

ASSEMBLY, No. 526

STATE OF NEW JERSEY

208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 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-1
3 et seq.), P.L.1966, c.30 (C.54:32B-1 et seq.), and Titles 34 and 58
4 of 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 of
13 the most industrious and productive small businesses in the State
14 providing a commonplace but important service to the residents of the
15 State; that the use of perchloroethylene and other hazardous
16 substances is a necessary part of the operation of these small
17 businesses but has resulted in a prevalence of site contamination from
18 perchloroethylene and other hazardous substances that can result in
19 the contamination of surface and ground waters, including potable
20 water supplies, which poses a potential threat to the health of State
21 residents; that the cost of remediation of this contamination is
22 exorbitant and could often bankrupt the average small business owner;
23 and that the use of perchloroethylene has also raised health concerns
24 for employees and clients of dry cleaners even though the technology
25 currently exists in the industry to virtually eliminate any of these
26 concerns through the upgrade of the machines used by dry cleaners in
27 the State.

28 The Legislature therefore determines that it is in the public interest
29 to establish a fund, financed by a tax on perchloroethylene and
30 registration fees imposed on distributors of perchloroethylene, dry
31 cleaners and related businesses, and manufacturers of dry cleaning
32 machinery that use perchloroethylene, to be used to fund the
33 remediation of sites contaminated with perchloroethylene from dry
34 cleaning businesses.

35 The Legislature also determines that it is in the public interest for
36 the State to establish a loan fund and guarantee program for owners
37 of dry cleaning businesses who require financial assistance to purchase
38 and install "Generation 4 dry cleaning equipment" or more advanced
39 equipment in order to minimize the public's exposure to
40 perchloroethylene emissions caused by the operation of such
41 machinery; that while "Generation 4 dry cleaning equipment"
42 incorporates several advanced features that substantially reduce the
43 amount of such releases, the cost of purchasing and installing this
44 equipment makes it impractical for many small business owners to
45 finance the purchase and installation thereof without financial
46 assistance; that the funding of a financial assistance program by the

1 New Jersey Economic Development Authority is an appropriate use of
2 monies available to the authority; and that such a program will assist
3 ongoing efforts to reduce the public's exposure to the levels of
4 perchloroethylene emissions.

5

6 3. For the purposes of this act:

7 "Area source dry cleaner" means any sole proprietorship,
8 partnership or corporation that operates one or more dry cleaning
9 facilities, including, but not limited to facilities with owner-operated
10 dry cleaning machines or coin-operated dry cleaning machines
11 operated by customers;

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

15 "Commissioner" means the Commissioner of Environmental
16 Protection;

17 "Contamination" or "contaminated" means perchloroethylene
18 contamination at levels that require remediation of the site pursuant to
19 State law;

20 "Control apparatus" means any device or machine which prevents
21 or controls the emission of any air contaminant directly or indirectly
22 into the outdoor atmosphere;

23 "Department" means the Department of Environmental Protection;

24 "Director" means the Director of the Division of Taxation in the
25 Department of the Treasury;

26 "Drop store" means an establishment that offers dry cleaning
27 services for a fee and receives clothing, other fabrics or materials to
28 be cleaned but sends the clothing, other fabrics or materials to be
29 cleaned to a dry cleaning facility and does not clean the clothing, other
30 fabrics or materials on the premises;

31 "Dry cleaning" means the process of cleaning clothing, garments,
32 textiles, fabrics, leather goods, and the like, using nonaqueous
33 substances such as perchloroethylene;

34 "Dry cleaning facility" means a commercial establishment operated
35 on a specific site that is engaged primarily in the business of cleaning
36 clothing, other fabrics or materials on the premises by a process that
37 involves the use of perchloroethylene, including but not limited to, an
38 individual establishment owned by a sole proprietor, partnership or
39 corporation, or one of a number of commercial establishments owned
40 by a sole proprietor, or by a partnership or corporation, that operates
41 as an area source dry cleaner;

42 "Dry cleaning machinery manufacturer" means any person, business
43 or company in the business of designing, developing, manufacturing
44 or testing machinery used for dry cleaning that requires the person,
45 business or company designing, developing, manufacturing or testing
46 the machinery to use perchloroethylene in the process of designing,

1 developing, manufacturing or testing the machinery;

2 "Dry cleaning machinery manufacturer facility" means the premises
3 on which a dry cleaning machinery manufacturer designs, develops,
4 manufacturers or tests the machinery used for dry cleaning that uses
5 perchloroethylene;

6 "Dry cleaning solvents" means any and all nonaqueous substances
7 used in the cleaning of clothing, other fabrics or materials, including,
8 but not limited to perchloroethylene;

9 "Generation 1 dry cleaning equipment" means dry cleaning
10 equipment that is transfer equipment that uses a cold washer and
11 dryer, is composed of a cleaning machine and a reclaimer with a fresh
12 air damper, and is designed to vent during door openings and the
13 aeration cycle of the dry cleaning process;

14 "Generation 2 dry cleaning equipment" means dry cleaning
15 equipment that is open dry-to-dry equipment with a water cooled
16 condenser, is composed of a dry-to-dry machine with fresh air intake,
17 and is designed to vent during the aeration cycle of the dry cleaning
18 process;

19 "Generation 3 dry cleaning equipment" means dry cleaning
20 equipment that is non-vented refrigerated dry-to-dry equipment that
21 is composed of a dry-to-dry refrigerated closed loop machine with or
22 without a door fan;

23 "Generation 4 dry cleaning equipment" means dry cleaning
24 equipment that is non-vented refrigerated dry-to-dry equipment that
25 is composed of a dry-to-dry refrigerated completely enclosed machine
26 with an integral carbon adsorber, drying sensor and spill containment,
27 and has a reduction of the level of perchloroethylene left in the drum
28 of the machine to 300 parts per million or less before the machine is
29 unloaded at the end of the dry cleaning process;

30 "In-State distributor" means any business, company, corporation or
31 person engaged in selling perchloroethylene or recycled
32 perchloroethylene, at wholesale or retail, to any area source dry
33 cleaner or dry cleaning facility in the State, and that is based in the
34 State and owns property in the State that is, or may become, eligible
35 for remediation pursuant to this act;

36 "Out-of-State distributor" means any business, company,
37 corporation or person selling perchloroethylene or recycled
38 perchloroethylene, at wholesale or retail, to any area source dry
39 cleaner or dry cleaning facility in the State, that is based out of State
40 and owns no property in the State that is, or may become, eligible for
41 remediation pursuant to sections 5 and 7 of this act;

42 "Perchloroethylene" means perchloroethylene, tetrachloroethylene,
43 their chemical equivalents and their breakdown products, that are
44 commonly used for dry cleaning;

45 "Perchloroethylene emissions" means any gaseous or vaporous
46 releases of perchloroethylene, whether released into the indoor

1 environment or outdoor atmosphere;

2 "Registrant" means an in-State distributor, an owner of a dry
3 cleaning facility or a dry cleaning machinery manufacturer, or an
4 owner of contaminated property, who can establish that the property
5 was previously the site of an in-State distributor, a dry cleaning facility
6 or dry cleaning machinery manufacturer facility, who has properly
7 registered pursuant to section 4 of this act and has paid in full all fees
8 and taxes required pursuant to sections 4 and 6 of this act;

9 "Remediation" means remediation as defined under section 23 of
10 P.L.1993, c.139 (C.58:10B-1) and in accordance with the standards
11 and procedures established pursuant to P.L.1993, c.139 (C.58:10B-1
12 et seq.) and the rules or regulations adopted pursuant thereto;

13 "Route operator" means a person or the manager of a group of
14 persons who provides dry cleaning services by operating a route of
15 customers from which clothing, other fabrics or materials are picked
16 up, delivered to dry cleaning facilities not owned by the route
17 operator, cleaned, and returned to the customers on the route for a
18 fee. The term "route operator" shall include, but need not be limited
19 to, persons known as "bobtailers."

20

21 4. a. The Department of Environmental Protection shall establish
22 a registration program for all in-State and out-of-State distributors,
23 drop stores, dry cleaning facilities, dry cleaning machinery
24 manufacturers, and route operators doing business in the State. Every
25 in-State distributor, out-of-State distributor, drop store, dry cleaning
26 facility, dry cleaning machinery manufacturer and route operator shall
27 register with the department on January 1 immediately following the
28 date of enactment of this act, and annually on January 1 thereafter.
29 Within 60 days after the effective date of this act and prior to
30 January 1 immediately following the effective date of this act, the
31 department shall notify all area source dry cleaners, in-State and out-
32 of-State distributors and dry cleaning machinery manufacturers of the
33 registration requirements pursuant to this section and shall direct all
34 area source dry cleaners and dry cleaning machinery manufacturers to
35 notify each of their dry cleaning facilities and in-State and out-of-State
36 distributors that supply them with perchloroethylene of the registration
37 requirements. The department shall collect the following registration
38 and renewal fees and shall require the following information as part of
39 each registration and renewal application:

40 (1) From in-State distributors, a registration and annual renewal
41 fee of \$5,000 and documentation of the destination of all
42 perchloroethylene distributed, with delivery dates and amount of
43 perchloroethylene delivered per destination for the year preceding the
44 registration or the renewal thereof, the name and address of each dry
45 cleaning facility supplied and the number of gallons of
46 perchloroethylene supplied to each dry cleaning facility per month per

1 facility for the year preceding the registration or the renewal thereof;

2 (2) From out-of-State distributors, a registration and annual
3 renewal fee of \$2,500 and documentation of the destination of all
4 perchloroethylene distributed, with delivery dates and amount of
5 perchloroethylene delivered per destination for the year preceding the
6 registration or the renewal thereof, the name and address of each dry
7 cleaning facility supplied and the number of gallons of
8 perchloroethylene supplied to each dry cleaning facility per month per
9 facility for the year preceding the registration or the renewal thereof;

10 (3) From dry cleaning facilities, a registration and annual renewal
11 fee of \$1,500 and documentation of the number of machines operated
12 and the number of gallons of perchloroethylene used per month for the
13 year preceding the registration or the renewal thereof;

14 (4) From dry cleaning machinery manufacturers, a registration and
15 annual renewal fee of \$5,000 and documentation of the number of
16 machines manufactured and the number of gallons of
17 perchloroethylene purchased per month for the year preceding the
18 registration or the renewal thereof;

19 (5) From every drop store owned by an area source dry cleaner, a
20 registration and annual renewal fee of \$500; and

21 (6) From every drop store that is not owned by an area source dry
22 cleaner and every route operator who is not an area source dry
23 cleaner, a registration fee and annual renewal fee of \$750.

24 b. Any owner of contaminated property, who can establish that the
25 property was previously the site of an in-State distributor, a dry
26 cleaning facility or dry cleaning machinery manufacturer facility, may
27 register with the department in order to be eligible for remediation by
28 the fund established pursuant to section 5 of this act. Each owner of
29 contaminated property who chooses to register shall do so on January
30 1 immediately following the date of enactment of this act and annually
31 on January 1 thereafter. The department shall collect a registration fee
32 of \$1 per square foot of the contaminated property and as a renewal
33 fee each year thereafter until the site is remediated. An owner of
34 contaminated property, who can establish that the property was
35 previously the site of an in-State distributor, a dry cleaning facility or
36 dry cleaning machinery manufacturer facility, but was not aware of the
37 contamination on January 1 immediately following the date of
38 enactment of this act, may register within six months after the
39 contamination was discovered.

40 c. The department shall deposit all moneys collected pursuant to
41 this section into the Dry Cleaner Site Remediation Fund established
42 pursuant to section 5 of this act.

43 d. The department shall compile the information required pursuant
44 to subsections a. and b. of this section and a list of all in-State and out-
45 of-State distributors, drop stores, dry cleaning facilities, dry cleaning
46 machinery manufacturers, route operators and owners of contaminated

1 sites opting to participate in the remediation program established
2 pursuant to this act and shall transmit the information and list to the
3 Director of the Division of Taxation in the Department of the Treasury
4 on January 1 of the year next following the date of enactment of this
5 act, provided that the department may update the list more frequently
6 as it deems appropriate.

7 e. The director shall utilize the list compiled by the Department of
8 Environmental Protection to notify the owners or operators of the
9 facilities thereon that they may be liable for the tax levied pursuant to
10 section 6 of this act. The director may use the information compiled
11 by the department for the purposes of enforcing subsection f. of this
12 section and section 6 of this act.

13 f. Any person who fails to comply with the requirements of this
14 section or falsifies any documentation or information required pursuant
15 to this section shall be subject to a fine of not less than \$2,500 for the
16 first offense, not more than \$5,000 for the second offense and not
17 more than \$10,000 for a third or subsequent offense, in addition to any
18 penalties imposed pursuant to subsection e. of section 6 of this act.
19 Any moneys collected pursuant to this subsection shall be deposited
20 into the "Dry Cleaner Site Remediation Fund," established pursuant to
21 section 5 of this act.

22
23 5. a. The "Dry Cleaner Site Remediation Fund," hereinafter
24 referred to as "the fund," is established as a special nonlapsing
25 revolving fund. The fund shall be administered by the Department of
26 Environmental Protection, and shall be credited with all fees and taxes
27 collected pursuant to this act. Interest received on moneys in the fund
28 shall be credited to the fund. The department shall not obligate funds
29 in excess of the amount available in the fund.

30 b. The fund shall be strictly liable, without regard to fault, for the
31 remediation of the sites eligible for remediation pursuant to this
32 section and section 7 of this act, for all cleanup and removal costs and
33 for all direct and indirect damages no matter by whom sustained,
34 except as otherwise provided in section 7 of this act.

35 c. All available moneys in the fund shall be appropriated annually
36 solely for the following purposes:

37 (1) Remediation of contaminated in-State distributor, dry cleaning
38 facility, or dry cleaning machinery manufacturing facility sites or sites
39 that were formerly the site of an in-State distributor, dry cleaning
40 facility or dry cleaning machinery manufacturing facility and are now
41 contaminated and owned by an owner who has opted to participate in
42 the remediation program established by this act by registering with the
43 department pursuant to subsection b. of section 4 of this act, provided
44 that the department has determined the parties responsible for the site
45 have properly paid all required registration fees and taxes that have
46 been assessed pursuant to this act. The remediation shall be done in

1 accordance with the remediation standards, procedures and
2 requirements established by P.L.1993, c.139 (C.58:10B-1, et seq.),
3 except that nothing in this subsection shall be construed to authorize
4 the use of moneys in the fund for the payment of any remediation costs
5 that are not associated with the remediation of in-State distributor,
6 dry cleaning facility, or dry cleaning machinery manufacturing facility
7 sites or sites that were previously the site of an in-State distributor,
8 dry cleaning facility or dry cleaning machinery manufacturing facility.
9 The remediation permitted pursuant to this subsection shall include
10 contamination across property lines if the contamination is attributed
11 to the operation of an in-State distributor, dry cleaning facility or dry
12 cleaning machinery manufacturer facility on a nearby property
13 currently or historically on the property;

14 (2) Remediation of contamination caused by the transport of
15 perchloroethylene to or from an in-State distributor, dry cleaning
16 facility or dry cleaning machinery manufacturer facility if the
17 contamination occurs within 200 feet of the property line of an in-
18 State distributor, dry cleaning facility or dry cleaning machinery
19 manufacturer facility to or from which the dry cleaning solvents were
20 transported;

21 (3) Maintenance and monitoring of contaminated in-State
22 distributor, dry cleaning facility or dry cleaning machinery
23 manufacturer facility sites; and

24 (4) Payment of any other reasonable costs associated with the
25 remediation of sites eligible for remediation funding pursuant to this
26 act, as determined by the department, including the administrative
27 expenses of the department incurred implementing the requirements
28 and purposes of this act, except that in no fiscal year shall the amount
29 transferred from the fund to the department for administrative
30 expenses exceed 10% of the moneys collected in that fiscal year and
31 available in the fund.

32 d. No moneys in the fund shall be used for the following purposes:

33 (1) Remediation of sites contaminated by dry cleaning solvents
34 where the contamination at the sites did not result from the operation
35 of an in-State distributor, dry cleaning facility or dry cleaning
36 machinery manufacturer facility;

37 (2) Remediation of sites that are contaminated by the transport of
38 dry cleaning solvents to or from an in-State distributor, dry cleaning
39 facility or dry cleaning machinery manufacturer facility, except as
40 provided in paragraph (2) of subsection c. of this section;

41 (3) Remediation of an in-State distributor, dry cleaning facility or
42 dry cleaning machinery manufacturer facility site where the area source
43 dry cleaner, in-State distributor, or dry cleaning machinery
44 manufacturer is not a registrant pursuant to this act because the area
45 source dry cleaner, in-State distributor, or dry cleaning machinery
46 manufacturer did not pay the proper registration fees or taxes assessed

1 pursuant to this act; and

2 (4) Payment of any costs associated with any fine, penalty, or
3 action brought against a dry cleaning facility owner or operator or
4 wholesale supply facility under local, state or federal law.

5
6 6. a. There is hereby levied upon each in-State distributor and out-
7 of-State distributor selling perchloroethylene in the State, including
8 but not limited to the owner or operator of a wholesale supply facility
9 selling perchloroethylene in the State, a tax to fund the remediation
10 of any property in the State that is eligible for remediation pursuant to
11 sections 5 and 7 of this act. For any dry cleaning facility or dry
12 cleaning machinery manufacturer that buys perchloroethylene outside
13 of the State or from a source not registered with the department as an
14 in-State distributor or an out-of-State distributor, or if it cannot be
15 ascertained that the perchloroethylene purchased by the dry cleaning
16 facility or dry cleaning machinery manufacturer has been properly
17 taxed, the tax shall be levied on the dry cleaning facility or the dry
18 cleaning machinery manufacturer that purchased the
19 perchloroethylene. The tax shall also be levied on any in-State and
20 out-of-State distributors of recycled perchloroethylene in the State,
21 and on any dry cleaning facility or any dry cleaning machinery
22 manufacturer that buys recycled perchloroethylene if it is bought from
23 a source that is not registered with the department. Where such
24 person has failed to file a return or pay the tax imposed by this section,
25 within 60 days after the due date thereof, the Director of the Division
26 of Taxation shall forthwith take appropriate steps to collect the tax
27 from the owner of the dry cleaning facility or dry cleaning machinery
28 manufacturer facility supplied by the in-State or out-of-State
29 distributor.

30 b. The tax shall be \$10 per gallon of perchloroethylene sold to dry
31 cleaning facilities in the State. Upon receipt of the tax payment, the
32 director shall authorize the transfer and deposit of the moneys received
33 into the "Dry Cleaner Site Remediation Fund," established pursuant to
34 section 5 of this act. Interest received on moneys in the fund shall be
35 credited to the fund.

36 c. Every person subject to the tax imposed pursuant to this section
37 shall on or before the 20th day of the month following the close of
38 each tax period render a return under oath to the director on such
39 forms as may be prescribed by the director indicating the number of
40 gallons of perchloroethylene sold and the taxpayer shall pay the full
41 amount of the tax due.

42 d. If a return required by this section is not filed, or if a return
43 when filed is incorrect or insufficient in the opinion of the director, the
44 amount of tax due shall be determined by the director from such
45 information as may be available. Notice of such determination shall be
46 given to the taxpayer liable for the payment of the tax. Such

1 determination shall finally and irrevocably fix the tax unless the person
2 against whom it is assessed, within 30 days after receiving notice of
3 such determination, shall apply to the director for a hearing, or unless
4 the director on his own motion shall redetermine the same. After such
5 hearing the director shall give notice of his determination to the person
6 to whom the tax is assessed.

7 e. Any taxpayer who shall fail to file his return when due or to pay
8 any tax when the same becomes due, as herein provided, shall be
9 subject to such penalties and interest as provided in the "State Tax
10 Uniform Procedure Law," R.S.54:48-1 et seq. If the Division of
11 Taxation determines that the failure to comply with any provision of
12 this section was excusable under the circumstances, it may remit such
13 part or all of the penalty as shall be appropriate under such
14 circumstances.

15 f. In addition to the other powers granted to the director in this
16 section, the director is hereby authorized and empowered:

17 (1) To delegate to any officer or employee of the division powers
18 and duties assigned to the director that the director may deem
19 necessary to carry out efficiently the provisions of this section, and the
20 person or persons to whom such power has been delegated shall
21 possess and may exercise all of the powers and perform all of the
22 duties delegated by the director;

23 (2) To prescribe and distribute all necessary forms for the
24 implementation of this section.

25 g. The tax imposed by this section shall be governed in all respects
26 by the provisions of the "State Tax Uniform Procedure Law,"
27 R.S.54:48-1 et seq., except only to the extent that a specific provision
28 of this act may be in conflict therewith.

29 h. The director shall notify the department quarterly as to the
30 status of taxpayers required to pay the tax levied pursuant to this
31 section and shall provide a list of taxpayers who have failed to comply
32 with the requirements of this section.

33
34 7. a. Notwithstanding the provisions of the "Spill Compensation
35 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.), any rule
36 or regulation adopted pursuant thereto, or any other law, or any rule
37 or regulation adopted pursuant thereto, to the contrary, registrants
38 owning property eligible for remediation pursuant to subsection c. of
39 section 5 of this act shall not be liable for the remediation of the
40 property, except as provided in subsection e. of this section.

41 b. The Department of Environmental Protection shall administer
42 the fund established pursuant to section 5 of this act and shall
43 remediate the sites for which the fund is liable in accordance with the
44 standards, procedures and requirements of section 35 of P.L.1993,
45 c.139 (C.58:10B-12) and any rules or regulations adopted pursuant
46 thereto.

1 c. The department shall establish the criteria for prioritizing and
2 remediating the sites, giving highest priority to sites that severely
3 threaten to contaminate public and private water supplies and ranking
4 the priority of the remediation of these sites based on the severity of
5 the threat of contamination of public and private water supplies, the
6 distance from public and private water supply wells, the threat to
7 aquifers and other public health considerations. The department shall
8 give second priority to any site subject to sale by the owner. The
9 department shall evaluate the sites based on the criteria established
10 pursuant to this subsection and shall devise a priority project list of the
11 contaminated sites in the State eligible for remediation funded by the
12 "Dry Cleaner Site Remediation Fund," established pursuant to section
13 5 of this act.

14 d. Prior to the commencement of the remediation of a site, the
15 department shall determine that the site is eligible for remediation
16 pursuant to this act and that the owner of or operator of the facility on
17 the site is a registrant pursuant to this act. The department shall assess
18 against and collect from the registrant owning the property to be
19 remediated pursuant to this act, at the time of commencement of
20 remediation, the appropriate deductible in accordance with the
21 following schedule:

22 (1) For registrants whose initial registration with the State was
23 made in the year after the effective date of this act, \$1,000;

24 (2) For registrants whose initial registration with the State was
25 made within the second year through the fifth year after the effective
26 date of this act, \$5,000;

27 (3) For registrants whose initial registration with the State was
28 made within the second five-year period after the effective date of this
29 act, \$5,000;

30 (4) For registrants whose initial registration with the State was
31 made within the third five-year period after the effective date of this
32 act, \$10,000;

33 (5) For registrants whose initial registration with the State was
34 made within the fourth five-year period after the effective date of this
35 act, \$15,000; and

36 (6) For registrants whose initial registration with the State was
37 made within the fifth five-year period after the effective date of this
38 act, \$20,000.

39 All moneys collected pursuant to this subsection shall be deposited
40 in the fund.

41 e. Prior to remediation of a site, the department shall determine if
42 the registrant owning the site or any operator of a facility on the site
43 or employees of the operator engaged in practices in violation of
44 federal and State law, or any rule or regulation adopted pursuant
45 thereto, at the time of the contamination, and if the practices caused
46 the contamination. If the department determines that such practices

1 were engaged in at the time of the contamination and that the practices
2 caused the contamination, the registrant shall be liable for remediation
3 of the registrant's property where these practices were implemented.
4

5 8. a. The annual appropriations act for each State fiscal year shall,
6 without other conditions, limitations or restrictions on the following:

7 (1) credit amounts paid to the State Treasurer, if any, in payment
8 of taxes collected pursuant to section 6 of P.L. , c. (C.)(now
9 before the Legislature as this bill), to the "Dry Cleaner Site
10 Remediation Fund," established pursuant to section 5 of P.L. , c.
11 (C.)(now before the Legislature as this bill);

12 (2) credit amounts paid to the Department of Environmental
13 Protection, if any, in payment of fees collected pursuant to section 4
14 of P.L. , c. (C.)(now before the Legislature as this bill), and
15 in payment of any fines or penalties collected pursuant to P.L. , c.
16 (C.)(now before the Legislature as this bill), to the "Dry Cleaner
17 Site Remediation Fund," established pursuant to section 5 of P.L. ,
18 c. (C.)(now before the Legislature as this bill); and

19 (3) appropriate the balance of the "Dry Cleaner Site Remediation
20 Fund," established pursuant to section 5 of P.L. , c. (C.)(now
21 before the Legislature as this bill), for the purposes of that fund.

22 b. If the requirements of subsection a. of this section are not met
23 on the effective date of an annual appropriations act for the State fiscal
24 year, or if amendment or supplement to an annual appropriations act
25 for the State fiscal year should violate any of the requirements of
26 subsection a. of this section, the Director of the Division of Budget
27 and Accounting in the Department of the Treasury shall, not later than
28 five days after the enactment of the annual appropriations act, or an
29 amendment or supplement thereto, that violates any of the
30 requirements of subsection a. of this section, certify to the Director of
31 the Division of Taxation and the Commissioner of Environmental
32 Protection that the requirements of subsection a. of this section have
33 not been met.

34 c. Sections 4, 5 and 6, and subsections b. through f. of section 7 of
35 P.L. , c. (C.)(now before the Legislature as this bill), shall
36 be without effect on and after the tenth day following a certification
37 by the Director of the Division of Budget and Accounting in the
38 Department of the Treasury pursuant to subsection b. of this section.

39 On and after the tenth day following the certification, the Department
40 of Environmental Protection shall assume full liability for the
41 remediation of the sites eligible for remediation pursuant to P.L. ,
42 c. (C.)(now before the Legislature as this bill), as defined in
43 section 5 of P.L. , c. (C.)(now before the Legislature as
44 this bill), and the remediation of any further contamination or damage
45 to natural resources or property resulting from delay of the
46 remediation of the eligible sites. Any moneys and interest on moneys

1 remaining in the fund on the date of the appropriations act that
2 violated the requirements of subsection a. of this section shall be
3 appropriated to the department from the General Fund for the
4 purposes of the remediation required by this section. All moneys
5 collected pursuant to this subsection shall be deposited in the fund.

6
7 9. a. There is established, in but not of the Department of
8 Environmental Protection, the Dry Cleaner Site Remediation Advisory
9 Board comprising one representative of the Neighborhood Cleaners
10 Association, International; one representative of the Korean Dry
11 Cleaners Association of New Jersey; and one representative of the
12 New Jersey Dry Cleaning Legislative Coalition; to be appointed by the
13 Governor with the advice of the leadership of the respective
14 organizations represented. The advisory board shall offer information
15 concerning the dry cleaning industry to the department and shall
16 consult with the department concerning the implementation of this act.
17 The department shall notify the board quarterly of the status of the
18 "Dry Cleaner Site Remediation Fund," established pursuant to section
19 5 of this act, and the remediations funded by the moneys therein, and
20 provide other information to the board necessary for the membership
21 of the represented organizations to comply with the requirements of
22 federal and State law.

23 b. The Dry Cleaner Site Remediation Advisory Board shall
24 organize as soon as practicable following the appointment of its
25 members and shall serve as an advisory board to the department until
26 the organizations represented on the board determine that the board
27 is no longer necessary.

28
29 10. The commissioner, the State Treasurer and the director,
30 respectively, are authorized to adopt, pursuant to the "Administrative
31 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and
32 regulations as they may deem necessary to implement the provisions
33 of this act.

34
35 11. a. The commissioner shall prepare and submit an annual report
36 to the Governor and the Legislature, which shall describe the quantity
37 of remediation efforts and the quality of the remediation, the costs and
38 damages paid by and recovered for the fund, and the economic and
39 environmental impacts on the State as a result of the administration of
40 this act.

41 b. The department shall annually submit a written report to the
42 Senate Environment Committee, the Assembly Agriculture and Waste
43 Management Committee, and the Assembly Environment, Science and
44 Technology Committee, or their successors, which shall include the
45 information required pursuant to subsection a. of this section as well
46 as the list transmitted to the Director of the Division of Taxation in the

1 Department of the Treasury pursuant to subsection d. of section 4 of
2 this act.

3
4 12. If the Congress of the United States enacts legislation
5 providing compensation for the remediation of sites contaminated
6 with perchloroethylene, the commissioner shall determine to what
7 degree that legislation provides the needed protection for the public
8 health, businesses and the environment and shall make the appropriate
9 recommendations to the Legislature for amendments to this act.

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

28
29 14. In addition to the duties of the authority required under section
30 6 of P.L.1983, c.303 (C.52:27H-65), the authority shall, in
31 consultation with the Department of Commerce and Economic
32 Development, prepare a report within one year following the effective
33 date of P.L. , c. (C.)(now before the Legislature as this bill). The
34 report shall include, but not be limited to, a description of the demand
35 for financing assistance from area source dry cleaners and owners of
36 dry cleaning facilities, the efforts made by the authority to meet the
37 demand, the total amount of loans or loan guarantees issued by the
38 authority pursuant to section 13 of P.L. , c. (C.) (now before the
39 Legislature as this bill), and an assessment of the effectiveness of the
40 financing assistance provided in meeting the goals of P.L. , c.
41 (C.) (now before the Legislature as this bill). The authority shall
42 submit its report to the Governor and the Legislature, along with any
43 recommendations for legislation to improve the effectiveness of the
44 program.

45
46 15. The authority and the Department of Commerce and Economic

1 Development may jointly adopt, pursuant to the "Administrative
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
3 regulations as may be necessary to implement the provisions of
4 P.L. , c. (C.)(now before the Legislature as this bill) including,
5 but not limited to, the making of loans, and the issuance of loan
6 guarantees, pursuant to sections 13 and 14 of P.L. , c.
7 (C.)(now before the Legislature as this bill).

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

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

24 c. Within two years following the effective date of P.L. , c.
25 (C.)(now before the Legislature as this bill), all owners of an area
26 source dry cleaner operating Generation 1 equipment shall replace
27 their dry cleaning equipment with Generation 4 or a subsequent
28 generation of equipment that is completely enclosed with equivalent
29 or higher reductions of perchloroethylene in the drum at the end of the
30 dry cleaning cycle. Within three years following the effective date of
31 P.L. , c. (C.)(now before the Legislature as this bill), all
32 owners of an area source dry cleaner operating Generation 2
33 equipment shall replace their dry cleaning equipment with Generation
34 4 or a subsequent generation of equipment that is completely enclosed
35 with equivalent or higher reductions of perchloroethylene in the drum
36 at the end of the dry cleaning cycle. Within four years following the
37 effective date of P.L. , c. (C.)(now before the Legislature as
38 this bill), all owners of an area source dry cleaner operating
39 Generation 3 dry cleaning equipment shall replace their dry cleaning
40 equipment with Generation 4 equipment, or to the extent permissible
41 by federal law and any rules or regulations adopted pursuant thereto,
42 retrofit the equipment with a carbon adsorber and an inward door fan
43 which directs perchloroethylene emissions into the carbon adsorber at
44 the rate of 100 feet per minute.

45 d. After seven years following the effective date of P.L. , c.
46 (C.)(now before the Legislature as this bill), no person shall

1 operate an area source dry cleaner in a residential building with a
2 ventilation system for the facility that releases into the outdoor
3 atmosphere perchloroethylene emissions greater than 50 parts per
4 million. Area source dry cleaners shall maintain the perchloroethylene
5 found in the ambient air of the dry cleaning facility at levels no greater
6 than 50 parts per million.

7 e. Any person required to purchase, upgrade or retrofit equipment
8 pursuant to this section may apply to the New Jersey Economic
9 Development Authority for financial assistance pursuant to section 13
10 of P.L. , c. (C.)(now before the Legislature as this bill).
11 Only applicants who have applied for financial assistance from the
12 New Jersey Economic Development Authority and have been denied
13 assistance shall be exempt from the requirements of subsections a.
14 through d. of this section. No area source dry cleaner or owner of a
15 dry cleaning facility shall be required to comply with the provisions of
16 subsections b. through d. of this section unless the area source dry
17 cleaner or owner of the dry cleaning facility has received moneys from
18 the New Jersey Economic Development Authority pursuant to section
19 13 of P.L. , c. (C.)(now before the Legislature as this bill).
20 Any area source dry cleaner or owner of a dry cleaning facility who
21 does not receive moneys from the New Jersey Economic Development
22 Authority and voluntarily complies with the requirements of
23 subsections b. through d. of this section shall be entitled to the sales
24 tax exemption provided pursuant to section 21 of P.L. , c.
25 (C.)(now before the Legislature as this bill).

26

27 17. a. Within one year after the effective date of P.L. , c.
28 (C.)(now before the Legislature as this bill), the Department of
29 Environmental Protection shall certify certain trade organizations or
30 educational institutions that it determines qualified to train distributors
31 and area source dry cleaners concerning proper hazardous waste
32 disposal, air pollution concerns, employee rights and workplace
33 standards, prevention of groundwater contamination, and federal and
34 State law and regulation affecting the dry cleaning industry in the
35 State. The department shall determine the minimum qualifications for
36 certification and shall notify each in-State distributor and area source
37 dry cleaner of the certified trade organizations or educational
38 institutions in the State. Any trade organization or educational
39 institution that wishes to be certified by the State may contact the
40 department, request information concerning the qualifications for
41 certification and apply for certification by the State.

42 b. If no trade organization or educational institution in the State
43 can be certified within one year after the effective date of P.L. , c.
44 (C.)(now before the Legislature as this bill) pursuant to
45 subsection a. of this section, the department may meet with
46 representatives of trade organizations and educational institutions to

1 develop an adequate training program for distributors and area source
2 dry cleaners.

3 c. No distributor or area source dry cleaner, or employee thereof,
4 shall be required to be trained until a trade organization or educational
5 institution in the State has been certified pursuant to subsection a. of
6 this section. Upon department certification of training courses, each
7 in-State distributor or area source dry cleaner, or employee thereof,
8 shall be required to complete the certified course within two years
9 after the department's notification of certification of training courses,
10 and shall complete the course required pursuant this subsection at
11 their own expense. The department shall issue a dry cleaning operator
12 certificate to any person who submits documentation verifying that the
13 certified training courses have been satisfactorily completed.

14 d. On January 1 following the two-year period for training
15 established in subsection b. of this section and thereafter, no person
16 may operate an in-State distributor, dry cleaning facility or dry
17 cleaning machinery manufacturing facility unless the on-premises
18 operator supervising the facility has obtained a dry cleaning
19 owner/manager certificate pursuant to this section and the employees
20 of the facility have been properly trained as required by the
21 department.

22

23 18. a. Within 180 days after the effective date of P.L. , c.
24 (C.)(now before the Legislature as this bill), the Department of
25 Environmental Protection shall establish registration and certification
26 procedures for persons and manufacturers installing and servicing dry
27 cleaning equipment in the State to become authorized dry cleaner
28 service and equipment providers. The department shall require every
29 authorized dry cleaner service and equipment provider to provide for
30 certification:

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

34 (2) A detailed description of the dry cleaning system, and a
35 description of the capabilities and procedures for the installation, use,
36 maintenance, repair, and tune-up of the system, including a description
37 of any lockout systems employed;

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

40 (4) A copy of the dry cleaning warranty and service contracts that
41 the dry cleaning equipment shall achieve compliance with all applicable
42 federal and State laws, including a description of the servicing network
43 and parts availability to be established to serve dry cleaning facilities
44 within the State, and wherever possible, a five-year warranty on all
45 parts, equipment and on-site service shall be provided, and wherever
46 that is not possible, a description of why a five-year warranty is not

1 provided and why the provided warranty is considered sufficient;

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

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

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

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

16 b. Every manufacturer, vendor or person involved in the sale or
17 installation of dry cleaning equipment in the State shall register with
18 and receive certification from the department as an authorized dry
19 cleaner service and equipment provider. No person or manufacturer
20 may sell, offer for sale, cause to be offered for sale, lease or represent
21 Generation 4 dry cleaning equipment or any other apparatus or
22 equipment the installation of which is required to comply with the
23 provisions of P.L. , c. (C.)(now before the Legislature as this
24 bill) unless that person or manufacturer has registered with, and been
25 certified by, the department as an authorized dry cleaner service and
26 equipment provider.

27 c. Within 90 days following the receipt of an application for
28 certification, the department shall notify the applicant for certification
29 as a dry cleaner service and equipment provider of certification
30 approval or denial. If approved, the department shall notify the
31 approved applicant at that time when a certificate shall be forwarded
32 to the approved applicant. If denied, the department shall notify the
33 denied applicant of the reasons for denial and the deficiencies in the
34 certification application. A dry cleaner service and equipment provider
35 certificate shall be valid from the date of notification of application
36 approval.

37

38 19. Within one year after the effective date of P.L. , c.
39 (C.)(now before the Legislature as this bill), the Department of
40 Environmental Protection shall adopt, pursuant to the "Administrative
41 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
42 regulations establishing a random inspection program for area source
43 dry cleaners. These rules and regulations shall provide for the
44 monitoring and supervision of conversion and retrofitting of
45 equipment, enforcement of the standards and requirements set forth in
46 P.L. , c. (C.)(now before the Legislature as this bill), and

1 penalties for violations of the standards and requirements. The rules
2 and regulations may also include any other provisions deemed
3 necessary by the department for the implementation and enforcement
4 of P.L. , c. (C.)(now before the Legislature as this bill). The
5 department may charge and collect a reasonable fee, not to exceed
6 \$300, for each inspection performed under the random inspection
7 program, but shall charge and collect no other fees for the random
8 inspection program.

9
10 20. Nothing in P.L. , c. (C.)(now before the Legislature
11 as this bill) shall be construed to supersede or otherwise interfere with
12 the department's issuance of operating permits or its implementation
13 of any federal program establishing national perchloroethylene air
14 emission standards for dry cleaning facilities, except that, if the
15 implementation of the program requires area source dry cleaners to
16 retrofit or replace equipment or machines, the department shall require
17 the area source dry cleaner to comply with the requirements of
18 P.L. , c. (C.)(now before the Legislature as this bill), and in
19 the event that emissions standards vary, the department shall enforce
20 the most stringent standard for perchloroethylene emissions.

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

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

1 appropriate for the administration of P.L. , c. (C.)(now
2 before the Legislature as this bill).

3
4 22. This act shall take effect on the first day of January following
5 the date of enactment.

6
7
8 STATEMENT

9
10 This bill provides assistance to dry cleaning businesses in the State
11 for addressing problems associated with perchloroethylene by
12 establishing the Dry Cleaner Site Remediation Fund for remediation of
13 perchloroethylene-contaminated sites, a loan program for the
14 upgrading of dry cleaning machinery and a 7-year sales and use tax
15 exemption on the equipment purchased for these upgrades. The bill
16 also provides that if the moneys in the Dry Cleaner Site Remediation
17 Fund are appropriated for any other purpose, the Department of
18 Environmental Protection shall become liable for the remediation of
19 the sites and any further contamination or damage to natural resources
20 or property resulting from delay of the remediation of the eligible sites.
21 Perchloroethylene is a hazardous substance and the solvent used in the
22 dry cleaning industry as a cleaning agent.

23 The bill establishes the Dry Cleaner Site Remediation Fund, to be
24 administered by the Department of Environmental Protection and
25 establishes that the fund is strictly liable for the remediation of any
26 perchloroethylene-contaminated sites eligible for remediation pursuant
27 to the bill. Eligible sites for remediation are contaminated in-State
28 distributor, dry cleaning facility, or dry cleaning machinery
29 manufacturing facility sites or sites that were previously the site of an
30 in-State distributor, dry cleaning facility or dry cleaning machinery
31 manufacturing facility and are now contaminated and owned by an
32 owner who has opted to participate in the remediation program by
33 registering with the department.

34 The Department of Environmental Protection shall remediate the
35 sites for which the fund is liable in accordance with the standards,
36 procedures and requirements currently established under State law
37 pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12) and any rules
38 or regulations adopted pursuant thereto. The department shall
39 establish the criteria for prioritizing and remediating the sites, giving
40 highest priority to sites that severely threaten to contaminate public
41 and private water supplies and ranking the priority of the remediation
42 of these sites based on the severity of the threat of contamination of
43 public and private water supplies, the distance from public and private
44 water supply wells, the threat to aquifers and other public health
45 considerations. The department shall give second priority to any site
46 subject to sale by the owner.

1 To fund the remediation of eligible sites, the bill creates a
2 registration program for in-State and out-of-State distributors of
3 perchloroethylene, dry cleaning facilities, dry cleaning machinery
4 manufacturers, drop stores, route operators and owners of
5 contaminated property opting into the remediation program, with
6 annual registration and renewal fees for each category of registrant.
7 The bill also levies a tax of \$10 per gallon on perchloroethylene, to be
8 paid by in-State and out-of-State distributors. The moneys collected
9 from the registrations, taxation of perchloroethylene and any fines for
10 violation of registration requirements are to be deposited in the Dry
11 Cleaner Site Remediation Fund for remediation of eligible sites. The
12 fine for violation of registration requirements is not less than \$2,500
13 for the first offense, not more than \$5,000 for the second offense and
14 not more than \$10,000 for a third or subsequent offense, in addition
15 to any penalties imposed pursuant to the tax provisions of the bill.

16 The bill also requires that the dry cleaning businesses upgrade their
17 machinery to Generation 4 equipment or subsequent generations that
18 reduce perchloroethylene emissions below the levels attained by
19 Generation 4 equipment, if the New Jersey Economic Development
20 Authority provides financing for these upgrades. If no financing is
21 provided, the required upgrades are voluntary. Generation 4
22 equipment is the stage of dry cleaning equipment that reduces the level
23 of perchloroethylene in the machine to the minimum amount attainable
24 with current technology, 300 parts per million. This reduction
25 minimizes employees exposure to perchloroethylene but also reduces
26 the public's exposure to the perchloroethylene emissions from residue
27 on the items cleaned.

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

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