

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Legislative findings. In 1997, Public Act 90-502  
5 established the Drycleaner Environmental Response Trust Fund  
6 (Trust Fund) in response to requests by operators of retail  
7 drycleaning facilities to have financial resources available  
8 to pay for the cleanup of spills and leaks from drycleaning  
9 machines and solvent storage units.

10 The purpose of the Trust Fund is to pay for the remediation  
11 of soil and groundwater contamination at both inactive and  
12 active drycleaner sites, as well as prevent future spills and  
13 leaks of drycleaning solvent.

14 The Trust Fund consists of three primary programs: a  
15 licensing program, an insurance program, and a remedial  
16 program.

17 The Trust Fund is financed by an annual license fee on  
18 active drycleaning facilities; a solvent fee tax charged on  
19 each gallon of drycleaning solvent purchased; and insurance  
20 premiums for pollution liability insurance coverage.

21 A private company currently provides third-party  
22 administrative services for the Trust Fund, including, but not  
23 limited to: receiving and processing license applications,  
24 receiving and processing applications for insurance coverage,

1 receiving and processing claims, and furnishing other  
2 accounting and record-keeping services.

3 Over the course of its operation, the Trust Fund has paid  
4 over \$31 million for remedial action and insurance claims.

5 The Trust Fund currently has a backlog of unpaid claims  
6 totaling \$27 million.

7 There are approximately 230 sites that still need to be  
8 remediated using moneys in the Trust Fund.

9 Under the current system, the Trust Fund's existing funding  
10 sources will not be sufficient to keep up with projected costs  
11 and remedial action and insurance claims; thereby increasing  
12 the potential for drycleaning solvent releases to impact a  
13 larger number of drinking water supplies and threatening many  
14 others across the State.

15 The most recent estimate of reimbursement fund balance  
16 reveals the Trust Fund is projected to have a deficit of \$14  
17 million by its sunset date of January 1, 2020.

18 Most drycleaners are small, independently-owned  
19 businesses, and if the Trust Fund is not solvent, drycleaners  
20 may not be able to remediate solvent releases in a responsible  
21 manner.

22 The General Assembly finds that it is necessary to form a  
23 Task Force to study the resource challenges and implementation  
24 issues that the Trust Fund currently faces.

25 Section 5. The Drycleaner Environmental Response Trust

1 Fund Act is amended by changing Section 45 and by adding  
2 Section 27 as follows:

3 (415 ILCS 135/27 new)

4 Sec. 27. Drycleaner Environmental Response Trust Fund Task  
5 Force.

6 (a) There is created the Drycleaner Environmental Response  
7 Trust Fund Task Force ("Task Force"). The Task Force shall  
8 study the resource challenges and implementation issues that  
9 the Fund faces and make recommendations for adequately funding  
10 the Fund and for refining and improving the goals and  
11 implementation of the Trust Fund program. In conducting the  
12 study of the Trust Fund program, the Task Force shall consider  
13 appropriate changes to the existing program, including, but not  
14 limited to, the following: administration of the program,  
15 program eligibility, program goals, fee structures,  
16 administrative expenses, licensing requirements, benefits for  
17 participation, compliance assurance and continuing education  
18 standards, and sunset date.

19 (b) The Council shall be composed of the following members:

20 (1) Two members appointed by the Speaker of the House,  
21 one of whom shall be designated as co-chairperson of the  
22 Task Force;

23 (2) Two members appointed by the Minority Leader of the  
24 House;

25 (3) Two members appointed by the President of the

1 Senate, one of whom shall be designated as co-chairperson  
2 of the Task Force;

3 (4) Two members appointed by the Minority Leader of the  
4 Senate;

5 (5) Seven members appointed by the Governor to  
6 represent the dry cleaning industry, including two members  
7 who represent a statewide dry cleaners' organization,  
8 three members who represent regional or major metropolitan  
9 dry cleaning associations, and two members representing an  
10 in-state wholesale distributor of dry cleaning agents;

11 (6) One person appointed by the Governor to represent  
12 the Drycleaner Environmental Response Trust Fund Council;  
13 and

14 (7) The Director of the Illinois Environmental  
15 Protection Agency, or his or her designee.

16 (c) The members of the Task Force shall serve without  
17 compensation.

18 (d) The Illinois Environmental Protection Agency shall  
19 provide administrative support to the Task Force.

20 (e) In making its determinations, the Task Force must hold  
21 at least 3 public meetings in 3 separate metropolitan areas of  
22 the State.

23 (f) The Task Force shall submit a report of its findings  
24 and recommendations, which shall include proposed legislation,  
25 to the Governor and to the General Assembly by no later than  
26 December 31, 2014.

1           (g) This Section is repealed on January 1, 2016.

2           (415 ILCS 135/45)

3           Sec. 45. Insurance account.

4           (a) The insurance account shall offer financial assurance  
5 for a qualified owner or operator of a drycleaning facility  
6 under the terms and conditions provided for under this Section.  
7 Coverage may be provided to either the owner or the operator of  
8 a drycleaning facility. The Council is not required to resolve  
9 whether the owner or operator, or both, are responsible for a  
10 release under the terms of an agreement between the owner and  
11 operator.

12           (b) The source of funds for the insurance account shall be  
13 as follows:

14           (1) Moneys appropriated to the Council or moneys  
15 allocated to the insurance account by the Council according  
16 to the Fund budget approved by the Council.

17           (2) Moneys collected as an insurance premium,  
18 including service fees, if any.

19           (3) Investment income attributed to the insurance  
20 account by the Council.

21           (c) An owner or operator may purchase coverage of up to  
22 \$500,000 per drycleaning facility subject to the terms and  
23 conditions under this Section and those adopted by the Council.  
24 Coverage shall be limited to remedial action costs associated  
25 with soil and groundwater contamination resulting from a

1 release of drycleaning solvent at an insured drycleaning  
2 facility, including third-party liability for soil and  
3 groundwater contamination. Coverage is not provided for a  
4 release that occurred before the date of coverage.

5 (d) An owner or operator, subject to underwriting  
6 requirements and terms and conditions deemed necessary and  
7 convenient by the Council, may purchase insurance coverage from  
8 the insurance account provided that the drycleaning facility to  
9 be insured meets the following conditions:

10 (1) a site investigation designed to identify soil and  
11 groundwater contamination resulting from the release of a  
12 drycleaning solvent has been completed. The Council shall  
13 determine if the site investigation is adequate. This  
14 investigation must be completed by June 30, 2006. For  
15 drycleaning facilities that apply for insurance coverage  
16 after June 30, 2006, the site investigation must be  
17 completed prior to issuance of insurance coverage; and

18 (2) the drycleaning facility is participating in and  
19 meets all requirements of a drycleaning compliance program  
20 approved by the Council.

21 (e) The annual premium for insurance coverage shall be:

22 (1) For the year July 1, 1999 through June 30, 2000,  
23 \$250 per drycleaning facility.

24 (2) For the year July 1, 2000 through June 30, 2001,  
25 \$375 per drycleaning facility.

26 (3) For the year July 1, 2001 through June 30, 2002,

1           \$500 per drycleaning facility.

2           (4) For the year July 1, 2002 through June 30, 2003,  
3           \$625 per drycleaning facility.

4           (5) For subsequent years, an owner or operator applying  
5           for coverage shall pay an annual actuarially-sound  
6           insurance premium for coverage by the insurance account.  
7           The Council may approve Fund coverage through the payment  
8           of a premium established on an actuarially-sound basis,  
9           taking into consideration the risk to the insurance account  
10          presented by the insured. Risk factor adjustments utilized  
11          to determine actuarially-sound insurance premiums should  
12          reflect the range of risk presented by the variety of  
13          drycleaning systems, monitoring systems, drycleaning  
14          volume, risk management practices, and other factors as  
15          determined by the Council. As used in this item,  
16          "actuarially sound" is not limited to Fund premium revenue  
17          equaling or exceeding Fund expenditures for the general  
18          drycleaning facility population. Actuarially-determined  
19          premiums shall be published at least 180 days prior to the  
20          premiums becoming effective.

21          (e-5) If an insurer sends a second notice to an owner or  
22          operator demanding immediate payment of a past-due premium for  
23          insurance services provided pursuant to this Act, the demand  
24          for payment must offer a grace period of not less than 30 days  
25          during which the owner or operator shall be allowed to pay any  
26          premiums due. If payment is made during that period, coverage

1 under this Act shall not be terminated for non-payment by the  
2 insurer.

3 (e-6) If an insurer terminates an owner or operator's  
4 coverage under this Act, the insurer must send a written notice  
5 to the owner or operator to inform him or her of the  
6 termination of that coverage, and that notice must include  
7 instructions on how to seek reinstatement of coverage, as well  
8 as information concerning any premiums or penalties that might  
9 be due.

10 (f) If coverage is purchased for any part of a year, the  
11 purchaser shall pay the full annual premium. The insurance  
12 premium is fully earned upon issuance of the insurance policy.

13 (g) The insurance coverage shall be provided with a \$10,000  
14 deductible policy.

15 (h) A future repeal of this Section shall not terminate the  
16 obligations under this Section or authority necessary to  
17 administer the obligations until the obligations are  
18 satisfied, including but not limited to the payment of claims  
19 filed prior to the effective date of any future repeal against  
20 the insurance account until moneys in the account are  
21 exhausted. Upon exhaustion of the moneys in the account, any  
22 remaining claims shall be invalid. If moneys remain in the  
23 account following satisfaction of the obligations under this  
24 Section, the remaining moneys and moneys due the account shall  
25 be used to assist current insureds to obtain a viable insuring  
26 mechanism as determined by the Council after public notice and



1 opportunity for comment.

2 (Source: P.A. 93-201, eff. 1-1-04.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.