification Manual (SIC) by
21 the Technical Committee on Industrial Classification.

22 (h) "Drycleaning solvent" means any and all nonaqueous
23 solvents, including but not limited to a chlorine-based or
24 petroleum-based formulation or product, including green
25 solvents, that are used as a primary cleaning agent in
26 drycleaning operations.

1 (i) "Emergency" or "emergency action" means a situation or
2 an immediate response to a situation to protect public health
3 or safety. "Emergency" or "emergency action" does not mean
4 removal of contaminated soils, recovery of free product, or
5 financial hardship. An "emergency" or "emergency action" would
6 normally be expected to be directly related to a sudden event
7 or discovery and would last until the threat to public health
8 is mitigated.

9 (i-5) "Green solvent" means a solvent evaluated and
10 determined by the Council, in consultation with the Agency, not
11 to pose a threat to human health and safety or the environment
12 during its normal course of use or when released into the
13 environment.

14 (j) "Groundwater" means underground water that occurs
15 within the saturated zone and geologic materials where the
16 fluid pressure in the pore space is equal to or greater than
17 the atmospheric pressure.

18 (k) "Inactive drycleaning facility" means a drycleaning
19 facility that is not being used for drycleaning operations and
20 is not registered under this Act.

21 (l) "Maintaining a place of business in this State" or any
22 like term means (1) having or maintaining within this State,
23 directly or through a subsidiary, an office, distribution
24 facility, distribution house, sales house, warehouse, or other
25 place of business or (2) operating within this State as an
26 agent or representative for a person or a person's subsidiary

1 engaged in the business of selling to persons within this
2 State, irrespective of whether the place of business or agent
3 or other representative is located in this State permanently or
4 temporary, or whether the person or the person's subsidiary
5 engages in the business of selling in this State.

6 (m) "No Further Remediation Letter" means a letter provided
7 by the Agency pursuant to Section 58.10 of Title XVII of the
8 Environmental Protection Act.

9 (n) "Operator" means a person or entity holding a business
10 license to operate a licensed drycleaning facility or the
11 business operation of which the drycleaning facility is a part.

12 (o) "Owner" means (1) a person who owns or has possession
13 or control of a drycleaning facility at the time a release is
14 discovered, regardless of whether the facility remains in
15 operation or (2) a parent corporation of the person under item
16 (1) of this subdivision.

17 (p) "Parent corporation" means a business entity or other
18 business arrangement that has elements of common ownership or
19 control or that uses a long-term contractual arrangement with a
20 person to avoid direct responsibility for conditions at a
21 drycleaning facility.

22 (q) "Person" means an individual, trust, firm, joint stock
23 company, corporation, consortium, joint venture, or other
24 commercial entity.

25 (r) "Program year" means the period beginning on July 1 and
26 ending on the following June 30.

1 (s) "Release" means any spilling, leaking, emitting,
2 discharging, escaping, leaching, or dispersing of drycleaning
3 solvents from a drycleaning facility to groundwater, surface
4 water, or subsurface soils.

5 (t) "Remedial action" means activities taken to comply with
6 Sections 58.6 and 58.7 of the Environmental Protection Act and
7 rules adopted by the Pollution Control Board under those
8 Sections.

9 (u) "Responsible party" means an owner, operator, or other
10 person financially responsible for costs of remediation of a
11 release of drycleaning solvents from a drycleaning facility.

12 (v) "Service provider" means a consultant, testing
13 laboratory, monitoring well installer, soil boring contractor,
14 other contractor, lender, or any other person who provides a
15 product or service for which a claim for reimbursement has been
16 or will be filed against the remedial account or insurance
17 account, or a subcontractor of such a person.

18 (w) "Virgin facility" means a drycleaning facility that has
19 never had chlorine-based or petroleum-based drycleaning
20 solvents stored or used at the property prior to it becoming a
21 green solvent drycleaning facility.

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

23 (415 ILCS 135/10)

24 Sec. 10. Drycleaner Environmental Response Trust Fund.

25 (a) The Drycleaner Environmental Response Trust Fund is

1 created as a special fund in the State Treasury. Moneys
2 deposited into the Fund shall be used solely for the purposes
3 of the Council and for other purposes as provided in this Act.
4 The Fund shall include moneys credited to the Fund under this
5 Act and other moneys that by law may be credited to the Fund.
6 The State Treasurer may invest Funds deposited into the Fund at
7 the direction of the Council. Interest, income from the
8 investments, and other income earned by the Fund shall be
9 credited to and deposited into the Fund.

10 Pursuant to appropriation, all moneys in the Drycleaner
11 Environmental Response Trust Fund shall be disbursed by the
12 Agency to the Council for the purpose of making disbursements,
13 if any, in accordance with this Act and for the purpose of
14 paying the ordinary and contingent expenses of the Council.
15 After June 30, 1999, pursuant to appropriation, all moneys in
16 the Drycleaner Environmental Response Trust Fund may be used by
17 the Council for the purpose of making disbursements, if any, in
18 accordance with this Act and for the purpose of paying the
19 ordinary and contingent expenses of the Council.

20 The Fund may be divided into different accounts with
21 different depositories to fulfill the purposes of the Act as
22 determined by the Council.

23 Moneys in the Fund at the end of a State fiscal year shall
24 be carried forward to the next fiscal year and shall not revert
25 to the General Revenue Fund.

26 (b) The specific purposes of the Fund include but are not

1 limited to the following:

2 (1) To establish an account to fund remedial action of
3 drycleaning solvent releases from drycleaning facilities
4 as provided by Section 40.

5 (2) To establish an insurance account for insuring
6 environmental risks from releases from drycleaning
7 facilities within this State as provided by Section 45.

8 (3) To establish an account to fund grants as provided
9 in Section 90.

10 (c) The State, the General Revenue Fund, and any other Fund
11 of the State, other than the Drycleaner Environmental Response
12 Trust Fund, shall not be liable for a claim or cause of action
13 in connection with a drycleaning facility not owned or operated
14 by the State or an agency of the State. All expenses incurred
15 by the Fund shall be payable solely from the Fund and no
16 liability or obligation shall be imposed upon the State. The
17 State is not liable for a claim presented against the Fund.

18 (d) The liability of the Fund is limited to the extent of
19 coverage provided by the account under which a claim is
20 submitted, subject to the terms and conditions of that
21 coverage. The liability of the Fund is further limited by the
22 moneys made available to the Fund, and no remedy shall be
23 ordered that would require the Fund to exceed its then current
24 funding limitations to satisfy an award or which would restrict
25 the availability of moneys for higher priority sites.

26 (e) Nothing in this Act shall be construed to limit,

1 restrict, or affect the authority and powers of the Agency or
2 another State agency or statute unless the State agency or
3 statute is specifically referenced and the limitation is
4 clearly set forth in this Act.

5 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

6 (415 ILCS 135/20)

7 Sec. 20. Council rules.

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

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

19 (c) The Council shall adopt rules regarding its practice
20 and procedures to develop underwriting standards, establish
21 insurance account coverage and risk factors, settle claims made
22 against the insurance account of the Fund, determine
23 appropriate deductibles or retentions in coverages or benefits
24 offered under the insurance account of the Fund, determine
25 reimbursement guidelines, and otherwise implement and

1 administer the insurance account under this Act.

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

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

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

18 (g) Except for the award of grants under Section 90 of this
19 Act, all ~~All~~ final Council decisions regarding the Fund or any
20 reimbursement from the Fund and any decision concerning the
21 classification of drycleaning solvents pursuant to subsection
22 (a) of Section 65 of this Act and any notice of the assessment
23 of civil penalties under Section 69 of this Act shall be
24 subject to appeal to the Administrator of the Council, by the
25 affected parties, within 60 days after the final decision. The
26 Council shall determine by rule persons who have standing to

1 appeal final Council decisions. Any written decision by the
2 Administrator may be appealed to the Council within 60 days
3 after the Administrator's final decision. Any decision by the
4 Council may be appealed to the Council's administrative law
5 judge within 60 days after the Council's final decision. Notice
6 of any hearing provided for by this Act shall be given not less
7 than 7 days before the day fixed for the hearing. An appeal of
8 the administrative law judge's decision will be subject to
9 judicial review in accordance with the Administrative Review
10 Law.

11 Any decision not timely appealed shall become a final
12 administrative decision without the necessity of a final
13 administrative decision being issued and shall be deemed to be
14 a final administrative decision.

15 The Council shall adopt rules relating to appeal
16 procedures.

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

24 Proof of the Council's administrative decision may be made
25 at any administrative or legal proceeding by a reproduced copy
26 of the Council's record relating to the decision under the

1 certificate of the Council. A reproduced copy shall, without
2 further proof, be admitted into evidence and shall be prima
3 facie proof of the decision.

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

10 Venue for an administrative review action challenging the
11 results of an administrative hearing upholding an
12 administrative decision issued by the Council shall be proper
13 in the Circuit Court of the county where the plaintiff has its
14 principal place of business, or Sangamon County if the
15 plaintiff's principal place of business is located outside
16 Illinois.

17 (h) The Council shall adopt rules for the awarding of
18 grants pursuant to Section 90 of this Act, and for otherwise
19 implementing and administering the grant account under this
20 Act.

21 (Source: P.A. 96-774, eff. 1-1-10.)

22 (415 ILCS 135/65)

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

24 Sec. 65. Drycleaning solvent tax.

25 (a) On and after January 1, 1998 and before January 1,

1 2020, a tax is imposed upon the use of drycleaning solvent by a
2 person engaged in the business of operating a drycleaning
3 facility in this State at the rate of \$3.50 per gallon of
4 perchloroethylene or other chlorinated drycleaning solvents
5 used in drycleaning operations, \$0.35 per gallon of
6 petroleum-based drycleaning solvent, and \$1.75 per gallon of
7 green solvents, unless the green solvent is used at a virgin
8 facility, in which case the rate is \$0.35 per gallon. The
9 Council shall determine by rule which products are
10 chlorine-based solvents, which products are petroleum-based
11 solvents, and which products are green solvents. All
12 drycleaning solvents shall be considered chlorinated solvents
13 unless the Council determines that the solvents are
14 petroleum-based drycleaning solvents or green solvents.

15 (a-3) On and after January 1, 2011, a tax is imposed upon
16 the use of perchloroethylene by a person engaged in the
17 business of operating a drycleaning facility in this State at
18 the rate of \$14 per gallon of perchloroethylene used in
19 drycleaning operations. On January 1, 2012, the tax shall
20 increase to the rate of \$15 per gallon of perchloroethylene
21 used in drycleaning operations. The tax shall continue to
22 increase by one dollar per gallon on each subsequent January 1
23 through January 1, 2017. On and after January 1, 2017, the tax
24 shall be \$20 per gallon of perchloroethylene used in
25 drycleaning operations. The tax imposed under this subsection
26 (a-3) shall be in addition to the taxes imposed under

1 subsections (a) and (a-5) of this Section.

2 (a-5) On January 1, 2011, there is imposed on each operator
3 of a drycleaning facility a tax on perchloroethylene held by
4 the operator on that date for use in a drycleaning facility.
5 The tax imposed shall be the tax that would have been imposed
6 under subsection (a-3) if the perchloroethylene held by the
7 operator on that date had been purchased by the operator during
8 calendar year 2011. The tax imposed under this subsection (a-5)
9 shall be in addition to the taxes imposed under subsections (a)
10 and (a-3) of this Section.

11 (b) The taxes ~~tax~~ imposed by this Act shall be collected
12 from the purchaser at the time of sale by a seller of
13 drycleaning solvents maintaining a place of business in this
14 State and shall be remitted to the Department of Revenue under
15 the provisions of this Act.

16 (c) ~~A~~ The tax imposed by this Act that is not collected by
17 a seller of drycleaning solvents shall be paid directly to the
18 Department of Revenue by the purchaser or end user who is
19 subject to the tax imposed by this Act.

20 (d) No tax shall be imposed upon the use of drycleaning
21 solvent if the drycleaning solvent will not be used in a
22 drycleaning facility. No tax shall be imposed under subsection
23 (a) of this Section ~~or~~ if a floor stock tax has been imposed
24 and paid on the drycleaning solvent. Prior to the purchase of
25 the solvent, the purchaser shall provide a written and signed
26 certificate to the drycleaning solvent seller stating:

- 1 (1) the name and address of the purchaser;
- 2 (2) the purchaser's signature and date of signing; and
- 3 (3) one of the following:

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

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

8 (e) On January 1, 1998, there is imposed on each operator
9 of a drycleaning facility a tax on drycleaning solvent held by
10 the operator on that date for use in a drycleaning facility.
11 The tax imposed shall be the tax that would have been imposed
12 under subsection (a) if the drycleaning solvent held by the
13 operator on that date had been purchased by the operator during
14 the first year of this Act.

15 (f) On or before the 25th day of the 1st month following
16 the end of the calendar quarter, a seller of drycleaning
17 solvents who has collected a tax pursuant to this Section
18 during the previous calendar quarter, or a purchaser or end
19 user of drycleaning solvents required under subsection (c) to
20 submit the tax directly to the Department, shall file a return
21 with the Department of Revenue. The return shall be filed on a
22 form prescribed by the Department of Revenue and shall contain
23 information that the Department of Revenue reasonably
24 requires, but at a minimum will require the reporting of the
25 volume of drycleaning solvent sold to each licensed drycleaner.
26 The Department of Revenue shall report quarterly to the Council

1 the volume of drycleaning solvent purchased for the quarter by
2 each licensed drycleaner. Each seller of drycleaning solvent
3 maintaining a place of business in this State who is required
4 or authorized to collect a ~~the~~ tax imposed by this Act shall
5 pay to the Department the amount of the tax at the time when he
6 or she is required to file his or her return for the period
7 during which the tax was collected. Purchasers or end users
8 remitting the tax directly to the Department under subsection
9 (c) shall file a return with the Department of Revenue and pay
10 the tax so incurred by the purchaser or end user during the
11 preceding calendar quarter.

12 Except as provided in this Section, the seller of
13 drycleaning solvents filing the return under this Section
14 shall, at the time of filing the return, pay to the Department
15 the amount of tax imposed by this Act less a discount of 1.75%,
16 or \$5 per calendar year, whichever is greater. Failure to
17 timely file the returns and provide to the Department the data
18 requested under this Act will result in disallowance of the
19 reimbursement discount.

20 (g) The taxes ~~tax~~ on drycleaning solvents used in
21 drycleaning facilities and the floor stock tax shall be
22 administered by Department of Revenue under rules adopted by
23 that Department.

24 (h) On and after January 1, 1998, no person shall knowingly
25 sell or transfer drycleaning solvent to an operator of a
26 drycleaning facility that is not licensed by the Council under

1 Section 60.

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

4 (Source: P.A. 96-774, eff. 1-1-10.)

5 (415 ILCS 135/85)

6 Sec. 85. Repeal of fee and tax provisions. ~~Section Sections~~
7 60 ~~and 65~~ of this Act ~~is are~~ repealed on January 1, 2020.

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

9 (415 ILCS 135/90 new)

10 Sec. 90. Grant account.

11 (a) The grant account is established to provide incentives
12 to owners and operators of active drycleaning facilities that
13 use perchloroethylene to transition to drycleaning operations
14 that use green solvents.

15 (b) All moneys received from the taxes established under
16 subsections (a-3) and (a-5) of Section 65 of this Act shall be
17 deposited into the grant account.

18 (c) The Council shall award grants from the grant account
19 on a competitive basis subject to availability of funding. To
20 be eligible for a grant under this Section, an applicant must
21 replace all of its drycleaning machines at an active
22 drycleaning facility that use perchloroethylene with
23 drycleaning machines that use green solvents. The Council shall
24 determine the eligibility of grant recipients pursuant to rules

1 adopted under subsection (h) of Section 20 of this Act.

2 (d) Grants shall be limited to a maximum of \$10,000, and no
3 person shall receive more than this amount under this Section.
4 Grant moneys shall be used solely for the purchase and
5 installation of drycleaning machines that use green solvents.
6 Grants shall be awarded as matching funds and shall not exceed
7 50% of the cost of purchasing and installing the drycleaning
8 machines.

9 (e) In awarding grants the Council may give weight to
10 geographic location to enhance the geographic distribution of
11 grants across this State.

12 (f) The Council may establish a demonstration program to
13 showcase green solvent drycleaning technologies in this State.
14 The demonstration program must require 50% matching funds to
15 cover the costs of the demonstration program. Any person may
16 contribute moneys as matching funds, including, but not limited
17 to, federal, state, or local government entities and nonprofit
18 entities. Not more than 30% of the moneys deposited annually in
19 the grant account may be used for the demonstration program.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.