

1 HB254
2 204487-1
3 By Representatives Marques, Dismukes, Isbell and Sorrells
4 RFD: Commerce and Small Business
5 First Read: 18-FEB-20

SYNOPSIS: Under existing law, the Alabama Drycleaning Environmental Response Trust Fund Act provides a program and fund, administered jointly by the Alabama Drycleaning Environmental Response Trust Fund Board and the Alabama Department of Environmental Management, to investigate, assess, and remediate contamination in soil, ground water, and surface waters resulting from the operation of a drycleaning facility.

This bill would require owners, operators, and wholesale distributors to participate in the program and be covered by the act.

This bill would also provide the means for a former owner or operator of a drycleaning facility to be covered by the act upon the payment of an annual fee.

A BILL
TO BE ENTITLED
AN ACT

1
2 To amend Sections 22-30D-3, 22-30D-4, 22-30D-5,
3 22-30D-6, 22-30D-7, 22-30D-9, 22-30D-10, 22-30D-11, and
4 22-30D-12, Code of Alabama 1975, relating to the Alabama
5 Drycleaning Environmental Response Trust Fund Act; to require
6 owners, operators, and wholesale distributors to participate
7 in the program and be covered by the act; and to provide the
8 means for a former owner or operator of a drycleaning facility
9 to be covered by the act upon the payment of an annual fee.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 22-30D-3, 22-30D-4, 22-30D-5,
12 22-30D-6, 22-30D-7, 22-30D-9, 22-30D-10, 22-30D-11, and
13 22-30D-12 of the Code of Alabama 1975, are amended to read as
14 follows:

15 "§22-30D-3.

16 "Unless otherwise defined in this chapter, the
17 definitions of terms included in Section 22-30-3 shall be
18 applicable to this chapter. For the purposes of this chapter,
19 the following terms have the following meanings:

20 "(1) ABANDONED DRYCLEANING FACILITY. Any real
21 property premises or individual leasehold space located in
22 this state owned by any person in which a drycleaning facility
23 or wholesale distribution facility formerly operated;
24 ~~provided, however, that any owner or operator or wholesale~~
25 ~~distributor who shall have elected not to be covered by the~~
26 ~~provisions of this chapter shall not be considered a person~~

1 ~~owning or leasing such a facility for the purposes of this~~
2 ~~chapter.~~

3 "(2) ADJACENT LAND OWNER. Any owner, lessor, or
4 mortgagee of any real property onto which contamination from a
5 drycleaning facility, abandoned drycleaning facility, or
6 wholesale distribution facility of any owner or operator or
7 wholesale distributor ~~who shall have elected to be covered by~~
8 ~~the provisions of this chapter~~ has migrated or is threatening
9 to migrate; or any of the successors or assigns,
10 predecessors-in-title, and successors-in-title of the
11 foregoing.

12 "(3) AHWMA. The Alabama Hazardous Waste Management
13 and Minimization Act.

14 "(4) BOARD. The Alabama Drycleaning Environmental
15 Response Trust Advisory Board created under Section 22-30D-8.

16 "(5) CONTAMINATION. The presence of drycleaning
17 ~~agent~~ agents in soil, groundwater, surface water, or any other
18 medium at or on a drycleaning facility, abandoned drycleaning
19 facility, wholesale distribution facility, or any real
20 property of any impacted third party.

21 "(6) DEPARTMENT. The Alabama Department of
22 Environmental Management, or any successor department or
23 agency of the state.

24 "(7) DIRECTOR. The Director of the Alabama
25 Department of Environmental Management, or any successor
26 department or agency of the state.

1 "(8) DRYCLEANING AGENT. Any non-hydrocarbon chlorine
2 or hydrocarbon-based formulations or any products used or to
3 be used as a ~~primary~~ cleaning agent in the cleaning of
4 garments, apparel, or household fabrics at a drycleaning
5 facility and includes, but is not limited to,
6 perchloroethylene, also known as tetrachloroethylene, other
7 chemicals using CAS No. 127-18-4, solvent-charged detergent,
8 spotting agents, glutone, and any other chlorine or
9 petroleum-based formulations or products and the substances
10 into which any such formulations or products degrade.

11 "(9) DRYCLEANING FACILITY. A place of business,
12 located at or on any real property premises or individual
13 leasehold space located in this state which operates, or has
14 operated in the past, in whole or in part, a commercial
15 facility for the purpose of laundering or cleaning garments,
16 apparel, or household fabrics for the general public using any
17 process that involves the use of drycleaning agents. The term
18 ~~"drycleaning facility"~~ specifically includes: All contiguous
19 land, structures, and other appurtenances and improvements on
20 the land used in connection with a drycleaning facility;
21 tuxedo rental facilities renting to the general public which
22 conduct drycleaning operations on the premises; and "route
23 sales," "dry stores," "stores," or other facilities located in
24 this state which do not engage in on-site laundering or
25 drycleaning but which have laundering or drycleaning performed
26 off-site by any person, including the person owning the "route
27 sales," "dry store," or "pick-up store". The following

1 facilities are excepted from the definition of "~~drycleaning~~
2 ~~facility~~" the term:

3 "a. A "~~stand-alone~~" coin-operated laundry or a
4 coin-operated drycleaning facility.

5 "b. A facility located on a United States military
6 base or owned by the United States, or any department or
7 agency thereof.

8 "c. A facility owned or leased by the state, any
9 county, city, town, or public or quasi-public organization of
10 the state, any public subdivision thereof, or any agency or
11 department thereof, or any body corporate or system of the
12 state under the management or administration of a board of
13 control or governing board established by the state.

14 "d. A facility primarily engaged in uniform service
15 or linen supply.

16 "e. Prisons, hotels, motels, industrial launderers,
17 or drycleaners not providing services to the general public,
18 hospitals, or nursing homes.

19 "~~f. Any facility owned or leased by any owner or~~
20 ~~operator who shall elect not to be covered by this chapter.~~

21 "(10) FUND. The Alabama Drycleaning Environmental
22 Response Trust Fund created under Section 22-30D-5.

23 "(11) IMPACTED THIRD PARTY. Any person who is or has
24 been an owner, lessor, or mortgagee of real property on which
25 is or has been located a drycleaning facility, abandoned
26 drycleaning facility, or wholesale distribution facility ~~of or~~
27 any owner or operator or wholesale distributor who ~~has elected~~

1 ~~to be~~ is covered by this chapter or any of the successors or
2 assigns, predecessors-in-title, and successors-in-title of the
3 foregoing.

4 "(12) OWNER or OPERATOR. Any person who owns or
5 leases an active drycleaning facility and who is or has been
6 responsible for operations at such drycleaning facility and
7 who ~~shall elect to be~~ is covered by this chapter.

8 "(13) PERSON. An individual, trust, firm, joint
9 venture, consortium, joint-stock company, corporation,
10 partnership, association, or limited liability company. ~~Person~~
11 The term does not include any governmental organization.

12 "(14) REGISTRATION FEE. Registration fees required
13 to be paid pursuant to Section 22-30D-6 by each owner or
14 operator of any drycleaning facility operating in this state
15 who ~~shall elect to be~~ is covered by this chapter and by each
16 wholesale distributor selling to drycleaning facilities in
17 this state who ~~shall elect to be~~ is covered by this chapter.

18 "(15) RELEASE. Any actual spilling, pouring,
19 overfilling, leaking, leaching, emitting, discharging, or
20 escaping of drycleaning agents at or from a drycleaning
21 facility or wholesale distribution facility into the soils or
22 waters of the state.

23 "(16) REPORTABLE QUANTITY. A known release outside
24 of containment of a drycleaning agent in excess of the federal
25 reporting standards.

1 "(17) RETIRED PERSON. An owner or operator of a
2 drycleaning facility who has closed or sold the drycleaning
3 facility.

4 "~~(17)~~(18) SITE. Land on which a drycleaning
5 facility, abandoned drycleaning facility, or wholesale
6 distribution facility is or has been physically located.

7 "~~(18)~~(19) SMALL BUSINESS. Any person owning or
8 leasing any drycleaning facility, wholesale distribution
9 facility, or abandoned drycleaning facility in this state and
10 having a net worth of two million dollars (\$2,000,000) or less
11 each calendar year from the time of discovery of contamination
12 through the present.

13 "~~(19)~~(20) STATE. The State of Alabama.

14 "~~(20)~~(21) WHOLESALE DISTRIBUTION FACILITY. A place
15 of business located in this state of a wholesale distributor
16 or any real property premises or individual leasehold space
17 located in this state, occupied by a wholesale distributor who
18 ~~shall elect to be~~ is covered by this chapter.

19 "~~(21)~~(22) WHOLESALE DISTRIBUTOR. Any person whose
20 ~~primary~~ business is selling drycleaning agents and supplies to
21 drycleaning facilities and who ~~shall elect to be~~ is covered by
22 this chapter. ~~"Primary business" as used in this definition~~
23 ~~means the percentage of the person's gross receipts from the~~
24 ~~sale of laundry and drycleaning agents and supplies equals or~~
25 ~~exceeds 20 percent of the total gross receipts of such person.~~

26 "§22-30D-4.

1 "(a) (1) All owners and operators and all wholesale
2 distributors shall ~~elect by May 24, 2001, to be covered or not~~
3 ~~to be covered by this chapter and shall do so by notifying the~~
4 ~~department in writing that such owner or operator or wholesale~~
5 ~~distributor elects to be covered or not to be covered by this~~
6 ~~chapter. Following May 24, 2001, any owner or operator or~~
7 ~~wholesale distributor who may have initially elected not to be~~
8 ~~covered by this chapter or who may have inadvertently failed~~
9 ~~to notify the department may notify the department that such~~
10 ~~owner or operator or wholesale distributor has reconsidered~~
11 ~~and desires to be covered by the fund, but any such owner or~~
12 ~~operator or wholesale distributor shall, with its notice of~~
13 ~~request for coverage, be required to pay to the Department of~~
14 ~~Revenue the registration fees which would otherwise have been~~
15 ~~due to the fund had such owner or operator or wholesale~~
16 ~~distributor elected to be covered by this chapter prior to May~~
17 ~~24, 2001. Coverage by this chapter shall be effective on the~~
18 ~~date that a written notice of an election to be covered is~~
19 ~~received by the department. The department shall maintain a~~
20 ~~listing of all owners or operators or wholesale distributors~~
21 ~~who shall have elected to be covered or not to be covered by~~
22 ~~this chapter and shall advise the board from time to time of~~
23 ~~the names of those persons register their sites with the~~
24 ~~department pursuant to this chapter before January 1, 2021.~~

25 "(2) Any owner or operator or wholesale distributor
26 who shall elect not to be covered by this chapter or shall
27 fail to notify the department that it has determined to

1 ~~reconsider within the times set forth above shall be relieved~~
2 ~~of any of the obligations imposed on owners or operators or~~
3 ~~wholesale distributors under this chapter, including any~~
4 ~~obligation to register or pay registration fees~~ The department
5 may exempt from application of this chapter any wholesale
6 distributor who demonstrates to the department that his or her
7 site is not contaminated above applicable screening levels.

8 "(3) Notwithstanding any provisions of this chapter
9 to the contrary, ~~any owner or operator or wholesale~~
10 ~~distributor who shall so elect not to be covered by this~~
11 ~~chapter or shall fail to notify the department that it has~~
12 ~~determined to reconsider within the times set forth above~~
13 ~~shall thereafter permanently and irrevocably waive and~~
14 ~~relinquish any benefit, coverage, protection, payment, or~~
15 ~~waiver of liability otherwise afforded by this chapter. An~~
16 ~~election not to be covered by the fund or a failure to~~
17 ~~reconsider by any owner or operator or wholesale distributor~~
18 ~~who shall be an individual, shall include and bind any~~
19 ~~relative by blood within the third degree of consanguinity or~~
20 ~~by marriage, and in the case of a corporation or other legal~~
21 ~~entity, any current or former subsidiary, division,~~
22 ~~stockholder, parent company, partner, member, successor or~~
23 ~~assign, or any predecessor-in-title or successor-in-title~~ any
24 drycleaning facility, abandoned drycleaning facility, or
25 wholesale distributor that is delinquent in the payment of
26 required fees shall not receive any benefit from the fund, nor
27 shall any adjacent landowner or impacted third party be

1 allowed to file a claim against the fund pursuant to this
2 chapter.

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

14 "(b) It is the intent of the Legislature that the
15 monies in the fund will only be utilized to address
16 contamination that is caused by drycleaning agents occurring
17 at or on drycleaning facilities, abandoned drycleaning
18 facilities, wholesale distribution facilities, or real
19 property of impacted third parties or adjacent landowners,
20 ~~whether such contamination occurred or was discovered before~~
21 ~~or after May 24, 2000; provided that monies in the fund shall~~
22 ~~be used only for payment for costs of investigation,~~
23 ~~assessment, or remediation that are incurred after May 24,~~
24 ~~2000; and further provided that this.~~ This chapter and the
25 fund ~~created hereby~~ shall benefit only those owners or
26 operators, wholesale distributors, or persons owning abandoned
27 drycleaning facilities who ~~shall have elected to be~~ are

1 covered by this chapter and impacted third parties and
2 adjacent landowners impacted or adjacent to drycleaning
3 facilities or wholesale distribution facilities of ~~such~~ those
4 owners or operators or wholesale distributors. The board and
5 the department shall jointly administer this chapter under the
6 following criteria:

7 "(1) The department shall allow owners or operators,
8 persons owning abandoned drycleaning facilities, wholesale
9 distributors, impacted third parties, and adjacent landowners,
10 and their engineers and contractors to deal with contamination
11 under the oversight of the department utilizing monies in the
12 fund under the oversight of the board, including costs
13 incurred for initial investigations in determining that
14 contamination has actually occurred. The fund shall not be
15 used to deal with contamination at any facilities other than
16 drycleaning facilities, abandoned drycleaning facilities,
17 wholesale distribution facilities, or the real property of
18 impacted third parties or adjacent landowners.

19 "(2) If the response actions to releases are
20 conducted pursuant to C.F.R. 300 or pursuant to ~~regulations~~
21 rules adopted by the department under subsection (c), the
22 department shall not require any owner or operator, person
23 owning any abandoned drycleaning facility, wholesale
24 distributor, impacted third party, or adjacent landowner to do
25 any of the following:

1 "a. Obtain any state permit or engage in closure,
2 post-closure, or corrective action pursuant to AHWMMMA;
3 ~~establish.~~

4 "b. Establish or maintain any financial assurance or
5 other financial requirement;~~or otherwise.~~

6 "c. Otherwise become obligated to pay for any costs,
7 except for the deductible set forth in Section 22-30D-7, in
8 connection with contamination occurring at any drycleaning
9 facility, abandoned drycleaning facility, wholesale
10 distribution facility, or at the real property of impacted
11 third parties or adjacent landowners which may have failed to
12 operate as a permitted treatment, storage, or disposal
13 facility as defined under AHWMMMA.

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

21 "~~(4)~~ (3) To the fullest extent allowed by law, the
22 department shall make every reasonable effort to allow for
23 ~~such~~ any interim action as may be necessary to keep sites
24 where contamination exists off of the national priorities
25 list, as defined in 40 C.F.R. 300.5.

26 "~~(5)~~ (4) The department shall not seek out
27 contamination because of the existence of the fund or the

1 other provisions of this chapter. Monies shall be made
2 available by the board for the use as contamination is
3 discovered, ~~whether such discovery is made before or after May~~
4 ~~24, 2000.~~

5 "~~(6)~~ (5) Careful consideration shall be given by the
6 department to remedial activities which may result in an
7 overall reduction of risk to human health and the environment
8 and in reduction of total costs of remediation. ~~Such remedial~~
9 Remedial activities should receive consideration by the
10 department as a high priority.

11 "~~(7)~~ (6) The department, ~~in its discretion,~~ may allow
12 the use of innovative technology to perform remedial
13 activities.

14 "(c) In addition to the powers and duties specified
15 in this chapter and in Sections 22-22A-1 to 22-22A-16,
16 inclusive, the department shall adopt rules ~~and regulations~~
17 necessary to administer and enforce this chapter, it being the
18 intent of the Legislature that contamination caused by
19 drycleaning agents shall be managed solely in accordance with
20 this chapter and the rules ~~and regulations~~ to be adopted.
21 Consistent with these purposes, ~~such~~ the rules ~~and regulations~~
22 ~~shall~~, at a minimum, shall establish or adopt the following
23 standards, schedule, and criteria:

24 "(1) Establishing performance standards for
25 drycleaning facilities and wholesale distribution facilities
26 first brought into use on or after the effective date of
27 ~~regulations~~ rules authorized by this subsection. ~~Such~~

1 ~~performance~~ Performance standards shall be effective when the
2 rules ~~and regulations~~ adopted become final. The performance
3 standards for new drycleaning facilities and wholesale
4 distribution facilities shall allow the use of new technology
5 as it becomes available and ~~shall~~, at a minimum, shall include
6 provisions which are at least as protective of human health
7 and the environment as each of the following standards:

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

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

20 "c. A requirement of compliance with the national
21 emission standards for hazardous air pollutants for
22 perchloroethylene drycleaning facilities promulgated by the
23 United States Environmental Protection Agency on September 22,
24 1993, including revisions and applicable regulations thereto.

25 "d. A requirement that all drycleaning agents or
26 wastes containing drycleaning agents be stored in appropriate

1 closed containers and handled so as to minimize the risk of
2 spills or leaks.

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

7 "f. A requirement that those portions of all diked
8 floor surfaces upon which any drycleaning agent may leak,
9 spill, or otherwise be released be material impervious to
10 drycleaning agents.

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

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

19 "(2) Adopting a schedule requiring the retrofitting
20 of drycleaning facilities and wholesale distribution
21 facilities ~~in existence on or before May 24, 2000~~, in order to
22 conform the drycleaning facility to the rules ~~and regulations~~
23 authorized by subdivision (1) and to implement the performance
24 standards established pursuant to subdivision (1). The
25 schedule may phase in the standards authorized by this
26 subdivision at different times but shall make all such
27 standards effective no later than May 24, 2005. This

1 subdivision requiring retrofitting shall not require an owner
2 or operator of a drycleaning facility ~~existing on or before~~
3 ~~May 24, 2000,~~ to replace an existing drycleaning unit unless
4 required to do so by federal laws or rules and regulations
5 promulgated by the Environmental Protection Agency.

6 "(3) Establishing criteria for prompt reporting of
7 suspected contamination or the discovery of contamination at
8 drycleaning facilities, abandoned drycleaning facilities,
9 wholesale distribution facilities, or on real property of
10 impacted third parties or adjacent landowners, ~~whether~~
11 ~~discovered before or after May 24, 2000,~~ and procedures for
12 initial investigation of such contamination, if any, and
13 determination of possible effects on or risk to human health
14 or the environment and necessary or appropriate emergency
15 action, to assure that human health or safety is not
16 threatened by ~~such~~ the contamination.

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

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

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

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

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

5 "e. The possibility of no further action.

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

8 "g. The amount of monies available in the fund.

9 "h. ~~Such~~ Any additional factors ~~as~~ the director
10 considers relevant or ~~as~~ required by ~~other provisions of this~~
11 chapter.

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

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

27 "§22-30D-5.

1 "(a) There is hereby created the Alabama Drycleaning
2 Environmental Response Trust Fund, ~~hereinafter referred to as~~
3 ~~the "fund."~~. The fund ~~as so created~~ shall be administered and
4 used by the board as a drycleaning industry self-insurance
5 program for the benefit of those persons ~~electing to be~~
6 covered by this chapter ~~within the time(s) specified in~~
7 ~~accordance with the provision of this chapter~~ and as a
8 revolving fund for carrying out the purposes of this chapter.
9 To the fund shall be credited all registration fees collected
10 by the Department of Revenue, which monies shall be credited
11 to the fund pursuant to this chapter and invested as permitted
12 by law by the State Treasurer for the benefit of the fund.
13 Charges against the fund shall be made in accordance with this
14 chapter. ~~Use of the fund and participation in any remedial~~
15 ~~program by an adjacent landowner is voluntary. Nothing in this~~
16 ~~chapter requires participation by an adjacent landowner.~~
17 ~~Participation by the adjacent landowner is not required for~~
18 ~~use of monies in the fund to investigate, assess, or remediate~~
19 ~~contamination on the real property of adjacent landowners;~~
20 ~~provided that the adjacent landowner shall first register the~~
21 ~~site with the board and the department.~~ The fund shall not be
22 used to pay any costs incurred by any owner or operator or
23 wholesale distributor ~~who shall elect not to be~~ covered by
24 this chapter ~~within the time(s) specified by this chapter~~ nor
25 shall the fund be used to pay any costs incurred at any real
26 property of any impacted party or adjacent landowner impacted

1 by or adjacent to any ~~such~~ owner or operator or wholesale
2 distributor.

3 "(b) Whenever contamination or suspected
4 contamination is reported to the board and the department, the
5 board ~~shall~~, in accordance with procedures to be established
6 by the board, shall obligate monies available in the fund to
7 provide for payment for costs incurred ~~after May 24, 2000,~~ by
8 owners or operators, persons owning any abandoned drycleaning
9 facility, wholesale distributors, impacted third parties, or
10 adjacent landowners covered by this chapter, for each of the
11 following:

12 "(1) Investigation and assessment of contamination
13 or suspected contamination.

14 "(2) Remediation, if necessary, of contamination
15 pursuant to a remediation plan, which may consist of clean-up
16 of affected soil and water, except that nothing herein shall
17 be construed to authorize the board to obligate funds for
18 payment of costs which are not integral to remediation of
19 contamination.

20 "(c) The board shall establish procedures for
21 submitting requests to the board for payments from the fund
22 for the costs of investigation, assessment, and remediation
23 and for procedures for certification of engineers or
24 contractors and establishment and approval of qualifications
25 and fee or rate schedules for such engineers or contractors.
26 Every such owner or operator, person owning any abandoned
27 drycleaning facility, wholesale distributor, impacted third

1 party, or adjacent landowner covered by this chapter shall
2 submit to the board a nonbinding budget estimate of the cost
3 expected to be incurred at the site, and shall revise the
4 budget estimate and advise the board whenever the owner or
5 operator, person owning any abandoned drycleaning facility,
6 wholesale distributor, impacted third party, or adjacent
7 landowner has reason to believe the budget estimate is
8 inaccurate.

9 ~~"(d) If the unobligated principal of the fund equals~~
10 ~~or exceeds eight million dollars (\$8,000,000) on April 1 of~~
11 ~~any year, the registration fee imposed by Section 22-30D-6~~
12 ~~shall not be collected on or after the next July 1 until April~~
13 ~~1 of the following year. Thereafter, if the unobligated~~
14 ~~principal balance of the fund equals four million dollars~~
15 ~~(\$4,000,000) or less, the registration fee imposed by Section~~
16 ~~22-30D-6 shall again be collected on and after the next July~~
17 ~~1.~~

18 ~~"(e) Not later than April 5 of each year, the board~~
19 ~~shall report the amount of the unobligated balance of the fund~~
20 ~~on April 1 of year. The board shall notify the public and the~~
21 ~~Department of Revenue if the registration fee imposed by~~
22 ~~Section 22-30D-6 will be abated or be payable on the following~~
23 ~~July 1.~~

24 ~~"(f)(d)~~ The unobligated balance of the fund shall be
25 invested by the State Treasurer, upon notification of the
26 board, for the benefit of the fund.

1 "~~(g)~~ (e) The fund shall be used for the purposes set
2 forth in this chapter only and for no other governmental
3 purpose, nor shall any portion ~~hereof~~ of the fund ever be
4 appropriated to or be available to borrow from any branch of
5 government; it being the intent of the Legislature that this
6 fund and its increments shall remain intact and inviolate for
7 the purposes set out in this chapter. Any interest or earnings
8 on the fund shall be credited only to the fund.

9 "~~(h)~~ (f) Nothing in this chapter shall establish or
10 create any liability or responsibility on the part of the
11 state to pay any costs of contamination from any source other
12 than the fund created by this chapter, nor shall the state
13 have any liability or responsibility to make payments for any
14 such costs if the fund created herein is insufficient to do
15 so. In the event the fund is insufficient to make the payments
16 at the time the claims are filed, claims shall be paid in the
17 order of filing or in terms of environmental needs as
18 determined by the board and the department at such time as
19 monies are paid into the fund.

20 "~~(i)~~ (g) The fund shall be audited annually by the
21 Department of Examiners of Public Accounts.

22 "~~(j)~~ (h) All information secured by the Department of
23 Revenue pursuant to this chapter shall be confidential, as
24 prescribed by Section 40-2A-10, except that the Department of
25 Revenue may provide ~~such~~ information to the department or the
26 board as necessary for the proper administration of the duties
27 of the department and the board relative to the fund. All

1 information provided by the Department of Revenue to the board
2 and the department shall be subject to the confidentiality
3 provisions provided in Section 40-2A-10.

4 "§22-30D-6.

5 "(a) No later than ~~May 24, 2001~~ January 1, 2021,
6 each owner or operator of a drycleaning facility located in
7 this state who ~~shall notify the department that it elects to~~
8 ~~be~~ is covered by this chapter shall also register each
9 drycleaning facility owned or operated in the state by ~~such~~
10 ~~that~~ owner or operator with the department on forms provided
11 by the department. Each owner or operator ~~electing to register~~
12 ~~pursuant to this subsection~~ shall submit its registration
13 forms to the ~~Department of Revenue and the department~~ and
14 register electronically with the Department of Revenue on a
15 form prescribed by the Department of Revenue. In addition,
16 each owner or operator ~~electing to be covered by this chapter~~
17 shall pay electronically to the Department of Revenue with its
18 initial registration, and each year thereafter, a yearly
19 drycleaning registration fee equal to ~~two~~ one percent of the
20 gross receipts earned by ~~such~~ the owner or operator in the
21 state during the prior calendar year, not to exceed a total
22 registration fee of twenty-five thousand dollars (\$25,000) per
23 year, regardless of the number of drycleaning facilities owned
24 or operated by the owner or operator, as a self-insurance
25 premium for coverage under the fund and for the benefits
26 afforded by this chapter.

1 "(b) Each new owner or operator coming into
2 existence after ~~May 24, 2000~~ July 1, 2020, who acquires an
3 existing drycleaning facility after ~~May 24, 2000~~ that date,
4 ~~and who shall desire to be covered by the provisions of this~~
5 ~~chapter~~ shall so notify the department and register each
6 drycleaning facility acquired in Alabama with the department
7 on forms provided by the department and shall submit the
8 registration form to the ~~Department of Revenue and the~~
9 department and the board within 30 days of the acquisition and
10 shall register electronically with the Department of Revenue
11 on forms prescribed by the Department of Revenue. In addition,
12 each new owner or operator who acquires an existing
13 drycleaning facility after ~~May 24, 2000~~ July 1, 2020, and who
14 ~~shall elect to be covered by the provisions of~~ is subject to
15 this chapter ~~shall pay~~, for the first year the owner or
16 operator owns or operates the acquired drycleaning facility,
17 shall pay electronically a registration fee equal to ~~two~~ one
18 percent of the gross receipts earned in the state by the prior
19 owner or operator during the prior calendar year less whatever
20 sum the prior owner or operator has paid as a registration fee
21 for that same year. The registration fee provided for in this
22 subsection shall be due and payable to the Department of
23 Revenue as provided in this section.

24 "(c) Each new owner or operator ~~coming into~~
25 ~~existence after May 24, 2000~~, who establishes a new
26 drycleaning facility after ~~May 24, 2000~~, and who shall desire
27 ~~to be covered by the provisions of this chapter~~ July 1, 2020,

1 shall so notify the department and shall register each new
2 drycleaning facility established in Alabama with the
3 department on forms provided by the department and shall
4 submit the registration form to the ~~Department of Revenue and~~
5 ~~the~~ department and the board within 30 days of opening a new
6 facility and shall register electronically with the Department
7 of Revenue on forms prescribed by the Department of Revenue
8 within 30 days after opening a new facility. In addition, each
9 new owner or operator who establishes one or more new
10 drycleaning facilities in Alabama after ~~May 24, 2000,~~ and who
11 ~~shall elect to be covered by the provisions of this chapter~~
12 July 1, 2020, shall pay electronically a one-time registration
13 fee equal to five thousand dollars (\$5,000) for the first year
14 of operation and, for the second year of operation, shall pay
15 an annual registration fee equal to the greater of five
16 thousand dollars (\$5,000) or ~~two~~ one percent of the gross
17 receipts earned by the new owner or operator during the period
18 of the first calendar year that the new owner or operator was
19 in business. For each year thereafter, the new owner or
20 operator shall pay electronically the annual registration fee
21 provided for in subsection (a). The registration fee provided
22 for in this subsection for the first year shall be due and
23 payable to the Department of Revenue within 30 days ~~of~~ after
24 the opening of the new facility. The registration fee provided
25 for in this subsection for the second year and subsequent
26 years shall be due and payable to the Department of Revenue as
27 provided in this section.

1 "(d) A retired person shall be subject to this
2 chapter by paying an annual registration fee of five hundred
3 dollars (\$500).

4 "~~(d) No later than May 24, 2001, each~~ (e) Each
5 wholesale distributor selling drycleaning agents to
6 drycleaning facilities in this state ~~who shall notify the~~
7 ~~department that it elects to be covered by this chapter~~ shall
8 also register with the department on forms provided by the
9 department. Each wholesale distributor ~~required to register~~
10 ~~pursuant to this subsection~~ shall submit its registration form
11 to the ~~Department of Revenue and the~~ department and shall
12 register electronically with the Department of Revenue on
13 forms prescribed by the Department of Revenue. Each wholesale
14 distributor ~~who shall elect to be covered by this chapter~~
15 shall pay electronically to the Department of Revenue with its
16 initial registration, and each year thereafter, a yearly
17 wholesale distributor registration fee of five thousand
18 dollars (\$5,000) per year as a self-insurance premium for
19 coverage under the fund and for the benefits afforded by this
20 chapter.

21 "~~(e)~~ (f) Certificates of registration for drycleaning
22 facilities and wholesale distributors ~~will~~ shall be provided
23 by the Department of Revenue and shall be conspicuously
24 posted.

25 "~~(f) At least 90 days before payment of the annual~~
26 ~~registration fee is due, the department shall notify and~~
27 ~~submit a registration fee payment form to each owner or~~

1 ~~operator or wholesale distributor. The registration fee~~
2 ~~payment form provided by the department shall accompany the~~
3 ~~registration fee payment to the Department of Revenue.~~

4 "(g) For the purpose of this section, "gross
5 receipts" shall mean all actual receipts, but excluding gross
6 receipts derived from alterations, at a drycleaning facility,
7 valued in money, without any deduction on account of the cost
8 of such operation, the costs of materials used, labor or
9 service cost, interest paid, or any other expenses whatsoever
10 and without any deduction on account of losses including gross
11 receipts derived from wholesale drycleaning and laundering of
12 garments, apparel, or fabrics for other drycleaning facilities
13 not owned by the owner or operator; but excluding any gross
14 receipts derived from the drycleaning or laundering of
15 garments, apparel, or fabrics owned by the owner or operator.

16 "(h) The registration fee shall be electronically
17 paid quarterly by each owner or operator to the Department of
18 Revenue, one-fourth (1/4) on April 1, one-fourth (1/4) on July
19 1, one-fourth (1/4) on October 1, and one-fourth (1/4) on
20 January 1, and shall become delinquent on the 20th day of each
21 ~~said month~~ of those months. The registration fee shall be
22 electronically paid annually by each wholesale distributor not
23 exempted under Section 22-30D-4 to the Department of Revenue
24 on April 1 and shall become delinquent on the 20th day of
25 April.

26 "(i) The Department of Revenue shall prescribe by
27 administrative rule the procedure for the reporting,

1 collection, and payment of registration fees required by this
2 section. The Department of Revenue shall notify the board of
3 any person who shall fail to pay or become delinquent in
4 payment of registration fees.

5 "(j) The registration fees imposed by this section
6 shall be collected and administered by the Department of
7 Revenue in accordance with the uniform revenue procedures set
8 forth in Chapter 2A of Title 40, including, but not limited
9 to, the procedures in Chapter 2A relative to maintenance of
10 records, the entry of preliminary and final assessments,
11 appeals from assessments, petitions for refund, the
12 confidentiality of tax returns and tax information, the
13 assessment of civil penalties, and the examination of records.
14 The Department of Revenue also shall impose interest on any
15 registration fees paid after the prescribed due date in
16 accordance with Section 40-1-44.

17 "(k) All penalties and interest imposed and
18 collected by the Department of Revenue pursuant to subsection
19 (j) shall be deposited into the fund.

20 ~~"(l) The Department of Revenue shall provide each~~
21 ~~person who pays a registration fee under this section with a~~
22 ~~receipt. The receipt or the copy of the receipt shall be~~
23 ~~produced for inspection at the request of any authorized~~
24 ~~representative of the department or the board.~~

25 ~~"(m) (1) Any person, other than an owner or operator~~
26 ~~or wholesale distributor who shall elect not to be covered by~~
27 ~~this chapter,~~ owning any abandoned drycleaning facility who,

1 at any time, suspects contamination or discovers contamination
2 at any abandoned drycleaning facility or any impacted third
3 party who has reported contamination on its real property to
4 the department, ~~shall~~, prior to receipt of any payment from
5 the fund, shall first register the site with the department
6 and the board and electronically pay to the Department of
7 Revenue a registration fee equal to five thousand dollars
8 (\$5,000) per year per site as a self-insurance premium for
9 coverage under the fund until such time as the site is subject
10 to no further action by the department; ~~provided, however,~~
11 ~~that the~~. The requirements of this subsection shall not apply
12 to owners or operators or wholesale distributors who hold a
13 valid and current certificate evidencing registration pursuant
14 to this chapter. An adjacent landowner shall not be required
15 to pay a one-time registration fee.

16 "~~(n)~~ (m) Registration fees paid under this section
17 shall be collected by the Department of Revenue and deposited
18 into the fund. Registration fees paid under this section shall
19 be a deductible expense under the income tax laws of the
20 state.

21 "§22-30D-7.

22 "(a) Prior to the approval of an expenditure of any
23 funds under this chapter with respect to payment for costs
24 incurred for investigation, assessment, and, if necessary,
25 remediation at a particular site, every owner or operator
26 covered by this chapter, ~~person owning any abandoned~~
27 ~~drycleaning facility eligible for coverage by this chapter, or~~

1 ~~impacted third party filing a request with the board for~~
2 ~~payment, after July 1, 2020,~~ shall accept responsibility for
3 the first ~~ten thousand dollars (\$10,000)~~ twenty-five thousand
4 dollars (\$25,000), as a deductible amount, of the actual costs
5 to be incurred with that particular site. Each wholesale
6 distributor and owner of any abandoned drycleaning facility
7 covered by this chapter after July 1, 2020, shall accept
8 responsibility for the first fifty thousand dollars (\$50,000),
9 as a deductible amount, of the actual cost to be incurred ~~with~~
10 ~~a wholesale distribution facility~~. An adjacent landowner shall
11 not be required to accept responsibility for any costs
12 incurred at a site.

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

15 " (1) An owner or operator covered by this chapter, a
16 person owning any abandoned drycleaning facility ~~eligible for~~
17 ~~coverage~~ covered by this chapter, or a wholesale distributor
18 covered by this chapter may request payment from the fund for
19 cost of investigation, assessment, and remediation above the
20 applicable deductible set forth in subsection (a) incurred in
21 connection with ~~a~~ any contamination discovered ~~before or after~~
22 ~~May 24, 2000,~~ that has been reported to the board and the
23 department by filing a request for reimbursement pursuant to
24 the procedures established by the board; ~~provided, however~~
25 ~~that no payment shall be made from the fund for cost of~~
26 ~~investigation, assessment, and remediation incurred prior to~~
27 ~~May 24, 2000.~~ An impacted third party or adjacent landowner

1 may seek payment from the fund for cost of investigation,
2 assessment, or remediation above the applicable ~~deductible(s)~~
3 deductible set forth in subsection (a) incurred in connection
4 with contamination by filing a request for payment pursuant to
5 the procedures established by the board; provided the board
6 shall determine that (i) the owner or operator is covered by
7 this chapter, ~~and that the person owning any abandoned~~
8 ~~drycleaning facility eligible for coverage~~ is covered by this
9 ~~chapter, or wholesale distributor covered by this chapter has~~
10 ~~failed or refused to engage in investigation, assessment, or~~
11 ~~remediation in connection with the contamination,~~ and (ii)
12 that the director has made an initial determination that the
13 impact to the impacted third party or adjacent landowner poses
14 a threat to the environment or the public health, safety, or
15 welfare which warrants investigation, assessment, or remedial
16 action in accordance with criteria established by this chapter
17 and the rules ~~and regulations~~ adopted by the ~~director~~
18 department.

19 "(2) The board shall not obligate the expenditure of
20 funds from the fund in ~~the~~ an amount in excess of two hundred
21 fifty thousand dollars (\$250,000) per fiscal year of the fund
22 for costs of investigation, assessment, and remediation of
23 contamination at any particular site, nor shall the board
24 obligate the expenditure of funds to exceed one million
25 dollars (\$1,000,000) at any particular site that becomes
26 registered after July 1, 2020, unless upon request by any
27 party, including the department, the board first determines

1 that ~~such excess~~ the expenditure is required to avoid an
2 imminent and substantial endangerment to human health or the
3 environment.

4 "(3) The board shall not obligate a distribution of
5 monies from the fund that at any time would result in the
6 diminution of the fund below a balance of ~~one million dollars~~
7 ~~(\$1,000,000)~~ five hundred thousand dollars (\$500,000) unless
8 an emergency exists that the board has determined constitutes
9 an imminent and substantial endangerment to human health or
10 the environment. In the event of an emergency as described
11 herein, the board shall approve the payment of reasonable
12 response costs to remove the imminent and substantial
13 endangerment to human health or the environment.

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

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

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

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

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

13 ~~"e. Any drycleaning facility, abandoned drycleaning
14 facility, wholesale distribution facility, or any real
15 property owned or leased by any owner or operator or wholesale
16 distributor who shall elect not to be covered by the
17 provisions of this chapter within the time(s) required by this
18 chapter or any real property of any impacted third party or
19 adjacent landowner impacted by or adjacent to any such owner
20 or operator or wholesale distributor.~~

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

26 "§22-30D-9.

1 "(a) (1) Except as otherwise preempted or limited by
2 applicable federal law, upon reporting to the department and
3 the board of any contamination or suspected contamination, no
4 owner or operator, wholesale distributor, impacted third
5 party, adjacent landowner, or person owning any abandoned
6 drycleaning facility ~~who shall have elected to be covered by~~
7 ~~this chapter~~ shall be liable to the state or any third party
8 for costs incurred in the investigation or cleanup of, or
9 equitable relief relating to, or resulting, in whole or in
10 part, from a preexisting release of any drycleaning agent at,
11 on, or from any drycleaning facility, wholesale distribution
12 facility, or abandoned drycleaning facility or a new release
13 of any drycleaning agent, unless ~~such~~ the new release resulted
14 from noncompliance with a department approved investigation,
15 assessment, or remediation plan.

16 "(2) Pursuant to the rules ~~and regulations to be~~
17 adopted by the department as required by Section 22-30D-4 for
18 investigation, assessment, and remediation plans, relative to
19 sites reported to the department and the board, ~~such~~ the plans
20 shall describe in sufficient detail those actions planned to
21 develop information necessary to perform a risk assessment or
22 identify applicable cleanup standards for the qualifying
23 property utilizing risk-based corrective action principles
24 through the appropriate implementation of applicable
25 institutional controls ~~and/or~~ or engineering controls, or
26 both.

1 "(3) Upon the department's approval of the
2 investigation, assessment, or remediation plan, ~~it shall be~~
3 ~~the responsibility of~~ the owner or operator, wholesale
4 distributor, impacted third party, adjacent landowner, or
5 person owning any abandoned drycleaning facility ~~to~~ shall
6 implement ~~said~~ the plans.

7 "(b) The limitation of liability provided by
8 subsection (a) ~~shall be~~ is contingent upon the good faith
9 implementation of the investigation, assessment, or
10 remediation plan as approved by the department.

11 "(c) The limitation of liability provided by
12 subsection (a) shall not affect any right of indemnification
13 which any person has or may acquire by contract against any
14 other person; or apply to persons who intentionally, wantonly,
15 or willfully violate federal or state regulations in the
16 remediation process.

17 "(d) The limitation of liability provided by
18 subsection (a) shall extend to the heirs, assigns, successors,
19 predecessors, and designees of the person to whom ~~such~~ the
20 limitation of liability is granted.

21 "(e) No small business as defined in this chapter
22 ~~who shall have elected to be covered by the provisions of this~~
23 ~~chapter~~ shall be liable to any impacted third party or
24 adjacent landowner under any state law for any damages of any
25 nature whatsoever to real or personal property of any impacted
26 third party or adjacent landowner as a result of any
27 contamination caused by or resulting from any contamination

1 on, at, or from any drycleaning facility, abandoned
2 drycleaning facility, or wholesale distribution facility.

3 "(f) No person shall be liable to any other person
4 under any state law for any damages of any nature whatsoever
5 to real or personal property of ~~such~~ the other person as a
6 result of any contamination, except upon proof that a failure
7 to exercise due care was the proximate cause of the
8 contamination; ~~provided, that substantial.~~ Substantial
9 compliance with applicable laws in effect at the time the
10 contamination occurred shall be prima facie evidence of the
11 exercise of due care.

12 "(g) Except as otherwise preempted or limited by
13 applicable law, this section does not preclude claims for
14 damages based upon personal injuries.

15 "§22-30D-10.

16 "(a) The department shall receive an administration
17 allowance as set forth in Section 22-30D-11. Administration
18 cost incurred by the board and actual costs of the department
19 in rulemaking and oversight of ~~all the provisions of~~ this
20 chapter shall be paid from the fund.

21 "(b) After payment of the aforesaid expenses and the
22 ~~collection~~ allowance to cover the cost of administration by
23 the Department of Revenue as provided in Section 20-30D-11,
24 the balance of the revenues collected under ~~the provisions of~~
25 this chapter shall be deposited in the fund as directed
26 elsewhere in this chapter. ~~Should the drycleaning registration~~
27 ~~fees abate as provided in Section 22-30D-5, the collection~~

1 allowance to the Department of Revenue set forth in Section
2 22-30D-11 shall abate as well, and such allowance shall be
3 reinstated when the drycleaning registration fees are
4 reimposed as provided in Section 22-30D-5.

5 "§22-30D-11.

6 "(a) There is hereby appropriated from the fund to
7 the department for the fiscal year beginning in the 2001-2002
8 fiscal year, and for each following fiscal year, the sum of
9 seventy-five thousand dollars (\$75,000). In addition, the
10 department shall be entitled to be paid from the fund its
11 actual cost of rulemaking and oversight, excluding any legal
12 expenses incurred by the department in discharging its duties
13 under ~~the provisions of~~ this chapter, which money shall be
14 deducted and paid to the department from the revenues
15 collected under ~~the provisions of~~ this chapter by the
16 Department of Revenue.

17 "(b) As a first charge against revenues collected
18 under ~~the provisions of~~ this chapter, to offset its costs in
19 administering ~~such the~~ collections, there is hereby
20 appropriated from the fund to the Department of Revenue ~~for~~
21 ~~the 2001-2002 fiscal year, and for each following fiscal year,~~
22 ~~the sum of fifty thousand dollars (\$50,000) an amount~~
23 sufficient to cover the cost of administration of the fees
24 imposed under Section 22-30D-6.

25 "§22-30D-12.

26 "No later than August 23, 2000, the The department
27 shall regularly notify owners and operators and wholesale

1 distributors of the provisions of this chapter, the required
2 timely payment of registration fees, the deadlines for payment
3 thereof, and the manner in which late charges may be applied.
4 This notification shall be accomplished by publication in
5 ~~newspapers of general statewide circulation~~ accordance with
6 state law."

7 Section 2. This act shall become effective on July
8 1, 2020, following its passage and approval by the Governor,
9 or its otherwise becoming law.