

By: Elkins

H.B. No. 2376

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the environmental regulation and remediation of dry
3 cleaning facilities.

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

5 SECTION 1. Section 374.004, Health and Safety Code, is
6 amended by adding Subsection (d) to read as follows:

7 (d) A member of the advisory committee serves without
8 compensation but is entitled to be reimbursed by the commission for
9 actual and necessary travel expenses related to the performance of
10 committee duties.

11 SECTION 2. Section 374.051(b), Health and Safety Code, is
12 amended to read as follows:

13 (b) The commission shall adopt rules that establish:

14 (1) performance standards for dry cleaning
15 facilities;

16 (2) requirements for the removal of chlorinated dry
17 cleaning solvents and wastes from dry cleaning facilities that are
18 to be closed by the owner to prevent future releases;

19 (3) criteria to be used in setting priorities for the
20 expenditure of money from the fund after consideration of:

21 (A) the benefit to be derived from corrective
22 action compared to the cost of implementing the corrective action;

23 (B) the degree to which human health and the
24 environment are affected by exposure to contamination;

1 (C) the present and reasonably foreseeable
2 future uses of affected surface water or groundwater;

3 (D) the effect that interim or immediate remedial
4 measures may have on future costs;

5 (E) the amount of money available for corrective
6 action in the fund; and

7 (F) any additional factors the commission
8 considers relevant; and

9 (4) criteria under which the commission may determine
10 the level at which corrective action is considered to be complete.

11 SECTION 3. Sections 374.053(c) and (d), Health and Safety
12 Code, are amended to read as follows:

13 (c) Rules adopted under this section must require:

14 (1) proper storage and disposal of wastes generated at
15 the facility that contain any quantity of chlorinated dry cleaning
16 solvent;

17 (2) compliance with emissions standards for hazardous
18 air pollutants for perchloroethylene dry cleaning facilities
19 adopted by the United States Environmental Protection Agency on
20 September 22, 1993;

21 (3) dikes or other containment structures to be:

22 (A) installed around each dry cleaning unit that
23 uses chlorinated dry cleaning solvents and each storage area for
24 chlorinated dry cleaning solvents or waste; and

25 (B) capable of containing any leak, spill, or
26 release of chlorinated dry cleaning solvent;

27 (4) all diked floor surfaces on which any chlorinated

1 dry cleaning solvent may leak, spill, or otherwise be released to be
2 made of epoxy, steel, or another material impervious to chlorinated
3 dry cleaning solvents; and

4 (5) all chlorinated dry cleaning solvents to be
5 delivered to dry cleaning facilities by means of closed,
6 direct-coupled delivery systems, when those systems have become
7 generally available.

8 (d) Rules adopted under this section shall ensure that
9 wastewater from a dry cleaning unit or discharge of chlorinated dry
10 cleaning solvent is not discharged to a sanitary sewer, to a septic
11 tank, or to water of this state.

12 SECTION 4. Section 374.102, Health and Safety Code, is
13 amended by amending Subsections (b) and (d) and by adding
14 Subsection (f) to read as follows:

15 (b) Unless arrangements have been made with the commission
16 to pay registration fees in quarterly installments [~~Except for a~~
17 ~~carbon dioxide facility~~], the registration must be accompanied by
18 an annual [a] fee of:

19 (1) \$250 for:

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

22 (B) a dry cleaning facility or drop station
23 designated as nonparticipating under Section 374.104;

24 (2) \$1,000 for a dry cleaning drop station, except
25 that the fee for a drop station is:

26 (A) \$250 if the drop station is not owned by the
27 owner of the dry cleaning facility; or

1 (B) \$750 if the drop station is owned by the owner
2 of the dry cleaning facility and has never been a dry cleaning
3 facility; or

4 (3) \$2,500 for a dry cleaning facility with gross
5 annual receipts of more than \$100,000.

6 (d) The owner of a dry cleaning facility or drop station
7 shall post the owner's registration number, in a manner prescribed
8 by the commission, in the public area of each of the owner's
9 operating dry cleaning facilities or drop stations.

10 (f) Before the commission issues a registration under this
11 section, the commission shall verify with the comptroller that the
12 owner of a dry cleaning facility or drop station is in good standing
13 with the state.

14 SECTION 5. Sections 374.103(a) and (b), Health and Safety
15 Code, are amended to read as follows:

16 (a) Except as provided by Subsection (b) and Section
17 374.104(d), a fee of \$15 per gallon is imposed on the purchase of
18 the dry cleaning solvent perchloroethylene and \$5 per gallon on the
19 purchase of any other dry cleaning solvent by an owner of a dry
20 cleaning facility. The person who distributes the solvent is
21 entitled to withhold two percent of the amount of the fee for
22 administrative expenses and shall pay the remaining amount [~~fee~~] to
23 the commission.

24 (b) Subsection (a) does not apply to a dry cleaning facility
25 designated as nonparticipating under Section 374.104 [+

26 ~~[-1) an owner who has never used or allowed the use of~~
27 ~~the dry cleaning solvent perchloroethylene at a dry cleaning~~

1 ~~facility in this state, or~~

2 ~~[(2) the purchase of the dry cleaning solvent carbon~~
3 ~~dioxide].~~

4 SECTION 6. Section 374.104, Health and Safety Code, is
5 amended by amending Subsections (a)-(c), (e), and (f) to read as
6 follows:

7 (a) The owner of a dry cleaning facility or drop station may
8 file with the commission an option for the facility or drop station
9 not to participate in fund benefits.

10 (b) An option not to participate must be filed before
11 December 31, 2005 [~~January 1, 2004~~]. An owner may not file an option
12 not to participate after September 1, 2005, unless the owner was
13 eligible to file the option on or before January 1, 2004, and
14 inadvertently failed to file before that date.

15 (c) The commission shall designate a dry cleaning facility
16 or drop station as nonparticipating if the owner demonstrates, at
17 the owner's expense and in accordance with commission rules, that
18 the owner has never used or allowed the use of the dry cleaning
19 solvent perchloroethylene at any dry cleaning facility or drop
20 station in this state. The owner must also agree that
21 perchloroethylene will not be used as a dry cleaning solvent at the
22 facility or drop station.

23 (e) On payment of the registration fee, the commission shall
24 issue a specially marked registration document to the owner of a
25 nonparticipating facility or drop station. The owner shall post
26 the registration document in the public area of the facility or drop
27 station.

1 (f) After a dry cleaning facility or drop station is
2 designated as nonparticipating:

3 (1) the owner of the facility or drop station is not
4 eligible for any expenditures of money from the fund or other
5 benefits of participation under this chapter for that facility or
6 drop station; and

7 (2) that facility or drop station may not later become
8 a participating facility.

9 SECTION 7. Sections 374.154(b) and (c), Health and Safety
10 Code, are amended to read as follows:

11 (b) The following persons are eligible to apply for a site
12 to be ranked under Subsection (a):

13 (1) a person who is an owner of the dry cleaning
14 facility or drop station; and

15 (2) a person who is [~~and has been~~] an owner of the real
16 property on which the dry cleaning facility or drop station is
17 located [~~for not less than five years as of the date the application~~
18 ~~for ranking is submitted~~].

19 (c) If the applicant for ranking:

20 (1) is not an owner of the real property, the
21 application must include proof that an owner of the real property
22 has been notified of the application; or

23 (2) is an owner of the real property and the dry
24 cleaning facility or drop station is leased, the application must
25 include proof that a lessee has been notified of the application.

26 SECTION 8. Sections 374.203(c) and (d) are amended to read
27 as follows:

1 (c) The commission may not use money from the fund for
2 corrective action at a contaminated dry cleaning site unless[+]

3 [~~(1)~~] the owner applies for the ranking under Section
4 374.154 and is not otherwise ineligible for corrective action under
5 this chapter[~~;~~ ~~or~~

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

9 (d) The owner of a dry cleaning facility or drop station, or
10 other person who submits the application for ranking the facility
11 under Section 374.154, shall pay as a deductible the first \$5,000 of
12 corrective action costs incurred because of a release from the dry
13 cleaning facility or drop station. The commission may take
14 corrective action regardless of whether the commission obtains the
15 deductible.

16 SECTION 9. Section 374.252, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 374.252. VIOLATIONS; PENALTIES. A person is subject
19 to an administrative penalty under Section 7.0525, Water Code, if
20 the person:

21 (1) operates a dry cleaning facility or drop station
22 in violation of this chapter, rules adopted under this chapter, or
23 orders of the commission made under this chapter;

24 (2) prevents or hinders a properly identified
25 authorized officer, employee, or agent of the commission, or a
26 properly identified person under order of or contract with the
27 commission, from entering, inspecting, sampling, or responding to a

1 release as authorized by this chapter;

2 (3) knowingly makes any false material statement or
3 representation in any record, report, or other document filed,
4 maintained, or used for the purpose of compliance with this
5 chapter;

6 (4) knowingly destroys, alters, or conceals any record
7 that this chapter or rules adopted under this chapter require to be
8 maintained; or

9 (5) violates Section 374.151 or related commission
10 rules.

11 SECTION 10. Sections 374.001(1) and 374.105(c), Health and
12 Safety Code, are repealed.

13 SECTION 11. (a) The change in law affecting registration
14 fees under Section 374.102, Health and Safety Code, as amended by
15 this Act, applies only to a registration fee payable on or after
16 September 1, 2005. A registration fee payable before September 1,
17 2005, is governed by the law as it existed on the date the fee became
18 due and that law is continued in effect for that purpose.

19 (b) The change in law affecting fees collected under Section
20 374.103, Health and Safety Code, as amended by this Act, applies
21 only to a fee associated with the distribution of a dry cleaning
22 solvent on or after September 1, 2005. A fee collected under Section
23 374.103, Health and Safety Code, before September 1, 2005, is
24 governed by that section as it existed on the date the distribution
25 of the solvent occurred, and that law is continued in effect for
26 that purpose.

27 SECTION 12. This Act takes effect September 1, 2005.