

society shall notify an individual of a genetic test result by notifying the individual or the individual's designated physician. If the individual tested has not given written consent authorizing a physician to receive the test results, the individual must be urged, at the time that the individual is informed of the genetic test result described in this subdivision, to contact a genetic counselor or other health care professional.

Subd. 7. PAYMENT FOR TEST. A life insurance company or fraternal benefit society shall not require an individual to submit to a genetic test unless the cost of the test is paid by the life insurance company or fraternal benefit society.

Subd. 8. ENFORCEMENT. A violation of this section is subject to the investigative and enforcement authority of the commissioner, who shall enforce this section.

Sec. 2. **EFFECTIVE DATE; APPLICABILITY.**

Section 1 is effective January 1, 1996, and applies to applications for coverage made on or after that date and to policies, contracts, and certificates issued or renewed on or after that date to provide coverage to Minnesota residents.

Presented to the governor May 30, 1995

Signed by the governor June 1, 1995, 11:32 a.m.

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**CHAPTER 252—S.F.No. 1122**

*An act relating to the environment; establishing a program for funding response actions to address environmental contamination from drycleaning facilities; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 115B.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[115B.47] CITATION.**

Sections 115B.47 to 115B.51 may be cited as the "drycleaner environmental response and reimbursement law."

Sec. 2. **[115B.48] DEFINITIONS.**

Subdivision 1. APPLICABILITY. The definitions in section 115B.02 and this section apply to sections 115B.47 to 115B.51.

Subd. 2. DRYCLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT ACCOUNT; ACCOUNT. "Drycleaner environmental response and reimbursement account" or "account" means the drycleaner environmental response and reimbursement account established in section 115B.49.

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Subd. 3. DRYCLEANING FACILITY. "Drycleaning facility" means a facility located in this state that is or has been used for a drycleaning operation, other than:

- (1) a coin-operated drycleaning operation;
- (2) a facility located on a United States military base;
- (3) a uniform service or linen supply facility;
- (4) a prison or other penal institution;
- (5) a facility on the national priorities list established under the Federal Superfund Act; or
- (6) a facility at which a response action has been taken or started under section 115B.17 before July 1, 1995.

Subd. 4. DRYCLEANING OPERATION. "Drycleaning operation" means commercial cleaning of apparel and household fabrics for the general public, using one or more drycleaning solvents.

Subd. 5. DRYCLEANING SOLVENT. "Drycleaning solvent" means a chlorine- or hydrocarbon-based formulation or product that is used as a primary cleaning agent in drycleaning operations.

Subd. 6. ENVIRONMENTAL RESPONSE COSTS. "Environmental response costs" means those costs described in section 115B.17, subdivision 6.

**Sec. 3. [115B.49] DRYCLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT ACCOUNT.**

Subdivision 1. ESTABLISHMENT. The drycleaner environmental response and reimbursement account is established as an account in the state treasury.

Subd. 2. REVENUE SOURCES. Revenue from the following sources must be deposited in the state treasury and credited to the account:

- (1) the proceeds of the fees imposed by subdivision 4;
- (2) interest attributable to investment of money in the account;
- (3) penalties collected under subdivision 4, paragraphs (e) and (f); and
- (4) money received by the commissioner for deposit in the account in the form of gifts, grants, and appropriations.

Subd. 3. EXPENDITURES. (a) Money in the account may only be used:

- (1) for environmental response costs incurred by the commissioner under section 115B.50, subdivision 1;

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(2) for reimbursement of amounts spent by the commissioner from the environmental response, compensation, and compliance account for expenses described in clause (1);

(3) for reimbursements under section 115B.50, subdivision 2; and

(4) for administrative costs of the commissioner of revenue.

(b) Money in the account is appropriated to the commissioner for the purposes of this subdivision. The commissioner shall transfer funds to the commissioner of revenue sufficient to cover administrative costs pursuant to paragraph (a), clause (4).

Subd. 4. REGISTRATION; FEES. (a) The owner or operator of a drycleaning facility shall register on or before July 1 of each year with the commissioner of revenue in a manner prescribed by the commissioner of revenue and pay a registration fee for the facility. The amount of the fee is:

(1) \$500, for facilities with up to four full-time equivalent employees;

(2) \$1,000, for facilities with five to ten full-time equivalent employees; and

(3) \$1,500, for facilities with more than ten full-time equivalent employees.

(b) A person who sells drycleaning solvents for use by drycleaning facilities in the state shall collect and remit to the commissioner of revenue in a manner prescribed by the commissioner of revenue, on or before the 20th day of the month following the month in which the sales of drycleaning solvents are made, a fee of:

(1) \$3.50 for each gallon of perchloroethylene sold for use by drycleaning facilities in the state; and

(2) 70 cents for each gallon of hydrocarbon-based drycleaning solvent sold for use by drycleaning facilities in the state.

(c) The commissioner of revenue shall provide each person who pays a registration fee under paragraph (a) with a receipt. The receipt or a copy of the receipt must be produced for inspection at the request of any authorized representative of the commissioner of revenue.

(d) The commissioner shall, after a public hearing but notwithstanding section 16A.1285, subdivision 4, annually adjust the fees in this subdivision as necessary to maintain an unencumbered balance in the account of at least \$1,000,000. Any adjustment under this paragraph must be prorated among all the fees in this subdivision. Fees adjusted under this paragraph may not exceed 200 percent of the fees in this subdivision. The commissioner shall notify the commissioner of revenue of an adjustment under this paragraph no later than March 1 of the year in which the adjustment is to become effective. The adjustment is effective for sales of drycleaning solvents made, and annual registration fees due, beginning on July 1 of the same year.

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(e) An owner of a drycleaning facility who fails to pay a fee under paragraph (a) when due is subject to a penalty of \$50 per facility for each day the fee is not paid.

(f) To enforce this subdivision, the commissioner of revenue may examine documents, assess and collect fees, impose sales and use tax penalties on the monthly fee under paragraph (b), and administer appeals, in the manner provided in chapters 270 and 289A. Disclosure of data collected by the commissioner under this subdivision is governed by chapter 270B.

#### Sec. 4. **[115B.50] RESPONSE ACTIONS.**

Subdivision 1. RESPONSE ACTIONS BY THE COMMISSIONER. (a) In accordance with the priority list established under section 115B.17, subdivision 13, the commissioner shall take all response actions at or related to a drycleaning facility that the commissioner determines are reasonable and necessary to protect the public health or welfare or the environment under the standards required in sections 115B.01 to 115B.24. The commissioner shall review and approve any investigation and response action plan submitted by an owner or operator of a drycleaning facility who is taking response actions under subdivision 2 and shall oversee the implementation of the approved plans. In carrying out the duties under this subdivision, the commissioner may take emergency removal actions as provided in section 115B.17, subdivision 1, paragraph (b), and may exercise the authority provided in section 115B.17, subdivisions 2 to 5, 15, and 16.

(b) The commissioner may not seek recovery against a current or former owner or operator of a drycleaning facility of any environmental response costs in excess of \$10,000 incurred by the commissioner at the facility, except:

(1) to the extent of insurance coverage, in excess of \$10,000, held by the owner or operator; or

(2) as provided in section 115B.51.

If the commissioner seeks recovery of environmental response costs against an owner or operator pursuant to this paragraph, the owner or operator shall act as directed by the commissioner to assert any rights of the owner or operator to any insurance coverage applicable to those costs and, if coverage is denied, to assign those rights to the commissioner.

(c) Before taking a response action under this subdivision, the commissioner shall notify the owner or operator of the facility. Except for emergency removal actions under section 115B.17, subdivision 1, paragraph (b), the commissioner shall not take response actions under this subdivision at a drycleaning facility where an owner or operator of the facility is taking response actions under subdivision 2 in accordance with an investigation or response action plan approved by the commissioner.

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**Subd. 2. RESPONSE ACTIONS BY OWNERS OR OPERATORS; REIMBURSEMENT.** (a) At the request of the owner or operator of a drycleaning facility who takes response actions at the facility in accordance with a response action plan approved by the commissioner, the commissioner shall reimburse the owner or operator for all but \$10,000 of the environmental response costs incurred by the owner or operator if the commissioner determines that the costs are reasonable and were actually incurred. If a request for reimbursement is denied, the owner or operator may appeal the decision as a contested case under chapter 14.

(b) If the commissioner reimburses an owner or operator for environmental response costs under this subdivision for which the owner or operator has insurance coverage, the commissioner is subrogated to the rights of the owner or operator with respect to that insurance coverage to the extent of the reimbursement. Acceptance of reimbursement under this subdivision constitutes an assignment by the owner or operator with respect to any insurance coverage applicable to the costs that are reimbursed.

**Subd. 3. LIMITATION ON AMOUNT THAT MAY BE SPENT.** The commissioner may not, in a single fiscal year, make expenditures from the account related to a single drycleaning facility that exceed 20 percent of the balance in the account at the beginning of the fiscal year.

#### Sec. 5. [115B.51] ILLEGAL ACTIONS.

The commissioner may recover under section 115B.17, subdivision 6, that portion of the environmental response costs at a drycleaning facility that is attributable to a person who otherwise would be responsible for the release or threatened release under section 115B.03, and whose actions related to the release or threatened release were in violation of federal or state hazardous waste management laws in effect at the time of those actions.

#### Sec. 6. APPROPRIATION.

\$29,000 is appropriated from the general fund to the commissioner of revenue for the purposes of this act, to be available until June 30, 1997, and must be reimbursed to the general fund from the drycleaner environmental response and reimbursement account by that date. Any additional amounts appropriated from the general fund shall also be reimbursed from the drycleaner environmental response and reimbursement account within the biennium in which the funds were appropriated.

#### Sec. 7. EFFECTIVE DATE.

Section 3, subdivision 4, paragraph (d), is effective for annual fees due by July 1, 1997, and for monthly fees due by July 20, 1997.

Presented to the governor May 30, 1995

Signed by the governor June 1, 1995, 11:34 a.m.

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