



Rep. Michael K. Smith

Filed: 3/18/2008

09500HB2170ham001

LRB095 01175 BDD 47506 a

1 AMENDMENT TO HOUSE BILL 2170

2 AMENDMENT NO. _____. Amend House Bill 2170 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Drycleaner Environmental Response Trust
5 Fund Act is amended by changing Sections 20, 40, 60, and 65 and
6 by adding Section 69 as follows:

7 (415 ILCS 135/20)

8 Sec. 20. Council rules.

9 (a) The Council may adopt rules in accordance with the
10 emergency rulemaking provisions of Section 5-45 of the Illinois
11 Administrative Procedure Act for one year after the effective
12 date of this Act. Thereafter, the Council shall conduct general
13 rulemaking as provided under the Illinois Administrative
14 Procedure Act.

15 (b) The Council shall adopt rules regarding its practice
16 and procedures for investigating and settling claims made

1 against the Fund, determining reimbursement guidelines,
2 coordinating with the Agency, and otherwise implementing and
3 administering the Fund under this Act.

4 (c) The Council shall adopt rules regarding its practice
5 and procedures to develop underwriting standards, establish
6 insurance account coverage and risk factors, settle claims made
7 against the insurance account of the Fund, determine
8 appropriate deductibles or retentions in coverages or benefits
9 offered under the insurance account of the Fund, determine
10 reimbursement guidelines, and otherwise implement and
11 administer the insurance account under this Act.

12 (d) The Council shall adopt rules necessary for the
13 implementation and collection of insurance account premiums
14 prior to offering insurance to an owner or operator of a
15 drycleaning facility or other person.

16 (e) The Council shall adopt rules prescribing requirements
17 for the retention of records by an owner or operator and the
18 periods for which he or she must retain those records.

19 (f) The Council shall adopt rules describing the manner in
20 which all disbursed moneys received from the Agency shall be
21 deposited with a bank or savings and loan association to be
22 approved by the Council. For purposes of this subsection, the
23 Council shall be considered a public agency and, therefore, no
24 bank or savings and loan association shall receive public funds
25 from the Council, and the Council shall not make any
26 investments, unless in accordance with the Public Funds

1 Investment Act.

2 (g) All final Council decisions regarding the Fund or any
3 reimbursement from the Fund and any decision concerning the
4 classification of drycleaning solvents pursuant to subsection
5 (a) of Section 65 of this Act and any notice of the assessment
6 of civil penalties under Section 69 of this Act shall be
7 subject to appeal to the Administrator of the Council, by the
8 affected parties, within 60 days after the final decision. The
9 Council shall determine by rule persons who have standing to
10 appeal final Council decisions. Any written decision by the
11 Administrator may be appealed to the Council within 60 days
12 after the Administrator's final decision. Any decision by the
13 Council may be appealed to the Council's administrative law
14 judge within 60 days after the Council's final decision. Notice
15 of any hearing provided for by this Act shall be given not less
16 than 7 days before the day fixed for the hearing ~~All appeals of~~
17 ~~final Council decisions shall be presented to and reviewed by~~
18 ~~the Council's administrative hearing officer.~~ An appeal of the
19 administrative law judge's ~~hearing officer's~~ decision will be
20 subject to judicial review in accordance with the
21 Administrative Review Law.

22 Any decision not timely appealed shall become a final
23 administrative decision without the necessity of a final
24 administrative decision being issued and shall be deemed to be
25 a final administrative decision.

26 The Council shall adopt rules relating to appeal

1 procedures.

2 The Council may designate an attorney, employed by the
3 Council or privately employed, to act as an administrative law
4 judge to preside at any administrative hearing resulting from
5 the appeal of a Council decision. The Council and the
6 Department of Revenue are authorized to enter into an agreement
7 whereby an administrative law judge employed by the Department
8 may be assigned to preside at the administrative hearings.

9 Proof of the Council's administrative decision may be made
10 at any administrative or legal proceeding by a reproduced copy
11 of the Council's record relating to the decision under the
12 certificate of the Council. A reproduced copy shall, without
13 further proof, be admitted into evidence and shall be prima
14 facie proof of the decision.

15 The provisions of the Administrative Review Law, and any
16 rules adopted under the Administrative Review law by the
17 Council, shall govern all proceedings for the judicial review
18 of final administrative decisions of the Council. The term
19 "administrative decision" has the same meaning as it does in
20 Section 3-101 of the Code of Civil Procedure.

21 Venue for an administrative review action challenging the
22 results of an administrative hearing upholding an
23 administrative decision issued by the Council shall be proper
24 in the Circuit Court of the county where the plaintiff has its
25 principal place of business, or Sangamon County if the
26 plaintiff's principal place of business is located outside

1 ~~Illinois. that shall require the Council to deliver notice of~~
2 ~~appeal to the affected parties within 30 days of receipt of~~
3 ~~notice, require that the hearing be held within 180 days of the~~
4 ~~filing of the petition unless good cause is shown for the~~
5 ~~delay, and require that a final decision be issued no later~~
6 ~~than 120 days following the close of the hearing. The time~~
7 ~~restrictions in this subsection may be waived by mutual~~
8 ~~agreement of the parties.~~

9 (Source: P.A. 90-502, eff. 8-19-97.)

10 (415 ILCS 135/40)

11 Sec. 40. Remedial action account.

12 (a) The remedial action account is established to provide
13 reimbursement to eligible claimants for drycleaning solvent
14 investigation, remedial action planning, and remedial action
15 activities for existing drycleaning solvent contamination
16 discovered at their drycleaning facilities.

17 (b) The following persons are eligible for reimbursement
18 from the remedial action account:

19 (1) In the case of claimant who is the owner or
20 operator of an active drycleaning facility licensed by the
21 Council under this Act at the time of application for
22 remedial action benefits afforded under the Fund, the
23 claimant is only eligible for reimbursement of remedial
24 action costs incurred in connection with a release from
25 that drycleaning facility, subject to any other

1 limitations under this Act.

2 (2) In the case of a claimant who is the owner of an
3 inactive drycleaning facility and was the owner or operator
4 of the drycleaning facility when it was an active
5 drycleaning facility, the claimant is only eligible for
6 reimbursement of remedial action costs incurred in
7 connection with a release from the drycleaning facility,
8 subject to any other limitations under this Act.

9 (c) An eligible claimant requesting reimbursement from the
10 remedial action account shall meet all of the following:

11 (1) The claimant demonstrates that the source of the
12 release is from the claimant's drycleaning facility.

13 (2) At the time the release was discovered by the
14 claimant, the claimant and the drycleaning facility were in
15 compliance with the Agency reporting and technical
16 operating requirements.

17 (3) The claimant reported the release in a timely
18 manner to the Agency in accordance with State law.

19 (4) The claimant applying for reimbursement has not
20 filed for bankruptcy on or after the date of his or her
21 discovery of the release.

22 (5) If the claimant is the owner or operator of an
23 active drycleaning facility, the claimant has provided to
24 the Council proof of implementation and maintenance of the
25 following pollution prevention measures:

26 (A) That all drycleaning solvent wastes generated

1 at a drycleaning facility be managed in accordance with
2 applicable State waste management laws and rules.

3 (B) A prohibition on the discharge of wastewater
4 from drycleaning machines or of drycleaning solvent
5 from drycleaning operations to a sanitary sewer or
6 septic tank or to the surface or in groundwater.

7 (C) That every drycleaning facility:

8 (I) install a containment dike or other
9 containment structure around each machine, item of
10 equipment, drycleaning area, and portable waste
11 container in which any drycleaning solvent is
12 utilized, which shall be capable of containing
13 leaks, spills, or releases of drycleaning solvent
14 from that machine, item, area, or container. The
15 containment dike or other containment structure
16 shall be capable of at least the following: (i)
17 containing a capacity of 110% of the drycleaning
18 solvent in the largest tank or vessel within the
19 machine; (ii) containing 100% of the drycleaning
20 solvent of each item of equipment or drycleaning
21 area; and (iii) containing 100% of the drycleaning
22 solvent of the largest portable waste container or
23 at least 10% of the total volume of the portable
24 waste containers stored within the containment
25 dike or structure, whichever is greater.

26 Petroleum underground storage tank systems

1 that are upgraded in accordance with USEPA upgrade
2 standards pursuant to 40 CFR Part 280 for the tanks
3 and related piping systems and use a leak detection
4 system approved by the USEPA or IEPA are exempt
5 from this secondary containment requirement; and

6 (II) seal or otherwise render impervious those
7 portions of diked floor surfaces on which a
8 drycleaning solvent may leak, spill, or otherwise
9 be released.

10 (D) A requirement that all drycleaning solvent
11 shall be delivered to drycleaning facilities by means
12 of closed, direct-coupled delivery systems.

13 (6) An active drycleaning facility has maintained
14 continuous financial assurance for environmental liability
15 coverage in the amount of at least \$500,000 at least since
16 the date of award of benefits under this Section or July 1,
17 2000, whichever is earlier. An uninsured drycleaning
18 facility that has filed an application for insurance with
19 the Fund by January 1, 2004, obtained insurance through
20 that application, and maintained that insurance coverage
21 continuously shall be considered to have conformed with the
22 requirements of this subdivision (6). To conform with this
23 requirement the applicant must pay the equivalent of the
24 total premiums due for the period beginning June 30, 2000
25 through the date of application plus a 20% penalty of the
26 total premiums due for that period.

1 (7) The release was discovered on or after July 1, 1997
2 and before July 1, 2006.

3 (d) A claimant shall submit a completed application form
4 provided by the Council. The application shall contain
5 documentation of activities, plans, and expenditures
6 associated with the eligible costs incurred in response to a
7 release of drycleaning solvent from a drycleaning facility.
8 Application for remedial action account benefits must be
9 submitted to the Council on or before June 30, 2005.

10 (e) Claimants shall be subject to the following deductible
11 requirements, unless modified pursuant to the Council's
12 authority under Section 75:

13 (1) An eligible claimant submitting a claim for an
14 active drycleaning facility is responsible for the first
15 \$5,000 of eligible investigation costs and for the first
16 \$10,000 of eligible remedial action costs incurred in
17 connection with the release from the drycleaning facility
18 and is only eligible for reimbursement for costs that
19 exceed those amounts, subject to any other limitations of
20 this Act.

21 (2) An eligible claimant submitting a claim for an
22 inactive drycleaning facility is responsible for the first
23 \$10,000 of eligible investigation costs and for the first
24 \$10,000 of eligible remedial action costs incurred in
25 connection with the release from that drycleaning
26 facility, and is only eligible for reimbursement for costs

1 that exceed those amounts, subject to any other limitations
2 of this Act.

3 (f) Claimants are subject to the following limitations on
4 reimbursement:

5 (1) Subsequent to meeting the deductible requirements
6 of subsection (e), and pursuant to the requirements of
7 Section 75, reimbursement shall not exceed \$300,000 per
8 active drycleaning facility and \$50,000 per inactive
9 drycleaning facility.

10 (2) A contract in which one of the parties to the
11 contract is a claimant, for goods or services that may be
12 payable or reimbursable from the Council, is void and
13 unenforceable unless and until the Council has found that
14 the contract terms are within the range of usual and
15 customary rates for similar or equivalent goods or services
16 within this State and has found that the goods or services
17 are necessary for the claimant to comply with Council
18 standards or other applicable regulatory standards.

19 (3) A claimant may appoint the Council as an agent for
20 the purposes of negotiating contracts with suppliers of
21 goods or services reimbursable by the Fund. The Council may
22 select another contractor for goods or services other than
23 the one offered by the claimant if the scope of the
24 proposed work or actual work of the claimant's offered
25 contractor does not reflect the quality of workmanship
26 required or if the costs are determined to be excessive, as

1 determined by the Council.

2 (4) The Council may require a claimant to obtain and
3 submit 3 bids and may require specific terms and conditions
4 in a contract subject to approval.

5 (5) The Council may enter into a contract or an
6 exclusive contract with the supplier of goods or services
7 required by a claimant or class of claimants, in connection
8 with an expense reimbursable from the Fund, for a specified
9 good or service at a gross maximum price or fixed rate, and
10 may limit reimbursement accordingly.

11 (6) Unless emergency conditions exist, a service
12 provider shall obtain the Council's approval of the budget
13 for the remediation work before commencing the work. No
14 expense incurred that is above the budgeted amount shall be
15 paid unless the Council approves the expense prior to its
16 being incurred. All invoices and bills relating to the
17 remediation work shall be submitted with appropriate
18 documentation, as deemed necessary by the Council, ~~not~~
19 ~~later than 30 days after the work has been performed.~~

20 (7) Neither the Council nor an eligible claimant is
21 responsible for payment for costs incurred that have not
22 been previously approved by the Council, unless an
23 emergency exists.

24 (8) The Council may determine the usual and customary
25 costs of each item for which reimbursement may be awarded
26 under this Section. The Council may revise the usual and

1 customary costs from time to time as necessary, but costs
2 submitted for reimbursement shall be subject to the rates
3 in effect at the time the costs were incurred.

4 (9) If a claimant has pollution liability insurance
5 coverage other than coverage provided by the insurance
6 account under this Act, that coverage shall be primary.
7 Reimbursement from the remedial account shall be limited to
8 the deductible amounts under the primary coverage and the
9 amount that exceeds the policy limits of the primary
10 coverage, subject to the deductible amounts of this Act. If
11 there is a dispute between the claimant and the primary
12 insurance provider, reimbursement from the remedial action
13 account may be made to the claimant after the claimant
14 assigns all of his or her interests in the insurance
15 coverage to the Council.

16 (g) The source of funds for the remedial action account
17 shall be moneys allocated to the account by the Council
18 according to the Fund budget approved by the Council.

19 (h) A drycleaning facility will be classified as active or
20 inactive for purposes of determining benefits under this
21 Section based on the status of the facility on the date a claim
22 is filed.

23 (i) Eligible claimants shall conduct remedial action in
24 accordance with the Site Remediation Program under the
25 Environmental Protection Act and Part 740 of Title 35 of the
26 Illinois Administrative Code and the Tiered Approach to Cleanup

1 Objectives under Part 742 of Title 35 of the Illinois
2 Administrative Code.

3 (Source: P.A. 93-201, eff. 1-1-04.)

4 (415 ILCS 135/60)

5 (Section scheduled to be repealed on January 1, 2020)

6 Sec. 60. Drycleaning facility license.

7 (a) On and after January 1, 1998, no person shall operate a
8 drycleaning facility in this State without a license issued by
9 the Council.

10 (b) The Council shall issue an initial or renewal license
11 to a drycleaning facility on submission by an applicant of a
12 completed form prescribed by the Council and proof of payment
13 of the required fee to the Department of Revenue.

14 (c) On or after January 1, 2004, the annual fees for
15 licensure are as follows:

16 (1) \$500 for a facility that uses (i) 50 gallons or
17 less of chlorine-based or green drycleaning solvents
18 annually, (ii) 250 or less gallons annually of
19 hydrocarbon-based drycleaning solvents in a drycleaning
20 machine equipped with a solvent reclaimer, or (iii) 500
21 gallons or less annually of hydrocarbon-based drycleaning
22 solvents in a drycleaning machine without a solvent
23 reclaimer.

24 (2) \$500 for a facility that uses (i) more than 50
25 gallons but not more than 100 gallons of chlorine-based or

1 green drycleaning solvents annually, (ii) more than 250
2 gallons but not more 500 gallons annually of
3 hydrocarbon-based solvents in a drycleaning machine
4 equipped with a solvent reclaimer, or (iii) more than 500
5 gallons but not more than 1,000 gallons annually of
6 hydrocarbon-based drycleaning solvents in a drycleaning
7 machine without a solvent reclaimer.

8 (3) \$500 for a facility that uses (i) more than 100
9 gallons but not more than 150 gallons of chlorine-based or
10 green drycleaning solvents annually, (ii) more than 500
11 gallons but not more than 750 gallons annually of
12 hydrocarbon-based solvents in a drycleaning machine
13 equipped with a solvent reclaimer, or (iii) more than 1,000
14 gallons but not more than 1,500 gallons annually of
15 hydrocarbon-based drycleaning solvents in a drycleaning
16 machine without a solvent reclaimer.

17 (4) \$1,000 for a facility that uses (i) more than 150
18 gallons but not more than 200 gallons of chlorine-based or
19 green drycleaning solvents annually, (ii) more than 750
20 gallons but not more than 1,000 gallons annually of
21 hydrocarbon-based solvents in a drycleaning machine
22 equipped with a solvent reclaimer, or (iii) more than 1,500
23 gallons but not more than 2,000 gallons annually of
24 hydrocarbon-based drycleaning solvents in a drycleaning
25 machine without a solvent reclaimer.

26 (5) \$1,000 for a facility that uses (i) more than 200

1 gallons but not more than 250 gallons of chlorine-based or
2 green drycleaning solvents annually, (ii) more than 1,000
3 gallons but not more than 1,250 gallons annually of
4 hydrocarbon-based solvents in a drycleaning machine
5 equipped with a solvent reclaimer, or (iii) more than 2,000
6 gallons but not more than 2,500 gallons annually of
7 hydrocarbon-based drycleaning solvents in a drycleaning
8 machine without a solvent reclaimer.

9 (6) \$1,000 for a facility that uses (i) more than 250
10 gallons but not more than 300 gallons of chlorine-based or
11 green drycleaning solvents annually, (ii) more than 1,250
12 gallons but not more than 1,500 gallons annually of
13 hydrocarbon-based solvents in a drycleaning machine
14 equipped with a solvent reclaimer, or (iii) more than 2,500
15 gallons but not more than 3,000 gallons annually of
16 hydrocarbon-based drycleaning solvents in a drycleaning
17 machine without a solvent reclaimer.

18 (7) \$1,000 for a facility that uses (i) more than 300
19 gallons but not more than 350 gallons of chlorine-based or
20 green drycleaning solvents annually, (ii) more than 1,500
21 gallons but not more than 1,750 gallons annually of
22 hydrocarbon-based solvents in a drycleaning machine
23 equipped with a solvent reclaimer, or (iii) more than 3,000
24 gallons but not more than 3,500 gallons annually of
25 hydrocarbon-based drycleaning solvents in a drycleaning
26 machine without a solvent reclaimer.

1 (8) \$1,500 for a facility that uses (i) more than 350
2 gallons but not more than 400 gallons of chlorine-based or
3 green drycleaning solvents annually, (ii) more than 1,750
4 gallons but not more than 2,000 gallons annually of
5 hydrocarbon-based solvents in a drycleaning machine
6 equipped with a solvent reclaimer, or (iii) more than 3,500
7 gallons but not more than 4,000 gallons annually of
8 hydrocarbon-based drycleaning solvents in a drycleaning
9 machine without a solvent reclaimer.

10 (9) \$1,500 for a facility that uses (i) more than 400
11 gallons but not more than 450 gallons of chlorine-based or
12 green drycleaning solvents annually, (ii) more than 2,000
13 gallons but not more than 2,250 gallons annually of
14 hydrocarbon-based solvents in a drycleaning machine
15 equipped with a solvent reclaimer, or (iii) more than 4,000
16 gallons but not more than 4,500 gallons annually of
17 hydrocarbon-based drycleaning solvents in a drycleaning
18 machine without a solvent reclaimer.

19 (10) \$1,500 for a facility that uses (i) more than 450
20 gallons but not more than 500 gallons of chlorine-based or
21 green drycleaning solvents annually, (ii) more than 2,250
22 gallons but not more than 2,500 gallons annually of
23 hydrocarbon-based solvents used in a drycleaning machine
24 equipped with a solvent reclaimer, or (iii) more than 4,500
25 gallons but not more than 5,000 gallons annually of
26 hydrocarbon-based drycleaning solvents in a drycleaning

1 machine without a solvent reclaimer.

2 (11) \$1,500 for a facility that uses (i) more than 500
3 gallons but not more than 550 gallons of chlorine-based or
4 green drycleaning solvents annually, (ii) more than 2,500
5 gallons but not more than 2,750 gallons annually of
6 hydrocarbon-based solvents in a drycleaning machine
7 equipped with a solvent reclaimer, or (iii) more than 5,000
8 gallons but not more than 5,500 gallons annually of
9 hydrocarbon-based drycleaning solvents in a drycleaning
10 machine without a solvent reclaimer.

11 (12) \$1,500 for a facility that uses (i) more than 550
12 gallons but not more than 600 gallons of chlorine-based or
13 green drycleaning solvents annually, (ii) more than 2,750
14 gallons but not more than 3,000 gallons annually of
15 hydrocarbon-based solvents in a drycleaning machine
16 equipped with a solvent reclaimer, or (iii) more than 5,500
17 gallons but not more than 6,000 gallons annually of
18 hydrocarbon-based drycleaning solvents in a drycleaning
19 machine without a solvent reclaimer.

20 (13) \$1,500 for a facility that uses (i) more than 600
21 gallons of chlorine-based or green drycleaning solvents
22 annually, (ii) more than 3,000 gallons but not more than
23 3,250 gallons annually of hydrocarbon-based solvents in a
24 drycleaning machine equipped with a solvent reclaimer, or
25 (iii) more than 6,000 gallons of hydrocarbon-based
26 drycleaning solvents annually in a drycleaning machine

1 equipped without a solvent reclaimer.

2 (14) \$1,500 for a facility that uses more than 3,250
3 gallons but not more than 3,500 gallons annually of
4 hydrocarbon-based solvents in a drycleaning machine
5 equipped with a solvent reclaimer.

6 (15) \$1,500 for a facility that uses more than 3,500
7 gallons but not more than 3,750 gallons annually of
8 hydrocarbon-based solvents used in a drycleaning machine
9 equipped with a solvent reclaimer.

10 (16) \$1,500 for a facility that uses more than 3,750
11 gallons but not more than 4,000 gallons annually of
12 hydrocarbon-based solvents in a drycleaning machine
13 equipped with a solvent reclaimer.

14 (17) \$1,500 for a facility that uses more than 4,000
15 gallons annually of hydrocarbon-based solvents in a
16 drycleaning machine equipped with a solvent reclaimer.

17 For purpose of this subsection, the quantity of drycleaning
18 solvents used annually shall be determined as follows:

19 (1) in the case of an initial applicant, the quantity
20 of drycleaning solvents that the applicant estimates will
21 be used during his or her initial license year. A fee
22 assessed under this subdivision is subject to audited
23 adjustment for that year; or

24 (2) in the case of a renewal applicant, the quantity of
25 drycleaning solvents actually purchased ~~used~~ in the
26 preceding license year.

1 The Council may adjust licensing fees annually based on the
2 published Consumer Price Index - All Urban Consumers ("CPI-U")
3 or as otherwise determined by the Council.

4 (d) A license issued under this Section shall expire one
5 year after the date of issuance and may be renewed on
6 reapplication to the Council and submission of proof of payment
7 of the appropriate fee to the Department of Revenue in
8 accordance with subsections (c) and (e). At least 30 days
9 before payment of a renewal licensing fee is due, the Council
10 shall attempt to:

11 (1) notify the operator of each licensed drycleaning
12 facility concerning the requirements of this Section; and

13 (2) submit a license fee payment form to the licensed
14 operator of each drycleaning facility.

15 (e) An operator of a drycleaning facility shall submit the
16 appropriate application form provided by the Council with the
17 license fee in the form of cash or guaranteed remittance to the
18 Department of Revenue. The license fee payment form and the
19 actual license fee payment shall be administered by the
20 Department of Revenue under rules adopted by that Department.

21 (f) The Department of Revenue shall issue a proof of
22 payment receipt to each operator of a drycleaning facility who
23 has paid the appropriate fee in cash or by guaranteed
24 remittance. However, the Department of Revenue shall not issue
25 a proof of payment receipt to a drycleaning facility that is
26 liable to the Department of Revenue for a tax imposed under

1 this Act. The original receipt shall be presented to the
2 Council by the operator of a drycleaning facility.

3 (g) (Blank). ~~An operator of a dry cleaning facility who is~~
4 ~~required to pay a license fee under this Act and fails to pay~~
5 ~~the license fee when the fee is due may be assessed a penalty~~
6 ~~of \$5 for each day after the license fee is due and until the~~
7 ~~license fee is paid. The penalty shall be effective for license~~
8 ~~fees due on or after July 1, 1999.~~

9 (h) The Council and the Department of Revenue may adopt
10 rules as necessary to administer the licensing requirements of
11 this Act.

12 (Source: P.A. 93-201, eff. 1-1-04.)

13 (415 ILCS 135/65)

14 (Section scheduled to be repealed on January 1, 2020)

15 Sec. 65. Drycleaning solvent tax.

16 (a) On and after January 1, 1998, a tax is imposed upon the
17 use of drycleaning solvent by a person engaged in the business
18 of operating a drycleaning facility in this State at the rate
19 of \$3.50 per gallon of perchloroethylene or other chlorinated
20 drycleaning solvents used in drycleaning operations, \$0.35 per
21 gallon of petroleum-based drycleaning solvent, and \$1.75 per
22 gallon of green solvents, unless the green solvent is used at a
23 virgin facility, in which case the rate is \$0.35 per gallon.
24 The Council shall determine by rule which products are
25 chlorine-based solvents, which products are petroleum-based

1 solvents, and which products are green solvents. All
2 drycleaning solvents shall be considered chlorinated solvents
3 unless the Council determines that the solvents are
4 petroleum-based drycleaning solvents or green solvents.

5 (b) The tax imposed by this Act shall be collected from the
6 purchaser at the time of sale by a seller of drycleaning
7 solvents maintaining a place of business in this State and
8 shall be remitted to the Department of Revenue under the
9 provisions of this Act.

10 (c) The tax imposed by this Act that is not collected by a
11 seller of drycleaning solvents shall be paid directly to the
12 Department of Revenue by the purchaser or end user who is
13 subject to the tax imposed by this Act.

14 (d) No tax shall be imposed upon the use of drycleaning
15 solvent if the drycleaning solvent will not be used in a
16 drycleaning facility or if a floor stock tax has been imposed
17 and paid on the drycleaning solvent. Prior to the purchase of
18 the solvent, the purchaser shall provide a written and signed
19 certificate to the drycleaning solvent seller stating:

20 (1) the name and address of the purchaser;

21 (2) the purchaser's signature and date of signing; and

22 (3) one of the following:

23 (A) that the drycleaning solvent will not be used
24 in a drycleaning facility; or

25 (B) that a floor stock tax has been imposed and
26 paid on the drycleaning solvent.

1 ~~A person who provides a false certification under this~~
2 ~~subsection shall be liable for a civil penalty not to exceed~~
3 ~~\$500 for a first violation and a civil penalty not to exceed~~
4 ~~\$5,000 for a second or subsequent violation.~~

5 (e) On January 1, 1998, there is imposed on each operator
6 of a drycleaning facility a tax on drycleaning solvent held by
7 the operator on that date for use in a drycleaning facility.
8 The tax imposed shall be the tax that would have been imposed
9 under subsection (a) if the drycleaning solvent held by the
10 operator on that date had been purchased by the operator during
11 the first year of this Act.

12 (f) On or before the 25th day of the 1st month following
13 the end of the calendar quarter, a seller of drycleaning
14 solvents who has collected a tax pursuant to this Section
15 during the previous calendar quarter, or a purchaser or end
16 user of drycleaning solvents required under subsection (c) to
17 submit the tax directly to the Department, shall file a return
18 with the Department of Revenue. The return shall be filed on a
19 form prescribed by the Department of Revenue and shall contain
20 information that the Department of Revenue reasonably
21 requires, but at a minimum will require the reporting of the
22 volume of drycleaning solvent sold to each licensed drycleaner.
23 The Department of Revenue shall report quarterly to the Council
24 the volume of drycleaning solvent purchased for the quarter by
25 each licensed drycleaner. Each seller of drycleaning solvent
26 maintaining a place of business in this State who is required

1 or authorized to collect the tax imposed by this Act shall pay
2 to the Department the amount of the tax at the time when he or
3 she is required to file his or her return for the period during
4 which the tax was collected. Purchasers or end users remitting
5 the tax directly to the Department under subsection (c) shall
6 file a return with the Department of Revenue and pay the tax so
7 incurred by the purchaser or end user during the preceding
8 calendar quarter.

9 Except as provided in this Section, the seller of
10 drycleaning solvents filing the return under this Section
11 shall, at the time of filing the return, pay to the Department
12 the amount of tax imposed by this Act less a discount of 1.75%,
13 or \$5 per calendar year, whichever is greater. Failure to
14 timely file the returns and provide to the Department the data
15 requested under this Act will result in disallowance of the
16 reimbursement discount.

17 (g) The tax on drycleaning solvents used in drycleaning
18 facilities and the floor stock tax shall be administered by
19 Department of Revenue under rules adopted by that Department.

20 (h) On and after January 1, 1998, no person shall knowingly
21 sell or transfer drycleaning solvent to an operator of a
22 drycleaning facility that is not licensed by the Council under
23 Section 60. ~~A person who violates this subsection is liable for~~
24 ~~a civil penalty not to exceed \$500 for a first violation and a~~
25 ~~civil penalty not to exceed \$5,000 for a second or subsequent~~
26 ~~violation.~~

1 (i) The Department of Revenue may adopt rules as necessary
2 to implement this Section.

3 (Source: P.A. 93-201, eff. 1-1-04.)

4 (415 ILCS 135/69 new)

5 Sec. 69. Civil penalties.

6 (a) Except as provided in this Section, any person who
7 violates any provision of this Act or any regulation adopted by
8 the Council, or any license or registration or term or
9 condition thereof, or that violates any order of the Council
10 under this Act, shall be liable for a civil penalty as provided
11 in this Section. The penalties may, upon order of the Council
12 or a court of competent jurisdiction, be made payable to the
13 Drycleaner Environmental Response Trust Fund, to be used in
14 accordance with the provisions of the Drycleaner Environmental
15 Response Trust Fund Act.

16 (b) Notwithstanding the provisions of subsection (a) of
17 this Section:

18 (1) Any person who violates Sections 60(a) of this Act
19 by failing to pay the license fee when due, may be assessed
20 a civil penalty of \$5 per day for each day after the
21 license fee is due until the license fee is paid. The
22 penalty shall be effective for license fees due on or after
23 July 1, 1999.

24 (2) Any person who violates Section 65(d) or 65(h) of
25 this Act shall be liable for a civil penalty not to exceed

1 \$500 for the first violation and a civil penalty not to
2 exceed \$5,000 for a second or subsequent violation.

3 (3) Any person who violates Section 67 of this Act
4 shall be liable for a civil penalty not to exceed \$100 per
5 day for each day the person is not registered to sell
6 drycleaning solvents.

7 (c) The Council shall issue an administrative assessment
8 setting forth any penalties it imposes under subsection (b) of
9 this Section and shall serve notice of the assessment upon the
10 party assessed. The Council's determination shall be deemed
11 correct and shall serve as evidence of the correctness of the
12 Council's determination that a penalty is due. Proof of a
13 determination by the Council may be made at any administrative
14 hearing or in any legal proceeding by a reproduced copy or
15 computer print-out of the Council's record relating thereto in
16 the name of the Council under the certificate of the Council.

17 If reproduced copies of the Council's records are offered
18 as proof of a penalty assessment, the Council must certify that
19 those copies are true and exact copies of records on file with
20 the Council. If computer print-outs of the Council's records
21 are offered as proof of a determination, the Council Chairman
22 must certify that those computer print-outs are true and exact
23 representations of records properly entered into standard
24 electronic computing equipment, in the regular course of the
25 Council's business, at or reasonably near the time of the
26 occurrence of the facts recorded, from trustworthy and reliable

1 information. A certified reproduced copy or certified computer
2 print-out shall, without further proof, be admitted into
3 evidence in any administrative or legal proceeding and is prima
4 facie proof of the correctness of the Council's determination.

5 Whenever notice is required by this Section, the notice may
6 be given by United States registered or certified mail,
7 addressed to the person concerned at his last known address,
8 and proof of mailing shall be sufficient for the purposes of
9 this Act. Notice of any hearing provided for by this Act shall
10 be given not less than 7 days before the day fixed for the
11 hearing. Following the initial contact of a person represented
12 by an attorney, the Council shall not contact that person but
13 shall only contact the attorney representing that person.

14 (d) The penalties provided for in this Section may be
15 recovered in a civil action instituted by the Attorney General
16 in the name of the people of the State of Illinois.

17 (e) The Attorney General may also, at the request of the
18 Council or on his or her own motion, institute a civil action
19 for an injunction, prohibitory or mandatory, to restrain
20 violations of this Act, any rule or regulation adopted under
21 this Act, any license or registration or term or condition of a
22 license or registration, or any Council order, or to require
23 other actions as may be necessary to address violations
24 thereof.

25 (f) Without limiting any other authority which may exist
26 for the awarding of attorney's fees and costs, the Council, or

1 a court of competent jurisdiction, may award costs and
2 reasonable attorney's fees, including the reasonable costs of
3 expert witnesses and consultants, to the Attorney General in a
4 case where the Attorney General has prevailed against a person
5 who has committed a willful, knowing, or repeated violation of
6 this Act, any rule or regulation adopted under this Act, any
7 license or registration or term or condition of a license or
8 registration, or any Council order. Any funds collected under
9 this subsection (f) in which the Attorney General has prevailed
10 shall be deposited in the Drycleaner Environmental Response
11 Trust Fund created in Section 10 of this Act.

12 (g) All final orders imposing civil penalties under this
13 Section shall prescribe the time for payment of the penalties.
14 If any penalty is not paid within the time prescribed, interest
15 on the penalty shall be paid, at the rate set forth in Section
16 3-2 of the Illinois Uniform Penalty and Interest Act, for the
17 period from the date payment is due until the date payment is
18 received. However, if the time for payment is stayed during the
19 pendency of an appeal, interest shall not accrue during the
20 stay.

21 (h) Notwithstanding any other rulemaking authority that
22 may exist, neither the Governor nor any agency or agency head
23 under the jurisdiction of the Governor has any authority to
24 make or promulgate rules to implement or enforce the provisions
25 of this amendatory Act of the 95th General Assembly. If,
26 however, the Governor believes that rules are necessary to

1 implement or enforce the provisions of this amendatory Act of
2 the 95th General Assembly, the Governor may suggest rules to
3 the General Assembly by filing them with the Clerk of the House
4 and the Secretary of the Senate and by requesting that the
5 General Assembly authorize such rulemaking by law, enact those
6 suggested rules into law, or take any other appropriate action
7 in the General Assembly's discretion. Nothing contained in this
8 amendatory Act of the 95th General Assembly shall be
9 interpreted to grant rulemaking authority under any other
10 Illinois statute where such authority is not otherwise
11 explicitly given. For the purposes of this subsection, "rules"
12 is given the meaning contained in Section 1-70 of the Illinois
13 Administrative Procedure Act, and "agency" and "agency head"
14 are given the meanings contained in Sections 1-20 and 1-25 of
15 the Illinois Administrative Procedure Act to the extent that
16 such definitions apply to agencies or agency heads under the
17 jurisdiction of the Governor."