

AN ACT in relation to environmental protection.

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

Section 5. The Drycleaner Environmental Response Trust Fund Act is amended by changing Sections 5, 15, 25, 30, 40, 45, 60, 65, 75, and 85 as follows:

(415 ILCS 135/5)

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

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

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

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

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

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

(f) "Drycleaning facility" means a facility located in this State that is or has been engaged in drycleaning operations for the general public, other than a:

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

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

(3) prison or other penal institution that engages in drycleaning only as part of a Correctional Industries program to provide drycleaning to persons who are

incarcerated in a prison or penal institution or to resident patients of a State-operated mental health facility;

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

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

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

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

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

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

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

(l) "Maintaining a place of business in this State" or

any like term means (1) having or maintaining within this State, directly or through a subsidiary, an office, distribution facility, distribution house, sales house, warehouse, or other place of business or (2) operating within this State as an agent or representative for a person or a person's subsidiary engaged in the business of selling to persons within this State, irrespective of whether the place of business or agent or other representative is located in this State permanently or temporary, or whether the person or the person's subsidiary engages in the business of selling in this State.

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

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

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

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

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

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

(s) "Release" means any spilling, leaking, emitting,

discharging, escaping, leaching, or dispersing of drycleaning solvents from a drycleaning facility to groundwater, surface water, or subsurface soils.

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

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

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

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

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

(415 ILCS 135/15)

Sec. 15. Creation of Council.

(a) The Drycleaner Environmental Response Trust Fund Council is established and shall consist of the following voting members to be appointed by the Governor:

(1) Four ~~Three~~ members who own or operate a drycleaning facility. ~~Two--of--these--members--must--be members--of--the--Illinois--State--Fabricare--Association.~~ These members shall serve 3 year terms, except that of the initial members appointed, one shall be appointed for

a term of one year, one for a term of 2 years, and one for a term of 3 years.

(2) One member who represents wholesale distributors of drycleaning solvents. This member shall serve for a term of 3 years.

(3) One member who represents the drycleaning equipment manufacturers and vendor community. This member shall serve for a term of 3 years.

(4) One member ~~Two--members~~ with experience in financial markets or the insurance industry. This member ~~These-members~~ shall serve ~~3-year-terms,~~ ~~except--that--of~~ ~~the--initial--appointments,~~ ~~one-shall-be-appointed-for-a~~ ~~term-of-2-years,~~ and one for a term of 3 years.

Each member shall have experience, knowledge, and expertise relating to the subject matter of this Act.

(b) The Governor may remove any member of the Council for incompetency, neglect of duty, or malfeasance in office after service on him or her of a copy of the written charges against him or her and after an opportunity to be publicly heard in person or by counsel in his or her own defense no earlier than 10 days after the Governor has provided notice of the opportunity to the Council member. Evidence of incompetency, neglect of duty, or malfeasance in office may be provided to the Governor by the Agency or the Auditor General following the annual audit described in Section 80.

(c) Members of the Council are entitled to receive reimbursement of actual expenses incurred in the discharge of their duties within the limit of funds appropriated to the Council or made available to the Fund. The Governor shall appoint a chairperson of the Council from among the members of the Council.

(d) The Attorney General's office or its designee shall provide legal counsel to the Council.

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

(415 ILCS 135/25)

Sec. 25. Powers and duties of the Council.

(a) The Council shall have all of the general powers reasonably necessary and convenient to carry out its purposes and may perform the following functions, subject to any express limitations contained in this Act:

(1) Take actions and enter into agreements necessary to reimburse claimants for eligible remedial action expenses, assist the Agency to protect the environment from releases, reduce costs associated with remedial actions, and establish and implement an insurance program.

(2) Acquire and hold personal property to be used for the purpose of remedial action.

(3) Purchase, construct, improve, furnish, equip, lease, option, sell, exchange, or otherwise dispose of one or more improvements under the terms it determines. The Council may define "improvements" by rule for purposes of this Act.

(4) Grant a lien, pledge, assignment, or other encumbrance on one or more revenues, assets of right, accounts, or funds established or received in connection with the Fund, including revenues derived from fees or taxes collected under this Act.

(5) Contract for the acquisition or construction of one or more improvements or parts of one or more improvements or for the leasing, subleasing, sale, or other disposition of one or more improvements in a manner the Council determines.

(6) Cooperate with the Agency in the implementation and administration of this Act to minimize unnecessary duplication of effort, reporting, or paperwork and to maximize environmental protection within the funding limits of this Act.

(7) Except as otherwise provided by law, inspect any document in the possession of an owner, operator, service provider, or any other person if the document is relevant to a claim for reimbursement under this Section or may inspect a drycleaning facility for which a claim for benefits under this Act has been submitted.

(b) The Council shall pre-approve, and the contracting parties shall seek pre-approval for, a contract entered into under this Act if the cost of the contract exceeds \$75,000. The Council or its designee shall review and approve or disapprove all contracts entered into under this Act. However, review by the Council or its designee shall not be required when an emergency situation exists. All contracts entered into by the Council shall be awarded on a competitive basis to the maximum extent practical. In those situations where it is determined that bidding is not practical, the basis for the determination of impracticability shall be documented by the Council or its designee.

(c) The Council may prioritize the expenditure of funds from the remedial action account whenever it determines that there are not sufficient funds to settle all current claims. In prioritizing, the Council may consider the following:

(1) the degree to which human health is affected by the exposure posed by the release;

(2) the reduction of risk to human health derived from remedial action compared to the cost of the remedial action;

(3) the present and planned uses of the impacted property; and

(4) other factors as determined by the Council.

(d) The Council shall adopt rules allowing the direct payment from the Fund to a contractor who performs remediation. The rules concerning the direct payment shall

include a provision that any applicable deductible must be paid by the drycleaning facility prior to any direct payment from the Fund.

(e) The Council may purchase reinsurance coverage to reduce the Fund's potential liability for reimbursement of remedial action costs.

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

(415 ILCS 135/30)

Sec. 30. Independent contractors retained by Council.

(a) A contract entered into to retain a person to act as the administrator of the Fund shall be subject to public bid, provided that no such contract shall be entered into without the review and approval of the Director of the Agency. The Council may enter into a contract or an agreement authorized under this Act with a person, the Agency, the Department of Revenue, other departments, agencies, or governmental subdivisions of this State, another state, or the United States, in connection with its administration and implementation of this Act.

(b) The Council may reimburse a public or private contractor retained pursuant to this Section for expenses incurred in the execution of a contract or agreement. Reimbursable expenses include the costs of performing duties or powers specifically delegated by the Council.

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

(415 ILCS 135/40)

Sec. 40. Remedial action account.

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



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

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

(2) In the case of a claimant who is the owner of an inactive drycleaning facility and was the owner or operator of the drycleaning facility when it was an active drycleaning facility, the claimant is only eligible for reimbursement of remedial action costs incurred in connection with a release from the drycleaning facility, subject to any other limitations under this Act.

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

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

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

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

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

(5) If the claimant is the owner or operator of an active drycleaning facility, the claimant has provided to the Council proof of implementation and maintenance of

the following pollution prevention measures:

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

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

(C) That every drycleaning facility:

(I) install a containment dike or other containment structure around each machine, ~~or~~ item of equipment, ~~or the entire~~ drycleaning area, and portable waste container in which any drycleaning solvent is utilized, which shall be capable of containing leaks, spills, or releases ~~any leak, spill, or release~~ of drycleaning solvent from that machine, item, ~~or~~ area, or container. The containment dike or other containment structure shall be capable of at least the following: (i) containing a capacity of 110% of the drycleaning solvent in the largest tank or vessel within the machine; (ii) containing 100% of the drycleaning solvent of each item of equipment or drycleaning area; and (iii) containing 100% of the drycleaning solvent of the largest portable waste container or at least 10% of the total volume of the portable waste containers stored within the containment dike or structure, whichever is greater.

Petroleum underground storage tank systems that are upgraded in accordance with USEPA

upgrade standards pursuant to 40 CFR Part 280 for the tanks and related piping systems and use a leak detection system approved by the USEPA or IEPA are exempt from this secondary containment requirement; and

(II) seal or otherwise render impervious those portions of diked floor surfaces on which a drycleaning solvent may leak, spill, or otherwise be released.

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

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

(7) The release was discovered on or after July 1, 1997 and before July 1, 2006 2004.

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

Application for remedial action account benefits must be submitted to the Council on or before June 30, 2005 2004.

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

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

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

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

(1) Subsequent to meeting the deductible requirements of subsection (e), and pursuant to the requirements of Section 75, reimbursement shall not exceed \$300,000 per active drycleaning facility and \$50,000 per inactive drycleaning facility.‡

~~{A}--\$160,000-per-active--drycleaning--facility for--which-an-eligible-claim-is-submitted-during-the program-year-beginning-July-1,-1999;~~

~~{B}--\$150,000-per-active--drycleaning--facility for--which-an-eligible-claim-is-submitted-during-the program-year-beginning-July-1,-2000;~~

~~(C)--\$140,000-per-active--drycleaning--facility  
for--which-an-eligible-claim-is-submitted-during-the  
program-year-beginning-July-1,-2001;~~

~~(D)--\$130,000-per-active--drycleaning--facility  
for--which-an-eligible-claim-is-submitted-during-the  
program-year-beginning-July-1,-2002;~~

~~(E)--\$120,000-per-active--drycleaning--facility  
for--which-an-eligible--claim-is-submitted-during-the  
program-year-beginning-July-1,-2003;-or~~

~~(F)--\$50,000-per-inactive-drycleaning-facility.~~

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

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

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

(5) The Council may enter into a contract or an exclusive contract with the supplier of goods or services

required by a claimant or class of claimants, in connection with an expense reimbursable from the Fund, for a specified good or service at a gross maximum price or fixed rate, and may limit reimbursement accordingly.

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

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

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

(9) If a claimant has pollution liability insurance coverage other than coverage provided by the insurance account under this Act, that coverage shall be primary. Reimbursement from the remedial account shall be limited to the deductible amounts under the primary coverage and the amount that exceeds the policy limits of the primary coverage, subject to the deductible amounts of this Act. If there is a dispute between the claimant and the primary insurance provider, reimbursement from the remedial action account may be made to the claimant after

the claimant assigns all of his or her interests in the insurance coverage to the Council.

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

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

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

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

(415 ILCS 135/45)

Sec. 45. Insurance account.

(a) The insurance account shall offer financial assurance for a qualified owner or operator of a drycleaning facility under the terms and conditions provided for under this Section. Coverage may be provided to either the owner or the operator of a drycleaning facility. The Council is not required to resolve whether the owner or operator, or both, are responsible for a release under the terms of an agreement between the owner and operator.

(b) The source of funds for the insurance account shall be as follows:

(1) Moneys appropriated to the Council or moneys allocated to the insurance account by the Council according to the Fund budget approved by the Council.

(2) Moneys collected as an insurance premium, including service fees, if any.

(3) Investment income attributed to the insurance account by the Council.

(c) An owner or operator may purchase coverage of up to \$500,000 per drycleaning facility subject to the terms and conditions under this Section and those adopted by the Council. Coverage shall be limited to remedial action costs associated with soil and groundwater contamination resulting from a release of drycleaning solvent at an insured drycleaning facility, including third-party liability for soil and groundwater contamination. Coverage is not provided for a release that occurred before the date of coverage.

(d) An owner or operator, subject to underwriting requirements and terms and conditions deemed necessary and convenient by the Council, may purchase insurance coverage from the insurance account provided that the drycleaning facility to be insured meets the following conditions:

(1) a site investigation designed to identify soil and groundwater contamination resulting from the release of a drycleaning solvent has been completed. The Council shall determine if the site investigation is adequate. This investigation must be completed by June 30, 2006 2004. For drycleaning facilities that apply for insurance coverage ~~become--active~~ after June 30, 2006 2004, the site investigation must be completed prior to issuance of insurance coverage; and

(2) the drycleaning facility is participating in and meets all requirements of a drycleaning compliance program approved by the Council.

(e) The annual premium for insurance coverage shall be:

(1) For the year July 1, 1999 through June 30, 2000, \$250 per drycleaning facility.

(2) For the year July 1, 2000 through June 30, 2001, \$375 per drycleaning facility.

(3) For the year July 1, 2001 through June 30,



2002, \$500 per drycleaning facility.

(4) For the year July 1, 2002 through June 30, 2003, \$625 per drycleaning facility.

(5) For subsequent years, an owner or operator applying for coverage shall pay an annual actuarially-sound insurance premium for coverage by the insurance account. The Council may approve Fund coverage through the payment of a premium established on an actuarially-sound basis, taking into consideration the risk to the insurance account presented by the insured. Risk factor adjustments utilized to determine actuarially-sound insurance premiums should reflect the range of risk presented by the variety of drycleaning systems, monitoring systems, drycleaning volume, risk management practices, and other factors as determined by the Council. As used in this item, "actuarially sound" is not limited to Fund premium revenue equaling or exceeding Fund expenditures for the general drycleaning facility population. Actuarially-determined premiums shall be published at least 180 days prior to the premiums becoming effective.

(f) If coverage is purchased for any part of a year, the purchaser shall pay the full annual premium. The insurance premium is fully earned upon issuance of the insurance policy.

(g) The insurance coverage shall be provided with a \$10,000 deductible policy.

(h) A future repeal of this Section shall not terminate the obligations under this Section or authority necessary to administer the obligations until the obligations are satisfied, including but not limited to the payment of claims filed prior to the effective date of any future repeal against the insurance account until moneys in the account are exhausted. Upon exhaustion of the moneys in the account, any

remaining claims shall be invalid. If moneys remain in the account following satisfaction of the obligations under this Section, the remaining moneys and moneys due the account shall be used to assist current insureds to obtain a viable insuring mechanism as determined by the Council after public notice and opportunity for comment.

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

(415 ILCS 135/60)

(Section scheduled to be repealed on January 1, 2010)

Sec. 60. Drycleaning facility license.

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

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

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

(1) \$500 for a facility that uses (i) 50 purchases ~~140~~ gallons or less of chlorine-based or green drycleaning solvents annually, (ii) 250 or less gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) 500 ~~1400~~ gallons or less annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer annually.

(2) \$500 ~~\$1,000~~ for a facility that uses (i) purchases more than 50 ~~140~~ gallons but not more than 100 ~~less---than---360~~ gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 250 gallons but not more 500 gallons annually of hydrocarbon-based

solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 500 1400 gallons but not more than 1,000 less--than--3600 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer annually.

(3) \$500 \$1,500 for a facility that uses (i) more than 100 purchases--360 gallons but not more than 150 gallons or more of chlorine-based or green drycleaning solvents annually, (ii) more than 500 gallons but not more than 750 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 1,000 gallons but not more than 1,500 gallons annually 3600--gallens--or more of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer annually.

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

(5) \$1,000 for a facility that uses (i) more than 200 gallons but not more than 250 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 1,000 gallons but not more than 1,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 2,000 gallons but not more than 2,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent

reclaimer.

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

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

(8) \$1,500 for a facility that uses (i) more than 350 gallons but not more than 400 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 1,750 gallons but not more than 2,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 3,500 gallons but not more than 4,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(9) \$1,500 for a facility that uses (i) more than 400 gallons but not more than 450 gallons of chlorine-based or green drycleaning solvents annually,

(ii) more than 2,000 gallons but not more than 2,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or  
(iii) more than 4,000 gallons but not more than 4,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

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

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

(12) \$1,500 for a facility that uses (i) more than 550 gallons but not more than 600 gallons of chlorine-based or green drycleaning solvents annually,  
(ii) more than 2,750 gallons but not more than 3,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or  
(iii) more than 5,500 gallons but not more than 6,000

gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

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

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

(15) \$1,500 for a facility that uses more than 3,500 gallons but not more than 3,750 gallons annually of hydrocarbon-based solvents used in a drycleaning machine equipped with a solvent reclaimer.

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

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

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

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

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

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

(d) A license issued under this Section shall expire one year after the date of issuance and may be renewed on reapplication to the Council and submission of proof of payment of the appropriate fee to the Department of Revenue in accordance with subsections (c) and (e). At least 30 days before payment of a renewal licensing fee is due, the Council shall attempt to:

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

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

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

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

(g) An operator of a dry cleaning facility who is

required to pay a license fee under this Act and fails to pay the license fee when the fee is due may shall be assessed a penalty of \$5 for each day after the license fee is due and until the license fee is paid. The penalty shall be effective for license fees due on or after July 1, 1999.

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

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

(415 ILCS 135/65)

(Section scheduled to be repealed on January 1, 2010)

Sec. 65. Drycleaning solvent tax.

(a) On and after January 1, 1998, a tax is imposed upon the use of drycleaning solvent by a person engaged in the business of operating a drycleaning facility in this State at the rate of \$3.50 per gallon of perchloroethylene or other chlorinated drycleaning solvents used in drycleaning operations, and \$0.35 per gallon of petroleum-based drycleaning solvent, and \$1.75 per gallon of green solvents, unless the green solvent is used at a virgin facility, in which case the rate is \$0.35 per gallon. The Council shall determine by rule which products are chlorine-based solvents, and which products are petroleum-based solvents, and which products are green solvents. All drycleaning solvents shall be considered chlorinated solvents unless the Council determines that the solvents are petroleum-based drycleaning solvents or green solvents ~~subject-to-the-lower~~ tax.

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



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

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

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

and

- (3) one of the following:

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

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

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

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

(f) On or before the 25th day of the 1st month following the end of the calendar quarter, a seller of drycleaning solvents who has collected a tax pursuant to this Section during the previous calendar quarter, or a purchaser or end

user of drycleaning solvents required under subsection (c) to submit the tax directly to the Department, shall file a return with the Department of Revenue. The return shall be filed on a form prescribed by the Department of Revenue and shall contain information that the Department of Revenue reasonably requires, but at a minimum will require the reporting of the volume of drycleaning solvent sold to each licensed drycleaner. The Department of Revenue shall report quarterly to the Council the volume of drycleaning solvent purchased for the quarter by each licensed drycleaner. Each seller of drycleaning solvent maintaining a place of business in this State who is required or authorized to collect the tax imposed by this Act shall pay to the Department the amount of the tax at the time when he or she is required to file his or her return for the period during which the tax was collected. Purchasers or end users remitting the tax directly to the Department under subsection (c) shall file a return with the Department of Revenue and pay the tax so incurred by the purchaser or end user during the preceding calendar quarter.

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

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

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

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

(415 ILCS 135/75)

Sec. 75. Adjustment of fees and taxes. Beginning January 1, 2000, and annually after that date, the Council shall adjust the copayment obligation of subsection (e) of Section 40, the drycleaning solvent taxes of Section 65, the license fees of Section 60, or any combination of adjustment of each, after notice and opportunity for public comment, in a manner determined necessary and appropriate to ensure viability of the Fund and to encourage the owner or operator of a drycleaning facility to use green solvents. Viability of the Fund shall consider the settlement of all current claims subject to prioritization of benefits under subsection (c) of Section 25, consistent with the purposes of this Act.

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

(415 ILCS 135/85)

Sec. 85. Repeal of fee and tax provisions. Sections 60 and 65 of this Act are repealed on January 1, 2020 ~~2010~~.

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