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MEMORANDUM

To: The House Standing Committee on Agriculture

From: The Office of Revisor of Statutes

Date: February 17, 2020

Re: HB 2575

HB 2575 would amend the Kansas drycleaner environmental response act to change the required deductible rate, tax assessment rate and the penalty for delinquent taxes.

Section 1 would create a new definition for the term “owner” (“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 operations at such drycleaning facility”). The previous definition for “owner” would now be used to define a new term, “operator”.

Section 2 amends the statute that directs KDHE on its use of the drycleaning facility release trust fund. The statute currently states that the department should not seek out contaminated drycleaning facility sites and that moneys will be made available for use as sites are discovered in the normal course of the agency’s business. The bill would strike this language.

Section 3 makes a number of technical changes to K.S.A. 65-34,148. Subsection (g) states who may be held responsible by KDHE for the costs of corrective action. The words “or operator” would be added throughout the subsection after the term “owner”. Subsection (i) would amend the deductible rate that must be paid by applicants to the fund. The \$5,000 deductible rate cap would be stricken and replaced by four different possible deductible rates ranging from \$5,000 to \$10,000. An applicant to the fund would be required to pay the highest applicable deductible.

Section 4 amends the liability limitation provisions of the act to insert the term “operator” in subsection (c). The provision would prevent an owner, operator or other person who is eligible to

have corrective action costs paid by the fund from being subject to an administrative or judicial claim under state law to compel corrective action or seek recovery of the costs of corrective action.

Under current law, drycleaning consumers are required to pay a gross receipts tax at the rate of 2.5% of the gross receipts received from drycleaning or laundering services. Section 5(a) would raise such tax rate from 2.5% to 5%. Under current law, retailers have the responsibility of collecting and reporting the tax to the department of revenue and the collected amount is remitted to the drycleaning facility release trust fund. Subsection (f) would remove the statute's current penalty for delinquent taxes. Such provision would be replaced with a requirement that the secretary of revenue report any delinquency to KDHE at least once each calendar year and a provision giving KDHE the authority to assess a penalty not to exceed \$10,000 against any person who violates the section. Every month that such violation continues would be deemed a separate violation.

Under current law, owners of drycleaning facilities must pay a fee upon the purchase or acquisition of drycleaning solvents. Such fees are collected by the person who distributes the solvent and then sent to the director of taxation. Section 6 would insert the same penalty language for delinquent taxes as Section 5.

Section 7 would update the legislative committees that receive annual reports from KDHE concerning the administration of the act.

HB 2575 would become effective upon publication in the statute book, on July 1, 2020.