

HB390 INTRODUCED



1 HB390
2 3PPR1VV-1
3 By Representatives Shirey, Stadthagen
4 RFD: Commerce and Small Business
5 First Read: 05-Mar-25



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SYNOPSIS:

Under existing law, the Alabama Drycleaning Environmental Response Trust Fund Advisory Board is responsible for administering a dry cleaners' self-insurance fund for the investigation, assessment, and remediation of environmental contamination caused by dry cleaning operations.

This bill would delete the requirement that the Alabama Department of Environmental Management Act prevent other units of federal, state, and local governments from becoming involved in contamination problems.

This bill would also reduce the balance of monies the board is required to maintain in the Alabama Drycleaning Environmental Response Trust Fund from one million to two hundred fifty thousand dollars.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Drycleaning Environmental Response Trust Fund Advisory Board; to amend Sections 22-30D-4 and 22-30D-7, Code of Alabama 1975, to delete the requirement



HB390 INTRODUCED

29 that the Alabama Department of Environmental Management
30 prevent the involvement of other units of federal, state, and
31 local governments in contamination problems; and to reduce the
32 required minimum balance to be maintained in the Alabama
33 Drycleaning Environmental Response Trust Fund from one million
34 to two hundred fifty thousand dollars.

35 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

36 Section 1. Sections 22-30D-4 and 22-30D-7 of the Code
37 of Alabama 1975, are amended to read as follows:

38 "§22-30D-4

39 (a) (1) All owners and operators and all wholesale
40 distributors shall elect by May 24, 2001, to be covered or not
41 to be covered by this chapter and shall do so by notifying the
42 department in writing that ~~such~~ the owner or operator or
43 wholesale distributor elects to be covered or not to be
44 covered by this chapter. Following May 24, 2001, any owner or
45 operator or wholesale distributor who may have initially
46 elected not to be covered by this chapter or who may have
47 inadvertently failed to notify the department may notify the
48 department that ~~such~~ the owner or operator or wholesale
49 distributor has reconsidered and desires to be covered by the
50 fund, but any such owner or operator or wholesale distributor
51 ~~shall~~, with its notice of request for coverage, shall be
52 required to pay to the Department of Revenue the registration
53 fees ~~which~~ that would otherwise have been due to the fund had
54 ~~such~~ the owner or operator or wholesale distributor elected to
55 be covered by this chapter prior to May 24, 2001. Coverage by
56 this chapter shall be effective on the date that a written



HB390 INTRODUCED

57 notice of an election to be covered is received by the
58 department. The department shall maintain a listing of all
59 owners or operators or wholesale distributors who shall have
60 elected to be covered or not to be covered by this chapter and
61 shall advise the board from time to time of the names of those
62 persons.

63 (2) Any owner or operator or wholesale distributor who
64 ~~shall elect~~ elects not to be covered by this chapter or ~~shall~~
65 ~~fail~~ fails to notify the department that it has determined to
66 reconsider within the times set forth ~~above~~ in subdivision (1)
67 shall be relieved of any of the obligations imposed on owners
68 or operators or wholesale distributors under this chapter,
69 including any obligation to register or pay registration fees.

70 (3) Notwithstanding any provisions of this chapter to
71 the contrary, any owner or operator or wholesale distributor
72 who ~~shall so elect~~ elects not to be covered by this chapter ~~or~~
73 ~~shall fail~~ fails to notify the department that it has
74 determined to reconsider within the times set forth ~~above~~ in
75 subdivision (1) shall thereafter permanently and irrevocably
76 waive and relinquish any benefit, coverage, protection,
77 payment, or waiver of liability otherwise afforded by this
78 chapter. An election not to be covered by the fund or a
79 failure to reconsider by any owner or operator or wholesale
80 distributor who ~~shall be~~ is an individual, shall include and
81 bind any relative by blood within the third degree of
82 consanguinity or by marriage, and in the case of a corporation
83 or other legal entity, any current or former subsidiary,
84 division, stockholder, parent company, partner, member,



HB390 INTRODUCED

85 successor or assign, or any predecessor-in-title or
86 successor-in-title.

87 (4) If on May 31, 2002, the registration fees collected
88 by the Department of Revenue from owners or operators and
89 wholesale distributors who ~~shall~~ have elected to be covered by
90 this chapter ~~shall not~~ have not generated total receipts in
91 excess of one million dollars (\$1,000,000), ~~then in such event~~
92 the fund shall terminate, the board shall refund to all owners
93 or operators or wholesale distributors who ~~shall~~ have paid
94 into the fund the pro rata portion of payments to ~~such~~ that
95 date, less expense of charges against the fund, and thereafter
96 ~~the provisions of~~ this chapter shall be ~~null and~~ void and of
97 no further force or effect of law.

98 (b) It is the intent of the Legislature that the monies
99 in the fund will only be utilized to address contamination
100 that is caused by drycleaning agents occurring at or on
101 drycleaning facilities, abandoned drycleaning facilities,
102 wholesale distribution facilities, or real property of
103 impacted third parties or adjacent landowners, whether ~~such~~
104 the contamination occurred or was discovered before or after
105 May 24, 2000; provided, that monies in the fund shall be used
106 only for payment for costs of investigation, assessment, or
107 remediation ~~that~~ which are incurred after May 24, 2000; and
108 further provided, that this chapter and the fund created
109 ~~hereby by this chapter~~ shall benefit only those owners or
110 operators, wholesale distributors, or persons owning abandoned
111 drycleaning facilities who ~~shall~~ have elected to be covered by
112 this chapter and impacted third parties and adjacent



HB390 INTRODUCED

113 landowners impacted or adjacent to drycleaning facilities or
114 wholesale distribution facilities of ~~such~~ the owners or
115 operators or wholesale distributors. The board and the
116 department shall jointly administer this chapter under the
117 following criteria:

118 (1) The department shall allow owners or operators,
119 persons owning abandoned drycleaning facilities, wholesale
120 distributors, impacted third parties, and adjacent landowners,
121 and their engineers and contractors to ~~deal with~~ address
122 contamination under the oversight of the department utilizing
123 monies in the fund under the oversight of the board, including
124 costs incurred for initial investigations in determining that
125 contamination has actually occurred. The fund shall not be
126 used to ~~deal with~~ address contamination at any facilities
127 other than drycleaning facilities, abandoned drycleaning
128 facilities, wholesale distribution facilities, or the real
129 property of impacted third parties or adjacent landowners.

130 (2) If the response actions to releases are conducted
131 pursuant to 40 C.F.R. Part 300 or pursuant to regulations
132 adopted by the department under subsection (c), the department
133 shall not require any owner or operator, person owning any
134 abandoned drycleaning facility, wholesale distributor,
135 impacted third party, or adjacent landowner to: (i) Obtain any
136 state permit or engage in closure, post-closure, or corrective
137 action pursuant to AHWMMMA; (ii) establish or maintain any
138 financial assurance or other financial requirement; or (iii)
139 otherwise become obligated to pay for any costs, except for
140 the deductible set forth in Section 22-30D-7, in connection



HB390 INTRODUCED

141 with contamination occurring at any drycleaning facility,
142 abandoned drycleaning facility, wholesale distribution
143 facility, or at the real property of impacted third parties or
144 adjacent landowners which may have failed to operate as a
145 permitted treatment, storage, or disposal facility as defined
146 under AHWMMMA.

147 ~~(3) To the fullest extent allowed by law, the~~
148 ~~department shall provide its oversight in such a manner that~~
149 ~~other units of federal, state, and local government, including~~
150 ~~the United States Environmental Protection Agency, do not~~
151 ~~become involved in contamination problems resulting from~~
152 ~~drycleaning facilities, abandoned drycleaning facilities, or~~
153 ~~wholesale distribution facilities.~~

154 ~~(4)~~ (3) To the fullest extent allowed by law, the
155 department shall make every reasonable effort to allow for
156 ~~such~~ interim action as may be necessary to keep sites where
157 contamination exists off of the national priorities list, as
158 defined in 40 C.F.R. § 300.5.

159 ~~(5)~~ (4) The department shall not seek out contamination
160 because of the existence of the fund or the other provisions
161 of this chapter. Monies shall be made available by the board
162 for the use as contamination is discovered, whether ~~such~~ the
163 discovery is made before or after May 24, 2000.

164 ~~(6)~~ (5) Careful consideration shall be given by the
165 department to remedial activities which may result in an
166 overall reduction of risk to human health and the environment
167 and in reduction of total costs of remediation. ~~Such~~ The
168 remedial activities should receive consideration by the



HB390 INTRODUCED

169 department as a high priority.

170 ~~(7)~~ (6) The department, in its discretion, may allow the
171 use of innovative technology to perform remedial activities.

172 (c) In addition to the powers and duties specified in
173 this chapter and in Sections 22-22A-1 to 22-22A-16, inclusive,
174 the department shall adopt rules ~~and regulations~~ necessary to
175 administer and enforce this chapter, it being the intent of
176 the Legislature that contamination caused by drycleaning
177 agents shall be managed solely in accordance with this chapter
178 and the rules ~~and regulations to be~~ adopted. Consistent with
179 these purposes, ~~such the~~ rules ~~and regulations shall~~, at a
180 minimum, shall establish or adopt the following standards,
181 schedule, and criteria:

182 (1) Establishing performance standards for drycleaning
183 facilities and wholesale distribution facilities first brought
184 into use on or after the effective date of ~~regulations~~ rules
185 authorized by this subsection. ~~Such The~~ performance standards
186 shall be effective when the rules ~~and regulations~~ adopted
187 become final. The performance standards for new drycleaning
188 facilities and wholesale distribution facilities shall allow
189 the use of new technology as it becomes available and ~~shall~~,
190 at a minimum, shall include provisions which are at least as
191 protective of human health and the environment as each of the
192 following standards:

193 a. A requirement that, notwithstanding any contrary
194 provision of law, any person who generates a regulated waste
195 at a drycleaning facility or wholesale distribution facility
196 and which wastes contain any regulated quantity of drycleaning



HB390 INTRODUCED

197 agent, shall ensure delivery of all ~~such~~ wastes to a facility
198 that is legally authorized to manage or recycle wastes that
199 contain drycleaning agents.

200 b. A prohibition of the release of wastewater
201 containing any quantity of drycleaning agent from drycleaning
202 facilities to any sanitary sewer or septic tank, any land or
203 ground application thereof, or any discharge to the waters of
204 this state.

205 c. A requirement of compliance with the national
206 emission standards for hazardous air pollutants for
207 perchloroethylene drycleaning facilities ~~promulgated~~ adopted
208 by the United States Environmental Protection Agency on
209 September 22, 1993, including revisions and applicable
210 regulations thereto.

211 d. A requirement that all drycleaning agents or wastes
212 containing drycleaning agents be stored in appropriate closed
213 containers and handled so as to minimize the risk of spills or
214 leaks.

215 e. A requirement that dikes or other containment
216 structures be installed around each drycleaning machine and
217 each drycleaning agent or waste storage area, which structures
218 shall be capable of containing a release of drycleaning agent.

219 f. A requirement that those portions of all diked floor
220 surfaces upon which any drycleaning agent may leak, spill, or
221 otherwise be released be material impervious to drycleaning
222 agents.

223 g. A requirement that all drycleaning agents be
224 delivered to each drycleaning machine or other storage



HB390 INTRODUCED

225 container located within a drycleaning facility by means of
226 closed, direct-coupled delivery systems, but only after ~~such~~
227 the systems become generally available.

228 h. A requirement for reporting of releases of a
229 reportable quantity outside of containment of drycleaning
230 agent occurring after May 24, 2000.

231 (2) Adopting a schedule requiring the retrofitting of
232 drycleaning facilities and wholesale distribution facilities
233 in existence on or before May 24, 2000, in order to conform
234 the drycleaning facility to the rules ~~and regulations~~
235 authorized by subdivision (1) and to implement the performance
236 standards established pursuant to subdivision (1). The
237 schedule may phase in the standards authorized by this
238 subdivision at different times but shall make all ~~such~~
239 standards effective no later than May 24, 2005. This
240 subdivision requiring retrofitting shall not require an owner
241 or operator of a drycleaning facility existing on or before
242 May 24, 2000, to replace an existing drycleaning unit unless
243 required to do so by federal laws or ~~rules and~~ regulations
244 ~~promulgated~~ adopted by the Environmental Protection Agency.

245 (3) Establishing criteria for prompt reporting of
246 suspected contamination or the discovery of contamination at
247 drycleaning facilities, abandoned drycleaning facilities,
248 wholesale distribution facilities, or on real property of
249 impacted third parties or adjacent landowners, whether
250 discovered before or after May 24, 2000, and procedures for
251 initial investigation of ~~such~~ the contamination, if any, and
252 determination of possible effects on or risk to human health



HB390 INTRODUCED

253 or the environment and necessary or appropriate emergency
254 action, to assure that human health or safety is not
255 threatened by ~~such~~ the contamination.

256 (4) Establishing criteria to prioritize those sites at
257 which contamination is reported to the department and which
258 may require investigation, assessment, and, if necessary,
259 remediation. The criteria shall include consideration of each
260 of the following factors:

261 a. The degree to which human health and the environment
262 are actually affected by exposure to the contamination.

263 b. The future risk to human health or the environment
264 resulting from the contamination.

265 c. The benefit to be derived from remediation compared
266 to the cost of conducting ~~such~~ the remediation.

267 d. The present and future use of an affected aquifer or
268 surface water.

269 e. The possibility of no further action.

270 f. The effect that interim or immediate remedial
271 measures will have on future costs.

272 g. The amount of monies available in the fund.

273 h. ~~Such additional~~ Additional factors as the director
274 considers relevant or as required by other provisions of this
275 chapter.

276 (5) Establishing requirements for investigation,
277 assessment, and, if necessary, remediation of contamination in
278 the order of priority established by the department.

279 (6) Establishing criteria under which a determination
280 may be made by the department of the extent of contamination



HB390 INTRODUCED

281 at which: (i) no remediation is required at the site~~r~~i; or (ii)
282 if remediation is necessary, the extent to which remediation
283 shall be deemed completed~~r~~i; and (iii) that no further action
284 is required. Criteria for determining completion of
285 remediation shall include the factors set forth in subdivision
286 (4). If contamination has or is suspected to have migrated
287 from the site to real property of an adjacent landowner,
288 investigation, assessment, and, if necessary, remediation of
289 contamination will be determined under these criteria."

290 "§22-30D-7

291 (a) Prior to the approval of an expenditure of any
292 ~~funds~~ monies under this chapter with respect to payment for
293 costs incurred for investigation, assessment, and, if
294 necessary, remediation at a particular site, every owner or
295 operator covered by this chapter, person owning any abandoned
296 drycleaning facility eligible for coverage by this chapter, or
297 impacted third party filing a request with the board for
298 payment, shall accept responsibility for the first ten
299 thousand dollars (\$10,000), as a deductible amount, of the
300 actual costs to be incurred with that particular site. Each
301 wholesale distributor covered by this chapter shall accept
302 responsibility for the first fifty thousand dollars (\$50,000),
303 as a deductible amount~~r~~ of the actual cost to be incurred with
304 a wholesale distribution facility. An adjacent landowner shall
305 not be required to accept responsibility for any costs
306 incurred at a site.

307 (b) Payments from the fund may be obtained from the
308 board by complying with the following procedure:



HB390 INTRODUCED

309 (1) An owner or operator covered by this chapter, a
310 person owning any abandoned drycleaning facility eligible for
311 coverage by this chapter, or a wholesale distributor covered
312 by this chapter may request payment from the fund for cost of
313 investigation, assessment, and remediation above the
314 applicable deductible set forth in subsection (a) incurred in
315 connection with a contamination discovered before or after May
316 24, 2000, that has been reported to the board and the
317 department by filing a request for reimbursement pursuant to
318 the procedures established by the board; ~~provided, however~~
319 ~~that no.~~ No payment shall be made from the fund for cost of
320 investigation, assessment, and remediation incurred prior to
321 May 24, 2000. An impacted third party or adjacent landowner
322 may seek payment from the fund for cost of investigation,
323 assessment, or remediation above the applicable ~~deductible(s)~~
324 deductible or deductibles set forth in subsection (a) incurred
325 in connection with contamination by filing a request for
326 payment pursuant to the procedures established by the board;
327 ~~provided the.~~ The board shall determine that: (i) the owner or
328 operator covered by this chapter, person owning any abandoned
329 drycleaning facility eligible for coverage by this chapter, or
330 wholesale distributor covered by this chapter has failed or
331 refused to engage in investigation, assessment, or remediation
332 in connection with the contamination; ~~and~~ (ii) that the
333 director has made an initial determination that the impact to
334 the impacted third party or adjacent landowner poses a threat
335 to the environment or the public health, safety, or welfare
336 which warrants investigation, assessment, or remedial action



HB390 INTRODUCED

337 in accordance with criteria established by this chapter and
338 the rules ~~and regulations~~ adopted by the director.

339 (2) The board shall not obligate the expenditure of
340 funds from the fund in the amount in excess of two hundred
341 fifty thousand dollars (\$250,000) per fiscal year of the fund
342 for costs of investigation, assessment, and remediation of
343 contamination at any particular site, unless upon request by
344 any party, including the department, the board first
345 determines that ~~such~~ the excess expenditure is required to
346 avoid an imminent and substantial endangerment to human health
347 or the environment.

348 (3) The board shall not obligate a distribution of
349 monies from the fund that at any time would result in the
350 diminution of the fund below a balance of ~~one million dollars~~
351 ~~(\$1,000,000)~~ two hundred fifty thousand dollars (\$250,000)
352 unless an emergency exists that the board has determined
353 constitutes an imminent and substantial endangerment to human
354 health or the environment. In the event of an emergency as
355 described herein, the board shall approve the payment of
356 reasonable response costs to remove the imminent and
357 substantial endangerment to human health or the environment.

358 (4) The board shall not authorize distribution of fund
359 monies to any of the following sites or facilities:

360 a. Sites that are contaminated by drycleaning agents
361 where the contamination at ~~such~~ the sites did not result from
362 the operation of a drycleaning facility, abandoned drycleaning
363 facility, or wholesale distribution facility.

364 b. Sites that are not drycleaning facilities, abandoned



HB390 INTRODUCED

365 drycleaning facilities, wholesale distribution facilities, or
366 the real property of impacted third parties or adjacent
367 landowners, but are contaminated by a release that resulted
368 from drycleaning agents being transported to or from a
369 drycleaning facility, abandoned drycleaning facility, or
370 wholesale distribution facility.

371 c. Any drycleaning facility, abandoned drycleaning
372 facility, wholesale distribution facility, or any property of
373 any impacted third party or adjacent landowner that has been,
374 or is in the future, identified by the United States
375 Environmental Protection Agency as a federal superfund site
376 pursuant to 40 C.F.R. Part 300 et seq.

377 d. Any drycleaning facility, abandoned drycleaning
378 facility, wholesale distribution facility, or any real
379 property of any impacted third party or adjacent landowner
380 which has obtained a treatment, storage, or disposal permit
381 pursuant to the federal Resource Conservation and Recovery Act
382 (RCRA) or AHWMMMA regulations.

383 e. Any drycleaning facility, abandoned drycleaning
384 facility, wholesale distribution facility, or any real
385 property owned or leased by any owner or operator or wholesale
386 distributor who ~~shall elect~~ elects not to be covered by ~~the~~
387 ~~provisions of~~ this chapter within the ~~time(s)~~ time or times
388 required by this chapter or any real property of any impacted
389 third party or adjacent landowner impacted by or adjacent to
390 any ~~such~~ owner or operator or wholesale distributor.

391 f. Any owner or operator, wholesale distributor, owner
392 of any abandoned drycleaning facility, or impacted third party



HB390 INTRODUCED

393 who ~~shall fail~~ fails to pay or be delinquent in payment of the
394 registration fees required by ~~the provisions of~~ this chapter."

395 Section 2. This act shall become effective on October
396 1, 2025.