

SB321 ENROLLED



1 SB321
2 MS4Z6W1-2
3 By Senator Singleton
4 RFD: County and Municipal Government
5 First Read: 09-Apr-25



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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§22-30D-4

(a) (1) All owners and operators and all wholesale distributors shall elect by May 24, 2001, to be covered or not to be covered by this chapter and shall do so by notifying the department in writing that ~~such~~ the owner or operator or wholesale distributor elects to be covered or not to be covered by this chapter. Following May 24, 2001, any owner or operator or wholesale distributor who may have initially elected not to be covered by this chapter or who may have inadvertently failed to notify the department may notify the department that ~~such~~ the owner or operator or wholesale distributor has reconsidered and desires to be covered by the fund, but any such owner or operator or wholesale distributor ~~shall~~, with its notice of request for coverage, shall be



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required to pay to the Department of Revenue the registration fees ~~which~~ that would otherwise have been due to the fund had ~~such~~ the owner or operator or wholesale distributor elected to be covered by this chapter prior to May 24, 2001. Coverage by this chapter shall be effective on the date that a written notice of an election to be covered is received by the department. The department shall maintain a listing of all owners or operators or wholesale distributors who shall have elected to be covered or not to be covered by this chapter and shall advise the board from time to time of the names of those persons.

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

(3) Notwithstanding any provisions of this chapter to the contrary, any owner or operator or wholesale distributor who ~~shall so elect~~ elects not to be covered by this chapter ~~or shall fail~~ fails to notify the department that it has determined to reconsider within the times set forth ~~above~~ in subdivision (1) shall thereafter permanently and irrevocably waive and relinquish any benefit, coverage, protection, payment, or waiver of liability otherwise afforded by this chapter. An election not to be covered by the fund or a failure to reconsider by any owner or operator or wholesale



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distributor who ~~shall be~~ is an individual, shall include and bind any relative by blood within the third degree of consanguinity or by marriage, and in the case of a corporation or other legal entity, any current or former subsidiary, division, stockholder, parent company, partner, member, successor or assign, or any predecessor-in-title or successor-in-title.

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

(b) It is the intent of the Legislature that the monies in the fund will only be utilized to address contamination that is caused by drycleaning agents occurring at or on drycleaning facilities, abandoned drycleaning facilities, wholesale distribution facilities, or real property of impacted third parties or adjacent landowners, whether ~~such~~ the contamination occurred or was discovered before or after May 24, 2000; provided, that monies in the fund shall be used only for payment for costs of investigation, assessment, or remediation ~~that~~ which are incurred after May 24, 2000; and



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85 further provided, that this chapter and the fund created
86 ~~hereby~~ by this chapter shall benefit only those owners or
87 operators, wholesale distributors, or persons owning abandoned
88 drycleaning facilities who ~~shall~~ have elected to be covered by
89 this chapter and impacted third parties and adjacent
90 landowners impacted or adjacent to drycleaning facilities or
91 wholesale distribution facilities of ~~such~~ the owners or
92 operators or wholesale distributors. The board and the
93 department shall jointly administer this chapter under the
94 following criteria:

95 (1) The department shall allow owners or operators,
96 persons owning abandoned drycleaning facilities, wholesale
97 distributors, impacted third parties, and adjacent landowners,
98 and their engineers and contractors to ~~deal with~~ address
99 contamination under the oversight of the department utilizing
100 monies in the fund under the oversight of the board, including
101 costs incurred for initial investigations in determining that
102 contamination has actually occurred. The fund shall not be
103 used to ~~deal with~~ address contamination at any facilities
104 other than drycleaning facilities, abandoned drycleaning
105 facilities, wholesale distribution facilities, or the real
106 property of impacted third parties or adjacent landowners.

107 (2) If the response actions to releases are conducted
108 pursuant to 40 C.F.R. Part 300 or pursuant to regulations
109 adopted by the department under subsection (c), the department
110 shall not require any owner or operator, person owning any
111 abandoned drycleaning facility, wholesale distributor,
112 impacted third party, or adjacent landowner to: (i) Obtain any



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state permit or engage in closure, post-closure, or corrective action pursuant to AHWMMMA; (ii) establish or maintain any financial assurance or other financial requirement; or (iii) otherwise become obligated to pay for any costs, except for the deductible set forth in Section 22-30D-7, in connection with contamination occurring at any drycleaning facility, abandoned drycleaning facility, wholesale distribution facility, or at the real property of impacted third parties or adjacent landowners which may have failed to operate as a permitted treatment, storage, or disposal facility as defined under AHWMMMA.

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

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

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



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141 ~~(6)~~ (5) Careful consideration shall be given by the
142 department to remedial activities which may result in an
143 overall reduction of risk to human health and the environment
144 and in reduction of total costs of remediation. ~~Such~~ The
145 remedial activities should receive consideration by the
146 department as a high priority.

147 ~~(7)~~ (6) The department, in its discretion, may allow the
148 use of innovative technology to perform remedial activities.

149 (c) In addition to the powers and duties specified in
150 this chapter and in Sections 22-22A-1 to 22-22A-16, inclusive,
151 the department shall adopt rules ~~and regulations~~ necessary to
152 administer and enforce this chapter, it being the intent of
153 the Legislature that contamination caused by drycleaning
154 agents shall be managed solely in accordance with this chapter
155 and the rules ~~and regulations to be~~ adopted. Consistent with
156 these purposes, ~~such the~~ rules ~~and regulations shall~~, at a
157 minimum, shall establish or adopt the following standards,
158 schedule, and criteria:

159 (1) Establishing performance standards for drycleaning
160 facilities and wholesale distribution facilities first brought
161 into use on or after the effective date of ~~regulations~~ rules
162 authorized by this subsection. ~~Such~~ The performance standards
163 shall be effective when the rules ~~and regulations~~ adopted
164 become final. The performance standards for new drycleaning
165 facilities and wholesale distribution facilities shall allow
166 the use of new technology as it becomes available and ~~shall~~,
167 at a minimum, shall include provisions which are at least as
168 protective of human health and the environment as each of the



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following standards:

a. A requirement that, notwithstanding any contrary provision of law, any person who generates a regulated waste at a drycleaning facility or wholesale distribution facility and which wastes contain any regulated quantity of drycleaning agent, shall ensure delivery of all ~~such~~ wastes to a facility that is legally authorized to manage or recycle wastes that contain drycleaning agents.

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

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

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

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

f. A requirement that those portions of all diked floor



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surfaces upon which any drycleaning agent may leak, spill, or otherwise be released be material impervious to drycleaning agents.

g. A requirement that all drycleaning agents be delivered to each drycleaning machine or other storage container located within a drycleaning facility by means of closed, direct-coupled delivery systems, but only after ~~such~~ the systems become generally available.

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

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

(3) Establishing criteria for prompt reporting of suspected contamination or the discovery of contamination at drycleaning facilities, abandoned drycleaning facilities,



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wholesale distribution facilities, or on real property of impacted third parties or adjacent landowners, whether discovered before or after May 24, 2000, and procedures for initial investigation of ~~such~~ the contamination, if any, and determination of possible effects on or risk to human health or the environment and necessary or appropriate emergency action, to assure that human health or safety is not threatened by ~~such~~ the contamination.

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

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

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

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

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

e. The possibility of no further action.

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

g. The amount of monies available in the fund.

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



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

(6) Establishing criteria under which a determination may be made by the department of the extent of contamination at which: (i) no remediation is required at the site~~;~~ or (ii) if remediation is necessary, the extent to which remediation shall be deemed completed~~;~~ and (iii) that no further action is required. Criteria for determining completion of remediation shall include the factors set forth in subdivision (4). If contamination has or is suspected to have migrated from the site to real property of an adjacent landowner, investigation, assessment, and, if necessary, remediation of contamination will be determined under these criteria."

"§22-30D-7

(a) Prior to the approval of an expenditure of any ~~funds~~ monies under this chapter with respect to payment for costs incurred for investigation, assessment, and, if necessary, remediation at a particular site, every owner or operator covered by this chapter, person owning any abandoned drycleaning facility eligible for coverage by this chapter, or impacted third party filing a request with the board for payment, shall accept responsibility for the first ten thousand dollars (\$10,000), as a deductible amount, of the actual costs to be incurred with that particular site. Each wholesale distributor covered by this chapter shall accept responsibility for the first fifty thousand dollars (\$50,000), as a deductible amount~~;~~ of the actual cost to be incurred with



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a wholesale distribution facility. An adjacent landowner shall not be required to accept responsibility for any costs incurred at a site.

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

(1) An owner or operator covered by this chapter, a person owning any abandoned drycleaning facility eligible for coverage by this chapter, or a wholesale distributor covered by this chapter may request payment from the fund for cost of investigation, assessment, and remediation above the applicable deductible set forth in subsection (a) incurred in connection with a contamination discovered before or after May 24, 2000, that has been reported to the board and the department by filing a request for reimbursement pursuant to the procedures established by the board; ~~provided, however~~
~~that no.~~ No payment shall be made from the fund for cost of investigation, assessment, and remediation incurred prior to May 24, 2000. An impacted third party or adjacent landowner may seek payment from the fund for cost of investigation, assessment, or remediation above the applicable ~~deductible(s)~~
deductible or deductibles set forth in subsection (a) incurred in connection with contamination by filing a request for payment pursuant to the procedures established by the board; ~~provided the.~~ The board shall determine that: (i) the owner or operator covered by this chapter, person owning any abandoned drycleaning facility eligible for coverage by this chapter, or wholesale distributor covered by this chapter has failed or refused to engage in investigation, assessment, or remediation



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in connection with the contamination⁷; and (ii) that the director has made an initial determination that the impact to the impacted third party or adjacent landowner poses a threat to the environment or the public health, safety, or welfare which warrants investigation, assessment, or remedial action in accordance with criteria established by this chapter and the rules ~~and regulations~~ adopted by the director.

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

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

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



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

b. Sites that are not drycleaning facilities, abandoned drycleaning facilities, wholesale distribution facilities, or the real property of impacted third parties or adjacent landowners, but are contaminated by a release that resulted from drycleaning agents being transported to or from a drycleaning facility, abandoned drycleaning facility, or wholesale distribution facility.

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

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

e. Any drycleaning facility, abandoned drycleaning facility, wholesale distribution facility, or any real property owned or leased by any owner or operator or wholesale distributor who ~~shall elect~~ elects not to be covered by ~~the provisions of this chapter within the time(s)~~ time or times



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required by this chapter or any real property of any impacted third party or adjacent landowner impacted by or adjacent to any ~~such~~ owner or operator or wholesale distributor.

f. Any owner or operator, wholesale distributor, owner of any abandoned drycleaning facility, or impacted third party who ~~shall fail~~ fails to pay or be delinquent in payment of the registration fees required by ~~the provisions of~~ this chapter."

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



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB321
Senate 24-Apr-25
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 06-May-25

By: Senator Singleton