

ASSEMBLY, No. 1131

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:
Assemblyman JOHN E. ROONEY
District 39 (Bergen)

SYNOPSIS

The "New Jersey Dry Cleaning Business Assistance Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning dry cleaning businesses and the use of
2 perchloroethylene, and supplementing P.L.1954, c.212 (C.26:2C-
3 1 et seq.), P.L.1966, c.30 (C.54:32B-1 et seq.), and Title 34 of
4 the Revised Statutes.

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8

9 1. This act shall be known and may be cited as the "New Jersey
10 Dry Cleaning Business Assistance Act."

11

12 2. The Legislature finds and declares that dry cleaners are some
13 of the most industrious and productive small businesses in the State
14 providing a commonplace but important service to the residents of
15 the State; that the use of perchloroethylene has raised health
16 concerns for employees and clients of dry cleaners even though the
17 technology currently exists in the industry to virtually eliminate any
18 of these concerns through the upgrade of the machines used by dry
19 cleaners in the State.

20 The Legislature therefore determines that it is in the public
21 interest for the State to establish a loan fund and guarantee program
22 for owners of dry cleaning businesses who require financial
23 assistance to purchase and install "Generation 4 dry cleaning
24 equipment" or more advanced equipment in order to minimize the
25 public's exposure to perchloroethylene emissions caused by the
26 operation of such machinery; that while "Generation 4 dry cleaning
27 equipment" incorporates several advanced features that
28 substantially reduce the amount of such releases, the cost of
29 purchasing and installing this equipment makes it impractical for
30 many small business owners to finance the purchase and installation
31 thereof without financial assistance; that the funding of a financial
32 assistance program by the New Jersey Economic Development
33 Authority is an appropriate use of monies available to the authority;
34 and that such a program will assist ongoing efforts to reduce the
35 public's exposure to the levels of perchloroethylene emissions.

36

37 3. As used in this act:

38 "Area source dry cleaner" means any sole proprietorship,
39 partnership or corporation that operates one or more dry cleaning
40 facilities, including, but not limited to facilities with owner-
41 operated dry cleaning machines or coin-operated dry cleaning
42 machines operated by customers.

43 "Authority" means the New Jersey Economic Development
44 Authority established pursuant to section 4 of P.L.1974, c.80
45 (C.34:1B-4).

46 "Commissioner" means the Commissioner of Environmental
47 Protection.

48 "Contamination" or "contaminated" means perchloroethylene

1 contamination at levels that require remediation of the site pursuant
2 to State law.

3 "Department" means the Department of Environmental
4 Protection.

5 "Director" means the Director of the Division of Taxation in the
6 Department of the Treasury.

7 "Dry cleaning" means the process of cleaning clothing, garments,
8 textiles, fabrics, leather goods, and the like, using nonaqueous
9 substances such as perchloroethylene.

10 "Dry cleaning facility" means a commercial establishment
11 operated on a specific site that is engaged primarily in the business
12 of cleaning clothing, other fabrics or materials on the premises by a
13 process that involves the use of perchloroethylene, including but not
14 limited to, an individual establishment owned by a sole proprietor,
15 partnership or corporation, or one of a number of commercial
16 establishments owned by a sole proprietor, or by a partnership or
17 corporation, that operates as an area source dry cleaner.

18 "Generation 1 dry cleaning equipment" means dry cleaning
19 equipment that is transfer equipment that uses a cold washer and
20 dryer, is composed of a cleaning machine and a reclamer with a
21 fresh air damper, and is designed to vent during door openings and
22 the aeration cycle of the dry cleaning process.

23 "Generation 2 dry cleaning equipment" means dry cleaning
24 equipment that is open dry-to-dry equipment with a water cooled
25 condenser, is composed of a dry-to-dry machine with fresh air
26 intake, and is designed to vent during the aeration cycle of the dry
27 cleaning process.

28 "Generation 3 dry cleaning equipment" means dry cleaning
29 equipment that is non-vented refrigerated dry-to-dry equipment that
30 is composed of a dry-to-dry refrigerated closed loop machine with
31 or without a door fan.

32 "Generation 4 dry cleaning equipment" means dry cleaning
33 equipment that is non-vented refrigerated dry-to-dry equipment that
34 is composed of a dry-to-dry refrigerated completely enclosed
35 machine with an integral carbon adsorber, drying sensor and spill
36 containment, and has a reduction of the level of perchloroethylene
37 left in the drum of the machine to 300 parts per million or less
38 before the machine is unloaded at the end of the dry cleaning
39 process.

40 "Perchloroethylene" means perchloroethylene,
41 tetrachloroethylene, their chemical equivalents and their breakdown
42 products, that are commonly used for dry cleaning.

43 "Perchloroethylene emissions" means any gaseous or vaporous
44 releases of perchloroethylene, whether released into the indoor
45 environment or outdoor atmosphere.

46 "Remediation" means remediation as defined under section 23 of
47 P.L.1993, c.139 (C.58:10B-1) and in accordance with the standards
48 and procedures established pursuant to P.L.1993, c.139 (C.58:10B-1

1 et seq.) and the rules or regulations adopted pursuant thereto.

2

3 4. a. Any person establishing a new area source dry cleaner or
4 dry cleaning facility on and after the effective date of P.L. , c.
5 (C.)(now before the Legislature as this bill) shall install or equip
6 the facility with Generation 4 dry cleaning equipment or a
7 subsequent generation of equipment that is completely enclosed
8 with equivalent or higher reductions of perchloroethylene in the
9 drum at the end of the dry cleaning cycle.

10 b. On and after the effective date of P.L. , c. (C.)(now
11 before the Legislature as this bill), any person installing or
12 replacing dry cleaning equipment and machines, or expanding an
13 existing area source dry cleaner into new locations or within an
14 existing dry cleaning facility, shall install or equip the facility with
15 Generation 4 dry cleaning equipment or a subsequent generation of
16 equipment that is completely enclosed with equivalent or higher
17 reductions of perchloroethylene in the drum at the end of the dry
18 cleaning cycle.

19 c. (1) Within two years following the effective date of P.L. ,
20 c. (C.)(now before the Legislature as this bill), all owners of
21 an area source dry cleaner operating Generation 1 dry cleaning
22 equipment shall replace their dry cleaning equipment with
23 Generation 4 or a subsequent generation of dry cleaning equipment
24 that is completely enclosed with equivalent or higher reductions of
25 perchloroethylene in the drum at the end of the dry cleaning cycle.

26 (2) Within three years following the effective date of P.L. , c.
27 (C.)(now before the Legislature as this bill), all owners of an
28 area source dry cleaner operating Generation 2 dry cleaning
29 equipment shall replace their dry cleaning equipment with
30 Generation 4 or a subsequent generation of dry cleaning equipment
31 that is completely enclosed with equivalent or higher reductions of
32 perchloroethylene in the drum at the end of the dry cleaning cycle.

33 (3) Within four years following the effective date of P.L. , c.
34 (C.)(now before the Legislature as this bill), except as provided
35 in subsection e. of this section, all owners of an area source dry
36 cleaner operating Generation 3 dry cleaning equipment shall replace
37 their dry cleaning equipment with Generation 4 equipment, or to the
38 extent permissible by federal law and any rules or regulations
39 adopted pursuant thereto, retrofit the equipment with a carbon
40 adsorber and an inward door fan which directs perchloroethylene
41 emissions into the carbon adsorber at the rate of 100 feet per
42 minute.

43 d. After seven years following the effective date of P.L. , c.
44 (C.)(now before the Legislature as this bill), no person shall
45 operate an area source dry cleaner in a residential building with a
46 ventilation system for the facility that releases into the outdoor
47 atmosphere perchloroethylene emissions greater than 50 parts per
48 million. Area source dry cleaners shall maintain the

1 perchloroethylene found in the ambient air of the dry cleaning
2 facility at levels no greater than 50 parts per million.

3 e. (1) Any person required to purchase, upgrade or retrofit
4 equipment pursuant to this section may apply to the New Jersey
5 Economic Development Authority for financial assistance pursuant
6 to section 7 of P.L. , c. (C.)(now before the Legislature
7 as this bill). Any area source dry cleaner or owner of a dry
8 cleaning facility who does not receive moneys from the New Jersey
9 Economic Development Authority and complies with the
10 requirements of subsections b. through d. of this section shall be
11 entitled to the sales tax exemption provided pursuant to section 12
12 of P.L. , c. (C.) (now before the Legislature as this bill).

13 (2) Owners of area source dry cleaners who have applied for
14 financial assistance from the New Jersey Economic Development
15 Authority to replace Generation 3 dry cleaning equipment with
16 Generation 4 dry cleaning equipment within four years after the
17 effective date of P.L. , c. (C.)(now before the Legislature
18 as this bill) and have been denied assistance shall be granted no
19 more than seven years after the effective date of P.L. , c.
20 (C.) (now before the Legislature as this bill) to complete the
21 replacement without financial assistance.

22
23 5. Within one year after the effective date of P.L. , c.
24 (C.) (now before the Legislature as this bill), the Department of
25 Environmental Protection shall adopt, pursuant to the
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.), rules and regulations establishing a random inspection
28 program for area source dry cleaners. These rules and regulations
29 shall provide for the monitoring and supervision of conversion and
30 retrofitting of equipment, enforcement of the standards and
31 requirements set forth in P.L. , c. (C.)(now before the
32 Legislature as this bill), and penalties for violations of the standards
33 and requirements. The rules and regulations may also include any
34 other provisions deemed necessary by the department for the
35 implementation and enforcement of P.L. , c. (C.)(now
36 before the Legislature as this bill). The department may charge and
37 collect a reasonable fee, not to exceed \$300, for each inspection
38 performed under the random inspection program, but shall charge
39 and collect no other fees for the random inspection program.

40
41 6. Nothing in P.L. , c. (C.)(now before the Legislature
42 as this bill) shall be construed to supersede or otherwise interfere
43 with the issuance of operating permits by the department or the
44 implementation of any federal program by the department
45 establishing national perchloroethylene air emission standards for
46 dry cleaning facilities, except that, if the implementation of the
47 program requires area source dry cleaners to retrofit or replace
48 equipment or machines, the department shall require the area source

1 dry cleaner to comply with the requirements of P.L. , c. (C.)
2 (now before the Legislature as this bill), and in the event that
3 emissions standards vary, the department shall enforce the most
4 stringent standard for perchloroethylene emissions.

5
6 7. The New Jersey Economic Development Authority shall
7 provide financing assistance for the purchase and retrofitting of
8 equipment required pursuant to section 4 of P.L. , c. (C.)
9 (now before the Legislature as this bill) to area source dry cleaners
10 and owners of dry cleaning facilities who meet the requirements of
11 the direct lending and loan guarantee programs of the authority,
12 including, but not limited to, the Statewide Loan Pool for Business
13 program, except that, notwithstanding any law, or rule or regulation
14 adopted pursuant thereto, to the contrary, the authority may use the
15 moneys for financing assistance directed by this section to
16 guarantee up to 50% of each commercial loan approved for an area
17 source dry cleaner or owner of a dry cleaning facility for the
18 purchase of equipment required pursuant to section 4 of P.L. , c.
19 (C.)(now before the Legislature as this bill). The guarantee
20 required by this section shall not affect the eligibility of an area
21 source dry cleaner or owner of a dry cleaning facility to obtain a
22 loan through the direct lending and loan guarantee programs of the
23 authority. To be eligible for financial assistance pursuant to this
24 section, area source dry cleaners and owners of dry cleaning
25 facilities shall apply within four years of the effective date of
26 P.L. , c. (C.)(now before the Legislature as this bill).

27
28 8. In addition to the duties of the authority required under
29 section 6 of P.L.1983, c.303 (C.52:27H-65), the authority shall, in
30 consultation with the New Jersey Commerce and Economic Growth
31 Commission, prepare a report within one year following the
32 effective date of P.L. , c. (C.)(now before the Legislature
33 as this bill). The report shall include, but not be limited to, a
34 description of the demand for financing assistance from area source
35 dry cleaners and owners of dry cleaning facilities, the efforts made
36 by the authority to meet the demand, the total amount of loans or
37 loan guarantees issued by the authority pursuant to section 7 of
38 P.L. , c. (C.) (now before the Legislature as this bill), and an
39 assessment of the effectiveness of the financing assistance provided
40 in meeting the goals of P.L. , c. (C.) (now before the
41 Legislature as this bill). The authority shall submit its report to the
42 Governor and the Legislature, along with any recommendations for
43 legislation to improve the effectiveness of the program.

44
45 9. The authority and the New Jersey Commerce and Economic
46 Growth Commission may jointly adopt, pursuant to the
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 seq.), rules and regulations as may be necessary to implement the

1 provisions of P.L. , c. (C.)(now before the Legislature as
2 this bill) including, but not limited to, the making of loans, and the
3 issuance of loan guarantees, pursuant to sections 7 and 8 of P.L. ,
4 c. (C.) (now before the Legislature as this bill).

5
6 10. a. Within one year after the effective date of P.L. , c.
7 (C.)(now before the Legislature as this bill), the Department of
8 Environmental Protection shall certify certain trade organizations or
9 educational institutions that it determines qualified to train
10 distributors and area source dry cleaners concerning proper
11 hazardous waste disposal, air pollution concerns, employee rights
12 and workplace standards, prevention of groundwater contamination,
13 and federal and State law and regulation affecting the dry cleaning
14 industry in the State. The department shall determine the minimum
15 qualifications for certification and shall notify each area source dry
16 cleaner of the certified trade organizations or educational
17 institutions in the State. Any trade organization or educational
18 institution that wishes to be certified by the State may contact the
19 department, request information concerning the qualifications for
20 certification and apply for certification by the State.

21 b. If no trade organization or educational institution in the State
22 can be certified within one year after the effective date of P.L. , c.
23 (C.)(now before the Legislature as this bill) pursuant to
24 subsection a. of this section, the department may meet with
25 representatives of trade organizations and educational institutions to
26 develop an adequate training program for distributors and area
27 source dry cleaners.

28 c. No distributor or area source dry cleaner, or employee
29 thereof, shall be required to be trained until a trade organization or
30 educational institution in the State has been certified pursuant to
31 subsection a. of this section. Upon department certification of
32 training courses, each in-State distributor or area source dry cleaner,
33 or employee thereof, shall be required to complete the certified
34 course within two years after the department's notification of
35 certification of training courses, and shall complete the course
36 required pursuant this subsection at their own expense. The
37 department shall issue a dry cleaning operator certificate to any
38 person who submits documentation verifying that the certified
39 training courses have been satisfactorily completed.

40 d. On January 1 following the two-year period for training
41 established in subsection b. of this section and thereafter, no person
42 may operate an in-State distributor, dry cleaning facility or dry
43 cleaning machinery manufacturing facility unless the on-premises
44 operator supervising the facility has obtained a dry cleaning
45 owner/manager certificate pursuant to this section and the
46 employees of the facility have been properly trained as required by
47 the department.

1 11. a. Within 180 days after the effective date of P.L. , c.
2 (C.)(now before the Legislature as this bill), the Department
3 of Environmental Protection shall establish registration and
4 certification procedures for persons and manufacturers installing
5 and servicing dry cleaning equipment in the State to become
6 authorized dry cleaner service and equipment providers. The
7 department shall require every authorized dry cleaner service and
8 equipment provider to provide for certification:

9 (1) Documentation of independent third-party testing of any
10 equipment being certified that indicates the equipment can be
11 certified as performing in compliance with standards set by the
12 department;

13 (2) A detailed description of the dry cleaning system, and a
14 description of the capabilities and procedures for the installation,
15 use, maintenance, repair, and tune-up of the system, including a
16 description of any lockout systems employed;

17 (3) A description of how program updates and modifications
18 will be made in any microprocessor software, if applicable;

19 (4) A copy of the dry cleaning warranty and service contracts
20 that the dry cleaning equipment shall achieve compliance with all
21 applicable federal and State laws, including a description of the
22 servicing network and parts availability to be established to serve
23 dry cleaning facilities within the State, and wherever possible, a
24 five-year warranty on all parts, equipment and on-site service shall
25 be provided, and wherever that is not possible, a description of why
26 a five-year warranty is not provided and why the provided warranty
27 is considered sufficient;

28 (5) A detailed description of the proposed training program to be
29 conducted on-site at the dry cleaning facility for the owners,
30 operators and employees that are required to operate machinery or
31 supervise the operation of machinery in the dry cleaning facility,
32 and the program shall include a minimum of four hours of
33 instruction;

34 (6) A copy of the operator's manual, written in plain language,
35 covering use, maintenance, and parts and service information, that
36 must be provided with the dry cleaning equipment;

37 (7) Documentation that the manufacturer or vendor of dry
38 cleaning equipment shall maintain calibration servicing to the user
39 facility for at least five years for any sensors or integral measuring
40 devices that the department determines to be crucial to compliance
41 with federal and State law; and

42 (8) Other materials or information required by the department.

43 b. Every manufacturer, vendor or person involved in the sale or
44 installation of dry cleaning equipment in the State shall register
45 with and receive certification from the department as an authorized
46 dry cleaner service and equipment provider. No person or
47 manufacturer may sell, offer for sale, cause to be offered for sale,
48 lease or represent Generation 4 dry cleaning equipment or any other

1 apparatus or equipment the installation of which is required to
2 comply with the provisions of P.L. , c. (C.) (now before
3 the Legislature as this bill) unless that person or manufacturer has
4 registered with, and been certified by, the department as an
5 authorized dry cleaner service and equipment provider.

6 c. Within 90 days following the receipt of an application for
7 certification, the department shall notify the applicant for
8 certification as a dry cleaner service and equipment provider of
9 certification approval or denial. If approved, the department shall
10 notify the approved applicant at that time when a certificate shall be
11 forwarded to the approved applicant. If denied, the department
12 shall notify the denied applicant of the reasons for denial and the
13 deficiencies in the certification application. A dry cleaner service
14 and equipment provider certificate shall be valid from the date of
15 notification of application approval.

16
17 12. a. Receipts from sales of Generation 4 dry cleaning
18 equipment, as defined in section 3 of P.L. , c. (C.) (now
19 before the Legislature as this bill), or a subsequent generation of
20 equipment that is completely enclosed with equivalent or higher
21 reductions of perchloroethylene in the drum at the end of the dry
22 cleaning cycle, or equipment and apparatus necessary to convert or
23 retrofit existing dry cleaning equipment, for use directly and
24 exclusively for the control or elimination of perchloroethylene
25 emissions, or the reduction of such emissions to levels specified,
26 pursuant to section 4 of P.L. , c. (C.) (now before the
27 Legislature as this bill), are exempt from the tax imposed under the
28 "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) for
29 seven years after the effective date of P.L. , c. (C.) (now
30 pending before the Legislature as this bill). This exemption shall
31 not apply to tools or supplies used in connection with the
32 installation or maintenance of equipment or apparatus described in
33 this subsection.

34 b. The director, in conjunction with the Commissioner of
35 Environmental Protection, shall adopt rules and regulations,
36 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
37 (C.52:14B-1 et seq.), to specifically identify, or to provide
38 guidelines for the identification of, the equipment and apparatus
39 that shall qualify for the exemption from taxation provided by
40 P.L. , c. (C.) (now before the Legislature as this bill). In
41 addition, the director shall adopt any other rules and regulations as
42 are deemed necessary and appropriate for the administration of
43 P.L. , c. (C.) (now before the Legislature as this bill).

44
45 13. This act shall take effect on the first day of January
46 following the date of enactment.

STATEMENT

This bill provides assistance to dry cleaning businesses in the State for addressing problems associated with perchloroethylene by establishing a loan program for the upgrading of dry cleaning machinery and a 7-year sales and use tax exemption on the equipment purchased for these upgrades. Perchloroethylene is a hazardous substance and the solvent used in the dry cleaning industry as a cleaning agent.

The bill also requires that the dry cleaning businesses upgrade their machinery to Generation 4 equipment or subsequent generations that reduce perchloroethylene emissions below the levels attained by Generation 4 equipment. Generation 4 equipment is the stage of dry cleaning equipment that reduces the level of perchloroethylene in the machine to the minimum amount attainable with current technology, 300 parts per million. This reduction minimizes employees exposure to perchloroethylene but also reduces the public's exposure to the perchloroethylene emissions from residue on the items cleaned.

The bill directs the New Jersey Economic Development Authority to provide financing to the owners of dry cleaning businesses for the purchase and upgrading of Generation 4 or subsequent generation equipment through its existing commercial lending and loan programs. The New Jersey Economic Development Authority is also directed to provide up to 50% guarantees of these loans. The guarantee is not to affect the eligibility of an applicant for a loan for this purpose.

Finally, the bill provides a tax exemption from the State sales tax on any Generation 4 equipment or upgrades of equipment dry cleaning businesses purchase to comply with the requirements of the bill. The tax exemption shall be in effect only for the seven years after the effective date of the law.