

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: Bonderud

This file may be shown to any legislator: NO

Drafter: isagerro

May Contact:

Alt. Drafters:

Subject: Environment - env. cleanup

Extra Copies: RCT

Pre Topic:

LFB:.....Bonderud -

Topic:

Dry cleaners - 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>
/1	isagerro 06/7/99	gilfokm 06/7/99	mclark 06/8/99	_____	lrb_docadmin 06/8/99		

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/?	isagerro	1-6-7-99 pmg	MRC 6/8	MRC/JF 6/8			

FE Sent For:

<END>



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 #719

Dry Cleaners -- Insurance Claims (DNR -- Air, Waste and Contaminated Land)

[LFB 1999-01 Budget Summary: Page 471, #35]

CURRENT LAW

The dry cleaner environmental response program reimburses owners or operators of eligible dry cleaning facilities for a portion of the eligible costs of investigation and remediation of contamination from dry cleaning solvents.

GOVERNOR

Require an owner or operator under the dry cleaner environmental response program to notify DNR of any insurance claims made for the costs of cleanup and to disclose the amount of any insurance proceeds received. An award application filed by an owner or operator would have to include a record of any insurance proceeds received for any eligible costs. Authorize DNR to sue an insurance company to recover eligible costs in an amount equal to the award under the program and to join in an action by an applicant against an insurance company to recover eligible costs. An applicant would be required to cooperate with DNR in any action taken under this provision. DNR would be required to deposit any insurance proceeds it collects into the dry cleaner environmental response fund.

DISCUSSION POINTS

1. DNR and representatives of the dry cleaner industry agree that most dry cleaners probably do not have insurance that would cover the cost of cleanup of contamination from dry cleaning solvents, but that if they do have insurance, DNR should be able to join a claim against the insurance company and recover any cleanup costs funded by DNR.
2. Under the bill, if DNR joins an insurance claim by an owner or operator against an insurance company and collects any insurance proceeds, it would deposit the proceeds in the dry

cleaner environmental response fund to be available for future dry cleaner cleanups. It is possible that reimbursement under insurance claims would provide an occasional additional source of revenue to the dry cleaner program.

3. The bill would not require an owner or operator to reimburse DNR for insurance proceeds that the owner or operator receives, but only to notify DNR if the owner or operator makes an insurance claim or receives any insurance proceeds for eligible costs. This could result in owners or operators receiving reimbursement from the dry cleaner environmental response program and from insurance for the same eligible costs.

4. An alternative to the bill would be to specify that if an owner or operator receives insurance proceeds before or after submitting a claim for reimbursement under the dry cleaner program, the insurance proceeds would have to reimburse the dry cleaner program in the amount by which the insurance proceeds exceed the sum of the deductible plus any costs that would be eligible for reimbursement but exceeded the maximum reimbursement amount, but not greater than the amount reimbursed under the program. For example, if eligible costs are \$110,000 and there are no insurance proceeds, the owner or operator would receive dry cleaner program reimbursement of \$100,000 and would pay a deductible of \$10,000. If the owner or operator receives \$50,000 in insurance proceeds before submitting a claim, the dry cleaner program would pay an award of \$60,000 and insurance would pay the remaining \$50,000. If the owner or operator would receive \$50,000 in insurance proceeds after receiving \$100,000 in dry cleaner program reimbursement, the owner or operator would be required to reimburse the dry cleaner program for \$40,000 (equal to the insurance proceeds less the deductible). This would result in the state paying for \$60,000 of the cleanup costs and insurance paying for the remaining \$50,000. Table 1 illustrates examples of how various amounts of insurance proceeds could pay for a portion of the costs of cleanup at dry cleaner sites.

TABLE 1

**Examples of Payment of Insurance Proceeds
or Dry Cleaner Cleanup Costs**

	<u>Dry Cleaner Program Reimbursement</u>	<u>Insurance Proceeds Payment</u>	<u>Owner or Operator Payment</u>	<u>Total Cleanup Cost</u>
Example 1	\$100,000	\$0	\$10,000	\$110,000
Example 2	60,000	50,000	0	110,000
Example 3	236,000	0	14,000	250,000
Example 4	175,000	75,000	0	250,000
Example 5	500,000	0	100,000	600,000
Example 6	500,000	50,000	50,000	600,000
Example 7	450,000	150,000	0	600,000

5. Allowing claimants to retain insurance proceeds equal to the deductible would encourage owners to obtain insurance and to seek coverage under the policies. However, another alternative would be to specify that if an owner or operator receives insurance proceeds before or after submitting a claim for reimbursement under the dry cleaner program, the insurance proceeds could not be used to offset the deductible. Under this alternative, the insurance proceeds would have to reimburse the dry cleaner program in the amount by which the insurance proceeds exceed any costs that would be eligible for reimbursement but exceeded the maximum reimbursement amount, but not greater than the amount reimbursed under the program.

ALTERNATIVES

1. Approve the Governor's recommendation to: (a) require an owner or operator under the dry cleaner environmental response program to notify DNR of any insurance claims made for the costs of cleanup and to disclose the amount of any insurance proceeds received; (b) require an award application filed by an owner or operator to include a record of any insurance proceeds received for any eligible costs; (c) authorize DNR to sue an insurance company to recover eligible costs in an amount equal to the award under the program and to join in an action by an applicant against an insurance company to recover eligible costs; (d) require an applicant to cooperate with DNR in any action taken under this provision; and (e) require DNR to deposit any insurance proceeds it collects into the dry cleaner environmental response fund.

2. Approve the Governor's recommendation. In addition, specify that if an owner or operator receives insurance proceeds before or after submitting a claim for reimbursement under the dry cleaner program, the insurance proceeds would have to reimburse the dry cleaner program in the amount by which the insurance proceeds exceed the sum of the deductible plus any costs that would be eligible for reimbursement but exceeded the maximum reimbursement amount, but not greater than the amount reimbursed under the program. (Insurance proceeds could be used to offset the cost of the deductible.)

3. Approve the Governor's recommendation. In addition, specify that if an owner or operator receives insurance proceeds before or after submitting a claim for reimbursement under the dry cleaner program, the insurance proceeds would have to reimburse the dry cleaner program in the amount by which the insurance proceeds exceed costs that would be eligible for reimbursement but exceeded the maximum reimbursement amount, but not greater than the amount reimbursed under the program. (This would prohibit use of insurance proceeds to offset the cost of the deductible.)

4. Maintain current law.

Prepared by: Kendra Bonderud



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0455/1
ISR: King

LFB:.....Bonderud - Dry cleaners - insurance claims

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

Note
Seem

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

2 1. Page 1192, line 11: after that line insert:

3 "SECTION 2641g. 292.65 (8) (j) 4. of the statutes is created to read:

4 292.65 (8) (j) 4. If, prior to receiving an award under this section, an owner or

5 operator receives payment from an insurance company arising out of a claim for

6 ~~payment of any eligible costs and the insurance payment is greater than the~~

7 ~~deductible calculated under ~~par. (j)~~, the department may not reimburse the owner~~

8 or operator any amount that exceeds the difference between the amount of the award

9 ~~calculated under pars. (e) (f) and (g) ~~and~~ and the amount of the insurance payment~~

10 ~~that exceeds the deductible~~ *and the amount calculated under*
par. (e) ~~that~~ exceeds the maximum award
under par. (f).

11 SECTION 2641m. 292.65 (8m) of the statutes is created to read:

sum of the

the

1 292.65 (8m) REIMBURSEMENT OF INSURANCE PROCEEDS. If, after the owner or
 2 operator receives an award under this section, ^{the} ~~an~~ owner or operator receives
 3 payment from an insurance company arising out of a claim for payment of any
 4 eligible costs and the insurance payment is greater than the deductible paid under
 5 sub. ~~(8m)~~, the owner or operator shall pay to the department ^{the} an amount by which
 6 the insurance payment exceeds the deductible, but ~~is~~ ^{not} more than the amount of the
 7 award received.”

(END)

Sum of the
the amount by which
not
under par. (e)
and the amount calculated ~~that~~ exceeds the maximum award under par. (f) ^e
f

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

LRBb0455/1dn

ISR: *king*

June 3¹, 1999
new date

Kendra Bonderud:

This amendment does not provide the state with a right of action against an owner or operator if the owner or operator fails to reimburse the state the required amount of insurance proceeds. Is this your intent or do you want to include a right of action?

Please review this amendment carefully to make sure that it reflects your intent. If you have any questions or comments, please do not hesitate to contact me.

Ivy G. Sager-Rosenthal
Legislative Attorney
Phone: (608) 261-4455
E-mail: Ivy.Sager-Rosenthal@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0455/1dn
ISR:kmg:mrc

June 7, 1999

Kendra Bonderud:

This amendment does not provide the state with a right of action against an owner or operator if the owner or operator fails to reimburse the state the required amount of insurance proceeds. Is this your intent or do you want to include a right of action?

Please review this amendment carefully to make sure that it reflects your intent. If you have any questions or comments, please do not hesitate to contact me.

Ivy G. Sager-Rosenthal
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Phone: (608) 261-4455
E-mail: Ivy.Sager-Rosenthal@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0455/1
ISR:kmg:mrc

LFB:.....Bonderud - Dry cleaners - insurance claims

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3 **"SECTION 2641g.** 292.65 (8) (j) 4. of the statutes is created to read:

4 292.65 (8) (j) 4. If, prior to receiving an award under this section, an owner or
5 operator receives payment from an insurance company arising out of a claim for
6 payment of any eligible costs, the department may not reimburse the owner or
7 operator any amount that exceeds the difference between the amount of the award
8 calculated under subd. 1. or 2. and pars. (e) and (f) and the amount by which the
9 insurance payment exceeds the sum of the deductible and the amount by which the
10 amount calculated under par. (e) exceeds the maximum award under par. (f).

11 **SECTION 2641m.** 292.65 (8m) of the statutes is created to read:

