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1 AMENDMENT TO HOUSE BILL 3349

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3349, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Legislative findings. In 1997, Public Act  
6 90-502 established the Drycleaner Environmental Response Trust  
7 Fund (Trust Fund) in response to requests by operators of  
8 retail drycleaning facilities to have financial resources  
9 available to pay for the cleanup of spills and leaks from  
10 drycleaning machines and solvent storage units.

11 The purpose of the Trust Fund is to pay for the remediation  
12 of soil and groundwater contamination at both inactive and  
13 active drycleaner sites, as well as prevent future spills and  
14 leaks of drycleaning solvent.

15 The Trust Fund consists of three primary programs: a  
16 licensing program, an insurance program, and a remedial  
17 program.

1           The Trust Fund is financed by an annual license fee on  
2 active drycleaning facilities; a solvent fee tax charged on  
3 each gallon of drycleaning solvent purchased; and insurance  
4 premiums for pollution liability insurance coverage.

5           A private company currently provides third-party  
6 administrative services for the Trust Fund, including, but not  
7 limited to: receiving and processing license applications,  
8 receiving and processing applications for insurance coverage,  
9 receiving and processing claims, and furnishing other  
10 accounting and record-keeping services.

11           Over the course of its operation, the Trust Fund has paid  
12 over \$31 million for remedial action and insurance claims.

13           The Trust Fund currently has a backlog of unpaid claims  
14 totaling \$27 million.

15           There are approximately 230 sites that still need to be  
16 remediated using moneys in the Trust Fund.

17           Under the current system, the Trust Fund's existing funding  
18 sources will not be sufficient to keep up with projected costs  
19 and remedial action and insurance claims; thereby increasing  
20 the potential for drycleaning solvent releases to impact a  
21 larger number of drinking water supplies and threatening many  
22 others across the State.

23           The most recent estimate of reimbursement fund balance  
24 reveals the Trust Fund is projected to have a deficit of \$14  
25 million by its sunset date of January 1, 2020.

26           Most drycleaners are small, independently-owned

1 businesses, and if the Trust Fund is not solvent, drycleaners  
2 may not be able to remediate solvent releases in a responsible  
3 manner.

4 The General Assembly finds that it is necessary to form a  
5 Task Force to study the resource challenges and implementation  
6 issues that the Trust Fund currently faces.

7 Section 5. The Drycleaner Environmental Response Trust  
8 Fund Act is amended by changing Section 45 and by adding  
9 Section 27 as follows:

10 (415 ILCS 135/27 new)

11 Sec. 27. Drycleaner Environmental Response Trust Fund Task  
12 Force.

13 (a) There is created the Drycleaner Environmental Response  
14 Trust Fund Task Force ("Task Force"). The Task Force shall  
15 study the resource challenges and implementation issues that  
16 the Fund faces and make recommendations for adequately funding  
17 the Fund and for refining and improving the goals and  
18 implementation of the Trust Fund program. In conducting the  
19 study of the Trust Fund program, the Task Force shall consider  
20 appropriate changes to the existing program, including, but not  
21 limited to, the following: administration of the program,  
22 program eligibility, program goals, fee structures,  
23 administrative expenses, licensing requirements, benefits for  
24 participation, compliance assurance and continuing education

1 standards, and sunset date.

2 (b) The Council shall be composed of the following members:

3 (1) Two members appointed by the Speaker of the House,  
4 one of whom shall be designated as co-chairperson of the  
5 Task Force;

6 (2) Two members appointed by the Minority Leader of the  
7 House;

8 (3) Two members appointed by the President of the  
9 Senate, one of whom shall be designated as co-chairperson  
10 of the Task Force;

11 (4) Two members appointed by the Minority Leader of the  
12 Senate;

13 (5) Seven members appointed by the Governor to  
14 represent the dry cleaning industry, including two members  
15 who represent a statewide dry cleaners' organization,  
16 three members who represent regional or major metropolitan  
17 dry cleaning associations, and two members representing an  
18 in-state wholesale distributor of dry cleaning agents;

19 (6) One person appointed by the Governor to represent  
20 the Drycleaner Environmental Response Trust Fund Council;  
21 and

22 (7) The Director of the Illinois Environmental  
23 Protection Agency, or his or her designee.

24 (c) The members of the Task Force shall serve without  
25 compensation.

26 (d) The Illinois Environmental Protection Agency shall

1 provide administrative support to the Task Force.

2 (e) In making its determinations, the Task Force must hold  
3 at least 3 public meetings in 3 separate metropolitan areas of  
4 the State.

5 (f) The Task Force shall submit a report of its findings  
6 and recommendations, which shall include proposed legislation,  
7 to the Governor and to the General Assembly by no later than  
8 December 31, 2014.

9 (g) This Section is repealed on January 1, 2016.

10 (415 ILCS 135/45)

11 Sec. 45. Insurance account.

12 (a) The insurance account shall offer financial assurance  
13 for a qualified owner or operator of a drycleaning facility  
14 under the terms and conditions provided for under this Section.  
15 Coverage may be provided to either the owner or the operator of  
16 a drycleaning facility. The Council is not required to resolve  
17 whether the owner or operator, or both, are responsible for a  
18 release under the terms of an agreement between the owner and  
19 operator.

20 (b) The source of funds for the insurance account shall be  
21 as follows:

22 (1) Moneys appropriated to the Council or moneys  
23 allocated to the insurance account by the Council according  
24 to the Fund budget approved by the Council.

25 (2) Moneys collected as an insurance premium,

1 including service fees, if any.

2 (3) Investment income attributed to the insurance  
3 account by the Council.

4 (c) An owner or operator may purchase coverage of up to  
5 \$500,000 per drycleaning facility subject to the terms and  
6 conditions under this Section and those adopted by the Council.  
7 Coverage shall be limited to remedial action costs associated  
8 with soil and groundwater contamination resulting from a  
9 release of drycleaning solvent at an insured drycleaning  
10 facility, including third-party liability for soil and  
11 groundwater contamination. Coverage is not provided for a  
12 release that occurred before the date of coverage.

13 (d) An owner or operator, subject to underwriting  
14 requirements and terms and conditions deemed necessary and  
15 convenient by the Council, may purchase insurance coverage from  
16 the insurance account provided that the drycleaning facility to  
17 be insured meets the following conditions:

18 (1) a site investigation designed to identify soil and  
19 groundwater contamination resulting from the release of a  
20 drycleaning solvent has been completed. The Council shall  
21 determine if the site investigation is adequate. This  
22 investigation must be completed by June 30, 2006. For  
23 drycleaning facilities that apply for insurance coverage  
24 after June 30, 2006, the site investigation must be  
25 completed prior to issuance of insurance coverage; and

26 (2) the drycleaning facility is participating in and

1 meets all requirements of a drycleaning compliance program  
2 approved by the Council.

3 (e) The annual premium for insurance coverage shall be:

4 (1) For the year July 1, 1999 through June 30, 2000,  
5 \$250 per drycleaning facility.

6 (2) For the year July 1, 2000 through June 30, 2001,  
7 \$375 per drycleaning facility.

8 (3) For the year July 1, 2001 through June 30, 2002,  
9 \$500 per drycleaning facility.

10 (4) For the year July 1, 2002 through June 30, 2003,  
11 \$625 per drycleaning facility.

12 (5) For subsequent years, an owner or operator applying  
13 for coverage shall pay an annual actuarially-sound  
14 insurance premium for coverage by the insurance account.  
15 The Council may approve Fund coverage through the payment  
16 of a premium established on an actuarially-sound basis,  
17 taking into consideration the risk to the insurance account  
18 presented by the insured. Risk factor adjustments utilized  
19 to determine actuarially-sound insurance premiums should  
20 reflect the range of risk presented by the variety of  
21 drycleaning systems, monitoring systems, drycleaning  
22 volume, risk management practices, and other factors as  
23 determined by the Council. As used in this item,  
24 "actuarially sound" is not limited to Fund premium revenue  
25 equaling or exceeding Fund expenditures for the general  
26 drycleaning facility population. Actuarially-determined

1 premiums shall be published at least 180 days prior to the  
2 premiums becoming effective.

3 (e-5) If an insurer sends a second notice to an owner or  
4 operator demanding immediate payment of a past-due premium for  
5 insurance services provided pursuant to this Act, the demand  
6 for payment must offer a grace period of not less than 30 days  
7 during which the owner or operator shall be allowed to pay any  
8 premiums due. If payment is made during that period, coverage  
9 under this Act shall not be terminated for non-payment by the  
10 insurer.

11 (e-6) If an insurer terminates an owner or operator's  
12 coverage under this Act, the insurer must send a written notice  
13 to the owner or operator to inform him or her of the  
14 termination of that coverage, and that notice must include  
15 instructions on how to seek reinstatement of coverage, as well  
16 as information concerning any premiums or penalties that might  
17 be due.

18 (f) If coverage is purchased for any part of a year, the  
19 purchaser shall pay the full annual premium. The insurance  
20 premium is fully earned upon issuance of the insurance policy.

21 (g) The insurance coverage shall be provided with a \$10,000  
22 deductible policy.

23 (h) A future repeal of this Section shall not terminate the  
24 obligations under this Section or authority necessary to  
25 administer the obligations until the obligations are  
26 satisfied, including but not limited to the payment of claims



1 filed prior to the effective date of any future repeal against  
2 the insurance account until moneys in the account are  
3 exhausted. Upon exhaustion of the moneys in the account, any  
4 remaining claims shall be invalid. If moneys remain in the  
5 account following satisfaction of the obligations under this  
6 Section, the remaining moneys and moneys due the account shall  
7 be used to assist current insureds to obtain a viable insuring  
8 mechanism as determined by the Council after public notice and  
9 opportunity for comment.

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

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law."