

**SUBJECT:** Revising the dry cleaning remediation program

**COMMITTEE:** Business and Industry — committee substitute recommended

**VOTE:** 8 ayes — Giddings, Elkins, Bailey, Bohac, Martinez, Taylor, Vo, Zedler  
0 nays  
1 absent — Solomons

**WITNESSES:** For — Robert M. Craig; James Cripe, Valet Cleaner of Bell and Coryell Counties; Patricia A. Godo; Shirley Reichstadt; Rick J. Sims, Southwest Dry Cleaners Association and Sims City Cleaners Inc.; Chrissy L. Sledge; Gerald Stavely, Gerald Stavely Martinizing; Martin Yee  
  
Against — Darrell Sawyer, Carl's Cleaners Inc. and Concerned Dry Cleaners of Texas  
  
On — Jackie Hardee, Texas Commission on Environmental Quality; Peter D. Le, Vietnamese Dry Cleaners Association; Susan Litherland; Rob Mitchell, Don Nguyen, Thanh Dac Nguyen, Vietnamese Dry Cleaners Association

**BACKGROUND:** Most dry cleaning businesses in Texas store and use chemicals for use in the process of “dry” cleaning clothing. An estimated 65 percent of these cleaners use the solvent perchloroethylene (perc), which is a chlorinated hydrocarbon originally developed as a metal degreaser for airplanes and has been adopted by the dry cleaning industry in the past 50 years. Many cleaners use alternatives to perc, including petroleum-based solvents, liquid carbon dioxide and other new technologies.  
  
The Environmental Protection Agency (EPA) has warned that breathing in perc, even for a short time, can lead to adverse affects on the human nervous system. Also, according to the EPA, longer periods of exposure to perc have been shown to cause liver and kidney damage. The EPA has also listed perc as a suspected cancer-causing chemical in humans as a result of findings from animal testing.

When spilled, perc can spread through the soil and contaminate groundwater. The cost of an average cleanup of a perc spill is about \$300,000. If the groundwater is contaminated by perc, cleanup costs can exceed \$1 million. The Texas Commission on Environmental Quality (TCEQ) oversees the cleanup of perc contamination sites in Texas.

***Dry cleaner remediation program.*** HB 1366 by Elkins, enacted by the 78th Legislature in 2003, established the Dry Cleaner Remediation Program (DCRP) to assist the remediation of contamination from hazardous dry cleaning solvents. The DCRP requires all dry cleaning facilities in Texas to register with TCEQ.

The DCRP fund can be used for cleaning up contamination caused by dry cleaning solvents. The fund is largely supported by fees paid by the dry cleaning industry. The DCRP fund includes money from:

- annual registration fees paid by owners of dry cleaning facilities and drop-off stations;
- fees collected by distributors of dry cleaning solvents on the sale of solvents to dry cleaning facilities;
- interest gained on the fund;
- costs recovered from cleaning up intentional solvent spills; and
- gifts, grants, reimbursements or appropriations from any other source.

DCRP dry cleaning facilities that use or have used perc in the past pay an annual registration fee of either \$250 or \$2,500, depending on their gross annual receipts. Dry cleaners that bring in less than \$100,000 each year pay a fee of \$250, and cleaners that gross more than \$100,000 annually are charged a fee of \$2,500. Facilities that choose not to participate in DCRP pay an annual fee of \$250. The program also includes a \$15 per gallon fee on perc and a \$5 per gallon fee on other solvents, such as petroleum-based solvents. DCRP requires dry cleaners pay a fee of \$1,000 on each drop-off station owned.

An advisory committee set up by the TCEQ offered input to the development of rules for the program. The advisory committee includes three industry representatives and two public representatives – one rural and one urban.

DIGEST:

CSHB 2376 would amend Health and Safety Code, ch. 374, to make modifications to the DCRP program, including adjusting fees and establishing additional registration requirements, among other changes.

***TCEQ registration fees.*** Dry cleaners could pay annual registration fees on a quarterly basis. TCEQ's annual registration fees for dry cleaners would be adjusted to:

- \$2,500 for dry cleaners bringing in more than \$150,00 per year;
- \$250 for dry cleaners brining in less than \$150,00 per year;
- \$250 for dry cleaners opting out of the program;
- varying amounts for drop stations, depending on the annual revenue collected by the station, of \$750 for a drop station bringing in more than \$150,000 per year, \$250 for a drop station bringing in less than \$150,00 per year, and \$250 for drop stations opting out of the program.

***DCRP registration requirements.*** Owners would have to post a facilities TCEQ registration number in drop stations in addition to dry cleaning facilities. TCEQ would verify the accuracy of financial information provided by owners of dry cleaners on registration applications and ensure that a facility was in good standing with the state before approving its registration. Distributors of dry cleaning solvents would register with TCEQ and could use 2 percent of fees collected on dry cleaning solvents to cover administrative costs of collecting and remitting the fee to TCEQ.

***Non-participation option.*** CSHB 2376 would require that dry cleaners choosing not to participate in the program to obtain written consent from the owner of the property on which a facility was located and demonstrate that perc never had been used at the facility. Dry cleaners not participating in the program would not be subject to the \$5 fee on the purchase of dry cleaning solvents that did not contain perc. The bill would also extend the deadline for registering as a non-participant until December 1, 2005, for owners that did not file prior to January 1, 2004.

***Performance standards.*** The deadline for implementing the performance standards would be extended to January 1, 2015, for dry cleaners that gross \$150,000 or less annually. CSHB 2376 would require new dry cleaning facilities to comply with EPA air quality standards on emissions of dry cleaning solvents, including providing secondary containment for all new or replaced dry cleaning units.

***DCRP fund.*** Money received related to the payment of any penalty, not just civil penalties, would be deposited into the DCRP fund. The state could recover reasonable costs associated with the appeal of an enforcement order, including legal fees, to the fund. The maximum amount of the fund that could be spent on administrative costs each year would be increased from 10 to 15 percent of the fund's balance.

***Remediation.*** TCEQ no longer would be able to declare a cleanup of contamination to be complete if it did not satisfy state water quality standards. Also, former owners of property on which a dry cleaning facility was located, in addition to current property owners, would be eligible to apply for cleanup of contamination under DCRP.

***Enforcement and penalties.*** The penalty for falsifying information provided to TCEQ would be a maximum of \$10,000. Anyone who knew of the release of dry cleaning solvents into the environment would have to notify TCEQ within 24 rather than 48 hours. The bill would assign a penalty of \$50 per day for each day late registration fees remained unpaid.

***Advisory committee.*** Members of the advisory committee would be reimbursed for travel-related expenses.

The bill would take effect on September 1, 2005

SUPPORTERS  
SAY:

The additional registration requirements in CSHB 2376 would increase the effectiveness of DCRP by expanding public awareness, reducing the number of fraudulent applications, and requiring distributors to register. Requiring owners to post TCEQ registration information in both dry cleaning facilities and drop off facilities would make more customers aware of potential environmental hazards caused by dry cleaning solvents. Verifying application information would discourage owners from providing false information to TCEQ. Requiring distributors to register with TCEQ would increase participation of distributors in the program.

CSHB 2376 would further protect the rights of the owners of property on which dry cleaning facilities operate. The bill would allow former property owners to apply for remediation assistance from TCEQ if they shared in the legal responsibility for the costs of remediation. The bill would prevent former owners from having to pay the costs of cleaning up contamination from facilities that were located on their property.

CSHB 2376 would make participation in DCRP more accessible to smaller dry cleaners and those with multiple locations by permitting the payment of annual registration fees on a quarterly basis and lowering registration fees for many cleaners. Also, increasing the annual gross revenue threshold for payment of the higher registration fee of \$2,500 would allow more dry cleaners to register for a lower cost. Lower registration costs would translate into lower prices for consumers and an increased demand for dry cleaning services. Dry cleaners that bring in between \$100,000 and \$150,000 in gross revenue per year would likely receive more business as a result of CSHB 2376.

The bill would resolve the unequal treatment of dry cleaners that use different chemicals in the DCRP program. Currently, dry cleaners that use petroleum-based solvents are required to prove that they have never used perc in order to opt out of the program. However, cleaners that use carbon dioxide are automatically exempt from fees without having to reveal their solvent use history to TCEQ. CSHB 2376 would require all facilities to provide evidence of not having used perc in the past in order to opt out of DCRP.

CSHB 2376 would encourage cleanup of more contaminated sites across Texas. Insurance to cover these costs is expensive and carries high deductibles. Some dry cleaners have gone out of business because of these costs and have abandoned the sites. DCRP sets the deductible at an amount that most cleaners can afford and spreads the costs of the program across the industry, enabling even smaller operations to afford cleanup. CSHB 2376 would result in the expansion of the DCRP program and the cleanup of many more contaminated sites in the state.

The bill would result in a positive economic impact on the state by helping to secure jobs of dry-cleaning employees in safer workplaces. CSHB 2476 also would help provide security for family-owned businesses that cannot afford to clean up contaminated sites. Some dry cleaners have gone out of business after losing their leases because the landlords were not willing to risk perc contamination on their property. This bill would expand access to funds for environmental cleanups in the event of spills.

**OPPONENTS  
SAY:**

The severe regulations in the bill would result in even higher prices for dry cleaning services. CSHB 2376 would force more dry cleaners and distributors of dry cleaning solvents to participate in DCRP. These businesses then would be burdened by excessively high fees on essential

inputs. DRCF places a \$15 per gallon fee on the purchase of perc, the most commonly used solvent in the industry. This fee nearly triples the cost of the solvent for dry cleaning facilities. CSHB 2376 is likely to drive more dry cleaning facilities out of business by hampering their ability to compete in the dry cleaning market.

Registration fees should not be applied to drop stations in addition to dry cleaning facilities. Drop stations do not pose a hazard to the environment or to public health as clothes dropped off at drop stations are sent to dry cleaning facilities to be cleaned. Regulations on the use of solvents in the dry cleaning industry should be more consistent with the role of a facility in the creation of an environmental hazard.

OTHER  
OPPONENTS  
SAY:

CSHB 2376 would not result in the cleanup of all contaminated sites, only of those that were most harmful to the public. In the administration of DCRP, TCEQ prioritizes sites by potential health risk. The DCRP fund is sufficient to fund only a small percentage of contaminated sites in Texas. Although not every dry-cleaning site is contaminated, it is likely that many more sites than can be served by the program are contaminated. Further, even if an owner applied for cleanup of a contaminated site, CSHB 2376 would not guarantee that the cleanup ever would occur.

NOTES:

The committee substitute made the following changes to the bill as originally filed:

- requiring solvents to be stored in secondary containment;
- requiring cleanup of solvent spills to conform to state regulations;
- allowing 15% of the DCRP fund to be spent on administrative costs each year;
- requiring solvent distributors to register with TCEQ;
- reducing the time to report a solvent spill to TCEQ from 48 to 24 hours;
- allowing former property owners to apply for cleanup assistance; and
- adding a \$50/day penalty for late registration.

According to the fiscal note, CSHB 2376 would generate about \$3 million for the DCRP fund during fiscal 2006-7.