

1999 DRAFTING REQUEST

Bill

Received: **12/28/98**

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - env. cleanup**

Extra Copies:

Topic:

DOA:.....Wong - Dry cleaner environmental response program, change eligible participants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	traderc 01/11/99	ygeller 01/11/99	lpaasch 01/11/99	_____	lrb_docadmin 01/11/99		State
/2	traderc 01/15/99	ygeller 01/15/99	jfrantze 01/15/99	_____	lrb_docadmin 01/15/99		State

FE Sent For:

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 1/15
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1/1	traderc	1/11 jlg	1/11 L.P.	1/11 L.P. hnh			

FE Sent For:

<END>

Date: December 21, 1998

To: Steve Miller, Chief
Legislative Reference Bureau

From: Manyee Wong *M.W.*
State Policy and Budget Analyst

Subject: Drafting Instructions for 1999-01 Budget

At your office request, I have revised my previous memo and made further clarifications on certain items. Also, I have attached relevant documents that may help with your drafting process. Please let me know if you have any further questions. My number is 266-7597.

Dry Cleaner Response Program - DNR

Please see Attachment A for further details and explanations.

1. License Fee

- Include retail and dry stores as entities subject to the fee.
- Require the fee to be paid quarterly based on previous quarter sales.
- If a license transfer is involved in the transfer of business ownership, the buyer has to pay the license fee in an amount assessed on gross receipts for the entire quarter in which the buyer officially took ownership.
- If no license transfer is involved in the transfer of business ownership, the seller has to pay the license fee in an amount assessed from the last quarter payment until the last day the seller operated the facility.

2. Definitions

- Define a "dry cleaning facility" as a facility where dry cleaning of apparel or household fabrics and related services are provided to the public.
- Define "dry store" as a retail outlet for dry cleaning drop off and pick up.
- Define "owner" as a property or business owner of a licensed facility or a closed facility that ceased operation before September 1, 1998.
- Define "operator" as business operator of a licensed facility or a closed facility that ceased operation before September 1, 1998.
- ✓ ➤ Exclude lenders from the definition of "service provider".
- ✓ ➤ Replace all "remedial action plan" references with "remedial action options report".

3. Eligible Participants

- Expand eligibility to include property owners of operating dry cleaning facilities and owners or operators of a closed dry cleaning facility that ceased operation before September 1, 1998. Owners and operators of a closed dry cleaning facility that ceased operation **after** September 1, 1998 will not be eligible.

~~4. License and Solvent Fee Payment Structure for Closed Facilities~~

- Require closed facilities to pay a 30-year license and solvent fee prior to receiving reimbursement. The amount of each fee is determined by multiplying previous year's respective fee average by 30 years. These fees and the required deductible must be applied to the total cleanup cost before reimbursements are made.
- Repeal section 292.65(6)(b) because it is no longer necessary due to above changes.

5. Lien on Property

- Require the value of a property be greater than the deductible waived.

6. Closed Facility Deductible

- Change the deductible structure for a closed facility to be the same as an active facility.
- Revise the required deductible for a closed facility to include the 30-year license and solvent fees.

7. Environmental Fund Reimbursement

- Require the Dry Cleaner Response Program to reimburse the Environmental Fund for all cleanup costs at a dry cleaning facility originally paid out of the Environmental Fund.
- Reimbursement of deductibles and fees assessed in the cleanup of a dry cleaning facility from the Environmental Fund is prohibited.

8. Insurance Claims

- Require applicants to notify DNR when they file insurance claims for any cleanup costs. This ensures DNR the opportunity to participate in private suits if it so chooses.

9. Formal Wear Rental Firms

- Exempt these firms from the license fee and reimbursement program

10. Fraud Protection

- A penalty of not less than \$10 and no more than \$10,000 will be assessed on fraudulent claims.

Statutory Language Proposals

Division: Air and Waste

Subprograms: Remediation and Redevelopment

Issue/Topic: Dry Cleaner Environmental Response Program

Proposed Change:

- ✓ 1. Change definition in 292.65(1) for how these terms are defined, and in 292.65(4) under eligibility so its not just the owner or operator of a dry cleaning facility. **Owners** should be defined as:
 - * **property owners where licensed facilities are located** (licensed per 77.9961 - post '97) *note: even if the facility closes, the property owner should be able to access the fund, pay the deductible and fees for closed facilities and get the site cleaned up, and.*
 - * **business owners of licensed facilities** (post '97) *note: the statute now says owners of facilities - this should be clarified to state owners of licensed facilities under s. 77.9961, and not past owners of sites. Right now the language is very vague with respect to owners and needs to be tightened up.***Operators** should be defined as:
 - * **operators** of closed dry cleaning facilities, excluding successors, are eligible for the fund under s. 292.65(4) and 292.65(8)(a)

~~2. Expand the definition of 292.65(1)(d) to state: "Dry cleaning facility" means a facility where dry cleaning of apparel or household fabrics or related services, including but not limited to, dry cleaning, wet cleaning, leather cleaning, fur cleaning, formal-wear cleaning, drapery cleaning, pillow cleaning, rug and carpet cleaning, laundry, bachelor bundles, bedspread cleaning, monogramming, shoe repair, weaving, alterations, and tailoring for the general public other than a facility that is one of the following:~~

~~3. Define dry store as a retail outlet for drop off and pick up point of dry cleaning and related services provided by a dry cleaning facility.~~

✓ ~~4. Calculate the 30 year license fee and the 30 year solvent fee for closed facilities at the time the application is received, and use those fees as deductibles for any awards issued under the program. We want the value of the current year's average fees multiplied by 30. This change needs to be in 292.65(6), and in 292.65(8)(e)3.b. and c. We don't want the calculation to apply every year for the next 30 years after an application is approved. That fixed amount would then be applied to the award in addition to their deductible, so no monies would be expended from the fund until their costs exceeded the 30 year costs plus their deductible. The language in 292.65(6)(b) can be removed because it would no longer be required since the fees will be calculated up front and taken out of the claims submitted before monies are taken from the fund.~~

✓ ~~5. Change the language in 292.65(8) (g) regarding the department waiving the deductible and placing a lien on the property to include the ability for the department to evaluate whether the value of the property is greater than the value of the lien. The language should provide flexibility to the department that states the department may place a lien if the site specific conditions indicate the value of the property is greater than or equal to the value of the lien.~~

✓ 6. Change the deductible for closed facilities so that it is the same as the deductibles for active facilities (different deductibles based on cost of response actions). In 292.65(8)(e)3 a. should be reworded so that the deductible is based on the amount of the eligible costs plus the 30 year calculated fee for the license fee, and the solvent fee (3.b., and 3.c.). Currently the deductible for closed facilities is simply \$10,000 plus the average license fee and solvent fee for 30 years.

7. New language needs to be created that if the environmental fund is used to fund eligible costs at a dry cleaning facility, the dry cleaner fund will be used to reimburse the environmental fund; the facility will be classified for reimbursement as if the dry cleaner was funding the work, but the reimbursement monies will be paid to the environmental fund instead of the dry cleaner (since the dry cleaner didn't fund the activities, the EF did). When the environmental fund is used, no deductibles or closed facility fees will be assessed. The environmental fund will only be used in high priority cases or where long term costs will significantly drain the dry cleaner fund.

✓ 8. New language is needed that requires anyone applying to the program to notify the department when they make any insurance claims that would cover any eligible costs. The department shall be given the ability to join any private suits against insurance companies to cover the costs of deductibles and other fees appropriate for a closed facilities. Any monies collected for this purpose shall be put into the dry cleaner fund.

✓ 9. Change the definition of "service provider" in s. 292.65(1)(l) so that lender is no longer included in this definition (financing costs are not eligible costs under this program).

✓ 10. Change 292.65(4) (f), (g) and (h) to state remedial action options report instead of remedial action plan. This should be done to remain consistent with the terminology used in NR 700.

Changes to the license fees relating to how the fees are applied:

11. A license fee of 1.8% of wholesale receipts shall be paid by a dry cleaning facility operator for all out of state dry cleaning sales and for all dry cleaning services provided to outlets other than dry stores including pick-up or bobtail routes, hotel valet services and other valet services, and other related services as defined in 292.65(1)(d) and paid on a quarterly basis, based on the previous quarter's sales.

12. A license fee of 1.8% of retail sales shall be paid on all dry cleaning services provided by all dry stores and dry cleaning facilities that retail dry cleaning services. and paid on a quarterly basis, based on the previous quarter's sales.

13. Add language that states if a facility transfers ownership and the seller transfers their license to the buyer, the seller has to pay the 1.8% fee on gross receipts, as defined above, for the period of time that the seller was operating the facility until the new owner took over operations and paid on a quarterly basis, based on the previous quarter's sales.

14. Add language that if the facility transfers ownership and the license is not transferred to the buyer, the seller is responsible for paying 1.8% of the fees from the last quarterly payment until the last day they operated the facility.

15. Change 20.370(6)(eq) to state a continuing appropriation of all monies received.

Explanatory Note:

1. Clarifying property owner and business owner allows property owners where a dry cleaner is operating the ability to use the fund. If landowners are not eligible for the fund they may not lease

space to a dry cleaner for fear of contamination to their property. Operators is defined as former dry cleaning establishments that have closed that are eligible for the fund under the current conditions.

2. - 3. This is to further define what a dry cleaning facility and a dry store is by the type of activity that is done there.

4. The change to calculate a 30 year license fee and a 30 year solvent fee for the closed facility at the time of application is recommended so payments do not have to be made over a 30 year time span.

5. The language change that would allow the department flexibility to determine when a lien should be placed on a property.

6. This change is needed to have deductible amount remain consistent for closed facilities and operating facilities.

7. If a situation arises where the Environmental Fund is used for dry cleaner actions, the Dry Cleaner Fund will reimburse the Environmental Fund for the amount distributed to the dry cleaning owner/operator.

8. - 9. Self explanatory

10. This change is to remain consistent with terms used in NR700.

11. - 12. The change to define wholesale and retail sales is intended to capture all aspects of the dry cleaning industry, and to make sure that wholesale as well as retail facilities become licensed facilities.

13. - 14. The additions that specifies transfer of ownership defines who will pay the 1.8% of gross receipts when a property is sold.

15. This change will allow the distribution of all money collected within a year to be paid out.

Desired Effective Date: Upon publication

Contact Person: Brian Dranzik MB/5, 267-7418, Robin Schmidt RR/3 267-7569



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1484/1

RCT: 1:...

WFO -
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SO ON

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DOA:.....Wong - Dry cleaner^{environmental} response program, change eligible participants

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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1 ^{do not gen} AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

Under current law, the department of natural resources (DNR) administers the dry cleaner environmental response program which provides reimbursement for a portion of the costs of responding to discharges of dry cleaning solvents. The program is funded, in part, from dry cleaning facility license fees paid to the department of revenue (DOR). Under current law, owners and operators are eligible for reimbursement under the dry cleaner environmental response program. An owner is a person who owns, or has possession or control of, a dry cleaning facility or who receives or received consideration from the operation of a dry cleaning facility, regardless of whether the dry cleaning facility remains in operation. An operator is a person who holds a license from DOR for a dry cleaning facility.

This bill changes eligibility for the dry cleaner response program by changing the definitions of "owner" and "operator". Under this bill, an owner is either: 1) A person who owns property on which a licensed dry cleaning facility is located or on which a dry cleaning facility that has ceased operation, but that was licensed before it ceased operation, is located; 2) A person who owns, or has possession or control of, or who receives or received consideration from the operation of, a licensed dry cleaning facility or a closed dry cleaning facility. If the dry cleaning facility was closed on or after September 1, 1998, it must have been licensed before it was closed.

for

The bill expands the definition of “operator” to include a person who operated a dry cleaning facility that closed before September 1, 1998.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 292.65 (1) (h) 3.[✓] of the statutes is created to read:

2 292.65 (1) (h) 3. A person who operated a dry cleaning facility that ceased
3 operating before[✓] September 1, 1998.

4 **SECTION 2.** 292.65 (1) (i) 1.[✓] of the statutes is renumbered 292.65 (1) (i) 1. (intro.)
5 and amended to read:

6 292.65 (1) (i) 1. (intro.)[✓] A person who owns, or has possession or control of, a
7 ~~dry cleaning facility~~, or who receives or received direct or indirect consideration from
8 the operation of a ~~dry cleaning facility~~ [✓] regardless of whether the dry cleaning facility
9 ~~remains in operation and regardless of whether the person owns or receives~~
10 ~~consideration at the time that environmental pollution occurs.~~ any of the following:[✓]

History: 1997 a. 27.

11 **SECTION 3.** 292.65 (1) (i) 1. a.[✓] of the statutes is created to read:

12 292.65 (1) (i) 1. a. A dry cleaning facility that is licensed under s. 77.9961 (2).[✓]

13 **SECTION 4.** 292.65 (1) (i) 1. b.[✓] of the statutes is created to read:

14 292.65 (1) (i) 1. b. A dry cleaning facility that has ceased operation but that,
15 if it ceased operation on or after September 1, 1998, was licensed under s. 77.9961
16 (2)[✓] before it ceased operation.

17 **SECTION 5.** 292.65 (1) (i) 3.[✓] of the statutes is created to read:

18 292.65 (1) (i) 3. A person who owns the property on which one of the following
19 is located:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1484/1dn

RCT:.....

^
Jg

Manyee:

Please review this draft carefully.

I am not certain that September 1, 1998, is the appropriate date to use in proposed s. 292.65 (1) (h) 3. and (i) 1. b. I have not provided a copy of this draft to DNR. If you wish to have it reviewed by DNR, please convey the message that there is not very much time left to get budget proposals redrafted.

Rebecca C. Tradewell
Managing Attorney
266-7290

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1484/1dn
RCT:jlg:lp

January 11, 1999

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Rebecca C. Tradewell
Managing Attorney
266-7290

Tradewell, Becky

From: Wong, Manyee [Manyee.Wong@doa.state.wi.us]
Sent: Wednesday, January 13, 1999 5:49 PM
To: Tradewell, Becky
Subject: Draft 1484

Hi Becky,

For draft 1484, DNR wants the date in proposed s.292.65(1)(h)3 and (i)1.b. to be October 14, 1997 instead of September 1, 1998 as stated in the draft.

Thanks.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1484/2

RCT;jlg:lp redraft
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run

SOON

DOA:.....Wong - Dry cleaner environmental response program, change eligible participants

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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October 14, 1997

*

*

operation of, a licensed dry cleaning facility or a closed dry cleaning facility. If the dry cleaning facility was closed on or after ~~September 1, 1998~~, it must have been licensed before it was closed. The bill expands the definition of "operator" to include a person who operated a dry cleaning facility that closed before ~~September 1, 1998~~.

October 14, 1997

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1484/2

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