

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **06/22/99**

Received By: **isagerro**

Wanted: **Soon**

Identical to LRB:

For: **Assembly Republican Caucus**

By/Representing: **Anderson**

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

Drafter: **isagerro**

May Contact:

Alt. Drafters:

Subject: **Environment - env. cleanup**

Extra Copies: **RCT**

Pre Topic:

ARC:.....Anderson -

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 06/22/99	chanaman 06/22/99	mclark 06/23/99	_____	lrb_docadmin 06/23/99		
/2	isagerro 06/23/99	chanaman 06/23/99	kfollet 06/24/99 kfollet 06/24/99	_____	lrb_docadmin 06/24/99		

FE Sent For:

<END>

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FE Sent For:

cmH
6/23
/2

Kjf
6/23

Kjf/mc
6/24
<END>

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1?	isagerro	cm 1 6/22 ✓ /	MRC 6/23	MRC/JF 6/23			

FE Sent For:

<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0917/1

ISR:.....

cmv

ARC:.....Anderson - Dry cleaners - insurance claims

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

Note
soon

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 468, line 22: delete "and (9m)".

3 2. Page 1299, line 21: delete the material beginning with that line and ending
4 with page 1300, line 5.

5 3. Page 1300, line 11: delete lines 11 to 13.

6 4. Page 1301, line 15: delete the material beginning with that line and ending

7 with page 1302, line 13 and substitute:

8 → Insert 2-1

(END)

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

Insert 2-1

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

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

3 "SECTION 2641^(l)~~g~~. 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 ^{reimbursement of} ~~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 ^{of eligible costs} ~~by which the~~ reimbursed

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

(END OF INSERT)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0917/1dn
ISR:.....

cm

June 22, 1999

Nicole Anderson:

Please review this amendment carefully to make sure it achieves your intent. In particular, please note the following:

1. Under this amendment, an applicant may only receive an award equal to the amount of eligible costs that have not been reimbursed from other sources. Is this what you intended?

2 If an applicant receives reimbursement for eligible costs from other sources after receiving an award, he or she is not required to reimburse DNR the amount of the award. Is this your intent?

3. I did not include language authorizing DNR to deny an award if the discharge of solvent was caused by a person who provided services or products to the owner or operator or prior owner or operator of the dry cleaning facility after October 14, 1997. Section 292.65 (8) (d) 8., stats., already requires DNR to deny an award if the discharge was caused by a person who provided products or services to an owner or operator *before or after* October 14, 1997. Did you want to narrow this provision to require DNR to deny an award if the discharge was caused by a person who provided services or product to a dry cleaning facility after October 14, 1997 and thus, allow DNR to grant an award if the discharge was caused before October 14, 1997?

4. This amendment deletes the requirement that an owner or operator notify DNR of his or her intent to file suit against an insurance company for the purpose of recovering the proceeds of an insurance policy. OK?

If you have any questions or comments, feel free to contact me.

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

ISR 50917

To Be Drafted

Agency: DNR

Amendment: 302

Applicant: Nicole Anderson

Title:

Priority:

Summary:

Environmental Package

Need/Impact:

Statement of Intent:

Environmental Package (See Attached)

Request#

Tuesday, June 22, 1999

X. Dry Cleaning

JFC Action:

JFC required 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. JFC authorized 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. The provision would not require an applicant to reimburse DNR for insurance proceeds that the applicant receives. DNR would be required to deposit any insurance proceeds it collects into the dry cleaner environmental response fund.

In addition, if an owner or operator receives insurance proceeds before or after submitting a claim for reimbursement under the dry cleaner program, the insurance proceeds will 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.

Motion:

This motion would delete the Joint Finance action on insurance claims for dry cleaners.

The motion would amend statutes so that an applicant to the environmental response program (which reimburses owner or operators of dry cleaning facilities for costs for clean-up from dry cleaning solvents) may not receive an award if they have recovered the funds from other sources.

The motion would authorize the DNR to deny an applicant if the dry cleaning solvent discharge was caused by a person who provided services or products to the owner or operator or to a prior owner or operator of the dry cleaning facility after October 14, 1997.

Fiscal impact

None.

What other services
any source
other than
the owner or
operator?

Is this
in addition
to the
changes
made by H. Finance
to include person who
provides perchloroethylene
S. 292(8)(d)8.

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

LRBb0917/1dn
ISR:cmh:mrc

June 22, 1999

Nicole Anderson:

Please review this amendment carefully to make sure it achieves your intent. In particular, please note the following:

1. Under this amendment, an applicant may only receive an award equal to the amount of eligible costs that have not been reimbursed from other sources. Is this what you intended?

2. If an applicant receives reimbursement for eligible costs from other sources after receiving an award, he or she is not required to reimburse DNR the amount of the award. Is this your intent?

3. I did not include language authorizing DNR to deny an award if the discharge of solvent was caused by a person who provided services or products to the owner or operator or prior owner or operator of the dry cleaning facility after October 14, 1997. Section 292.65 (8) (d) 8., stats., already requires DNR to deny an award if the discharge was caused by a person who provided products or services to an owner or operator *before or after* October 14, 1997. Did you want to narrow this provision to require DNR to deny an award if the discharge was caused by a person who provided services or products to a dry cleaning facility after October 14, 1997 and thus, allow DNR to grant an award if the discharge was caused before October 14, 1997?

4. This amendment deletes the requirement that an owner or operator notify DNR of his or her intent to file suit against an insurance company for the purpose of recovering the proceeds of an insurance policy. OK?

If you have any questions or comments, feel free to contact me.

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

Sager-Rosenthal, Ivy

From: Anderson, Nicole (Legislature)
Sent: Wednesday, June 23, 1999 10:42 AM
To: Sager-Rosenthal, Ivy
Subject: RE: Drafting instructions re: ARC changes to dry cleaning program

I have the appropriate person contacting you. his name is misha lee. He will be calling you shortly.

-----Original Message-----

*From: Sager-Rosenthal, Ivy
Sent: Tuesday, June 22, 1999 4:14 PM
To: Anderson, Nicole (Legislature)
Subject: Drafting instructions re: ARC changes to dry cleaning program*

Nicole:
I am drafting the ARC changes to the dry cleaning program and have a few questions for you:

1. The drafting instructions state that an applicant may not receive an award if they have recovered funds from other sources. Are there any specific sources? Do you mean bank loans, grants? Also, may the applicant receive the portion of the award that is not reimbursed from the "other sources"? For example, if the eligible costs are \$100,000 and the applicant has received \$40,000 from "other sources", may the applicant receive an award for \$60,000 or is the applicant prohibited from receiving an award?
2. The drafting instructions state that the motion authorizes DNR to deny an award if the discharge was caused by a person who provided services or products to the owner or operator or to a prior owner or operator of the facility after October 14, 1997. Is this requirement in addition to the requirement added by Joint Finance that an award may not be awarded if the discharge was caused by a person who failed to use a closed loop delivery system or is it in place of this requirement?

Please call me so that we can discuss these drafting instructions. I would like to get a draft to you soon.
Thank you,

Ivy G. Sager-Rosenthal
Legislative Attorney
Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 261-4455

* Conversation w/ Rep. Kaufman's office, 6/23/99
- contact misha lee for instructions

* Conversation w/ misha lee
~~intent to make sure that the bill can't be sued~~
- delete subrogation requirement to notify DNR of intent to sue
- leave other provisions alone



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb091711
ISR:cmh:mrc

2
RMR

ARC:.....Anderson - Dry cleaners - insurance claims

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

Inate
serom

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 468, line 22: delete "and (9m)".

3 2. Page ¹³⁰⁰~~1200~~, line ¹~~21~~; delete the material beginning with that line and ending
4 with page 1300, line 5. lines 1 to 5

5 3. Page 1300, line 11: delete lines 11 to 13.

6 4. Page ¹³⁰²~~1301~~, line ⁶~~15~~; delete the material beginning with that line and ending
7 with page 1302, line 13, and substitute: lines 6 to 13.

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

9 292.65 (8) (j) 4. If, prior to receiving an award under this section, an owner or
10 operator receives reimbursement of any eligible costs, the department may not

1 ~~reimburse the owner or operator any amount that exceeds the difference between the~~
2 ~~amount of the award calculated under subd. 1. or 2. and pars. (e) and (f) and the~~
3 ~~amount of eligible costs reimbursed.~~

4

(END)

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

LRBb0917/2dn
ISR:.....

emj

June 23, 1999

Nicole Anderson:

Per your instructions, the changes to this amendment are based on drafting instructions I received from Representative Kaufert's office and Misha Lee.

This amendment deletes the provision that would allow the DNR to sue an insurance company to recover eligible costs covered by an award and deletes the requirement that an applicant notify the DNR of the applicant's intent to sue an insurance company for eligible costs.

Please review this amendment carefully to make sure it achieves your intent. If you have any questions, please feel free 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**

LRBb0917/2dn
ISR:cmh:kjf

June 24, 1999

Nicole Anderson:

Per your instructions, the changes to this amendment are based on drafting instructions I received from Representative Kaufert's office and Misha Lee.

This amendment deletes the provision that would allow the DNR to sue an insurance company to recover eligible costs covered by an award and deletes the requirement that an applicant notify the DNR of the applicant's intent to sue an insurance company for eligible costs.

Please review this amendment carefully to make sure it achieves your intent. If you have any questions, please feel free to contact me.

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



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0917/2
ISR:cmh:kjf

ARC:.....Anderson - Dry cleaners - insurance claims

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 468, line 22: delete "and (9m)".

3 **2.** Page 1300, line 1: delete lines 1 to 5.

4 **3.** Page 1302, line 6: delete lines 6 to 13.

5 (END)