

By: Madden

H.B. No. 67

A BILL TO BE ENTITLED

AN ACT

relating to the environmental regulation and remediation of certain dry cleaning facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 374.004(a), Health and Safety Code, as added by Chapter 540 (H.B. No. 1366), Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(a) The executive director shall appoint an advisory committee composed of:

(1) two [~~three~~] representatives of the dry cleaning industry who shall provide professional and practical expertise to the commission;

(2) one representative who:

(A) is an owner, developer, or manager of a shopping center or is a real property owner; and

(B) has had experience with the environmental issues associated with dry cleaning facilities;

(3) one public representative of urban areas; and

(4) [~~3~~] one public representative of rural areas.

SECTION 2. Section 374.102(b), Health and Safety Code, as added by Chapter 540 (H.B. No. 1366), Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(b) Except for a carbon dioxide facility, the commission, on receipt of a registration, shall bill the owner for a registration

~~[must be accompanied by a]~~ fee of:

(1) \$250 for:

(A) a dry cleaning facility with gross annual receipts of \$100,000 or less; or

(B) a dry cleaning facility designated as nonparticipating under Section 374.104;

(2) \$1,000 for a dry cleaning drop station, except that the fee for a drop station is \$250 if the drop station is not owned by the owner of the dry cleaning facility; or

(3) \$2,500 for a dry cleaning facility with gross annual receipts of more than \$100,000.

SECTION 3. Section 374.103(c), Health and Safety Code, as added by Chapter 540 (H.B. No. 1366), Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(c) A person who distributes dry cleaning solvent may not sell the solvent for use in a dry cleaning facility after January 1, 2004, unless the person first obtains and records the registration number of the owner of the facility.

SECTION 4. Section 374.104, Health and Safety Code, as added by Chapter 540 (H.B. No. 1366), Acts of the 78th Legislature, Regular Session, 2003, is amended by adding Subsection (a-1) to read as follows:

(a-1) If the owner of the facility is not an owner of the real property on which the facility is located, the option not to participate must include proof that an owner of the real property has:

(1) been notified of the option not to participate;

1 and

2 (2) agreed with the decision to file the option.

3 SECTION 5. Section 374.151(b), Health and Safety Code, as
4 added by Chapter 540 (H.B. No. 1366), Acts of the 78th Legislature,
5 Regular Session, 2003, is amended to read as follows:

6 (b) An owner [~~A person~~] who knows of a release over a 24-hour
7 period of more than one quart of a chlorinated dry cleaning solvent
8 or of more than one gallon of a non-chlorinated dry cleaning solvent
9 shall:

10 (1) immediately contain and control the release; and

11 (2) notify the commission of the release before the
12 expiration of 24 [~~48~~] hours after the owner [~~person~~] learns of the
13 release.

14 SECTION 6. Section 374.152(a), Health and Safety Code, as
15 added by Chapter 540 (H.B. No. 1366), Acts of the 78th Legislature,
16 Regular Session, 2003, is amended to read as follows:

17 (a) If a release or a potential release poses a threat to
18 human health or safety or to the environment, the commission shall:

19 (1) investigate and assess the extent of the resulting
20 contamination; and

21 (2) take necessary or appropriate emergency action to
22 ensure that human health or safety or the environment is not
23 threatened by the release or the potential release.

24 SECTION 7. Section 374.154(b), Health and Safety Code, as
25 added by Chapter 540 (H.B. No. 1366), Acts of the 78th Legislature,
26 Regular Session, 2003, is amended to read as follows:

27 (b) The following persons are eligible to apply for a site

1 to be ranked under Subsection (a):

2 (1) a person who is an owner of the dry cleaning
3 facility; and

4 (2) a person who is ~~[and has been]~~ an owner of the real
5 property on which the facility is located or on which a dry cleaning
6 facility previously existed ~~[for not less than five years as of the~~
7 ~~date the application for ranking is submitted]~~.

8 SECTION 8. Section 374.203(c), Health and Safety Code, as
9 added by Chapter 540 (H.B. No. 1366), Acts of the 78th Legislature,
10 Regular Session, 2003, is amended to read as follows:

11 (c) The commission may not use money from the fund for
12 corrective action at a contaminated dry cleaning site unless~~+~~

13 ~~[(1)]~~ the owner or the property owner of the site
14 applies for the ranking under Section 374.154 and is not otherwise
15 ineligible for corrective action under this chapter~~+, or~~

16 ~~[(2) at the time corrective action is to begin, the~~
17 ~~real property at the site has been under the same ownership for not~~
18 ~~less than five years]~~.

19 SECTION 9. Section 374.207, Health and Safety Code, as
20 added by Chapter 540 (H.B. No. 1366), Acts of the 78th Legislature,
21 Regular Session, 2003, is amended to read as follows:

22 Sec. 374.207. ELIGIBLE OWNER EXEMPT FROM CERTAIN CLAIMS.

23 (a) If a ~~[an owner or other]~~ person is eligible under Subsection

24 (b) ~~[this chapter]~~ to have corrective action costs paid by the fund,
25 an administrative or judicial claim may not be made under state law
26 against the ~~[owner or other]~~ person by or on behalf of this state or
27 by any other person, except a political subdivision, to compel

corrective action or seek recovery of the costs of corrective action that result from the release.

(b) A person who is an owner of a dry cleaning facility or an owner of the real property on which the facility is located is eligible under this chapter to have corrective action costs paid by the fund if:

(1) an application for ranking under Section 374.154 has been properly submitted to and accepted by the commission; and

(2) the person is not otherwise ineligible for corrective action under this chapter.

(c) Nothing in this section shall preempt the provisions of any contract between the owner and any other party that allocates, as between the parties to such contract, the responsibilities for, and liabilities resulting from, a release of dry cleaning solvents.

SECTION 10. Sections 3(a) and (b), Chapter 540 (H.B. No. 1366), Acts of the 78th Legislature, Regular Session, 2003, are amended to read as follows:

(a) Not later than June ~~December~~ 1, 2004 ~~2003~~, the Texas Commission on Environmental Quality shall adopt any rules, performance standards, or forms required for the implementation of Chapter 374, Health and Safety Code, as added by this Act.

(b) Performance standards for new dry cleaning facilities under Section 374.053, Health and Safety Code, as added by this Act, apply only to a dry cleaning facility first brought into use ~~on or~~ after January ~~April~~ 1, 2004.

SECTION 11. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect on the 91st day after the last day of
4 the legislative session.