

## **BILL ANALYSIS**

C.S.H.B. 3220  
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Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In 2003, the Texas Legislature passed H.B. 1366 which created a dry cleaning regulation and remediation program. Before this program, it was impossible for many small, family owned dry cleaners to afford the cost of private remediation. This program attempts to provide assistance to the dry cleaning industry in cleaning up chemical spills. In addition, the Texas Commission on Environmental Quality (Commission) has developed performance standards for dry cleaning facilities and corrective action completion criteria for the remediation of sites.

Perchloroethylene ("perc") has long been recognized as an effective dry cleaning solvent and it is the most commonly used solvent in dry cleaning shops. However, as a volatile organic solvent, perc may pose serious health hazards if exposure is not properly controlled. Perc can contaminate groundwater if it makes its way into the ground. This program is committed to reducing environmental releases of perc by moving the industry toward a more environmentally safe solvent. In this regard, C.S.H.B. 3220 will increase the fee per gallon imposed on the purchase of perc and lower the fee per gallon on all other solvents that are environmentally friendly.

In many cases, the property owner is left to clean up the contamination caused by a dry cleaner. The process of remediation can be very expensive. C.S.H.B. 3220 clarifies that a property owner may participate in the dry cleaner remediation program and under what conditions. C.S.H.B. 3220 also provides site restrictions after corrective action if the dry cleaner continues to use perc. The bill also clarifies the status of a non-participating dry cleaner if he chooses to move his facility or drop station. The general purpose of C.S.H.B. 3220 is to make changes and additions to Chapter 374, Health and Safety Code, to address various issues that have arisen since this chapter's passage regarding the dry cleaner remediation program.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3220 amends the Health and Safety Code by setting forth which persons are authorized to participate in the dry cleaning facility release fund benefits (fund benefits) by registering with the Texas Commission on Environmental Quality (commission). The bill sets forth provisions that are required to be met to for a person to participate in funds benefits.

C.S.H.B 3220 provides that in addition to other remedies available under other law, a lien is imposed against real property that is subject to a corrective action taken under provisions for dry cleaning environmental response if the person does not pay a registration fee that is due while the corrective action is ongoing. The bill sets forth provisions pertaining to a lien imposed against real property that is subject to a corrective action.

C.S.H.B. 3220 sets forth that, with certain exceptions, a fee of \$20, rather than \$15, per gallon is imposed on the purchase of the dry cleaning solvent perchloroethylene and \$3, rather than \$5, per gallon on the purchase of any other dry cleaning solvent by an owner of a dry cleaning facility. The bill provides that an owner of a dry cleaning facility who files an option not to participate in accordance with provisions for not participating in fund benefits is entitled to a refund, rather than a credit against future registration fees, to the extent that a registration fee

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paid in 2004 or 2005 exceeded the amount due for a nonparticipating dry cleaning facility or drop station. The bill authorizes a person who is the owner of a dry cleaning facility or drop station who timely files an option not to participate in fund benefits to retain the status of the facility or drop station as nonparticipating if the person moves the facility or drop station to a new location. The bill requires that person to provide to the commission the written consent of the property owner at the new location and continue to comply with other requirements for the option not to participate in fund benefits. The bill prohibits a dry cleaning site from using perchloroethylene at a site if the commission has completed corrective action at that dry cleaning site. The bill provides that if the owner of a dry cleaning site uses perchloroethylene at the site after the completion or corrective action at that site, the site is not eligible for future corrective action using money from the dry cleaning facility release fund.

C.S.H.B 3220 modifies provisions pertaining to what persons are eligible to apply for a site to be ranked in the ranking of contaminated dry cleaning sites.

C.S.H.B. 3220 requires the commission to provide the comptroller with the list of persons eligible for a refund under Section 374.104 (b-1), Health and Safety Code, as amended by this Act not later than November 30, 2007, and the comptroller is required to pay each refund not later than December 31, 2007.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute deletes the requirement by a property owner or preceding owner to agree to participate in the fund benefits for 10 years or until the date the chapter expires, whichever is shorter when they register with the commission.

The substitute adds language to address the issue of imposing a lien against the real property subject to a corrective action if the person does not pay the registration fees while the corrective action is ongoing. The substitute states once an affidavit is recorded and indexed in the county which the real property is located, the lien arises and attaches to the real property subject to the corrective action. The substitute addresses when a lien may be foreclosed and when it is not valid or enforceable. Additionally, the substitute addresses the option for the owner of the real property affected by the lien to file a bond to indemnify toward the lien.

The substitute provides a nonparticipating owner of a dry cleaning facility or drop station may retain their status of nonparticipating if the nonparticipating owner moves the facility or drop station to a new location as long as the nonparticipating owner provides written consent from the property owner at the new location and continue to comply with all the requirements for a nonparticipating status.

The substitute clarifies who is eligible to be exempt from certain claims including the registered property owner or preceding property owner.