

SESSION OF 2020

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2575

As Amended by House Committee on
Agriculture

Brief*

HB 2575, as amended, would make several changes to the Kansas Drycleaner Environmental Response Act (Act) relating to its definitions, certain prohibitions, deductibles for corrective action, tax assessment rates on gross receipts, and certain penalties. The bill would also make several clarifying and technical changes.

Definitions

The bill would create the following definitions:

- “Owner,” which would mean any current or former owner of record of any property that is or has been used as a drycleaning facility or any authorized representative thereof; and
- “Operator,” which would mean any person who owns or leases, or has owned or leased, a drycleaning facility and who is or has been responsible for the operation of drycleaning operation at such drycleaning facility. (*Note:* This definition is the definition of “owner” in continuing law.)

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Determination of Contaminated Sites

The bill would remove a provision of law prohibiting the Kansas Department of Health and Environment (KDHE) from seeking out contaminated drycleaning facility sites outside the normal course of business for KDHE.

Deductible Changes

The bill would remove the \$5,000 deductible amount for corrective action costs incurred because of a release from a drycleaning facility in law, and create the following deductible amounts for an owner or operator of a drycleaning facility that has been demonstrated to be the source of contamination to the soil, groundwater, or surface waters of the state:

- \$10,000 for the operator of a drycleaning facility;
- \$7,500 for any owner of the property who receives or has received direct or indirect payment, or another form of consideration, from the operation of a drycleaning facility and who was the owner at the time contamination occurred;
- \$5,000 for any owner of the property of a former drycleaning facility who took ownership of the property after the closure of a drycleaning facility, and had no preexisting familial, contractual, or financial relationship with any previous owner, operator, or any other responsible party, other than the relationship to obtain ownership of the property; and
- \$5,000 for any state, agency, instrumentality, or political or taxing subdivision seeking corrective action through the Drycleaning Facility Release Trust Fund (Fund) on behalf of an operator or owner.

Tax Assessment and Delinquency

The bill would increase the gross receipt tax rate for the environmental surcharge from 2.5 percent to 5.0 percent.

The bill would remove the current penalty for delinquent taxes and require the Secretary of Revenue to report any delinquencies to the Secretary of Health and Environment (Secretary) or the Director of the Division of Environment (Director), if designated by the Secretary. The bill would allow the Secretary or Director, if designated by the Secretary, to impose a penalty not to exceed \$10,000 upon finding a person has been delinquent in remitting taxes. The bill would state the penalty constitutes an actual and substantial economic deterrent to the violation for which it is assessed and every month a violation continues would be considered a separate violation.

Reporting

The bill would update the names of legislative committees to the House Committee on Agriculture and the Senate Committee on Agriculture and Natural Resources to which KDHE is required to submit a report.

Clarifying and Technical Changes

The bill would clarify that provisions of the Act apply to owners and operators and clarifies who KDHE would hold responsible for contamination. The bill would also make technical changes.

Background

The bill was introduced by the House Committee on Agriculture at the request of a representative of KDHE.

In the House Committee hearing, the Director of the Bureau of Environmental Remediation, KDHE, provided proponent testimony, stating funds available in the Fund have steadily decreased over time as the number of drycleaning facilities have decreased, but remediation sites have increased. Representatives of Burns & McDonnell, the City of Manhattan, and GSI Engineering provided additional proponent testimony. Conferees stated, generally, the Fund requires additional moneys to adequately protect communities relying on ground water. Written-only proponent testimony was provided by the City of Haysville.

No neutral or opponent testimony was provided.

The House Committee amended the bill by removing an incorrect subsection reference, as suggested by the Office of Revisor of Statutes.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KDHE estimates increasing the environmental surcharge would generate additional revenue of \$695,625 annually for the Fund beginning in FY 2021. The Department of Revenue estimates the bill would require additional administrative costs of \$3,700 from the State General Fund. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.