

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Environmental Preservation Committee

BILL: SB 1664

SPONSOR: Senator Peaden

SUBJECT: Contaminated Drycleaning Facilities

DATE: April 1, 2005

REVISED: 04/05/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Branning	Kiger	EP	Fav/1 amendment
2.			JU	
3.			GA	
4.				
5.				
6.				

Please see last section for Summary of Amendments

Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill would allow a drycleaning facility at which contamination by drycleaning solvents exists and which was damaged by accident at any time to be eligible for the drycleaning solvent cleanup program, regardless of whether an application for eligibility was filed on or before December 31, 1998.

This bill substantially amends s. 376.3078, Florida Statutes.

II. Present Situation:

In 1994, serious concerns were expressed regarding the contamination and potential health and environmental risks as a result of the discharge of solvents commonly used in the drycleaning process. Due to the nature of drycleaning solvents, cleanup of these types of contaminated sites was expected to be both difficult and costly. As a result, small, independent owners of drycleaning facilities may not have the financial resources to investigate, clean up, and monitor these sites.

Drycleaning solvents are considered to be hazardous substances under both state and federal law. The solvent of choice for drycleaners is perchloroethylene, or PERC. It is a colorless, nonflammable liquid. The drycleaning industry is the largest U.S. user of PERC; however, there

are a variety of other uses such as in vapor degreasing and metal cleaning operations; as an additive to aerosol formulations, solvent soaps; printing inks, adhesives, sealants, polishes, lubricants, and silicones; and as an ingredient in shoe polish.

PERC evaporates when exposed to air and dissolves only slightly when mixed with water. Most releases of PERC to the environment are to the air. Pursuant to the federal Clean Air Act Amendments of 1990, the U.S. Environmental Protection Agency regulates the emission of PERC as one of 189 toxic chemicals. When a PERC release occurs on the ground, it does not bind well with the soil and can move through the ground and into the ground water, making cleanup costly and difficult.

In 1994, the Legislature enacted the drycleaning contamination cleanup program which was modeled somewhat after the underground petroleum storage tank cleanup program. The drycleaning solvent cleanup program is a prior approval program. All of the drycleaning site rehabilitation work is conducted by state contractors who must have prior approval before any work is done. The program is funded primarily from a 2 percent gross receipts tax which is levied on drycleaning facilities and a \$5-per-gallon tax on perchloroethylene used by drycleaners. The estimated annual collections from the gross receipts tax and perchloroethylene tax are \$9.485 million.¹ These tax revenues are deposited into the Water Quality Assurance Trust Fund.

When the program was enacted, the eligibility period for applying for inclusion in the program would have closed on December 31, 2005. However, the Legislature in 1998, amended the eligibility date and closed the program on December 31, 1998. The eligibility period was shortened to provide predictability as to the number of sites requiring rehabilitation and bring some closure to the program and assure that the state is committed to cleaning up only contamination that has occurred prior to the requirements for secondary containment rather than new spills which may be the result of negligence or failure to install such measures.²

The program has been closed for registering eligible sites since 1998. Recently, a site has been identified that is contaminated and would have qualified for the program but application for inclusion in the program was not made by the December 31, 1998 deadline. That site was damaged in 1974 when a vehicle drove into the drycleaning facility. The police and fire departments responded and because solvents were involved (PERC), the fire department was concerned about fire. The fire department sprayed the facility with chemicals to prevent such an occurrence. In doing so, the chemicals and the PERC were washed into the ground surrounding the facility and down the storm sewers. The owners of the drycleaning facility subsequently rebuilt a new drycleaning facility nearby, not on the damaged site. When the drycleaning cleanup program was enacted, the owners applied for eligibility into the program for the rebuilt site, but application was never made for the damaged old site.

Section 376.3078, F.S., is Florida's law pertaining to the drycleaning site rehabilitation program. The program is administered by the Department of Environmental Protection. This section,

¹ 2005 Florida Tax Handbook

² Committee on Natural Resource Interim Project Report 97-P-16, September 1997, page 7.

among other things, provides the eligibility requirements, rehabilitation criteria, a priority scoring system, and insurance requirements.

III. Effect of Proposed Changes:

This bill amends s. 376.3078(3), F.S., to provide that a drycleaning facility at which contamination by drycleaning solvents exists and which was damaged by accident at any time is eligible for the drycleaning solvent cleanup program, regardless of whether an application for eligibility was filed on or before December 31, 1998. The term “accident” is defined as an unplanned and unanticipated occurrence beyond the control of the owner or operator of a drycleaning facility which resulted in physical damage to the facility when the actions of responders to such occurrence could reasonably be determined to have caused or exacerbated contamination by drycleaning solvents at such facility.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If a contaminated drycleaning site owner can show that the contamination was caused by an “accident,” the site would be eligible for state funded cleanup, whether or not the site was otherwise eligible for the program. The average cost of a cleanup of a contaminated drycleaning site is \$475,000.³ It is not known how many such sites would become eligible for the program under the “accident” criteria.

C. Government Sector Impact:

Currently, there is a backlog of sites to be cleanup in the drycleaning solvent cleanup program. The tax revenues that support this program bring in approximately \$9.485 million annually. The average cost to clean up a contaminated site is \$475,000. In

³ Department of Environmental Protection Draft Bill Analysis for SB 1664, (2005).

FY 2004-2005, \$2 million in interest earnings were transferred from the Inland Protection Trust Fund to the Water Quality Assurance Trust Fund to help support the drycleaning cleanup program. It is estimated that for the 1,344 sites currently eligible for the program, it will be 50 years or more before the sites can be addressed and cleaned up because of funding limitations. This bill will add at least one more site to the list of eligible sites.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

Barcode 864844 by Environmental Preservation:

Specifies that a drycleaning facility that was damaged by accident prior to January 1, 1975, is eligible for cleanup under the Drycleaning Solvent Cleanup Program.

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