

ASSEMBLY, No. 186

STATE OF NEW JERSEY

INTRODUCED JANUARY 9, 1997

By Assemblyman ROONEY

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

28 The Legislature further finds and declares that it is in the public
29 interest to establish a fund, to be financed by a tax on
30 perchloroethylene and registration fees imposed on dry cleaners,
31 wholesale supply facilities, and distributors of perchloroethylene to be
32 used to fund the remediation of sites contaminated with
33 perchloroethylene from dry cleaning businesses.

34 The Legislature further finds and declares that it is in the public
35 interest for the State to establish a loan fund and guarantee program
36 for owners of dry cleaning businesses who require financial assistance
37 to purchase and install "Generation 4 dry cleaning equipment" or more

1 advanced equipment in order to minimize the public's exposure to
2 perchloroethylene emissions caused by the operation of such
3 machinery; that while "Generation 4 dry cleaning equipment"
4 incorporates several advanced features that substantially reduce the
5 amount of such releases, the cost of purchasing and installing this
6 equipment makes it impractical for many small business owners to
7 finance the purchase and installation thereof without financial
8 assistance; that the funding of a financial assistance program by the
9 New Jersey Economic Development Authority is an appropriate use of
10 monies available to the authority; and that such a program will assist
11 ongoing efforts to reduce the public's exposure to the levels of
12 perchloroethylene emissions.

13

14 3. For the purposes of this act:

15 "Area source dry cleaner" means any sole proprietorship,
16 partnership or corporation that operates one or more
17 perchloroethylene dry cleaning facility, including, but not limited to
18 facilities with owner-operated dry cleaning machines or coin-operated
19 dry cleaning machines operated by customers;

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

23 "Commissioner" means the Commissioner of Environmental
24 Protection;

25 "Contamination" or "contaminated" means perchloroethylene
26 contamination at levels that require remediation of the site pursuant to
27 State law;

28 "Control apparatus" means any device or machine which prevents
29 or controls the emission of any air contaminant directly or indirectly
30 into the outdoor atmosphere;

31 "Department" means the Department of Environmental Protection;

32 "Director" means the Director of the Division of Taxation in the
33 Department of Treasury;

34 "Distributor" means any business, company, corporation or person
35 selling perchloroethylene or recycled perchloroethylene to any area
36 source dry cleaner or dry cleaning facility in the State;

37 "Dry cleaning" means the process of cleaning clothing, garments,
38 textiles, fabrics, leather goods, and the like, using perchloroethylene;

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

1 "Dry cleaning solvents" means any and all nonaqueous substances
2 used in the cleaning of clothing and other fabrics, including, but not
3 limited to perchloroethylene, also known as tetrachloroethylene, or its
4 breakdown products;

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

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

15 "Generation 3 dry cleaning equipment" means dry cleaning
16 equipment that is closed refrigerated dry to dry equipment that is
17 composed of a dry to dry refrigerated closed loop machine with or
18 without a door fan;

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

26 "Perchloroethylene" means perchloroethylene, tetrachloroethylene,
27 their chemical equivalents and their breakdown products;

28 "Perchloroethylene emissions" means any gaseous or vaporous
29 releases of perchloroethylene, tetrachloroethylene or its chemical
30 equivalent, whether released into the indoor environment or outdoor
31 atmosphere;

32 "Program" means the "New Jersey Dry Cleaning Business
33 Assistance Program" to be established by the authority pursuant to
34 section 14 of P.L. , c. (C.)(now before the Legislature as this
35 bill);

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

40 "Wholesale supply facility" means a commercial establishment that
41 supplies perchloroethylene to dry cleaning facilities.

42

43 4. a. The Department of Environmental Protection shall establish
44 a registration program for all dry cleaning facilities, wholesale supply
45 facilities and distributors of perchloroethylene in the State. Every dry
46 cleaning facility, wholesale supply facility and distributor of

1 perchloroethylene shall register with the department on the January 1
2 immediately following enactment of P.L. , c. (C.)(now before
3 the Legislature as this bill), and annually on January 1 thereafter. The
4 department shall require as part of the registration the following
5 information:

6 (1) From the dry cleaning facilities, the number of machines
7 operated and the number of gallons of perchloroethylene used per
8 month for the year preceding the registration;

9 (2) From the wholesale supply facilities, the name and address of
10 each dry cleaning facility supplied and the number of gallons of
11 perchloroethylene supplied to each dry cleaning facility per month per
12 facility for the year preceding the registration; and

13 (3) From distributors, the destination of all perchloroethylene
14 distributed, with delivery dates and amount of perchloroethylene
15 delivered per destination for the year preceding the registration.

16 b. The department shall collect \$100 for each registration and
17 renewal application and shall deposit these moneys into the Dry
18 Cleaner Site Remediation Fund established pursuant to section 5 of
19 P.L. , c. (C.)(now before the Legislature as this bill).

20 c. The department shall transmit the list compiled and the
21 information collected pursuant to subsection a. of this section to the
22 Director of the Division of Taxation in the Department of the Treasury
23 on January 1 of the year next following the enactment of P.L. ,
24 c. (C.)(now before the Legislature as this bill) and annually
25 thereafter, provided that the department may update the list more
26 frequently as it deems appropriate.

27 d. The director shall utilize the list compiled by the department to
28 notify the owners or operators of the facilities thereon that they may
29 be liable for the tax levied pursuant to section 6 of P.L. , c.
30 (C.) (now pending before the Legislature as this bill). The
31 director may use the information compiled by the department for the
32 purposes of enforcing subsection e. of this section and section 6 of
33 P.L. , c. (C.)(now before the Legislature as this bill).

34 e. Any person who fails to comply with the requirements of this
35 section or falsifies any documentation or information required pursuant
36 to this section shall be subject to a fine of not less than \$2,500 for the
37 first offense, not more than \$5,000 for the second offense and not
38 more than \$10,000 for a third or subsequent offense, in addition to any
39 penalties imposed pursuant to subsection e. of section 6 of P.L. ,
40 c. (C.)(now before the Legislature as this bill).

41
42 5. a. The Dry Cleaner Site Remediation Fund, hereinafter referred
43 to as "the fund," is established as a special nonlapsing revolving fund.
44 The fund shall be administered by the Department of Environmental
45 Protection, and shall be credited with all fees and taxes collected
46 pursuant to P.L. , c. (C.)(now before the Legislature as this

1 bill). Interest received on moneys in the fund shall be credited to the
2 fund. The department shall not obligate funds in excess of the amount
3 available in the fund.

4 b. Unless otherwise expressly provided for by the specific
5 appropriation thereof by the Legislature, which shall take the form of
6 a discrete legislative appropriations act and shall not be included
7 within the annual appropriations act, all available moneys in the fund
8 shall be appropriated annually solely for the following purposes and no
9 others:

10 (1) Prompt investigation and assessment of the contaminated dry
11 cleaning facility or wholesale supply facility site;

12 (2) Expeditious and effective treatment or restoration of potable
13 water supplies;

14 (3) Remediation of contaminated dry cleaning facility or wholesale
15 supply facility sites, which shall consist of remediation of affected soil,
16 groundwater, and surface waters, using the most cost-effective
17 alternative that is technologically feasible and reliable and that
18 provides adequate protection of the public health, safety and welfare
19 and minimizes environmental damage, in accordance with the
20 remediation standards established by P.L.1993, c.139, except that
21 nothing in this subsection shall be construed to authorize the use of
22 moneys in the fund for the payment of any remediation costs that may
23 be associated with, but are not integral to, site remediation of a dry
24 cleaning facility. The remediation permitted pursuant to this
25 subsection shall include contamination across property lines if the
26 contamination is attributed to the operation of a dry cleaning facility
27 on a nearby property currently or historically on the property;

28 (4) Remediation of contamination caused by the transport of
29 perchloroethylene to or from a dry cleaning facility or wholesale
30 supply facility if the contamination occurs within 200 feet of the
31 property line of a dry cleaning facility to or from which the dry
32 cleaning solvents were transported;

33 (5) Maintenance and monitoring of a contaminated dry cleaning
34 facility or wholesale supply facility sites; and

35 (6) Payment of any other reasonable costs associated with the site
36 remediation of sites eligible for site remediation funding pursuant to
37 P.L. , c. (C.)(now before the Legislature as this bill), as
38 determined by the department, including the administrative expenses
39 of the department incurred implementing the requirements and
40 purposes of P.L. , c. (C.)(now before the Legislature as this
41 bill), except that in no fiscal year shall the amount transferred from the
42 fund to the department for administrative expenses exceed 10% of the
43 moneys collected in that fiscal year and available in the fund.

44 c. No moneys in the fund shall be used for the following purposes:

45 (1) Site remediation of sites contaminated by dry cleaning solvents
46 where the contamination at the sites did not result from the operation

1 of a dry cleaning facility or wholesale supply facility;

2 (2) Site remediation of sites that are contaminated by the transport
3 of dry cleaning solvents to or from a dry cleaning facility or wholesale
4 supply facility, except as provided in paragraph 4 of subsection b. of
5 this section;

6 (3) Funding any costs related to the restoration of any site that has
7 been identified to qualify for listing, or is listed, on the National
8 Priority List pursuant to the Comprehensive Environmental Response,
9 Compensation, and Liability Act of 1980 as amended by the Superfund
10 Amendments and Reauthorization Act of 1986, or that is under an
11 order from the United States Environmental Protection Agency
12 pursuant to section 3008 (h) of the Resource Conservation and
13 Recovery Act as amended, or has obtained, or is required to obtain a
14 permit for the operation of a hazardous waste treatment, storage or
15 disposal facility, a postclosure permit, or a permit pursuant to the
16 federal Hazardous and Solid Waste Amendments of 1984; and

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

20

21 6. a. There is hereby levied upon each distributor selling
22 perchloroethylene in the State, including but not limited to the owner
23 or operator of a wholesale supply facility selling perchloroethylene
24 in the State, a tax to fund the site remediation of any property in the
25 State that was formerly the site of a dry cleaning facility or wholesale
26 supply facility, and is currently contaminated with perchloroethylene.

27 For any dry cleaning facility that buys perchloroethylene outside of
28 the State or from a source not registered with the department as a
29 distributor or a wholesale supply facility, the tax shall be levied on the
30 dry cleaning facility. The tax shall also be levied on any distributors
31 of recycled perchloroethylene in the State and on any dry cleaning
32 facility that buys recycled perchloroethylene if it is bought from a
33 source that is not registered with the department. Where such person
34 has failed to file a return or pay the tax imposed by P.L. , c.

35 (C.) (now before the Legislature as this bill) within 60 days after
36 the due date thereof, the Director of the Division of Taxation shall
37 forthwith take appropriate steps to collect the tax from the owner of
38 the dry cleaning facilities supplied by the wholesale supply facility.

39 b. The tax shall be \$5 per gallon of perchloroethylene sold to dry
40 cleaning facilities in the State. Upon receipt of the tax payment, the
41 director shall authorize the transfer and deposit of the moneys received
42 into the fund. Interest received on moneys in the fund shall be
43 credited to the fund.

44 c. Every taxpayer pursuant to this section shall on or before the
45 20th day of the month following the close of each tax period render a
46 return under oath to the director on such forms as may be prescribed

1 by the director indicating the number of gallons of perchloroethylene
2 sold and the taxpayer shall pay the full amount of the tax due.

3 d. If a return required by P.L. , c. (C.)(now before the
4 Legislature as this bill) is not filed, or if a return when filed is incorrect
5 or insufficient in the opinion of the director, the amount of tax due
6 shall be determined by the director from such information as may be
7 available. Notice of such determination shall be given to the taxpayer
8 liable for the payment of the tax. Such determination shall finally and
9 irrevocably fix the tax unless the person against whom it is assessed,
10 within 30 days after receiving notice of such determination, shall apply
11 to the director for a hearing, or unless the director on his own motion
12 shall redetermine the same. After such hearing the director shall give
13 notice of his determination to the person to whom the tax is assessed.

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

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

24 (1) To delegate to any officer or employee of the division powers
25 and duties assigned to the director that the director may deem
26 necessary to carry out efficiently the provisions of this section, and the
27 person or persons to whom such power has been delegated shall
28 possess and may exercise all of the powers and perform all of the
29 duties delegated by the director;

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

32 g. The tax imposed by P.L. , c. (C.)(now before the
33 Legislature as this bill) shall be governed in all respects by the
34 provisions of the "State Tax Uniform Procedure Law," R.S.54:48-1 et
35 seq., except only to the extent that a specific provision of P.L. ,
36 c. (C.)(now before the Legislature as this bill) may be in conflict
37 therewith.

38

39 7. No provision of P.L. , c. (C.)(now before the
40 Legislature as this bill) shall not affect actions or proceedings, civil or
41 criminal, brought by or against the Department of Environmental
42 Protection and pending on the effective date of P.L. , c. (C.)
43 (now before the Legislature as this bill).

44

45 8. a. The Department of Environmental Protection shall adopt,
46 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52-14B-1 et seq.), rules and regulations providing for the awarding
2 of grants from the Dry Cleaner Site Remediation Fund established
3 pursuant to section 5 of P.L. , c. (C.)(now before the
4 Legislature as this bill). The rules and regulations shall include
5 provisions establishing the criteria for evaluating applications, the
6 information required by the department to perform the evaluations, the
7 application and review process to be followed, and any other
8 provisions required to implement section 11 of P.L. , c. (C.)
9 (now before the Legislature as this bill). The rules and regulations
10 may also establish a nominal fee for the processing and review of the
11 applications.

12 b. Any owner of property that is currently, or formerly was, the
13 site of a dry cleaning facility or a wholesale supply facility and is
14 currently contaminated by perchloroethylene shall be eligible to apply
15 for a grant pursuant to the rules and regulations established pursuant
16 to subsection a. of this section. No grant awarded pursuant to this
17 section shall exceed \$100,000 per application, per fiscal year.

18 c. Prior to awarding any grant pursuant to this section, the
19 department shall evaluate the site remediation required, the most cost
20 effective and efficient method of remediating the site, and the cost of
21 the remediation. The department shall also determine, to the extent
22 practicable, whether the contamination was due to willful or negligent
23 contamination by a dry cleaning facility or a wholesale supply facility.
24 If the department determines that the dry cleaning facility or the
25 wholesale supply facility willfully contaminated the site or reasonably
26 could have prevented the contamination, the department shall require
27 the owner or operator of the dry cleaning facility to pay one fourth of
28 the cost of the site remediation, provided that the owner or operator
29 of the dry cleaning facility has liquid assets equal to or greater than 4
30 times the estimated cost of the site remediation. For the purposes of
31 this subsection, "liquid assets" mean any cash or personal investments
32 that are convertible into cash and shall not include the gross receipts
33 of the dry cleaning facility or the wholesale supply facility or the value
34 of the business, equipment, or property of the dry cleaning business
35 or the wholesale supply facility. The department may require a grant
36 applicant to show to the satisfaction of the department that the grant
37 applicant has no other source for funding the remediation, or if other
38 sources have been used or are available, the extent to which and the
39 reasons that the other sources are not sufficient and a grant is justified.

40 d. To the extent practicable and necessary, the department shall
41 negotiate between any parties in dispute over liability for the
42 contamination and shall assign liability and cost as necessary. Any
43 party who is assigned liability for contamination of a site eligible for
44 remediation funded by the Dry Cleaner Site Remediation Fund shall be
45 eligible to apply for a grant from the fund.

46 e. If the party responsible for the contamination is unknown or

1 cannot be determined, the department may approve a grant to the
2 party seeking to remediate the property.

3
4 9. a. Within a year from the date of the discovery of the
5 contamination, or if the date of discovery is prior to the effective date
6 of P.L. , c. (C.)(now before the Legislature as this bill),
7 within one year of the effective date of P.L. , c. (C.)(now
8 before the Legislature as this bill), the person seeking or required to
9 remediate a contaminated site may apply to the department for a grant
10 of up to \$100,000 for the cost of the remediation.

11 b. The department shall determine within a time frame set by rule
12 or regulation the eligibility of the grant applicant, the amount of the
13 grant to which the grant applicant is entitled, the availability of moneys
14 in the fund to issue the grant, and if the grant is approved or denied.
15 If the grant is approved but the department has determined the moneys
16 in the fund are inadequate to issue the grant, the grant applicant shall
17 be assigned a place on a grant waiting list and shall be issued the grant
18 when moneys become available, subject to any other review or
19 approvals required pursuant to P.L. , c. (C.)(now before the
20 Legislature as this bill).

21 c. Prior to grant approval and issuance, the department shall
22 determine with the grant applicant the appropriate methods of
23 remediation and a timetable for implementing the site remediation and
24 the cost.

25 d. Upon completion of the site remediation specified pursuant to
26 subsection c. of this section, the department shall review the results of
27 the remediation and determine if it has been sufficient to comply with
28 State laws concerning the levels of acceptable contamination and site
29 remediation. Within a period of time to be set by rule or regulation,
30 the department shall notify the grant applicant in writing of the status
31 of the remediation, any further remediation that may be required and
32 the estimated cost of that further action.

33 e. Any grant applicant that has been notified, pursuant to
34 subsection d. of this section, that further remediation is required may
35 apply, in a subsequent fiscal year to the fiscal year in which the initial
36 grant was approved, for an additional grant in the amount of the
37 estimated cost to complete the remediation of the site or \$100,000,
38 whichever is less, and shall be eligible for additional grants for a total
39 of grants received not to exceed \$500,000.

40 f. Application for grant moneys filed pursuant to this section shall
41 be considered good faith effort on the part of a property owner or
42 other person seeking or required to remediate a contaminated site and
43 no penalties or violations shall be assessed against the person
44 concerning the contamination of the site for which the grant has been
45 applied until final resolution of the grant application review and appeal
46 process.

1 10. The commissioner, the State Treasurer and the director,
2 respectively, are authorized to adopt, amend, repeal, and enforce such
3 rules and regulations pursuant to the Administrative Procedure Act,
4 P.L.1968, c.410 (C.52:14B-1 et seq.) as they may deem necessary to
5 accomplish their respective purposes and responsibilities under
6 P.L. , c. (C.)(now before the Legislature as this bill).

7
8 11. a. The commissioner shall prepare and submit an annual report
9 to the Legislature and Governor, which shall describe the quantity of
10 site remediation efforts and the quality of the remediation, the costs
11 and damages paid by and recovered for the fund, and the economic
12 and environmental impacts on the State as a result of the
13 administration of P.L. , c. (C.)(now before the Legislature as
14 this bill).

15 b. The department shall annually submit a written report to the
16 Senate Environment Committee, the Senate Natural Resources and
17 Economic Development Committee, the Assembly Agriculture and
18 Waste Management Committee, and the Assembly Environment,
19 Science and Technology Committee, or their successors, which shall
20 include the information required pursuant to subsection a. of this
21 section as well as the list transmitted to the Director of the Division of
22 Taxation in the Department of the Treasury pursuant to subsection c.
23 of section 4 of P.L. , c. (C.)(now before the Legislature as
24 this bill).

25
26 12. If the United States Congress enacts legislation providing
27 compensation for the remediation of sites contaminated with
28 perchloroethylene, the commissioner shall determine to what degree
29 that legislation provides the needed protection for the public health,
30 businesses and the environment and shall make the appropriate
31 recommendations to the Legislature for amendments to P.L. , c.
32 (C.)(now before the Legislature as this bill).

33
34 13. The Department of Environmental Protection, in consultation
35 with the New Jersey Economic Development Authority, shall adopt,
36 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
37 (C.52:14B-1 et seq.), rules and regulations providing for the site
38 selection, remediation criteria, eligibility for funds, and criteria for
39 reviewing, approving and rejecting applications for moneys from the
40 fund.

41
42 14. There is established within the authority, the New Jersey Dry
43 Cleaning Business Assistance Program. The purpose of the program
44 shall be to provide financial assistance to owners of dry cleaning
45 businesses for the purchase and installation of Generation 4 dry
46 cleaning equipment which reduces perchloroethylene emissions or

1 subsequent generations of dry cleaning equipment which reduce
2 perchloroethylene emissions to the same level or lower than
3 Generation 4 equipment. The program shall be administered by the
4 authority in consultation with the Department of Commerce and
5 Economic Development. The purpose and activity of the program
6 shall be deemed to be supplementary to, and not in lieu of, the powers
7 of the authority.

8
9 15. a. In order to effectuate the purpose of the program, the
10 authority shall establish and maintain a special, revolving account to
11 be known as the "New Jersey Dry Cleaning Business Assistance
12 Account," hereinafter the "assistance account," which shall be credited
13 with:

14 (1) an amount from the Economic Recovery Fund established
15 pursuant to section 4 of P.L.1992, c.16 (C.34:1B-7.13) which the
16 authority determines is necessary to effectively implement the
17 program, within the limits of funding available from the Economic
18 Recovery Fund, and based upon the response to the program by
19 owners of dry cleaning businesses and by participating banks; (2) any
20 moneys that shall be received by the authority from the repayment of
21 the moneys in the assistance account used to provide direct loans or
22 loan guarantees pursuant to this section and interest thereon; and (3)
23 other moneys of the authority, including but not limited to, any
24 moneys available from other business loan programs administered by
25 the authority which it determines to deposit therein.

26 b. The authority may use the moneys in the assistance account
27 established pursuant to this section for:

28 (1) funding direct loans, the amounts of which shall be determined
29 by the authority in consultation with the the Department of Commerce
30 and Economic Development, to assist eligible dry cleaning businesses
31 with the purchase and installation of Generation 4 dry cleaning
32 equipment or the subsequent generations specified in section 20 of
33 P.L. , c. (C.)(now before the Legislature as this bill), and
34 guaranteeing up to 25% of the amounts of loans to be provided by
35 participating banks in accordance with section 17 of P.L. , c.
36 (C.)(now before the Legislature as this bill);

37 (2) making payments in fulfillment of the terms of any direct loans,
38 or guarantee agreements, entered into pursuant to section 17 of
39 P.L. , c. (C.)(now before the Legislature as this bill); and

40 (3) defraying the administrative costs of the authority in carrying
41 out the purposes and provisions of P.L. , c. (C.)(now before the
42 Legislature as this bill).

43 c. The portion of the direct loans provided by participating banks
44 may be guaranteed by the authority pursuant to section 17 of P.L. ,
45 c. (C.)(now before the Legislature as this bill) if the owner of the
46 dry cleaning business has qualified therefor by demonstrating to the

1 satisfaction of the authority that the funds needed to purchase the
2 Generation 4 dry cleaning equipment or subsequent generations of
3 equipment as specified in section 17 of P.L. , c. (C.)(now
4 before the Legislature as this bill) would not otherwise be available to
5 the business.

6 d. The maximum amount and term of a loan or guarantee made
7 pursuant to P.L. , c. (c.)(now before the Legislature as this bill)
8 shall be determined by the authority.

9

10 16. The authority shall establish sufficient reserves and liquid
11 reserves, aside from those moneys required to provide a sufficient and
12 actuarially sound basis for its pledges contained in any loan, or
13 guarantee agreement entered into pursuant to P.L. , c. (c.)
14 (now before the Legislature as this bill).

15

16 17. The authority shall enter into agreements with participating
17 banks to use the moneys from the assistance account to provide up to
18 25% of the direct loans to enable owners of dry cleaning businesses to
19 purchase and install Generation 4 dry cleaning equipment.

20 The agreements shall further provide that the balance of the loans
21 for financing the purchase of such systems for eligible dry cleaning
22 businesses shall come from participating banks. The authority may
23 also use moneys from the assistance account to guarantee up to 25%
24 of the portion of the loans to be provided by the participating banks in
25 those cases where the authority determines that such a guarantee is
26 necessary for an agreement authorized by this section. The
27 agreements shall also provide for any other terms or conditions which
28 the authority and the participating banks stipulate to as being
29 necessary or desirable to make loans, to guarantee loans and to
30 otherwise effectuate the purpose of the program.

31

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

1 19. The authority and the the Department of Commerce and
2 Economic Development shall jointly adopt, pursuant to the
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
4 seq.), rules and regulations as may be necessary to effectuate the
5 purposes of P.L. , c. (C.)(now before the Legislature as this bill)
6 including, but not limited to, the making of loans, and the issuance of
7 guarantees pursuant to P.L. , c. (C.)(now before the
8 Legislature as this bill).

9
10 20. a. On and after the effective date of P.L. , c. (C.)
11 (now before the Legislature as this bill), any person establishing a new
12 area source dry cleaner, installing or replacing dry cleaning equipment
13 and machines, or expanding an existing area source dry cleaner into
14 new locations or in the existing dry cleaning facility shall install or
15 equip the facility with Generation 4 dry cleaning equipment or a
16 subsequent generation of equipment that is completely enclosed with
17 equivalent or higher reductions of perchloroethylene in the drum at the
18 end of the dry cleaning cycle.

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

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

1 retrofitted with control apparatus or the ventilation system equipment
2 shall be replaced with equipment that reduces the perchloroethylene
3 emissions from the area source dry cleaner ventilation system to no
4 greater than 5 parts per million.

5
6 21. a. The Department of Environmental Protection shall establish
7 registration and certification procedures for persons and manufacturers
8 installing and servicing dry cleaning equipment in the State to become
9 authorized dry cleaner service and equipment providers. The
10 department shall require every authorized dry cleaner service and
11 equipment provider to provide:

12 (1) a five-year warranty on all parts, equipment and on-site service
13 provided to any area source dry cleaner in the State, warranting that
14 new equipment installed shall reduce the level of perchloroethylene left
15 in the drum to 300 parts per million, and any part or service provided
16 for dry cleaning equipment, other than installation of new equipment,
17 shall achieve compliance with all applicable federal and State law, and,

18 (2) a minimum of 16 hours of training on the proper use and
19 maintenance of the equipment to any area source dry cleaner that buys
20 or leases Generation 4 dry cleaning equipment and a minimum of 4
21 hours to any area source dry cleaner that retrofits equipment to
22 achieve a level of perchloroethylene emissions equal to or less than the
23 maximum level permitted by P.L. , c. (C.)(now before the
24 Legislature as this bill).

25 b. Every manufacturer, vendor or person involved in the sale or
26 installation of dry cleaning equipment in the State shall register with
27 and receive certification from the department as an authorized dry
28 cleaner service and equipment provider.

29 c. No person or manufacturer may sell, offer for sale, cause to be
30 offered for sale, lease or represent Generation 4 dry cleaning
31 equipment or any other apparatus or equipment the installation of
32 which is required to comply with the provisions of P.L. , c.
33 (C.)(now before the Legislature as this bill) unless that person or
34 manufacturer has registered with, and been certified by, the
35 department as an authorized dry cleaner service and equipment
36 provider.

37
38 22. Within one year of the effective date of P.L. , c. (C.)
39 (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).

5
6 23. Nothing in P.L. , c. (C.)(now before the Legislature
7 as this bill) shall be construed to supersede or otherwise interfere with
8 the department's issuance of operating permits or its implementation
9 of any federal program establishing national perchloroethylene air
10 emission standards for dry cleaning facilities, except that, if the
11 implementation of the program requires area source dry cleaners to
12 retrofit or replace equipment or machines, the department shall require
13 the area source dry cleaner to comply with the requirements of
14 P.L. , c. (C.)(now before the Legislature as this bill), and in
15 the event that emissions standards vary, the department shall enforce
16 the most stringent standard for perchloroethylene emissions.

17
18 24. a. Receipts from sales of Generation 4 dry cleaning equipment,
19 as defined in section 2 of P.L. , c. (C.)(now before the
20 Legislature as this bill), and equipment and apparatus necessary to
21 convert or retrofit existing dry cleaning equipment, for use directly and
22 exclusively for the control or elimination of perchlorethylene
23 emissions, or the reduction of such emissions to levels specified,
24 pursuant to section 20 of P.L. , c. (C.)(now before the
25 Legislature as this bill), are exempt from the tax imposed under the
26 "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32-B-1 et seq.).

27 This exemption shall not apply to tools or supplies used in
28 connection with the installation or maintenance of equipment or
29 apparatus described in this subsection.

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

40
41 25. This act being necessary for the general health, safety, and
42 welfare of the people of this State, shall be liberally construed to
43 effect its purposes.

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

1 STATEMENT

2

3

4 The bill provides assistance to dry cleaning businesses in the
5 State for addressing problems associated with perchloroethylene by
6 establishing a loan program and a grant program to fund the
7 reduction of perchloroethylene emissions in dry cleaning facilities
8 and the remediation of sites contaminated by perchloroethylene.
9 Perchloroethylene is a hazardous substance and the solvent used in
10 the dry cleaning industry as a cleaning agent.

11 The bill establishes The Dry Cleaner Site Remediation Fund,
12 to be administered by the Department of Environmental Protection for
13 the funding of site remediation for dry cleaning facilities. Moneys in
14 the fund would be collected from annual registration and renewal fees
15 collected by the department and a tax of \$5 per gallon of
16 perchloroethylene imposed on distributors of perchloroethylene,
17 wholesale supply facilities and dry cleaning facilities that buy
18 perchloroethylene from sources that are not registered with the
19 Department of Environmental Protection pursuant to the bill.

20 The bill further establishes a grant program for persons seeking to
21 remediate sites that are contaminated by perchloroethylene. Sites that
22 are, or were formerly, sites of dry cleaning facilities or wholesale
23 supply facilities are eligible for grants under the program. The owner
24 of the site may receive up to \$100,000 for an initial remediation grant.
25 The Department of Environmental Protection is directed to oversee
26 the remediation and if the \$100,000 is insufficient to complete the
27 clean-up, the owner is eligible for additional grants not to exceed
28 \$100,000 in any calendar year. The total amount of grant moneys that
29 may be awarded to any individual is \$500,000. The Commissioner of
30 Environmental Protection is directed to annually report the progress
31 of the program to the Legislature and the Governor.

32 The bill also requires that dry cleaning businesses upgrade their
33 machinery to Generation 4 equipment or subsequent generations that
34 reduce perchloroethylene emissions below the levels attained by
35 Generation 4 equipment. The bill allows Generation 3 equipment to
36 be retrofitted instead of being replaced if such a retrofit is in
37 compliance with federal law and the regulations adopted pursuant
38 thereto. Generation 4 equipment is the stage of dry cleaning
39 equipment that reduces the level of perchloroethylene in the machine
40 to the minimum amount attainable with current technology, 300 parts
41 per million. This reduction minimizes employees exposure to
42 perchloroethylene but also reduces the public's exposure to the
43 perchloroethylene emissions from residue on the items cleaned.

44 The bill further establishes a "New Jersey Dry Cleaning Business
45 Assistance Program" in the New Jersey Economic Development
46 Authority to assist owners of dry cleaning businesses in purchasing and
installing state-of-the-art dry-cleaning equipment which reduces the

1 amount of perchloroethylene released as part of the dry cleaning
2 process. The program is intended to provide access to funding which
3 might otherwise not be available to these businesses by directing the
4 authority to make direct loans and to give loan guarantees, in
5 conjunction with a consortium of participating banks, to eligible
6 businesses for the purchase of more technologically advanced dry
7 cleaning equipment.

8 The program will be administered by the authority in consultation
9 with the Department of Commerce and Economic Development.

10 The bill establishes a special, revolving account to be known as the
11 "New Jersey Dry Cleaning Business Assistance Account" (the
12 assistance account), which shall be credited with such amount from the
13 Economic Recovery Fund, established pursuant to section 4 of
14 P.L.1992, c.16 (C.34:1B-7.13), as the authority shall determine is
15 necessary to effectively implement the program based upon demand
16 from eligible dry-cleaning businesses, and participating banks. The
17 assistance account shall also be credited with other available moneys
18 including, but not limited to, moneys in the business loan programs
19 administered by the authority, which the authority determines to
20 deposit therein.

21 The bill establishes a means to leverage the moneys in the assistance
22 account through a public/private partnership between the Economic
23 Development Authority and participating banks whereby up to 25% of
24 the loan needed for the purchase of new dry cleaning equipment would
25 be provided by the account with the balance of the loan to be provided
26 by participating banks. Rules and regulations to administer the
27 program would be adopted jointly by the authority and the Department
28 of Commerce and Economic Development.

29 The bill requires the authority, in consultation with the department,
30 to report back to the Governor and the Legislature within one year
31 following the effective date of the bill on the status of the loan
32 program and any recommendations for legislation to better effectuate
33 the goals of the program.

34 Finally, the bill provides a tax exemption from the State sales tax on
35 any Generation 4 equipment or upgrades of equipment dry cleaning
36 businesses purchase to comply with the requirements of the bill.

37

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39

40

41 The "New Jersey Dry Cleaning Business Assistance Act."