

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 186

STATE OF NEW JERSEY

ADOPTED FEBRUARY 10, 1997

Sponsored 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.), 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  
13 of 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

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

16

17 3. For the purposes of this act:

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

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

26 "Commissioner" means the Commissioner of Environmental  
27 Protection;

28 "Contamination" or "contaminated" means perchloroethylene  
29 contamination at levels that require remediation of the site pursuant to  
30 State law;

31 "Control apparatus" means any device or machine which prevents  
32 or controls the emission of any air contaminant directly or indirectly  
33 into the outdoor atmosphere;

34 "Department" means the Department of Environmental Protection;

35 "Director" means the Director of the Division of Taxation in the  
36 Department of the Treasury;

37 "Drop store" means an establishment that offers dry cleaning  
38 services for a fee and receives clothing, other fabrics or materials to  
39 be cleaned but sends the clothing, other fabrics or materials to be  
40 cleaned to a dry cleaning facility and does not clean the clothing, other  
41 fabrics or materials on the premises;

42 "Dry cleaning" means the process of cleaning clothing, garments,  
43 textiles, fabrics, leather goods, and the like, using nonaqueous  
44 substances such as perchloroethylene;

45 "Dry cleaning facility" means a commercial establishment operated  
46 on a specific site that is engaged primarily in the business of cleaning

1 clothing, other fabrics or materials on the premises by a process that  
2 involves the use of perchloroethylene, including but not limited to, an  
3 individual establishment owned by a sole proprietor, partnership or  
4 corporation, or one of a number of commercial establishments owned  
5 by a sole proprietor, or by a partnership or corporation, that operates  
6 as an area source dry cleaner;

7 "Dry cleaning machinery manufacturer" means any person, business  
8 or company in the business of designing, developing, manufacturing  
9 or testing machinery used for dry cleaning that requires the person,  
10 business or company designing, developing, manufacturing or testing  
11 the machinery to use perchloroethylene in the process of designing,  
12 developing, manufacturing or testing the machinery;

13 "Dry cleaning machinery manufacturer facility" means the premises  
14 on which a dry cleaning machinery manufacturer designs, develops,  
15 manufacturers or tests the machinery used for dry cleaning that uses  
16 perchloroethylene;

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

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

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

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

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

41 "In-State distributor" means any business, company, corporation  
42 or person engaged in selling perchloroethylene or recycled  
43 perchloroethylene, at wholesale or retail, to any area source dry  
44 cleaner or dry cleaning facility in the State, and that is based in the  
45 State and owns property in the State that is, or may become, eligible  
46 for remediation pursuant to this act;

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

7 "Perchloroethylene" means perchloroethylene, tetrachloroethylene,  
8 their chemical equivalents and their breakdown products, that are  
9 commonly used for dry cleaning;

10 "Perchloroethylene emissions" means any gaseous or vaporous  
11 releases of perchloroethylene, whether released into the indoor  
12 environment or outdoor atmosphere;

13 "Registrant" means an in-State distributor, an owner of a dry  
14 cleaning facility or a dry cleaning machinery manufacturer, or an  
15 owner of contaminated property, who can establish that the property  
16 was previously the site of an in-State distributor, a dry cleaning facility  
17 or dry cleaning machinery manufacturer facility, who has properly  
18 registered pursuant to section 4 of this act and has paid in full all fees  
19 and taxes required pursuant to sections 4 and 6 of this act;

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

24 "Route operator" means a person or the manager of a group of  
25 persons who provides dry cleaning services by operating a route of  
26 customers from which clothing, other fabrics or materials are picked  
27 up, delivered to dry cleaning facilities not owned by the route  
28 operator, cleaned, and returned to the customers on the route for a  
29 fee. The term "route operator" shall include, but need not be limited  
30 to, persons known as "bobtailers."

31  
32 4. a. The Department of Environmental Protection shall establish  
33 a registration program for all in-State and out-of-State distributors,  
34 drop stores, dry cleaning facilities, dry cleaning machinery  
35 manufacturers, and route operators doing business in the State. Every  
36 in-State distributor, out-of-State distributor, drop store, dry cleaning  
37 facility, dry cleaning machinery manufacturer and route operator shall  
38 register with the department on January 1 immediately following the  
39 date of enactment of this act, and annually on January 1 thereafter.  
40 Within 60 days after the effective date of this act and prior to January  
41 1 immediately following the effective date of this act, the department  
42 shall notify all area source dry cleaners, in-State and out-of-State  
43 distributors and dry cleaning machinery manufacturers of the  
44 registration requirements pursuant to this section and shall direct all  
45 area source dry cleaners and dry cleaning machinery manufacturers to  
46 notify each of their dry cleaning facilities and in-State and out-of-State

1 distributors that supply them with perchloroethylene of the registration  
2 requirements. The department shall collect the following registration  
3 and renewal fees and shall require the following information as part of  
4 each registration and renewal application:

5 (1) From in-State distributors, a registration and annual renewal  
6 fee of \$5,000 and documentation of the destination of all  
7 perchloroethylene distributed, with delivery dates and amount of  
8 perchloroethylene delivered per destination for the year preceding the  
9 registration or the renewal thereof, the name and address of each dry  
10 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 or the renewal thereof;

13 (2) From out-of-State distributors, a registration and annual  
14 renewal fee of \$2,500 and documentation of the destination of all  
15 perchloroethylene distributed, with delivery dates and amount of  
16 perchloroethylene delivered per destination for the year preceding the  
17 registration or the renewal thereof, the name and address of each dry  
18 cleaning facility supplied and the number of gallons of  
19 perchloroethylene supplied to each dry cleaning facility per month per  
20 facility for the year preceding the registration or the renewal thereof;

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

25 (4) From dry cleaning machinery manufacturers, a registration  
26 and annual renewal fee of \$5,000 and documentation of the number  
27 of machines manufactured and the number of gallons of  
28 perchloroethylene purchased per month for the year preceding the  
29 registration or the renewal thereof;

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

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

35 b. Any owner of contaminated property, who can establish that  
36 the property was previously the site of an in-State distributor, a dry  
37 cleaning facility or dry cleaning machinery manufacturer facility, may  
38 register with the department in order to be eligible for remediation by  
39 the fund established pursuant to section 5 of this act. Each owner of  
40 contaminated property who chooses to register shall do so on January  
41 1 immediately following the date of enactment of this act and annually  
42 on January 1 thereafter. The department shall collect a registration fee  
43 of \$1 per square foot of the contaminated property and as a renewal  
44 fee each year thereafter until the site is remediated. An owner of  
45 contaminated property, who can establish that the property was  
46 previously the site of an in-State distributor, a dry cleaning facility or

1 dry cleaning machinery manufacturer facility, but was not aware of the  
2 contamination on January 1 immediately following the date of  
3 enactment of this act, may register within six months after the  
4 contamination was discovered.

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

8 d. The department shall compile the information required pursuant  
9 to subsections a. and b. of this section and a list of all in-State and out-  
10 of-State distributors, drop stores, dry cleaning facilities, dry cleaning  
11 machinery manufacturers, route operators and owners of contaminated  
12 sites opting to participate in the remediation program established  
13 pursuant to this act and shall transmit the information and list to the  
14 Director of the Division of Taxation in the Department of the Treasury  
15 on January 1 of the year next following the date of enactment of this  
16 act, provided that the department may update the list more frequently  
17 as it deems appropriate.

18 e. The director shall utilize the list compiled by the Department of  
19 Environmental Protection to notify the owners or operators of the  
20 facilities thereon that they may be liable for the tax levied pursuant to  
21 section 6 of this act. The director may use the information compiled  
22 by the department for the purposes of enforcing subsection f. of this  
23 section and section 6 of this act.

24 f. Any person who fails to comply with the requirements of this  
25 section or falsifies any documentation or information required pursuant  
26 to this section shall be subject to a fine of not less than \$2,500 for the  
27 first offense, not more than \$5,000 for the second offense and not  
28 more than \$10,000 for a third or subsequent offense, in addition to any  
29 penalties imposed pursuant to subsection e. of section 6 of this act.  
30 Any moneys collected pursuant to this subsection shall be deposited  
31 into the "Dry Cleaner Site Remediation Fund," established pursuant to  
32 section 5 of this act.

33

34 5. a. The "Dry Cleaner Site Remediation Fund," hereinafter  
35 referred to as "the fund," is established as a special nonlapsing  
36 revolving fund. The fund shall be administered by the Department of  
37 Environmental Protection, and shall be credited with all fees and taxes  
38 collected pursuant to this act. Interest received on moneys in the fund  
39 shall be credited to the fund. The department shall not obligate funds  
40 in excess of the amount available in the fund.

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

46 c. All available moneys in the fund shall be appropriated annually

1 solely for the following purposes:

2 (1) Remediation of contaminated in-State distributor, dry cleaning  
3 facility, or dry cleaning machinery manufacturing facility sites or sites  
4 that were formerly the site of an in-State distributor, dry cleaning  
5 facility or dry cleaning machinery manufacturing facility and are now  
6 contaminated and owned by an owner who has opted to participate in  
7 the remediation program established by this act by registering with the  
8 department pursuant to subsection b. of section 4 of this act, provided  
9 that the department has determined the parties responsible for the site  
10 have properly paid all required registration fees and taxes that have  
11 been assessed pursuant to this act. The remediation shall be done in  
12 accordance with the remediation standards, procedures and  
13 requirements established by P.L.1993, c.139 (C.58:10B-1, et seq.),  
14 except that nothing in this subsection shall be construed to authorize  
15 the use of moneys in the fund for the payment of any remediation costs  
16 that are not associated with the remediation of in-State distributor,  
17 dry cleaning facility, or dry cleaning machinery manufacturing facility  
18 sites or sites that were previously the site of an in-State distributor,  
19 dry cleaning facility or dry cleaning machinery manufacturing facility.  
20 The remediation permitted pursuant to this subsection shall include  
21 contamination across property lines if the contamination is attributed  
22 to the operation of an in-State distributor, dry cleaning facility or dry  
23 cleaning machinery manufacturer facility on a nearby property  
24 currently or historically on the property;

25 (2) Remediation of contamination caused by the transport of  
26 perchloroethylene to or from an in-State distributor, dry cleaning  
27 facility or dry cleaning machinery manufacturer facility if the  
28 contamination occurs within 200 feet of the property line of an in-  
29 State distributor, dry cleaning facility or dry cleaning machinery  
30 manufacturer facility to or from which the dry cleaning solvents were  
31 transported;

32 (3) Maintenance and monitoring of contaminated in-State  
33 distributor, dry cleaning facility or dry cleaning machinery  
34 manufacturer facility sites; and

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

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

44 (1) Remediation of sites contaminated by dry cleaning solvents  
45 where the contamination at the sites did not result from the operation  
46 of an in-State distributor, dry cleaning facility or dry cleaning

1 machinery manufacturer facility;

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

6 (3) Remediation of an in-State distributor, dry cleaning facility or  
7 dry cleaning machinery manufacturer facility site where the area source  
8 dry cleaner, in-State distributor, or dry cleaning machinery  
9 manufacturer is not a registrant pursuant to this act because the area  
10 source dry cleaner, in-State distributor, or dry cleaning machinery  
11 manufacturer did not pay the proper registration fees or taxes assessed  
12 pursuant to this act; and

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

16

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

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

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

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

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

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

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

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

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

40 h. The director shall notify the department quarterly as to the  
41 status of taxpayers required to pay the tax levied pursuant to this  
42 section and shall provide a list of taxpayers who have failed to comply  
43 with the requirements of this section.

44

45 7. a. Notwithstanding the provisions of the "Spill Compensation  
46 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.), any rule

1 or regulation adopted pursuant thereto, or any other law, or any rule  
2 or regulation adopted pursuant thereto, to the contrary, registrants  
3 owning property eligible for remediation pursuant to subsection c. of  
4 section 5 of this act shall not be liable for the remediation of the  
5 property, except as provided in subsection e. of this section.

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

12 c. The department shall establish the criteria for prioritizing and  
13 remediating the sites, giving highest priority to sites that severely  
14 threaten to contaminate public and private water supplies and ranking  
15 the priority of the remediation of these sites based on the severity of  
16 the threat of contamination of public and private water supplies, the  
17 distance from public and private water supply wells, the threat to  
18 aquifers and other public health considerations. The department shall  
19 give second priority to any site subject to sale by the owner. The  
20 department shall evaluate the sites based on the criteria established  
21 pursuant to this subsection and shall devise a priority project list of the  
22 contaminated sites in the State eligible for remediation funded by the  
23 "Dry Cleaner Site Remediation Fund," established pursuant to section  
24 5 of this act.

25 d. Prior to the commencement of the remediation of a site, the  
26 department shall determine that the site is eligible for remediation  
27 pursuant to this act and that the owner of or operator of the facility on  
28 the site is a registrant pursuant to this act. The department shall assess  
29 against and collect from the registrant owning the property to be  
30 remediated pursuant to this act, at the time of commencement of  
31 remediation, the appropriate deductible in accordance with the  
32 following schedule:

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

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

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

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

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

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

4 All moneys collected pursuant to this subsection shall be deposited  
5 in the fund.

6 e. Prior to remediation of a site, the department shall determine if  
7 the registrant owning the site or any operator of a facility on the site  
8 or employees of the operator engaged in practices in violation of  
9 federal and State law, or any rule or regulation adopted pursuant  
10 thereto, at the time of the contamination, and if the practices caused  
11 the contamination. If the department determines that such practices  
12 were engaged in at the time of the contamination and that the practices  
13 caused the contamination, the registrant shall be liable for remediation  
14 of the registrant's property where these practices were implemented.  
15

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

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

23 (2) credit amounts paid to the Department of Environmental  
24 Protection, if any, in payment of fees collected pursuant to section 4  
25 of P.L. , c. (C. )(now before the Legislature as this bill), and  
26 in payment of any fines or penalties collected pursuant to P.L. , c.  
27 (C. )(now before the Legislature as this bill), to the "Dry Cleaner  
28 Site Remediation Fund," established pursuant to section 5 of P.L. ,  
29 c. (C. )(now before the Legislature as this bill); and

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

33 b. If the requirements of subsection a. of this section are not met  
34 on the effective date of an annual appropriations act for the State fiscal  
35 year, or if amendment or supplement to an annual appropriations act  
36 for the State fiscal year should violate any of the requirements of  
37 subsection a. of this section, the Director of the Division of Budget  
38 and Accounting in the Department of the Treasury shall, not later than  
39 five days after the enactment of the annual appropriations act, or an  
40 amendment or supplement thereto, that violates any of the  
41 requirements of subsection a. of this section, certify to the Director of  
42 the Division of Taxation and the Commissioner of Environmental  
43 Protection that the requirements of subsection a. of this section have  
44 not been met.

45 c. Sections 4, 5 and 6, and subsections b. through f. of section 7  
46 of P.L. , c. (C. )(now before the Legislature as this bill), shall

1 be without effect on and after the tenth day following a certification  
2 by the Director of the Division of Budget and Accounting in the  
3 Department of the Treasury pursuant to subsection b. of this section.  
4 On and after the tenth day following the certification, the Department  
5 of Environmental Protection shall assume full liability for the  
6 remediation of the sites eligible for remediation pursuant to P.L. ,  
7 c. (C. )(now before the Legislature as this bill), as defined in  
8 section 5 of P.L. , c. (C. )(now before the Legislature as  
9 this bill), and the remediation of any further contamination or damage  
10 to natural resources or property resulting from delay of the  
11 remediation of the eligible sites. Any moneys and interest on moneys  
12 remaining in the fund on the date of the appropriations act that  
13 violated the requirements of subsection a. of this section shall be  
14 appropriated to the department from the General Fund for the  
15 purposes of the remediation required by this section. All moneys  
16 collected pursuant to this subsection shall be deposited in the fund.

17

18 9. a. There is established, in but not of the Department of  
19 Environmental Protection, the Dry Cleaner Site Remediation Advisory  
20 Board comprising one representative of the Neighborhood Cleaners  
21 Association, International; one representative of the Korean Dry  
22 Cleaners Association of New Jersey; and one representative of the  
23 New Jersey Dry Cleaning Legislative Coalition; to be appointed by the  
24 Governor with the advice of the leadership of the respective  
25 organizations represented. The advisory board shall offer information  
26 concerning the dry cleaning industry to the department and shall  
27 consult with the department concerning the implementation of this act.  
28 The department shall notify the board quarterly of the status of the  
29 "Dry Cleaner Site Remediation Fund," established pursuant to section  
30 5 of this act, and the remediations funded by the moneys therein, and  
31 provide other information to the board necessary for the membership  
32 of the represented organizations to comply with the requirements of  
33 federal and State law.

34 b. The Dry Cleaner Site Remediation Advisory Board shall  
35 organize as soon as practicable following the appointment of its  
36 members and shall serve as an advisory board to the department until  
37 the organizations represented on the board determine that the board  
38 is no longer necessary.

39

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

1 11. a. The commissioner shall prepare and submit an annual  
2 report to the Governor and the Legislature, which shall describe the  
3 quantity of remediation efforts and the quality of the remediation, the  
4 costs and damages paid by and recovered for the fund, and the  
5 economic and environmental impacts on the State as a result of the  
6 administration of this act.

7 b. The department shall annually submit a written report to the  
8 Senate Environment Committee, the Assembly Agriculture and Waste  
9 Management Committee, and the Assembly Environment, Science and  
10 Technology Committee, or their successors, which shall include the  
11 information required pursuant to subsection a. of this section as well  
12 as the list transmitted to the Director of the Division of Taxation in the  
13 Department of the Treasury pursuant to subsection d. of section 4 of  
14 this act.

15  
16 12. If the Congress of the United States enacts legislation  
17 providing compensation for the remediation of sites contaminated  
18 with perchloroethylene, the commissioner shall determine to what  
19 degree that legislation provides the needed protection for the public  
20 health, businesses and the environment and shall make the appropriate  
21 recommendations to the Legislature for amendments to this act.

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

40  
41 14. In addition to the duties of the authority required under  
42 section 6 of P.L.1983, c.303 (C.52:27H-65), the authority shall, in  
43 consultation with the Department of Commerce and Economic  
44 Development, prepare a report within one year following the effective  
45 date of P.L. , c. (C. )(now before the Legislature as this bill). The  
46 report shall include, but not be limited to, a description of the demand

1 for financing assistance from area source dry cleaners and owners of  
2 dry cleaning facilities, the efforts made by the authority to meet the  
3 demand, the total amount of loans or loan guarantees issued by the  
4 authority pursuant to section 13 of P.L. , c. (C. ) (now before the  
5 Legislature as this bill), and an assessment of the effectiveness of the  
6 financing assistance provided in meeting the goals of P.L. , c.  
7 (C. ) (now before the Legislature as this bill). The authority shall  
8 submit its report to the Governor and the Legislature, along with any  
9 recommendations for legislation to improve the effectiveness of the  
10 program.

11

12 15. The authority and the Department of Commerce and  
13 Economic Development may jointly adopt, pursuant to the  
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
15 seq.), rules and regulations as may be necessary to implement the  
16 provisions of P.L. , c. (C. )(now before the Legislature as this bill)  
17 including, but not limited to, the making of loans, and the issuance of  
18 loan guarantees, pursuant to sections 13 and 14 of P.L. , c.  
19 (C. )(now before the Legislature as this bill).

20

21 16. a. Any person establishing a new area source dry cleaner or  
22 dry cleaning facility on and after the effective date of P.L. , c.  
23 (C. )(now before the Legislature as this bill) shall install or equip  
24 the facility with Generation 4 dry cleaning equipment or a subsequent  
25 generation of equipment that is completely enclosed with equivalent  
26 or higher reductions of perchloroethylene in the drum at the end of the  
27 dry cleaning cycle.

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

36 c. Within two years following the effective date of P.L. , c.  
37 (C. )(now before the Legislature as this bill), all owners of an area  
38 source dry cleaner operating Generation 1 equipment shall replace  
39 their dry cleaning equipment with Generation 4 or a subsequent  
40 generation of equipment that is completely enclosed with equivalent  
41 or higher reductions of perchloroethylene in the drum at the end of the  
42 dry cleaning cycle. Within three years following the effective date of  
43 P.L. , c. (C. )(now before the Legislature as this bill), all  
44 owners of an area source dry cleaner operating Generation 2  
45 equipment shall replace their dry cleaning equipment with Generation  
46 4 or a subsequent generation of equipment that is completely enclosed

1 with equivalent or higher reductions of perchloroethylene in the drum  
2 at the end of the dry cleaning cycle. Within four years following the  
3 effective date of P.L. , c. (C. )(now before the Legislature as  
4 this bill), all owners of an area source dry cleaner operating  
5 Generation 3 dry cleaning equipment shall replace their dry cleaning  
6 equipment with Generation 4 equipment, or to the extent permissible  
7 by federal law and any rules or regulations adopted pursuant thereto,  
8 retrofit the equipment with a carbon adsorber and an inward door fan  
9 which directs perchloroethylene emissions into the carbon adsorber at  
10 the rate of 100 feet per minute.

11 d. After seven years following the effective date of P.L. , c.  
12 (C. )(now before the Legislature as this bill), no person shall  
13 operate an area source dry cleaner in a residential building with a  
14 ventilation system for the facility that releases into the outdoor  
15 atmosphere perchloroethylene emissions greater than 50 parts per  
16 million. Area source dry cleaners shall maintain the perchloroethylene  
17 found in the ambient air of the dry cleaning facility at levels no greater  
18 than 50 parts per million.

19 e. Any person required to purchase, upgrade or retrofit equipment  
20 pursuant to this section may apply to the New Jersey Economic  
21 Development Authority for financial assistance pursuant to section 13  
22 of P.L. , c. (C. )(now before the Legislature as this bill).  
23 Only applicants who have applied for financial assistance from the  
24 New Jersey Economic Development Authority and have been denied  
25 assistance shall be exempt from the requirements of subsections a.  
26 through d. of this section. No area source dry cleaner or owner of a  
27 dry cleaning facility shall be required to comply with the provisions of  
28 subsections b. through d. of this section unless the area source dry  
29 cleaner or owner of the dry cleaning facility has received moneys from  
30 the New Jersey Economic Development Authority pursuant to section  
31 13 of P.L. , c. (C. )(now before the Legislature as this bill).  
32 Any area source dry cleaner or owner of a dry cleaning facility who  
33 does not receive moneys from the New Jersey Economic Development  
34 Authority and voluntarily complies with the requirements of  
35 subsections b. through d. of this section shall be entitled to the sales  
36 tax exemption provided pursuant to section 21 of P.L. , c.  
37 (C. )(now before the Legislature as this bill).

38  
39 17. a. Within one year after the effective date of P.L. , c.  
40 (C. )(now before the Legislature as this bill), the Department of  
41 Environmental Protection shall certify certain trade organizations or  
42 educational institutions that it determines qualified to train distributors  
43 and area source dry cleaners concerning proper hazardous waste  
44 disposal, air pollution concerns, employee rights and workplace  
45 standards, prevention of groundwater contamination, and federal and  
46 State law and regulation affecting the dry cleaning industry in the

1 State. The department shall determine the minimum qualifications for  
2 certification and shall notify each in-State distributor and area source  
3 dry cleaner of the certified trade organizations or educational  
4 institutions in the State. Any trade organization or educational  
5 institution that wishes to be certified by the State may contact the  
6 department, request information concerning the qualifications for  
7 certification and apply for certification by the State.

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

15 c. No distributor or area source dry cleaner, or employee thereof,  
16 shall be required to be trained until a trade organization or educational  
17 institution in the State has been certified pursuant to subsection a. of  
18 this section. Upon department certification of training courses, each  
19 in-State distributor or area source dry cleaner, or employee thereof,  
20 shall be required to complete the certified course within two years  
21 after the department's notification of certification of training courses,  
22 and shall complete the course required pursuant this subsection at  
23 their own expense. The department shall issue a dry cleaning operator  
24 certificate to any person who submits documentation verifying that the  
25 certified training courses have been satisfactorily completed.

26 d. On January 1 following the two-year period for training  
27 established in subsection b. of this section and thereafter, no person  
28 may operate an in-State distributor, dry cleaning facility or dry  
29 cleaning machinery manufacturing facility unless the on-premises  
30 operator supervising the facility has obtained a dry cleaning  
31 owner/manager certificate pursuant to this section and the employees  
32 of the facility have been properly trained as required by the  
33 department.

34  
35 18. a. Within 180 days after the effective date of P.L. , c.  
36 (C. ) (now before the Legislature as this bill), the Department of  
37 Environmental Protection shall establish registration and certification  
38 procedures for persons and manufacturers installing and servicing dry  
39 cleaning equipment in the State to become authorized dry cleaner  
40 service and equipment providers. The department shall require every  
41 authorized dry cleaner service and equipment provider to provide for  
42 certification:

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

46 (2) A detailed description of the dry cleaning system, and a

1 description of the capabilities and procedures for the installation, use,  
2 maintenance, repair, and tune-up of the system, including a description  
3 of any lockout systems employed;

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

6 (4) A copy of the dry cleaning warranty and service contracts that  
7 the dry cleaning equipment shall achieve compliance with all applicable  
8 federal and State laws, including a description of the servicing network  
9 and parts availability to be established to serve dry cleaning facilities  
10 within the State, and wherever possible, a five-year warranty on all  
11 parts, equipment and on-site service shall be provided, and wherever  
12 that is not possible, a description of why a five-year warranty is not  
13 provided and why the provided warranty is considered sufficient;

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

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

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

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

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

39 c. Within 90 days following the receipt of an application for  
40 certification, the department shall notify the applicant for certification  
41 as a dry cleaner service and equipment provider of certification  
42 approval or denial. If approved, the department shall notify the  
43 approved applicant at that time when a certificate shall be forwarded  
44 to the approved applicant. If denied, the department shall notify the  
45 denied applicant of the reasons for denial and the deficiencies in the  
46 certification application. A dry cleaner service and equipment provider

1 certificate shall be valid from the date of notification of application  
2 approval.

3  
4 19. Within one year after the effective date of P.L. , c.  
5 (C. )(now before the Legislature as this bill), the Department of  
6 Environmental Protection shall adopt, pursuant to the "Administrative  
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
8 regulations establishing a random inspection program for area source  
9 dry cleaners. These rules and regulations shall provide for the  
10 monitoring and supervision of conversion and retrofitting of  
11 equipment, enforcement of the standards and requirements set forth in  
12 P.L. , c. (C. )(now before the Legislature as this bill), and  
13 penalties for violations of the standards and requirements. The rules  
14 and regulations may also include any other provisions deemed  
15 necessary by the department for the implementation and enforcement  
16 of P.L. , c. (C. )(now before the Legislature as this bill). The  
17 department may charge and collect a reasonable fee, not to exceed  
18 \$300, for each inspection performed under the random inspection  
19 program, but shall charge and collect no other fees for the random  
20 inspection program.

21  
22 20. Nothing in P.L. , c. (C. )(now before the Legislature  
23 as this bill) shall be construed to supersede or otherwise interfere with  
24 the department's issuance of operating permits or its implementation  
25 of any federal program establishing national perchloroethylene air  
26 emission standards for dry cleaning facilities, except that, if the  
27 implementation of the program requires area source dry cleaners to  
28 retrofit or replace equipment or machines, the department shall require  
29 the area source dry cleaner to comply with the requirements of  
30 P.L. , c. (C. )(now before the Legislature as this bill), and in  
31 the event that emissions standards vary, the department shall enforce  
32 the most stringent standard for perchloroethylene emissions.

33  
34 21. a. Receipts from sales of Generation 4 dry cleaning  
35 equipment, as defined in section 3 of P.L. , c. (C. )(now  
36 before the Legislature as this bill), or a subsequent generation of  
37 equipment that is completely enclosed with equivalent or higher  
38 reductions of perchloroethylene in the drum at the end of the dry  
39 cleaning cycle, or equipment and apparatus necessary to convert or  
40 retrofit existing dry cleaning equipment, for use directly and  
41 exclusively for the control or elimination of perchloroethylene  
42 emissions, or the reduction of such emissions to levels specified,  
43 pursuant to section 16 of P.L. , c. (C. )(now before the  
44 Legislature as this bill), are exempt from the tax imposed under the  
45 "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32-B-1 et seq.) for  
46 seven years after the effective date of P.L. , c. (C. )(now

1 pending before the Legislature as this bill). This exemption shall not  
2 apply to tools or supplies used in connection with the installation or  
3 maintenance of equipment or apparatus described in this subsection.

4 b. The director, in conjunction with the Commissioner of  
5 Environmental Protection, shall adopt rules and regulations, pursuant  
6 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
7 et seq.), to specifically identify, or to provide guidelines for the  
8 identification of, the equipment and apparatus that shall qualify for the  
9 exemption from taxation provided by P.L. , c. (C. )(now  
10 before the Legislature as this bill). In addition, the director shall adopt  
11 any other rules and regulations as are deemed necessary and  
12 appropriate for the administration of P.L. , c. (C. )(now  
13 before the Legislature as this bill).

14

15 22. This act shall take effect on the first day of January following  
16 the date of enactment.

17

18

19

20

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