

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-AB133)**

Received: 05/28/99

Received By: isagerro

Wanted: Soon

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Kendra Bonderud

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Subject: Environment - env. cleanup

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**Pre Topic:**

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**Topic:**

Dry cleaners - change definition of owner

**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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## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 26, 1999

Joint Committee on Finance

Paper #718

### **Dry Cleaner -- Definition of Owner and Operator (DNR -- Air, Waste and Contaminated Land)**

[LFB 1999-01 Budget Summary: Page 469, #28]

#### **CURRENT LAW**

Under the dry cleaner environmental response program, an owner is: (a) a person who owns, or has possession or control of, a dry cleaning facility, or who receives direct or indirect consideration from the operation of a dry cleaning facility, regardless of whether the dry cleaning facility remains in operation and regardless of whether the person owns or receives consideration at the time that environmental pollution occurs; or (b) a subsidiary or parent corporation of the person defined in (a). An operator is a person (including a subsidiary or parent corporation) who holds a license from the Department of Revenue for a dry cleaning facility.

#### **GOVERNOR**

Change the definition of owners and operators who are eligible for reimbursement under the dry cleaner environmental response program. An owner would mean: (a) a person who owns, or has possession or control of, or who receives or received direct or indirect consideration from the operation of a dry cleaning facility licensed by DOR or a dry cleaning facility that has ceased operation but, if it ceased operation on or after October 14, 1997, was licensed by DOR before it ceased operation; (b) a subsidiary or parent corporation of the person defined in (a); and (c) a person who owns the property on which is located a dry cleaning facility licensed by DOR or a dry cleaning facility that has ceased operation but that was licensed by DOR before it ceased operation. The definition of operator would be expanded to include a person who operated a dry cleaning facility that ceased operating before October 14, 1997.

## **DISCUSSION POINTS**

1. The change in the definition of owner means that owners of facilities that closed after October 14, 1997, would be eligible only if the facility was licensed before it closed (facilities are required to be licensed after October 14, 1997). The change in the definition of operator means that a person who operated a facility that closed before October 14, 1997, would be eligible but a person who later owns that facility would not be eligible (for example, a developer of an abandoned facility). [October 14, 1997, was the date of enactment of the 1997-99 state budget which included the dry cleaner environmental response program.]

2. Many consider the current law definition vague, particularly as it relates to properties which contained a dry cleaning facility at some time in the past.

3. The Dry Cleaner Environmental Response Council and Rule-Making Advisory Council, comprised primarily of active dry cleaners, recommended that limited program funds should be allocated to active dry cleaners, owners of closed licensed facilities and the persons who actually operated former dry cleaning facilities.

4. As of April, 1999, 21 people have notified DNR that they or their clients might apply for reimbursement under the program, but have not indicated the amount of cleanup costs incurred to date. At least two of the notifications are from developers of properties on which dry cleaning solvent contamination may exist from former abandoned dry cleaning facilities which operated on the property in the past. Under the current definition, it is possible that the developers would meet the definition "owns a dry cleaning facility." DNR indicates that it will determine the eligibility of the 21 people after the program begins accepting applications.

5. Some may argue that anyone who owns a site on which a dry cleaning facility operated at any time should be eligible under the program. Others suggest that program eligibility should be limited to active operating dry cleaners who are paying the fees to support the program and the persons who operated dry cleaning facilities in the past.

6. DNR officials recommend modifying the AB 133 definition of owner to clarify that it includes a person who owns, or has possession or control of, "and" (rather than "or") who receives or received direct or indirect consideration from the operation of a licensed facility. They indicate that this would specifically exclude developers who may own a dry cleaning facility that was licensed before it ceased operation but who never received any consideration from the operation of the licensed facility (because the developer acquired the property after the facility ceased operation). Under this alternative, the developers would not be eligible for program reimbursement, but could seek assistance under brownfields programs. However, the person who operated the facility would be eligible under the dry cleaner program.

## **ALTERNATIVES**

1. Approve the Governor's recommendation to: (a) change the definition of owner to

mean: (1) a person who owns, or has possession or control of, or who receives or received direct or indirect consideration from the operation of a dry cleaning facility licensed by DOR or a dry cleaning facility that has ceased operation but, if it ceased operation on or after October 14, 1997, was licensed by DOR before it ceased operation; (2) a subsidiary or parent corporation of the person defined in (1); and (3) a person who owns the property on which is located a dry cleaning facility licensed by DOR or a dry cleaning facility that has ceased operation but that was licensed by DOR before it ceased operation; and (b) expand the definition of operator to include a person who operated a dry cleaning facility that ceased operating before October 14, 1997.

2. Approve the Governor's recommendation, as modified to specify that owner includes a person who owns, or has possession or control of, "and" (rather than "or") who receives or received consideration from the operation of a facility licensed by DOR.

3. Maintain current law.

Prepared by: Kendra Bonderud



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0454/1

ISR:.....

jlg

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FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

**TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

SOON

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1187, line 11: delete "or who" and substitute "~~or~~ and who".

3 (END)



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