

AN ACT concerning safety.

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

Section 5. The Drycleaner Environmental Response Trust Fund Act is amended by changing Sections 20, 40, 60, and 65 and by adding Section 69 as follows:

(415 ILCS 135/20)

Sec. 20. Council rules.

(a) The Council may adopt rules in accordance with the emergency rulemaking provisions of Section 5-45 of the Illinois Administrative Procedure Act for one year after the effective date of this Act. Thereafter, the Council shall conduct general rulemaking as provided under the Illinois Administrative Procedure Act.

(b) The Council shall adopt rules regarding its practice and procedures for investigating and settling claims made against the Fund, determining reimbursement guidelines, coordinating with the Agency, and otherwise implementing and administering the Fund under this Act.

(c) The Council shall adopt rules regarding its practice and procedures to develop underwriting standards, establish insurance account coverage and risk factors, settle claims made against the insurance account of the Fund, determine

appropriate deductibles or retentions in coverages or benefits offered under the insurance account of the Fund, determine reimbursement guidelines, and otherwise implement and administer the insurance account under this Act.

(d) The Council shall adopt rules necessary for the implementation and collection of insurance account premiums prior to offering insurance to an owner or operator of a drycleaning facility or other person.

(e) The Council shall adopt rules prescribing requirements for the retention of records by an owner or operator and the periods for which he or she must retain those records.

(f) The Council shall adopt rules describing the manner in which all disbursed moneys received from the Agency shall be deposited with a bank or savings and loan association to be approved by the Council. For purposes of this subsection, the Council shall be considered a public agency and, therefore, no bank or savings and loan association shall receive public funds from the Council, and the Council shall not make any investments, unless in accordance with the Public Funds Investment Act.

(g) All final Council decisions regarding the Fund or any reimbursement from the Fund and any decision concerning the classification of drycleaning solvents pursuant to subsection (a) of Section 65 of this Act and any notice of the assessment of civil penalties under Section 69 of this Act shall be subject to appeal to the Administrator of the Council, by the

affected parties, within 60 days after the final decision. The Council shall determine by rule persons who have standing to appeal final Council decisions. Any written decision by the Administrator may be appealed to the Council within 60 days after the Administrator's final decision. Any decision by the Council may be appealed to the Council's administrative law judge within 60 days after the Council's final decision. Notice of any hearing provided for by this Act shall be given not less than 7 days before the day fixed for the hearing ~~All appeals of final Council decisions shall be presented to and reviewed by the Council's administrative hearing officer.~~ An appeal of the administrative law judge's ~~hearing officer's~~ decision will be subject to judicial review in accordance with the Administrative Review Law.

Any decision not timely appealed shall become a final administrative decision without the necessity of a final administrative decision being issued and shall be deemed to be a final administrative decision.

The Council shall adopt rules relating to appeal procedures.

The Council may designate an attorney, employed by the Council or privately employed, to act as an administrative law judge to preside at any administrative hearing resulting from the appeal of a Council decision. The Council and the Department of Revenue are authorized to enter into an agreement whereby an administrative law judge employed by the Department

may be assigned to preside at the administrative hearings.

Proof of the Council's administrative decision may be made at any administrative or legal proceeding by a reproduced copy of the Council's record relating to the decision under the certificate of the Council. A reproduced copy shall, without further proof, be admitted into evidence and shall be prima facie proof of the decision.

The provisions of the Administrative Review Law, and any rules adopted under the Administrative Review law by the Council, shall govern all proceedings for the judicial review of final administrative decisions of the Council. The term "administrative decision" has the same meaning as it does in Section 3-101 of the Code of Civil Procedure.

Venue for an administrative review action challenging the results of an administrative hearing upholding an administrative decision issued by the Council shall be proper in the Circuit Court of the county where the plaintiff has its principal place of business, or Sangamon County if the plaintiff's principal place of business is located outside Illinois. ~~that shall require the Council to deliver notice of appeal to the affected parties within 30 days of receipt of notice, require that the hearing be held within 180 days of the filing of the petition unless good cause is shown for the delay, and require that a final decision be issued no later than 120 days following the close of the hearing. The time restrictions in this subsection may be waived by mutual~~

~~agreement of the parties.~~

(Source: P.A. 90-502, eff. 8-19-97.)

(415 ILCS 135/40)

Sec. 40. Remedial action account.

(a) The remedial action account is established to provide reimbursement to eligible claimants for drycleaning solvent investigation, remedial action planning, and remedial action activities for existing drycleaning solvent contamination discovered at their drycleaning facilities.

(b) The following persons are eligible for reimbursement from the remedial action account:

(1) In the case of claimant who is the owner or operator of an active drycleaning facility licensed by the Council under this Act at the time of application for remedial action benefits afforded under the Fund, the claimant is only eligible for reimbursement of remedial action costs incurred in connection with a release from that drycleaning facility, subject to any other limitations under this Act.

(2) In the case of a claimant who is the owner of an inactive drycleaning facility and was the owner or operator of the drycleaning facility when it was an active drycleaning facility, the claimant is only eligible for reimbursement of remedial action costs incurred in connection with a release from the drycleaning facility,

subject to any other limitations under this Act.

(c) An eligible claimant requesting reimbursement from the remedial action account shall meet all of the following:

(1) The claimant demonstrates that the source of the release is from the claimant's drycleaning facility.

(2) At the time the release was discovered by the claimant, the claimant and the drycleaning facility were in compliance with the Agency reporting and technical operating requirements.

(3) The claimant reported the release in a timely manner to the Agency in accordance with State law.

(4) The claimant applying for reimbursement has not filed for bankruptcy on or after the date of his or her discovery of the release.

(5) If the claimant is the owner or operator of an active drycleaning facility, the claimant has provided to the Council proof of implementation and maintenance of the following pollution prevention measures:

(A) That all drycleaning solvent wastes generated at a drycleaning facility be managed in accordance with applicable State waste management laws and rules.

(B) A prohibition on the discharge of wastewater from drycleaning machines or of drycleaning solvent from drycleaning operations to a sanitary sewer or septic tank or to the surface or in groundwater.

(C) That every drycleaning facility:

(I) install a containment dike or other containment structure around each machine, item of equipment, drycleaning area, and portable waste container in which any drycleaning solvent is utilized, which shall be capable of containing leaks, spills, or releases of drycleaning solvent from that machine, item, area, or container. The containment dike or other containment structure shall be capable of at least the following: (i) containing a capacity of 110% of the drycleaning solvent in the largest tank or vessel within the machine; (ii) containing 100% of the drycleaning solvent of each item of equipment or drycleaning area; and (iii) containing 100% of the drycleaning solvent of the largest portable waste container or at least 10% of the total volume of the portable waste containers stored within the containment dike or structure, whichever is greater.

Petroleum underground storage tank systems that are upgraded in accordance with USEPA upgrade standards pursuant to 40 CFR Part 280 for the tanks and related piping systems and use a leak detection system approved by the USEPA or IEPA are exempt from this secondary containment requirement; and

(II) seal or otherwise render impervious those portions of diked floor surfaces on which a

drycleaning solvent may leak, spill, or otherwise be released.

(D) A requirement that all drycleaning solvent shall be delivered to drycleaning facilities by means of closed, direct-coupled delivery systems.

(6) An active drycleaning facility has maintained continuous financial assurance for environmental liability coverage in the amount of at least \$500,000 at least since the date of award of benefits under this Section or July 1, 2000, whichever is earlier. An uninsured drycleaning facility that has filed an application for insurance with the Fund by January 1, 2004, obtained insurance through that application, and maintained that insurance coverage continuously shall be considered to have conformed with the requirements of this subdivision (6). To conform with this requirement the applicant must pay the equivalent of the total premiums due for the period beginning June 30, 2000 through the date of application plus a 20% penalty of the total premiums due for that period.

(7) The release was discovered on or after July 1, 1997 and before July 1, 2006.

(d) A claimant shall submit a completed application form provided by the Council. The application shall contain documentation of activities, plans, and expenditures associated with the eligible costs incurred in response to a release of drycleaning solvent from a drycleaning facility.

Application for remedial action account benefits must be submitted to the Council on or before June 30, 2005.

(e) Claimants shall be subject to the following deductible requirements, unless modified pursuant to the Council's authority under Section 75:

(1) An eligible claimant submitting a claim for an active drycleaning facility is responsible for the first \$5,000 of eligible investigation costs and for the first \$10,000 of eligible remedial action costs incurred in connection with the release from the drycleaning facility and is only eligible for reimbursement for costs that exceed those amounts, subject to any other limitations of this Act.

(2) An eligible claimant submitting a claim for an inactive drycleaning facility is responsible for the first \$10,000 of eligible investigation costs and for the first \$10,000 of eligible remedial action costs incurred in connection with the release from that drycleaning facility, and is only eligible for reimbursement for costs that exceed those amounts, subject to any other limitations of this Act.

(f) Claimants are subject to the following limitations on reimbursement:

(1) Subsequent to meeting the deductible requirements of subsection (e), and pursuant to the requirements of Section 75, reimbursement shall not exceed \$300,000 per

active drycleaning facility and \$50,000 per inactive drycleaning facility.

(2) A contract in which one of the parties to the contract is a claimant, for goods or services that may be payable or reimbursable from the Council, is void and unenforceable unless and until the Council has found that the contract terms are within the range of usual and customary rates for similar or equivalent goods or services within this State and has found that the goods or services are necessary for the claimant to comply with Council standards or other applicable regulatory standards.

(3) A claimant may appoint the Council as an agent for the purposes of negotiating contracts with suppliers of goods or services reimbursable by the Fund. The Council may select another contractor for goods or services other than the one offered by the claimant if the scope of the proposed work or actual work of the claimant's offered contractor does not reflect the quality of workmanship required or if the costs are determined to be excessive, as determined by the Council.

(4) The Council may require a claimant to obtain and submit 3 bids and may require specific terms and conditions in a contract subject to approval.

(5) The Council may enter into a contract or an exclusive contract with the supplier of goods or services required by a claimant or class of claimants, in connection

with an expense reimbursable from the Fund, for a specified good or service at a gross maximum price or fixed rate, and may limit reimbursement accordingly.

(6) Unless emergency conditions exist, a service provider shall obtain the Council's approval of the budget for the remediation work before commencing the work. No expense incurred that is above the budgeted amount shall be paid unless the Council approves the expense prior to its being incurred. All invoices and bills relating to the remediation work shall be submitted with appropriate documentation, as deemed necessary by the Council, ~~not later than 30 days after the work has been performed.~~

(7) Neither the Council nor an eligible claimant is responsible for payment for costs incurred that have not been previously approved by the Council, unless an emergency exists.

(8) The Council may determine the usual and customary costs of each item for which reimbursement may be awarded under this Section. The Council may revise the usual and customary costs from time to time as necessary, but costs submitted for reimbursement shall be subject to the rates in effect at the time the costs were incurred.

(9) If a claimant has pollution liability insurance coverage other than coverage provided by the insurance account under this Act, that coverage shall be primary. Reimbursement from the remedial account shall be limited to

the deductible amounts under the primary coverage and the amount that exceeds the policy limits of the primary coverage, subject to the deductible amounts of this Act. If there is a dispute between the claimant and the primary insurance provider, reimbursement from the remedial action account may be made to the claimant after the claimant assigns all of his or her interests in the insurance coverage to the Council.

(g) The source of funds for the remedial action account shall be moneys allocated to the account by the Council according to the Fund budget approved by the Council.

(h) A drycleaning facility will be classified as active or inactive for purposes of determining benefits under this Section based on the status of the facility on the date a claim is filed.

(i) Eligible claimants shall conduct remedial action in accordance with the Site Remediation Program under the Environmental Protection Act and Part 740 of Title 35 of the Illinois Administrative Code and the Tiered Approach to Cleanup Objectives under Part 742 of Title 35 of the Illinois Administrative Code.

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

(415 ILCS 135/60)

(Section scheduled to be repealed on January 1, 2020)

Sec. 60. Drycleaning facility license.

(a) On and after January 1, 1998, no person shall operate a drycleaning facility in this State without a license issued by the Council.

(b) The Council shall issue an initial or renewal license to a drycleaning facility on submission by an applicant of a completed form prescribed by the Council and proof of payment of the required fee to the Department of Revenue.

(c) On or after January 1, 2004, the annual fees for licensure are as follows:

(1) \$500 for a facility that uses (i) 50 gallons or less of chlorine-based or green drycleaning solvents annually, (ii) 250 or less gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) 500 gallons or less annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(2) \$500 for a facility that uses (i) more than 50 gallons but not more than 100 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 250 gallons but not more 500 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 500 gallons but not more than 1,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(3) \$500 for a facility that uses (i) more than 100 gallons but not more than 150 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 500 gallons but not more than 750 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 1,000 gallons but not more than 1,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(4) \$1,000 for a facility that uses (i) more than 150 gallons but not more than 200 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 750 gallons but not more than 1,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 1,500 gallons but not more than 2,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(5) \$1,000 for a facility that uses (i) more than 200 gallons but not more than 250 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 1,000 gallons but not more than 1,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 2,000 gallons but not more than 2,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning

machine without a solvent reclaimer.

(6) \$1,000 for a facility that uses (i) more than 250 gallons but not more than 300 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 1,250 gallons but not more than 1,500 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 2,500 gallons but not more than 3,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(7) \$1,000 for a facility that uses (i) more than 300 gallons but not more than 350 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 1,500 gallons but not more than 1,750 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 3,000 gallons but not more than 3,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(8) \$1,500 for a facility that uses (i) more than 350 gallons but not more than 400 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 1,750 gallons but not more than 2,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 3,500 gallons but not more than 4,000 gallons annually of

hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(9) \$1,500 for a facility that uses (i) more than 400 gallons but not more than 450 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 2,000 gallons but not more than 2,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 4,000 gallons but not more than 4,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(10) \$1,500 for a facility that uses (i) more than 450 gallons but not more than 500 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 2,250 gallons but not more than 2,500 gallons annually of hydrocarbon-based solvents used in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 4,500 gallons but not more than 5,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(11) \$1,500 for a facility that uses (i) more than 500 gallons but not more than 550 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 2,500 gallons but not more than 2,750 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 5,000

gallons but not more than 5,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(12) \$1,500 for a facility that uses (i) more than 550 gallons but not more than 600 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 2,750 gallons but not more than 3,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 5,500 gallons but not more than 6,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer.

(13) \$1,500 for a facility that uses (i) more than 600 gallons of chlorine-based or green drycleaning solvents annually, (ii) more than 3,000 gallons but not more than 3,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer, or (iii) more than 6,000 gallons of hydrocarbon-based drycleaning solvents annually in a drycleaning machine equipped without a solvent reclaimer.

(14) \$1,500 for a facility that uses more than 3,250 gallons but not more than 3,500 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer.

(15) \$1,500 for a facility that uses more than 3,500 gallons but not more than 3,750 gallons annually of

hydrocarbon-based solvents used in a drycleaning machine equipped with a solvent reclaimer.

(16) \$1,500 for a facility that uses more than 3,750 gallons but not more than 4,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer.

(17) \$1,500 for a facility that uses more than 4,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer.

For purpose of this subsection, the quantity of drycleaning solvents used annually shall be determined as follows:

(1) in the case of an initial applicant, the quantity of drycleaning solvents that the applicant estimates will be used during his or her initial license year. A fee assessed under this subdivision is subject to audited adjustment for that year; or

(2) in the case of a renewal applicant, the quantity of drycleaning solvents actually purchased ~~used~~ in the preceding license year.

The Council may adjust licensing fees annually based on the published Consumer Price Index - All Urban Consumers ("CPI-U") or as otherwise determined by the Council.

(d) A license issued under this Section shall expire one year after the date of issuance and may be renewed on reapplication to the Council and submission of proof of payment of the appropriate fee to the Department of Revenue in

accordance with subsections (c) and (e). At least 30 days before payment of a renewal licensing fee is due, the Council shall attempt to:

(1) notify the operator of each licensed drycleaning facility concerning the requirements of this Section; and

(2) submit a license fee payment form to the licensed operator of each drycleaning facility.

(e) An operator of a drycleaning facility shall submit the appropriate application form provided by the Council with the license fee in the form of cash or guaranteed remittance to the Department of Revenue. The license fee payment form and the actual license fee payment shall be administered by the Department of Revenue under rules adopted by that Department.

(f) The Department of Revenue shall issue a proof of payment receipt to each operator of a drycleaning facility who has paid the appropriate fee in cash or by guaranteed remittance. However, the Department of Revenue shall not issue a proof of payment receipt to a drycleaning facility that is liable to the Department of Revenue for a tax imposed under this Act. The original receipt shall be presented to the Council by the operator of a drycleaning facility.

(g) (Blank). ~~An operator of a dry cleaning facility who is required to pay a license fee under this Act and fails to pay the license fee when the fee is due may be assessed a penalty of \$5 for each day after the license fee is due and until the license fee is paid. The penalty shall be effective for license~~

~~fees due on or after July 1, 1999.~~

(h) The Council and the Department of Revenue may adopt rules as necessary to administer the licensing requirements of this Act.

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

(415 ILCS 135/65)

(Section scheduled to be repealed on January 1, 2020)

Sec. 65. Drycleaning solvent tax.

(a) On and after January 1, 1998, a tax is imposed upon the use of drycleaning solvent by a person engaged in the business of operating a drycleaning facility in this State at the rate of \$3.50 per gallon of perchloroethylene or other chlorinated drycleaning solvents used in drycleaning operations, \$0.35 per gallon of petroleum-based drycleaning solvent, and \$1.75 per gallon of green solvents, unless the green solvent is used at a virgin facility, in which case the rate is \$0.35 per gallon. The Council shall determine by rule which products are chlorine-based solvents, which products are petroleum-based solvents, and which products are green solvents. All drycleaning solvents shall be considered chlorinated solvents unless the Council determines that the solvents are petroleum-based drycleaning solvents or green solvents.

(b) The tax imposed by this Act shall be collected from the purchaser at the time of sale by a seller of drycleaning solvents maintaining a place of business in this State and

shall be remitted to the Department of Revenue under the provisions of this Act.

(c) The tax imposed by this Act that is not collected by a seller of drycleaning solvents shall be paid directly to the Department of Revenue by the purchaser or end user who is subject to the tax imposed by this Act.

(d) No tax shall be imposed upon the use of drycleaning solvent if the drycleaning solvent will not be used in a drycleaning facility or if a floor stock tax has been imposed and paid on the drycleaning solvent. Prior to the purchase of the solvent, the purchaser shall provide a written and signed certificate to the drycleaning solvent seller stating:

- (1) the name and address of the purchaser;
- (2) the purchaser's signature and date of signing; and
- (3) one of the following:
 - (A) that the drycleaning solvent will not be used in a drycleaning facility; or
 - (B) that a floor stock tax has been imposed and paid on the drycleaning solvent.

~~A person who provides a false certification under this subsection shall be liable for a civil penalty not to exceed \$500 for a first violation and a civil penalty not to exceed \$5,000 for a second or subsequent violation.~~

(e) On January 1, 1998, there is imposed on each operator of a drycleaning facility a tax on drycleaning solvent held by the operator on that date for use in a drycleaning facility.

The tax imposed shall be the tax that would have been imposed under subsection (a) if the drycleaning solvent held by the operator on that date had been purchased by the operator during the first year of this Act.

(f) On or before the 25th day of the 1st month following the end of the calendar quarter, a seller of drycleaning solvents who has collected a tax pursuant to this Section during the previous calendar quarter, or a purchaser or end user of drycleaning solvents required under subsection (c) to submit the tax directly to the Department, shall file a return with the Department of Revenue. The return shall be filed on a form prescribed by the Department of Revenue and shall contain information that the Department of Revenue reasonably requires, but at a minimum will require the reporting of the volume of drycleaning solvent sold to each licensed drycleaner. The Department of Revenue shall report quarterly to the Council the volume of drycleaning solvent purchased for the quarter by each licensed drycleaner. Each seller of drycleaning solvent maintaining a place of business in this State who is required or authorized to collect the tax imposed by this Act shall pay to the Department the amount of the tax at the time when he or she is required to file his or her return for the period during which the tax was collected. Purchasers or end users remitting the tax directly to the Department under subsection (c) shall file a return with the Department of Revenue and pay the tax so incurred by the purchaser or end user during the preceding

calendar quarter.

Except as provided in this Section, the seller of drycleaning solvents filing the return under this Section shall, at the time of filing the return, pay to the Department the amount of tax imposed by this Act less a discount of 1.75%, or \$5 per calendar year, whichever is greater. Failure to timely file the returns and provide to the Department the data requested under this Act will result in disallowance of the reimbursement discount.

(g) The tax on drycleaning solvents used in drycleaning facilities and the floor stock tax shall be administered by Department of Revenue under rules adopted by that Department.

(h) On and after January 1, 1998, no person shall knowingly sell or transfer drycleaning solvent to an operator of a drycleaning facility that is not licensed by the Council under Section 60. ~~A person who violates this subsection is liable for a civil penalty not to exceed \$500 for a first violation and a civil penalty not to exceed \$5,000 for a second or subsequent violation.~~

(i) The Department of Revenue may adopt rules as necessary to implement this Section.

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

(415 ILCS 135/69 new)

Sec. 69. Civil penalties.

(a) Except as provided in this Section, any person who

violates any provision of this Act or any regulation adopted by the Council, or any license or registration or term or condition thereof, or that violates any order of the Council under this Act, shall be liable for a civil penalty as provided in this Section. The penalties may, upon order of the Council or a court of competent jurisdiction, be made payable to the Drycleaner Environmental Response Trust Fund, to be used in accordance with the provisions of the Drycleaner Environmental Response Trust Fund Act.

(b) Notwithstanding the provisions of subsection (a) of this Section:

(1) Any person who violates Section 60(a) of this Act by failing to pay the license fee when due, may be assessed a civil penalty of \$5 per day for each day after the license fee is due until the license fee is paid. The penalty shall be effective for license fees due on or after July 1, 1999.

(2) Any person who violates Section 65(d) or 65(h) of this Act shall be liable for a civil penalty not to exceed \$500 for the first violation and a civil penalty not to exceed \$5,000 for a second or subsequent violation.

(3) Any person who violates Section 67 of this Act shall be liable for a civil penalty not to exceed \$100 per day for each day the person is not registered to sell drycleaning solvents.

(c) The Council shall issue an administrative assessment

setting forth any penalties it imposes under subsection (b) of this Section and shall serve notice of the assessment upon the party assessed. The Council's determination shall be deemed correct and shall serve as evidence of the correctness of the Council's determination that a penalty is due. Proof of a determination by the Council may be made at any administrative hearing or in any legal proceeding by a reproduced copy or computer print-out of the Council's record relating thereto in the name of the Council under the certificate of the Council.

If reproduced copies of the Council's records are offered as proof of a penalty assessment, the Council must certify that those copies are true and exact copies of records on file with the Council. If computer print-outs of the Council's records are offered as proof of a determination, the Council Chairman must certify that those computer print-outs are true and exact representations of records properly entered into standard electronic computing equipment, in the regular course of the Council's business, at or reasonably near the time of the occurrence of the facts recorded, from trustworthy and reliable information. A certified reproduced copy or certified computer print-out shall, without further proof, be admitted into evidence in any administrative or legal proceeding and is prima facie proof of the correctness of the Council's determination.

Whenever notice is required by this Section, the notice may be given by United States registered or certified mail, addressed to the person concerned at his last known address,

and proof of mailing shall be sufficient for the purposes of this Act. Notice of any hearing provided for by this Act shall be given not less than 7 days before the day fixed for the hearing. Following the initial contact of a person represented by an attorney, the Council shall not contact that person but shall only contact the attorney representing that person.

(d) The penalties provided for in this Section may be recovered in a civil action instituted by the Attorney General in the name of the people of the State of Illinois.

(e) The Attorney General may also, at the request of the Council or on his or her own motion, institute a civil action for an injunction, prohibitory or mandatory, to restrain violations of this Act, any rule or regulation adopted under this Act, any license or registration or term or condition of a license or registration, or any Council order, or to require other actions as may be necessary to address violations thereof.

(f) Without limiting any other authority which may exist for the awarding of attorney's fees and costs, the Council, or a court of competent jurisdiction, may award costs and reasonable attorney's fees, including the reasonable costs of expert witnesses and consultants, to the Attorney General in a case where the Attorney General has prevailed against a person who has committed a willful, knowing, or repeated violation of this Act, any rule or regulation adopted under this Act, any license or registration or term or condition of a license or

registration, or any Council order. Any funds collected under this subsection (f) in which the Attorney General has prevailed shall be deposited in the Drycleaner Environmental Response Trust Fund created in Section 10 of this Act.

(g) All final orders imposing civil penalties under this Section shall prescribe the time for payment of the penalties. If any penalty is not paid within the time prescribed, interest on the penalty shall be paid, at the rate set forth in Section 3-2 of the Illinois Uniform Penalty and Interest Act, for the period from the date payment is due until the date payment is received. However, if the time for payment is stayed during the pendency of an appeal, interest shall not accrue during the stay.