

**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: **RCT**

**Topic:**

DOA:.....Wong - Dry cleaner response program, insurance claims

**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>
/?	traderc 01/11/99			_____			State
/P1	isagerro 01/19/99	ygeller 01/19/99	ismith 01/19/99	_____	lrb_docadmin 01/19/99		State
/P2	isagerro 01/22/99	ygeller 01/22/99	lpaasch 01/22/99	_____	lrb_docadmin 01/22/99		

FE Sent For:

<END>

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/?	traderc 01/11/99			_____			State
/P1	isagerro 01/19/99	jgeller 01/19/99	ismith 01/19/99	_____	lrb_docadmin 01/19/99		

FE Sent For:

1-2217. 1-2267  
~~IS~~  
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1?	traderc 01/11/99 isagerro	PI 1/19 JLG	IS 1/19/99	IS/WJ 1/19/99			

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/?	traderc			_____			

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<END>

✓ 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.

From DNR

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)(d) 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

\* Notification Requirement - 4(m)

- when? before or after awarded/appl. filed?
- does it matter?

8(j)(4) - what happens once department is notified?

ch. 25  
- what  
can add

- hold the award until claim is accepted or rejected? (pending action by ins co?)
- if award has been paid, require applicant to notify <sup>DNR</sup> of paid <sup>of ins. co.</sup> and get reimbursed claim - deductible
- if award denied, notify DNR as well; of plans to go forward w/ suit

→ large of working together??? ?!!  
- 107.3165 - NO

\* Subrogation (9m)

model after 94.73(8)

→ insurance cos only?

are there situations where an owner may have case against person/other than ins. co.

Note

- ch. 25 what goes into fund

\* Write on application of any ins claim: what amt.



## Sager-Rosenthal, Ivy

---

**From:** Wong, Manyee [Manyee.Wong@doa.state.wi.us]  
**Sent:** Thursday, January 14, 1999 1:01 PM  
**To:** Sager-Rosenthal, Ivy  
**Subject:** FW: Questions regarding dry cleaning program and ability of DNR to jo in suits against insurance companies

Hi Ivy,

I got an answer from DNR and they clarified that the wording was probably confusing. They said that the change would apply to all facilities and not just closed facility. Did I answer all your questions? If not, just give me a call.

Thanks a lot.

> -----Original Message-----

> From: Wong, Manyee  
> Sent: Thursday, January 14, 1999 11:11 AM  
> To: 'Sager-Rosenthal, Ivy'  
> Subject: RE: Questions regarding dry cleaning program and ability of  
> DNR to jo in suits against insurance companies

>

> Hi Ivy,

>

> What DNR want is to ensure that the insurance will be used first before  
> the fund money are used. Their request to be notified and I think what  
> they are trying to get at in their description of the statutory request is  
> that, if they are notified, they can work with their clients to get the  
> insurance to pay their claims. The money from the insurance will cover  
> both the cost of the deductible and the cleanup costs that would otherwise  
> be paid from the fund and by the recipient.

>

> Perhaps what we may want to put in the draft is to specify that DNR should  
> be notified of any insurance claims that are filed to 1) ensure that  
> insurance be used to pay for cleanup first before the Dry Cleaner Response  
> Program is used, and 2) to recover any cleanup costs already spent from  
> the fund for cleanup that are cover under an insurance policy.

>

> I am not sure why DNR limited it to closed facility. I am waiting for DNR  
> to get back to me on this issue. I will let you know when I get a  
> response from them. Let me know if you have any other questions. Thanks!

>

>

> -----Original Message-----

> From: Sager-Rosenthal, Ivy [SMTP:Ivy.Sager-Rosenthal@legis.state.wi.us]  
> Sent: Wednesday, January 13, 1999 5:22 PM  
> To: Manyee Wong (E-mail)  
> Subject: Questions regarding dry cleaning program and ability of DNR  
> to jo in suits against insurance companies

>

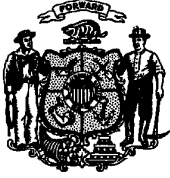
> Hi Manyee-

>

> I have a couple of questions regarding the request to allow DNR to join  
> suits against ininsurance companies. My instructions state that DNR wants  
> to  
> join private suits agaist ins. cos. to cover the costs of deductibles and  
> other fees for closed facilities. As I understand the instructions, DNR  
> wants to recover from insurance companies the costs of deductibles and

---

> other  
> fees for closed facilities. I don't think this makes sense. Why would DNR  
> get the deductible if the owner is responsible for paying the deductible  
> in  
> the first place? Perhaps DNR wants to join suits against insurance  
> companies so that they may recover any eligible costs already awarded the  
> owner? Also, why are they only concerned about suits regarding closed  
> facilities? Please call me to discuss these points. Perhaps I could  
> discuss these concerns with someone at DNR?  
>  
> Also, I am assuming that DNR wants to be notified of any insurance claims  
> so  
> that they may reduce an award by the amount of an insurance settlement  
> already received by the owner or operator? Is this correct?  
>  
> Thanks!  
>  
> Ivy G. Sager-Rosenthal  
> Legislative Attorney  
> Legislative Reference Bureau  
> P.O. Box 2037  
> Madison, WI 53701-2037  
> (608) 261-4455



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1488/P1

ISR:.....

SOON

Dnote

Jlg

DOA:.....Wong - Dry cleaner response program, insurance claims

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

do not gen

- 1 AN ACT ...; relating to: notifying the department of natural resources of
- 2 insurance claims made to cover cleanup costs and allowing the department of
- 3 natural resources to join private suits against insurance companies for recovery
- 4 of cleanup costs.

**Analysis by the Legislative Reference Bureau**

**ENVIRONMENT**

**SOLID AND HAZARDOUS WASTE**

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 bill requires applicants to notify DNR of any insurance claims made for the costs of cleanup, to disclose the amount of any insurance proceeds received and to repay the portion of an award reimbursed by insurance proceeds.

This bill also requires applicants to notify DNR if they intend to file suit against an insurance company to recover cleanup costs. DNR may join a private suit filed by an applicant against an insurance company for the purposes of recovering costs associated with the cleanup of a dry cleaning solvent discharge.

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. 25.48<sup>✓</sup> of the statutes is amended to read:

2           **25.48 Dry cleaner environmental response fund.** There is established a  
3 separate nonlapsible trust fund designated as the dry cleaner environmental  
4 response fund, to consist of the moneys required under s. 77.9964 (3) to be deposited  
5 in the fund and moneys collected under ss. 292.65 (8m),<sup>✓</sup> (9) (c)<sup>✓</sup> and (9m).<sup>✓</sup>

6           SECTION 2. 292.65 (4) (m)<sup>✓</sup> of the statutes is created to read:

7           292.65<sup>5</sup> (4) (m)<sup>✓</sup> *Notification of insurance claims and receipt of proceeds.* An  
8 owner or operator shall notify the department<sup>✓</sup> of any insurance claim made to cover  
9 eligible costs, the status of the claim, and, if the owner or operator has received any  
10 insurance proceeds arising from the claim, the amount of the proceeds.

11           SECTION 3. 292.65 (4) (n)<sup>✓</sup> of the statutes is created to read:

12           292.65 (4) (n)<sup>✓</sup> *Notification of intent to file suit.* An owner or operator shall  
13 notify the department of the owner's or operator's intent to file suit against an  
14 insurance company for the purpose of recovering ~~a portion of~~<sup>a portion of</sup> the proceeds of an  
15 insurance policy intended to cover any eligible costs.

16           SECTION 4. 292.65 (8) (a) 4m.<sup>✓</sup> of the statutes is created to read:

17           292.65 (8) (a) 4m. If the owner or operator receives any proceeds arising from  
18 an insurance claim for any eligible costs, a record of the payment.

19           SECTION 5. 292.65 (8) (j) 4.<sup>plain</sup> of the statutes is created to read:

1           292.65 ~~(8)~~<sup>(8m)</sup> (j) 4. If the owner or operator receives insurance proceeds intended  
2 to cover any eligible costs, the amount of the award shall be the amount calculated  
3 under pars. <sup>✓</sup>(e) and (f) less the amount of the proceeds received.

4           **SECTION 6.** 292.65 (8m)<sup>✓</sup> of the statutes is created to read:

5           292.65 (8m)<sup>✓</sup> REIMBURSEMENT OF INSURANCE PROCEEDS. If, after the department  
6 has made an award, an owner or operator receives payment from an insurance  
7 company arising out of a claim made for payment of any eligible costs, the owner or  
8 operator shall pay to the department an amount equal to the amount of the insurance  
9 proceeds received for the purpose of covering any eligible costs or the amount of any  
10 award received, whichever is less. Payments made under this subsection shall be  
11 deposited in the dry cleaner environmental response fund.

12           **SECTION 7.** 292.65 (9) (a)<sup>✓</sup> of the statutes is amended to read:

13           292.65 (9) (a) *Right of action.* A right of action under this section shall accrue  
14 to the state against an owner or operator only if the owner or operator submits a  
15 fraudulent application, fails to pay the department an amount calculated under sub.  
16 (8m)<sup>✓</sup>, or does not meet the requirements under this section and if an award is issued  
17 under this section to the owner or operator for eligible costs under this section.

18           **SECTION 8.** 292.65 (9m)<sup>✓</sup> of the statutes is created to read:

19           292.65 (9m) SUBROGATION. The department is subrogated to the rights of an  
20 owner or applicant who obtains an award under this section or s. 292.66<sup>✓</sup> in an amount  
21 equal to the award and may join in an action by an applicant against an insurance  
22 company to recover eligible costs. An applicant who receives an award under this  
23 section shall cooperate with the state in any action under this subsection.<sup>✓</sup> The  
24 amounts collected by the department under this subsection shall be deposited in the  
25 dry cleaner environmental response fund.

1



2

(END) ✓

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1488/P1dn

ISR: ↑:...

JG

January 19, 1998

WPO  
12 pt

Manye:ee:

As we discussed, this draft assumes that DNR wants notification of any insurance claims made and proceeds received so that it may reduce an award accordingly. In cases where DNR has not yet paid out an award, I have required DNR to reduce the award by the amount of the insurance proceeds. In cases where an award has already been paid out, I have required the owner or operator to reimburse DNR the amount of the award that is covered by the insurance proceeds. Is this OK? One thing to consider is whether an applicant may use insurance proceeds to cover the deductible before paying back an award or, if the award has not been disbursed, before DNR calculates the amount of an award under ~~292.65 (8) (j) 4~~<sup>3</sup>. This draft currently does not allow an applicant to use insurance proceeds to cover the deductible.

I have not included language to require an owner or operator to pay back a deductible waived by the department with insurance proceeds. Section 292.65 (8) (g) currently requires the department to record a lien on the property to ensure repayment of the deductible. If this remains the law, then an additional requirement of repayment from insurance proceeds is probably not necessary. If LRB-1486/1 is included, however, then in cases where DNR chooses not to record a lien, repayment of the deductible with insurance proceeds will probably not occur. Is this OK?

Also, this draft allows DNR to join private suits against insurance companies to recover eligible costs. Do you also want DNR to initiate a suit against an insurance company if an applicant chooses not to sue?

If you wish to make changes to this draft or have any questions, please feel free to contact me.

Ivy G. Sager-Rosenthal  
Legislative Attorney  
261-4455

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1488/P1dn  
ISR:jlg:ijs

January 19, 1998

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I have not included language to require an owner or operator to pay back a deductible waived by the department with insurance proceeds. Section 292.65 (8) (g) currently requires the department to record a lien on the property to ensure repayment of the deductible. If this remains the law, then an additional requirement of repayment from insurance proceeds is probably not necessary. If LRB-1486/1 is included, however, then in cases where DNR chooses not to record a lien, repayment of the deductible with insurance proceeds will probably not occur. Is this OK?

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If you wish to make changes to this draft or have any questions, please feel free to contact me.

Ivy G. Sager-Rosenthal  
Legislative Attorney  
261-4455



Conversation w/ Marylee 1/20/99

\* DNR only wants to be notified

- they do not want to reduce the award by the ins. proceeds, or be reimbursed by the owner if ins. proceeds are received later

DNR also doesn't want to have a set of action ~~filed~~ against an owner for not paying back proceeds.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1488/PK P2

ISR:jlg:ijs

D note soon

Redraft  
make  
run

DOA:.....Wong - Dry cleaner response program, insurance claims

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

do not gen

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*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**SOLID AND HAZARDOUS WASTE**

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 bill requires applicants to notify DNR of any insurance claims made for the costs of cleanup to disclose the amount of any insurance proceeds received and to ~~repay the portion of an award reimbursed by insurance proceeds.~~

This bill also requires applicants to notify DNR if they intend to file suit against an insurance company to recover clean-up costs. DNR may join a private suit filed by an applicant against an insurance company for the purposes of recovering costs associated with the cleanup of a dry cleaning solvent discharge.

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.** 25.48 of the statutes is amended to read:

2           **25.48 Dry cleaner environmental response fund.** There is established a  
3 separate nonlapsible trust fund designated as the dry cleaner environmental  
4 response fund, to consist of the moneys required under s. 77.9964 (3) to be deposited  
5 in the fund and moneys collected under ss. 292.65 (8m), (9) (c) and (9m).

6           **SECTION 2.** 292.65 (4) (m) of the statutes is created to read:

7           292.65 (4) (m) *Notification of insurance claims and receipt of proceeds.* An  
8 owner or operator shall notify the department of any insurance claim made to cover  
9 eligible costs, the status of the claim, and, if the owner or operator has received any  
10 insurance proceeds arising from the claim, the amount of the proceeds.

11           **SECTION 3.** 292.65 (4) (n) of the statutes is created to read:

12           292.65 (4) (n) *Notification of intent to file suit.* An owner or operator shall  
13 notify the department of the owner's or operator's intent to file suit against an  
14 insurance company for the purpose of recovering the proceeds of an insurance policy  
15 intended to cover any eligible costs.

16           **SECTION 4.** 292.65 (8) (a) 4m. of the statutes is created to read:

17           292.65 (8) (a) 4m. If the owner or operator receives any proceeds arising from  
18 an insurance claim for any eligible costs, a record of the payment.

19           ~~**SECTION 5.** 292.65 (8) (j) 4. of the statutes is created to read:~~

1       ~~292.65 (8) (j) 4. If the owner or operator receives insurance proceeds intended~~  
2       ~~to cover any eligible costs, the amount of the award shall be the amount calculated~~  
3       ~~under pars. (e) and (f) less the amount of the proceeds received.~~

4       ~~SECTION 6. 292.65 (8m) of the statutes is created to read:~~

5       ~~292.65 (8m) REIMBURSEMENT OF INSURANCE PROCEEDS. If, after the department~~  
6       ~~has made an award, an owner or operator receives payment from an insurance~~  
7       ~~company arising out of a claim made for payment of any eligible costs, the owner or~~  
8       ~~operator shall pay to the department an amount equal to the amount of the insurance~~  
9       ~~proceeds received for the purpose of covering any eligible costs or the amount of any~~  
10       ~~award received, whichever is less. Payments made under this subsection shall be~~  
11       ~~deposited in the dry cleaner environmental response fund.~~

12       ~~SECTION 7. 292.65 (9) (a) of the statutes is amended to read:~~

13       ~~292.65 (9) (a) *Right of action.* A right of action under this section shall accrue~~  
14       ~~to the state against an owner or operator only if the owner or operator submits a~~  
15       ~~fraudulent application, fails to pay the department an amount calculated under sub~~  
16       ~~(8m), or does not meet the requirements under this section and if an award is issued~~  
17       ~~under this section to the owner or operator for eligible costs under this section.~~

18       ~~SECTION 8. 292.65 (9m) of the statutes is created to read:~~

19       ~~292.65 (9m) SUBROGATION. The department is subrogated to the rights of an~~  
20       ~~applicant who obtains an award under this section or s. 292.66 in an amount~~  
21       ~~equal to the award and may join in an action by an applicant against an insurance~~  
22       ~~company to recover eligible costs. An applicant who receives an award under this~~  
23       ~~section shall cooperate with the state in any action under this subsection. The~~

1 amounts collected by the department under this subsection shall be deposited in the  
2 dry cleaner environmental response fund.

3 (END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1488/P2dn  
ISR:jlg:ijs

January 21, 1999

Manyee:

As we discussed, this draft requires applicants to notify DNR of any insurance claims made and the amount received from the claim. In addition, if applicants receive insurance proceeds, they are required to submit a record of the payment with their application.

I deleted the sections requiring DNR to take into account insurance proceeds when calculating the amount of the award. This will mean that DNR could calculate an award without taking into account insurance proceeds. Is this OK?

Also, I deleted the section requiring an applicant to pay back the proceeds of an insurance claim. This means that an applicant who receives an award and then receives insurance proceeds does not have to reimburse DNR. DNR may never recover an award that is later covered by insurance proceeds. Is this your intent?

I have left intact the section allowing DNR to join private suits against insurance companies to recover eligible costs.

Please let me know if I need to make changes to this draft and if you have any questions feel free to contact me.

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Legislative Attorney  
261-4455

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State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1488/P2  
ISR:jlg:lp

DOA:.....Wong - Dry cleaner response program, insurance claims

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

1     **AN ACT ...; relating to:** notifying the department of natural resources of  
2           insurance claims made to cover clean-up costs and allowing the department of  
3           natural resources to join private suits against insurance companies for recovery  
4           of clean-up costs.

---

*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**SOLID AND HAZARDOUS WASTE**

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 bill requires applicants to notify DNR of any insurance claims made for the costs of cleanup and to disclose the amount of any insurance proceeds received.

This bill also requires applicants to notify DNR if they intend to file suit against an insurance company to recover clean-up costs. DNR may join a private suit filed by an applicant against an insurance company for the purposes of recovering costs associated with the cleanup of a dry cleaning solvent discharge.



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.** 25.48 of the statutes is amended to read:

2           **25.48 Dry cleaner environmental response fund.** There is established a  
3 separate nonlapsible trust fund designated as the dry cleaner environmental  
4 response fund, to consist of the moneys required under s. 77.9964 (3) to be deposited  
5 in the fund and moneys collected under ss. 292.65 (9) (c) and (9m).

6           **SECTION 2.** 292.65 (4) (m) of the statutes is created to read:

7           292.65 (4) (m) *Notification of insurance claims and receipt of proceeds.* An  
8 owner or operator shall notify the department of any insurance claim made to cover  
9 eligible costs, the status of the claim, and, if the owner or operator has received any  
10 insurance proceeds arising from the claim, the amount of the proceeds.

11           **SECTION 3.** 292.65 (4) (n) of the statutes is created to read:

12           292.65 (4) (n) *Notification of intent to file suit.* An owner or operator shall  
13 notify the department of the owner's or operator's intent to file suit against an  
14 insurance company for the purpose of recovering the proceeds of an insurance policy  
15 intended to cover any eligible costs.

16           **SECTION 4.** 292.65 (8) (a) 4m. of the statutes is created to read:

17           292.65 (8) (a) 4m. If the owner or operator receives any proceeds arising from  
18 an insurance claim for any eligible costs, a record of the payment.

19           **SECTION 5.** 292.65 (9m) of the statutes is created to read:

20           292.65 (9m) **SUBROGATION.** The department is subrogated to the rights of an  
21 applicant who obtains an award under this section or s. 292.66 in an amount equal

1 to the award and may join in an action by an applicant against an insurance company  
2 to recover eligible costs. An applicant who receives an award under this section shall  
3 cooperate with the state in any action under this subsection. The amounts collected  
4 by the department under this subsection shall be deposited in the dry cleaner  
5 environmental response fund.

6

**(END)**

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**NOTE TO DRAFTING FILE for LRB-1488:**

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.”

DOA:.....Wong – Dry cleaner response program, insurance claims

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: notifying the department of natural resources of  
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