

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: isagerro

May Contact:

Alt. Drafters:

Subject: Environment - env. cleanup

Extra Copies:

Topic:

DOA:.....Wong - Dry clancr response program, license and solvent fee payments for closed facilities

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>
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/P1	isagerro 01/25/99	jgeller 01/25/99	ismith 01/25/99	_____	lrb_docadmin 01/25/99		

FE Sent For:

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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

* Can we just get rid of (6)?

* DNR wants to be able to calculate the amts. an applicant must pay under (6) and ~~and~~ subtract that from the amt of an award. Subtract the ~~the~~ due under (6) from the award before disbursement.
(i.e. deductible)

* Does DNR want the same structure for the deductible ^{beginning} as open facilities (not just \$10,000) ! Then add 30% stuff?

* Repeal (6)

* Amend (8)(e) 3.b.

An amount equal to 30 times the average annual license fee paid under 17.99(6)(1) for (what year??)

(8)(e) 3.c.

An amount equal to 30 times the total amt. collected for (what year?) divided by the number of facilities in operation during what year



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1485/P1

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DOA:.....Wong - Dry cleaner response program, license and solvent fee payments for closed facilities

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

do not gen

- 1 AN ACT ...; relating to: fees paid by owners and operators of closed dry cleaning
- 2 facilities under the dry cleaner environmental response program.

Analysis by the Legislative Reference Bureau

Under current law, the department of natural resources (DNR) administers the dry cleaner response program to reimburse owners and operators of dry cleaning facilities a portion of the costs incurred in cleaning up a discharge of dry cleaning solvent. This program is funded by dry cleaning license, solvent and inventory fees which are paid by owners and operators of dry cleaning facilities. As a condition of receiving an award, owners and operators of closed dry cleaning facilities must pay annually for ~~thirty~~ ³⁰ years the average dry cleaning license fee for the year and an amount equal to the total amount collected as a dry cleaning solvent fee divided by the number of operating dry cleaning facilities. These required fees are in addition to the deductible owners and operators must pay before receiving an award.

This bill eliminates the requirement that operators of closed dry cleaning facilities pay annual fees for ~~thirty~~ ³⁰ years. Instead, this bill requires owners of dry cleaning facilities to pay as part of the deductible an amount equal to ~~thirty~~ ³⁰ times the average license fee for the year in which the award is made and an amount equal to the total collected as solvent fees divided by the number of operating dry cleaning facilities for the year. This bill also increases the deductible for closed facilities when eligible costs exceed \$200,000.

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:

Fix component

SECTION 1. 292.65 (6) of the statutes is repealed. *repealed and recreated*

SECTION 2. 292.65 (8) (e) 3a. of the statutes is amended to read:

292.65 (8) (e) 3a. ~~Ten thousand dollars~~ If eligible costs are \$200,000 or less, \$10,000. *plain*

SECTION 3. 292.65 (8) (e) 3am. of the statutes is created to read:

292.65 (8) (e) 3am. If eligible costs exceed \$200,000 but do not exceed \$400,000, \$10,000 plus 8% of the amount by which eligible costs exceed \$200,000. *plain*

SECTION 4. 292.65 (8) (e) 3ar. of the statutes is created to read:

292.65 (8) (e) 3ar. If eligible costs exceed \$400,000, \$26,000 plus 10% of the amount by which eligible costs exceed \$400,000.

SECTION 5. 292.65 (8) (e) 3b. of the statutes is amended to read:

292.65 (8) (e) 3b. ~~For each year in which the owner or operator has not paid the annual license fee under s. 77.9961 (1) for the dry cleaning facility, an An amount equal to 30 times the average annual license fee paid under s. 77.9961 (1) for that the year in which an award is made.~~ *plain*

SECTION 6. 292.65 (8) (e) 3c. of the statutes is amended to read:

292.65 (8) (e) 3c. ~~For each year in which the dry cleaning solvents fee under s. 77.9962 was imposed and the dry cleaning facility was not in operation, an An amount equal to 30 times the total amount collected under s. 77.9962 for that the~~

1 year in which an award is made divided by the number of dry cleaning facilities in
2 operation during that year.

3

(END) ✓



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1485/P1

ISR:jlg:ijs

DOA:.....Wong - Dry cleaner response program, license and solvent fee
payments for closed facilities

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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NOTE TO DRAFTING FILE for LRB-1485:

Per the drafter, this draft has been redrafted to a “/1” as no problems remain in the draft that require resolution before introduction of the budget bill. There are no changes between the “/PX” and the “/1.”

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