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LAW/RWH

[First Reprint]

ASSEMBLY, No. 4340

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED DECEMBER 14, 2009

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Co-Sponsored by:

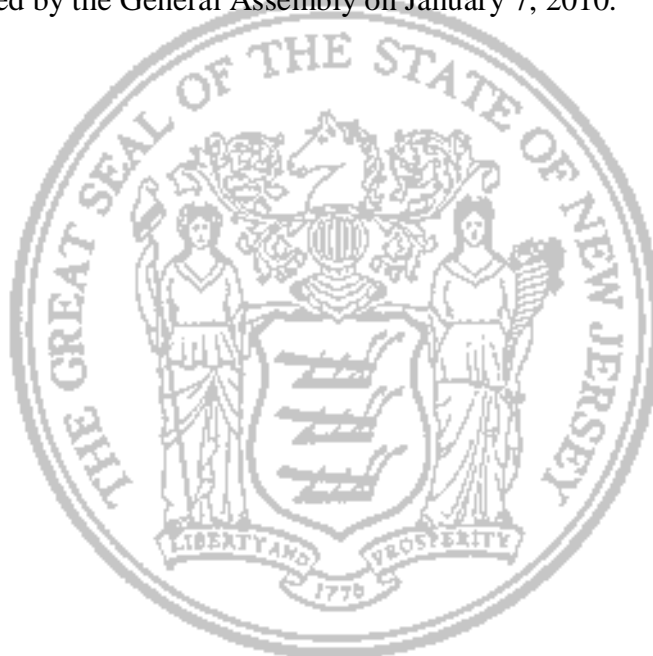
Assemblyman Moriarty and Senator Lesniak

SYNOPSIS

Concerns disclosure statements and certain other requirements for licensing of solid waste and hazardous waste operations.

CURRENT VERSION OF TEXT

As amended by the General Assembly on January 7, 2010.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning disclosure statements and certain other
2 requirements for the licensing of solid waste and hazardous
3 waste operations, and amending and supplementing P.L.1983,
4 c.392.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 '1. Section 2 of P.L.1983, c.392 (C:13:1E-127) is amended to
10 read as follows:

11 2. As used in the provisions of P.L.1983, c.392 (C.13:1E-126 et
12 seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.):

13 a. "Applicant" means any business concern which has filed a
14 disclosure statement with the department and the Attorney General
15 and is seeking an initial license, provided that the business concern
16 has furnished the department and the Attorney General with any
17 information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et
18 al.).

19 b. "Application" means the forms and accompanying
20 documents filed in connection with an applicant's or permittee's
21 request for a license.

22 c. "Business concern" means any corporation, association,
23 firm, partnership, sole proprietorship, trust or other form of
24 commercial organization.

25 d. "Department" means the Department of Environmental
26 Protection.

27 e. "Disclosure statement" means a statement submitted to the
28 department and the Attorney General by an applicant or a permittee,
29 which statement shall include:

30 (1) The full name, business address and social security number
31 of the applicant or the permittee, as the case may be, and of any
32 officers, directors, partners, or key employees thereof and all
33 persons holding any equity in or debt liability of that business
34 concern, or, if the applicant or permittee is a publicly traded
35 corporation, all persons holding more than 5% of the equity in or
36 the debt liability of that business concern, except that where the
37 debt liability is held by a chartered lending institution, the applicant
38 or permittee need only supply the name and business address of the
39 lending institution;

40 (2) The full name, business address and social security number
41 of all officers, directors, or partners of any business concern
42 disclosed in the disclosure statement and the names and addresses
43 of all persons holding any equity in or the debt liability of any
44 business concern so disclosed, or, if the business concern is a
45 publicly traded corporation, all persons holding more than 5% of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted January 7, 2010.

1 the equity in or the debt liability of that business concern, except
2 that where the debt liability is held by a chartered lending
3 institution, the applicant or permittee need only supply the name
4 and business address of the lending institution;

5 (3) The full name and business address of any business concern
6 which collects, transports, treats, stores, transfers or disposes of
7 solid waste or hazardous waste in which the applicant or the
8 permittee holds an equity interest;

9 (4) A description of the experience and credentials in, including
10 any past or present licenses for, the collection, transportation,
11 treatment, storage, transfer or disposal of solid waste or hazardous
12 waste possessed by the applicant or the permittee, as the case may
13 be, and by the key employees, officers, directors, or partners
14 thereof;

15 (5) A listing and explanation of any notices of violation or
16 prosecution, administrative orders or license revocations issued by
17 this State or any other state or federal authority, in the 10 years
18 immediately preceding the filing of the application or disclosure
19 statement, whichever is later, which are pending or have resulted in
20 a finding or a settlement of a violation of any law or rule and
21 regulation relating to the collection, transportation, treatment,
22 storage, transfer or disposal of solid waste or hazardous waste by
23 the applicant or the permittee, as the case may be, or by any key
24 employee, officer, director, or partner thereof;

25 (6) A listing and explanation of any judgment of liability or
26 conviction which was rendered, pursuant to the laws of this State,
27 or any other state or federal statute or local ordinance, against the
28 applicant or the permittee, as the case may be, or against any key
29 employee, officer, director, or partner thereof, except for any
30 violation of Title 39 of the Revised Statutes other than a violation
31 of the provisions of P.L.1983, c.102 (C.39:5B-18 et seq.), P.L.1983,
32 c.401 (C.39:5B-25 et seq.) or P.L.1985, c.415 (C.39:5B-30 et seq.);

33 (7) A listing of all labor unions and trade and business
34 associations in which the applicant or the permittee was a member
35 or with which the applicant or the permittee had a collective
36 bargaining agreement during the 10 years preceding the date of the
37 filing of the application or disclosure statement, whichever is later;

38 (8) A listing of any agencies outside of New Jersey which had
39 regulatory responsibility over the applicant or the permittee, as the
40 case may be, in connection with the collection, transportation,
41 treatment, storage, transfer or disposal of solid waste or hazardous
42 waste; and

43 (9) Any other information the Attorney General or the
44 department may require that relates to the competency, reliability or
45 integrity of the applicant or the permittee.

46 The provisions of paragraphs (1) through (9) of this subsection to
47 the contrary notwithstanding, if an applicant or a permittee is a
48 secondary business activity corporation, "disclosure statement"

1 means a statement submitted to the department and the Attorney
2 General by an applicant or a permittee, which statement shall
3 include:

4 (a) The full name, primary business activity, office or position
5 held, business address, home address, date of birth and federal
6 employer identification number of the applicant or the permittee, as
7 the case may be, and of all officers, directors, partners, or key
8 employees of the business concern; and of all persons holding more
9 than 5% of the equity in or debt liability of that business concern,
10 except that where the debt liability is held by a chartered lending
11 institution, the applicant or permittee need only supply the name
12 and business address of the lending institution. The Attorney
13 General or the department may request the social security number
14 of any individual identified pursuant to this paragraph;

15 (b) The full name, business address and federal employer
16 identification number of any business concern in any state, territory
17 or district of the United States, which collects, transports, treats,
18 stores, recycles, brokers, transfers or disposes of solid waste or
19 hazardous waste on a commercial basis, in which the applicant or
20 the permittee holds an equity interest of 25% or more, and the type,
21 amount and dates of the equity held in such business concern;

22 (c) A listing of every license, registration, permit, certificate of
23 public convenience and necessity, uniform tariff approval or
24 equivalent operating authorization held by the applicant or
25 permittee within the last five years under any name for the
26 collection, transportation, treatment, storage, recycling, processing,
27 transfer or disposal of solid waste or hazardous waste on a
28 commercial basis in any state, territory or district of the United
29 States, and the name of every agency issuing such operating
30 authorization;

31 (d) If the applicant or the permittee is a subsidiary of a parent
32 corporation, or is the parent corporation of one or more subsidiaries,
33 or is part of a group of companies in common ownership, as the
34 case may be, a chart, or, if impractical or burdensome, a list
35 showing the names, federal employer identification numbers and
36 relationships of all parent, sister, subsidiary and affiliate
37 corporations, or members of the group;

38 (e) A listing and explanation of any notices of violation or
39 prosecution, administrative orders or license revocations issued by
40 this State or any other state or federal authority to the applicant or
41 permittee in the 10 years immediately preceding the filing of the
42 application or disclosure statement, whichever is later, which are
43 pending or have resulted in a finding or a settlement of a violation
44 of any law or rule or regulation relating to the collection,
45 transportation, treatment, storage, recycling, processing, transfer or
46 disposal of solid waste or hazardous waste by the applicant or
47 permittee;

1 (f) A listing and explanation of any judgment, decree or order,
2 whether by consent or not, issued against the applicant or permittee
3 in the 10 years immediately preceding the filing of the application,
4 and of any pending civil complaints against the applicant or
5 permittee pertaining to a violation or alleged violation of federal or
6 state antitrust laws, trade regulations or securities regulations;

7 (g) A listing and explanation of any conviction issued against
8 the applicant or permittee for a felony resulting in a plea of nolo
9 contendere, or any conviction in the 10 years immediately
10 preceding the filing of the application, and of any pending
11 indictment, accusation, complaint or information for any felony
12 issued to the applicant or the permittee pursuant to any state or
13 federal statute; and

14 (h) A completed personal history disclosure form shall be
15 submitted to the department and the Attorney General by every
16 person required to be listed in this disclosure statement, except for
17 those individuals who are exempt from the personal history
18 disclosure requirements pursuant to paragraph (5) of subsection a.
19 of section 3 of P.L.1983, c.392 (C.13:1E-128).

20 f. "Key employee" means any individual employed by the
21 applicant, the permittee or the licensee in a supervisory capacity or
22 empowered to make discretionary decisions with respect to the solid
23 waste or hazardous waste operations of the business concern but
24 shall not include employees exclusively engaged in the physical or
25 mechanical collection, transportation, treatment, storage, transfer or
26 disposal of solid waste or hazardous waste.

27 g. "License" means the initial approval and first renewal by the
28 department of any registration statement or engineering design
29 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279
30 (C.13:1E-49 et seq.), for the collection, transportation, treatment,
31 storage, transfer or disposal of solid waste or hazardous waste in
32 this State.

33 A "license" shall not include any registration statement or
34 engineering design approved for:

35 (1) Any State department, division, agency, commission or
36 authority, or county, municipality or agency thereof;

37 (2) Any person solely for the collection, transportation,
38 treatment, storage or disposal of solid waste or hazardous waste
39 generated by that person;

40 (3) Any person for the operation of a hazardous waste facility, if
41 at least 75% of the total design capacity of that facility is utilized to
42 treat, store or dispose of hazardous waste generated by that person;

43 (4) Any person for the operation of a hazardous waste facility
44 which is considered as such solely as the result of the reclamation,
45 recycling or refining of hazardous wastes which are or contain any
46 of the following precious metals: gold, silver, osmium, platinum,
47 palladium, iridium, rhodium, ruthenium, or copper;

1 (5) Any person solely for the transportation of hazardous wastes
2 which are or contain precious metals to a hazardous waste facility
3 described in paragraph (4) of this subsection for the purposes of
4 reclamation.

5 A "license" shall include any registration statement approved for
6 any person who transports any other hazardous waste in addition to
7 hazardous wastes which are or contain precious metals;

8 (6) Any person solely for the collection, transportation,
9 treatment, storage or disposal of granular activated carbon used in
10 the adsorption of hazardous waste; or

11 (7) Any regulated medical waste generator for the treatment or
12 disposal of regulated medical waste at any noncommercial
13 incinerator or noncommercial facility in this State that accepts
14 regulated medical waste for disposal.

15 h. "Licensee" means any business concern which has
16 completed the requirements of section 3 of P.L.1983, c.392
17 (C.13:1E-128) and whose application for the issuance or renewal of
18 a license has been approved by the department pursuant to section 8
19 of P.L.1983, c.392 (C.13:1E-133).

20 i. "Permittee" means and shall include:

21 (1) Any business concern which has filed a disclosure statement
22 with the department and the Attorney General and to which a valid
23 registration statement or engineering design approval for the
24 collection, transportation, treatment, storage, transfer or disposal of
25 solid waste or hazardous waste pursuant to P.L.1970, c.39
26 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has
27 been given by the department prior to June 14, 1984;

28 (2) Any business concern which has filed a disclosure statement
29 with the department and the Attorney General and to which a
30 temporary license has been approved, issued or renewed by the
31 department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-
32 135), but which has not otherwise completed the requirements of
33 section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application
34 for a license has not been approved by the department pursuant to
35 section 8 of P.L.1983, c.392 (C.13:1E-133), provided that the
36 temporary license remains valid, and provided further that the
37 business concern has furnished the department and the Attorney
38 General with any information required pursuant to P.L.1991, c.269
39 (C.13:1E-128.1 et al.);

40 (3) Any business concern which has filed a disclosure statement
41 with the department and the Attorney General and to which a valid
42 registration statement or engineering design approval for the
43 collection, transportation, treatment, storage, transfer or disposal of
44 solid waste or hazardous waste pursuant to P.L.1970, c.39
45 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has
46 been given by the department between February 20, 1985 and
47 January 23, 1986, inclusive, provided that the registration statement
48 or engineering design approval remains valid, and provided further

1 that the business concern has furnished the department and the
2 Attorney General with any information required pursuant to
3 P.L.1991, c.269 (C.13:1E-128.1 et al.); or

4 (4) Any business concern to which a temporary approval of
5 registration has been given by the department at any time after
6 January 23, 1986 pursuant to statute or rule and regulation,
7 provided that such temporary approval of registration, statute, or
8 rule and regulation remains valid, and provided further that the
9 business concern has furnished the department and the Attorney
10 General with any information required pursuant to P.L.1991, c.269
11 (C.13:1E-128.1 et al.) and filed a disclosure statement with the
12 department and the Attorney General.

13 j. "Person" means any individual or business concern.

14 k. "Secondary business activity corporation" means any
15 business concern which has derived less than 5% of its annual gross
16 revenues in each of the three years immediately preceding the one
17 in which the application for a license is being made from the
18 collection, transportation, treatment, storage, recycling, processing,
19 transfer or disposal of solid waste or hazardous waste, whether
20 directly or through other business concerns partially or wholly
21 owned or controlled by the applicant or the permittee, as the case
22 may be, and which (1) has one or more classes of security registered
23 pursuant to section 12 of the "Securities Exchange Act of 1934," as
24 amended ~~[(15 U.S.C. s.781)]~~ (15 U.S.C. s.781) , or (2) is an issuer
25 subject to subsection (d) of section 15 of the "Securities Exchange
26 Act of 1934," as amended ~~[(15 U.S.C. s.780)]~~ (15 U.S.C. s.780) .

27 l. "Institutional investor" means a retirement fund
28 administered by a public agency for the exclusive benefit of federal,
29 state, or local public employees; government or government-owned
30 entity; investment company registered under the Investment
31 Company Act of 1940 (15 U.S.C. s.80a-1 et seq.); collective
32 investment trust organized by banks under Part Nine of the Rules of
33 the Comptroller of the Currency; closed end investment trust;
34 chartered or licensed life insurance company or property and
35 casualty insurance company; banking or other chartered or licensed
36 lending institution; partnerships, funds or trusts managed by or
37 directed in conjunction with an investment adviser registered under
38 The Investment Advisers Act of 1940 (15 U.S.C. s.80b-1 et seq.) or
39 an institutional investment manager required to make filings under
40 subsection (f) of section 13 of the "Securities Exchange Act of
41 1934," as amended (15 U.S.C. s.78m); institutional buyer, as
42 defined pursuant to section 2 of the "Uniform Securities Law
43 (1997)," P.L.1967, c.93 (C.49:3-49); small business investment
44 company licensed by the United States Small Business
45 Administration under subsection (c) of section 301 of the Small
46 Business Investment Act of 1958, as amended (15 U.S.C. s.681);
47 private equity or venture capital entity having or managing
48 aggregate capital commitments in excess of \$25,000,000; and other

1 persons as the department may determine for reasons consistent
2 with the policies of P.L.1983, c.392 (C.13:1E-126 et seq.).

3 m. "Publicly traded corporation" means a corporation or other
4 legal entity, except a natural person, which:

5 (1) has one or more classes of security registered pursuant to
6 section 12 of the "Securities Exchange Act of 1934," as amended
7 (15 U.S.C. s.78l);

8 (2) is an issuer subject to subsection (d) of section 15 of the
9 "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78o);
10 or

11 (3) has one or more classes of securities traded in an open market
12 in any foreign jurisdiction, provided that the department determines
13 that the foreign exchange provides openness, integrity and oversight
14 in its operations sufficient to meet the intent of P.L.1983, c. 392 (C.
15 13:1E-126 et seq.), or that the securities traded on the foreign
16 exchange are regulated pursuant to a statute of a foreign jurisdiction
17 that is substantially similar, both in form and effect, to section 12 or
18 subsection (d) of section 15 of the "Securities Exchange Act of
19 1934," as amended.¹

20 (cf: P.L.1995, c.72, s.1)

21

22 ¹**[1.] 2.** (New section) Notwithstanding any provision of
23 section 2 of P.L.1983, c.392 (C.13:1E-127) or section 3 of
24 P.L.1983, c.392 (C.13:1E-128), or any rules or regulations adopted
25 pursuant thereto, to the contrary, a business concern that is a
26 secondary business activity corporation which is listed in the
27 disclosure statement of an applicant or a permittee as required
28 pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.), and that is not
29 the applicant or permittee, shall not be required to disclose or
30 submit any more information than that which is required of a
31 secondary business activity corporation that is an applicant or a
32 permittee, as provided pursuant to paragraphs (a) through (h) of
33 subsection e. of section 2 of P.L.1983, c.392, and, as applicable,
34 subsections b. and d. of section 3 of P.L.1983, c.392 (C.13:1E-128)
35 and sections 4 and 5 of P.L.1983, c.392 (C.13:1E-129 and C.13:1E-
36 130).

37

38 ¹**[2.] 3.** Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended
39 to read as follows:

40 3. In addition to any other procedure, condition or information
41 required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1981,
42 c.279 (C.13:1E-49 et seq.) or any other law:

43 a. (1) Every applicant and permittee shall file a disclosure
44 statement with the department and the Attorney General;

45 (2) **[Any]** Except as otherwise provided in this subsection, any
46 person required to be listed in the disclosure statement shall be
47 fingerprinted for identification and investigation purposes in

1 accordance with procedures therefor established by the Attorney
2 General;

3 (3) The Attorney General shall, upon the receipt of the
4 disclosure statement from an applicant for an initial license or from
5 a permittee, prepare and transmit to the department an investigative
6 report on the applicant or the permittee, as the case may be, based
7 in part upon the disclosure statement. In preparing this report, the
8 Attorney General may request and receive criminal history
9 information from the State Commission of Investigation or the
10 Federal Bureau of Investigation;

11 (4) In conducting a review of the application, the department
12 shall include a review of the disclosure statement and investigative
13 report;

14 (5) An applicant or permittee may file a limited disclosure
15 statement pursuant to the provisions of paragraphs (a) through (h)
16 of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and
17 a person required to be listed in the disclosure statement is exempt
18 from the fingerprint and personal history disclosure requirements;
19 if:

20 (a) The applicant or permittee is a secondary business activity
21 corporation; and

22 (b) The person required to be listed in the disclosure statement
23 is (i) a director or chief executive officer; or (ii) an individual who
24 does not have any responsibility for, or control of, the commercial
25 solid waste or hazardous waste operations of the applicant,
26 permittee or licensee conducted in New Jersey, and who will not
27 exercise any such responsibility or control upon the issuance of a
28 license by the department ;

29 (6) (a) A person who is a director or chief executive officer of a
30 business concern that is a secondary business activity corporation ¹,
31 a publicly traded corporation or an institutional investor, including
32 limited partnership interests,¹ that is not the applicant or permittee
33 but which is listed in the disclosure statement of an applicant or
34 permittee, pursuant to subsection e. of section 2 of P.L.1983, c.392
35 (C.13:1E-127), shall be exempt from the fingerprint and personal
36 history disclosure requirements; and

37 (b) An individual who is an officer or partner of, or who holds
38 any equity in or debt liability of, a business concern that is a
39 secondary business activity corporation ¹, a publicly traded
40 corporation or an institutional investor, including limited
41 partnership interests,¹ that is not the applicant or permittee but
42 which is listed in the disclosure statement of an applicant or
43 permittee, pursuant to subsection e. of section 2 of P.L.1983, c.392
44 (C.13:1E-127), shall be exempt from the fingerprint and personal
45 history disclosure requirements, provided that the person or
46 secondary business activity corporation ¹or publicly traded
47 corporation or institutional investor¹ does not and will not have any

1 responsibility for, or control of, the commercial solid waste or
2 hazardous waste operations of the applicant or permittee conducted
3 in New Jersey .

4 b. All applicants, permittees and licensees shall have the
5 continuing duty to provide any assistance or information requested
6 by the department or the Attorney General, and to cooperate in any
7 inquiry or investigation conducted by the Attorney General or the
8 State Commission of Investigation and any inquiry, investigation,
9 or hearing conducted by the department. Except as otherwise
10 determined by the Superior Court pursuant to subsection d. of this
11 section, if, upon issuance of a formal request to answer any inquiry
12 or produce information, evidence or testimony, any applicant,
13 permittee or licensee refuses to comply, the application of the
14 business concern for a license may be denied, or the license of that
15 business concern may be revoked by the department.

16 c. If any of the information required to be included in the
17 disclosure statement changes, or if any information provided
18 concerning the applicability of an exemption under subsection d. of
19 this section changes, or if any additional information should be
20 added to the disclosure statement after it has been filed, the
21 applicant, permittee or licensee shall provide that information to the
22 department and the Attorney General, in writing, within 30 days of
23 the change or addition.

24 d. The provisions of **[paragraph]** paragraphs (5) and (6) of
25 subsection a. of this section to the contrary notwithstanding, the
26 Attorney General may at any time require any person required to be
27 listed in the disclosure statement to file a completed personal
28 history disclosure form and a full disclosure statement with the
29 department and the Attorney General pursuant to paragraphs (1)
30 through (9) of subsection e. of section 2 of P.L.1983, c.392
31 (C.13:1E-127), or to be fingerprinted for identification and
32 investigation purposes pursuant to paragraph (2) of subsection a. of
33 this section, if the Attorney General determines that there exists a
34 reasonable suspicion that the additional information is likely to lead
35 to information relevant to a determination regarding the approval of
36 a license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133),
37 the revocation of a license pursuant to section 9 of P.L.1983, c.392
38 (C.13:1E-134), or the severance of a disqualifying person pursuant
39 to section 10 of P.L.1983, c.392 (C.13:1E-135).

40 If the Attorney General requires any or all of this information, a
41 written request for the additional information shall be served upon
42 the applicant, permittee or licensee. Within 60 days of receipt of a
43 written request for additional information, the applicant, permittee
44 or licensee may seek review of the Attorney General's
45 determination in the Superior Court. If the applicant, permittee or
46 licensee fails to provide the additional information to the Attorney
47 General within 60 days of receipt of the written request, the
48 Attorney General may file with the Superior Court a petition for an

1 order requiring the applicant, permittee or licensee to provide the
2 additional information. In a proceeding brought by either party, the
3 applicant, permittee or licensee shall demonstrate that the additional
4 information requested is not likely to lead to information relevant to
5 a determination regarding the approval of a license pursuant to
6 section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a
7 license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or
8 the severance of a disqualifying person pursuant to section 10 of
9 P.L.1983, c.392 (C.13:1E-135). For good cause shown, the court
10 may review in camera the submission of the Attorney General or
11 the applicant, permittee or licensee, or any part thereof.
12 (cf: P.L.1995, c.72, s.2)

13

14 '3.] 4.' This act shall take effect immediately.

[Corrected Copy]

ASSEMBLY, No. 4340

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED DECEMBER 14, 2009

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Co-Sponsored by:

Assemblyman Moriarty

SYNOPSIS

Concerns disclosure statements and certain other requirements for licensing of solid waste and hazardous waste operations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/8/2010)

A4340 PRIETO

2

1 AN ACT concerning disclosure statements and certain other
2 requirements for the licensing of solid waste and hazardous
3 waste operations, and amending and supplementing P.L.1983,
4 c.392.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) Notwithstanding any provision of section 2
10 of P.L.1983, c.392 (C.13:1E-127) or section 3 of P.L.1983, c.392
11 (C.13:1E-128), or any rules or regulations adopted pursuant thereto,
12 to the contrary, a business concern that is a secondary business
13 activity corporation which is listed in the disclosure statement of an
14 applicant or a permittee as required pursuant to P.L.1983, c.392
15 (C.13:1E-126 et seq.), and that is not the applicant or permittee,
16 shall not be required to disclose or submit any more information
17 than that which is required of a secondary business activity
18 corporation that is an applicant or a permittee, as provided pursuant
19 to paragraphs (a) through (h) of subsection e. of section 2 of
20 P.L.1983, c.392, and, as applicable, subsections b. and d. of section
21 3 of P.L.1983, c.392 (C.13:1E-128) and sections 4 and 5 of
22 P.L.1983, c.392 (C.13:1E-129 and C.13:1E-130).

23
24 2. Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended to
25 read as follows:

26 3. In addition to any other procedure, condition or information
27 required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1981,
28 c.279 (C.13:1E-49 et seq.) or any other law:

29 a. (1) Every applicant and permittee shall file a disclosure
30 statement with the department and the Attorney General;

31 (2) **[Any]** Except as otherwise provided in this subsection, any
32 person required to be listed in the disclosure statement shall be
33 fingerprinted for identification and investigation purposes in
34 accordance with procedures therefor established by the Attorney
35 General;

36 (3) The Attorney General shall, upon the receipt of the
37 disclosure statement from an applicant for an initial license or from
38 a permittee, prepare and transmit to the department an investigative
39 report on the applicant or the permittee, as the case may be, based
40 in part upon the disclosure statement. In preparing this report, the
41 Attorney General may request and receive criminal history
42 information from the State Commission of Investigation or the
43 Federal Bureau of Investigation;

44 (4) In conducting a review of the application, the department

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 shall include a review of the disclosure statement and investigative
2 report;

3 (5) An applicant or permittee may file a limited disclosure
4 statement pursuant to the provisions of paragraphs (a) through (h)
5 of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and
6 a person required to be listed in the disclosure statement is exempt
7 from the fingerprint and personal history disclosure requirements;
8 if:

9 (a) The applicant or permittee is a secondary business activity
10 corporation; and

11 (b) The person required to be listed in the disclosure statement
12 is (i) a director or chief executive officer; or (ii) an individual who
13 does not have any responsibility for, or control of, the commercial
14 solid waste or hazardous waste operations of the applicant,
15 permittee or licensee conducted in New Jersey, and who will not
16 exercise any such responsibility or control upon the issuance of a
17 license by the department ;

18 (6) (a) A person who is a director or chief executive officer of a
19 business concern that is a secondary business activity corporation
20 that is not the applicant or permittee but which is listed in the
21 disclosure statement of an applicant or permittee, pursuant to
22 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), shall
23 be exempt from the fingerprint and personal history disclosure
24 requirements; and

25 (b) An individual who is an officer or partner of, or who holds
26 any equity in or debt liability of, a business concern that is a
27 secondary business activity corporation that is not the applicant or
28 permittee but which is listed in the disclosure statement of an
29 applicant or permittee, pursuant to subsection e. of section 2 of
30 P.L.1983, c.392 (C.13:1E-127), shall be exempt from the fingerprint
31 and personal history disclosure requirements, provided that the
32 person or secondary business activity corporation does not and will
33 not have any responsibility for, or control of, the commercial solid
34 waste or hazardous waste operations of the applicant or permittee
35 conducted in New Jersey .

36 b. All applicants, permittees and licensees shall have the
37 continuing duty to provide any assistance or information requested
38 by the department or the Attorney General, and to cooperate in any
39 inquiry or investigation conducted by the Attorney General or the
40 State Commission of Investigation and any inquiry, investigation,
41 or hearing conducted by the department. Except as otherwise
42 determined by the Superior Court pursuant to subsection d. of this
43 section, if, upon issuance of a formal request to answer any inquiry
44 or produce information, evidence or testimony, any applicant,
45 permittee or licensee refuses to comply, the application of the
46 business concern for a license may be denied, or the license of that
47 business concern may be revoked by the department.

1 c. If any of the information required to be included in the
2 disclosure statement changes, or if any information provided
3 concerning the applicability of an exemption under subsection d. of
4 this section changes, or if any additional information should be
5 added to the disclosure statement after it has been filed, the
6 applicant, permittee or licensee shall provide that information to the
7 department and the Attorney General, in writing, within 30 days of
8 the change or addition.

9 d. The provisions of ~~paragraph~~ paragraphs (5) and (6) of
10 subsection a. of this section to the contrary notwithstanding, the
11 Attorney General may at any time require any person required to be
12 listed in the disclosure statement to file a completed personal
13 history disclosure form and a full disclosure statement with the
14 department and the Attorney General pursuant to paragraphs (1)
15 through (9) of subsection e. of section 2 of P.L.1983, c.392
16 (C.13:1E-127), or to be fingerprinted for identification and
17 investigation purposes pursuant to paragraph (2) of subsection a. of
18 this section, if the Attorney General determines that there exists a
19 reasonable suspicion that the additional information is likely to lead
20 to information relevant to a determination regarding the approval of
21 a license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133),
22 the revocation of a license pursuant to section 9 of P.L.1983, c.392
23 (C.13:1E-134), or the severance of a disqualifying person pursuant
24 to section 10 of P.L.1983, c.392 (C.13:1E-135).

25 If the Attorney General requires any or all of this information, a
26 written request for the additional information shall be served upon
27 the applicant, permittee or licensee. Within 60 days of receipt of a
28 written request for additional information, the applicant, permittee
29 or licensee may seek review of the Attorney General's
30 determination in the Superior Court. If the applicant, permittee or
31 licensee fails to provide the additional information to the Attorney
32 General within 60 days of receipt of the written request, the
33 Attorney General may file with the Superior Court a petition for an
34 order requiring the applicant, permittee or licensee to provide the
35 additional information. In a proceeding brought by either party, the
36 applicant, permittee or licensee shall demonstrate that the additional
37 information requested is not likely to lead to information relevant to
38 a determination regarding the approval of a license pursuant to
39 section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a
40 license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or
41 the severance of a disqualifying person pursuant to section 10 of
42 P.L.1983, c.392 (C.13:1E-135). For good cause shown, the court
43 may review in camera the submission of the Attorney General or
44 the applicant, permittee or licensee, or any part thereof.

45 (cf: P.L.1995, c.72, s.2)

46
47 3. This act shall take effect immediately.

STATEMENT

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This bill would change certain disclosure and related requirements for licensed solid waste and hazardous waste operations.

Current law, P.L.1983, c.392 (C.13:1E-126 et seq.), commonly referred to as "A901," provides for limited disclosure by an applicant or permittee that is a secondary business activity corporation, and exemption from fingerprint and personal history disclosure requirements for a director or chief executive officer or other person who does not have responsibility for, or control of, the commercial solid waste or hazardous waste operations. This bill would provide that for any secondary business activity corporation that is not the applicant or permittee but is listed in a disclosure statement by an applicant or permittee, no more information would be required to be submitted by that secondary business activity corporation than that which is required for a secondary business activity corporation that is an applicant or permittee.

Additionally, this bill would amend current law to allow a person who is a director or chief executive officer of a business concern that is a secondary business activity corporation listed in the disclosure statement of an applicant or a permittee to be exempt from the fingerprint and personal history disclosure requirements. It would further provide that an individual who is an officer or partner of, or who holds any equity in or debt liability of, a business concern that is a secondary business activity corporation that is not the applicant or permittee but which is listed in the disclosure statement of an applicant or a permittee would be exempt from the fingerprint and personal history disclosure requirements, provided that the person or secondary business activity corporation does not and will not have any responsibility for, or control of, the commercial solid waste or hazardous waste operations of the applicant or permittee conducted in New Jersey.s

ASSEMBLY REGULATED PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4340

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Regulated Professions Committee reports favorably, Assembly Bill No. 4340.

This bill would change certain disclosure and related requirements for licensed solid waste and hazardous waste operations.

Current law, P.L.1983, c.392 (C.13:1E-126 et seq.), provides for limited disclosure by an applicant or permittee that is a secondary business activity corporation, and exemption from fingerprint and personal history disclosure requirements for a director or chief executive officer or other person who does not have responsibility for, or control of, the commercial solid waste or hazardous waste operations. This bill would provide that for any secondary business activity corporation that is not the applicant or permittee but is listed in a disclosure statement by an applicant or permittee, no more information would be required to be submitted by that secondary business activity corporation than that which is required for a secondary business activity corporation that is an applicant or permittee.

Additionally, this bill would amend current law to allow a person who is a director or chief executive officer of a business concern that is a secondary business activity corporation listed in the disclosure statement of an applicant or a permittee to be exempt from the fingerprint and personal history disclosure requirements. It would further provide that an individual who is an officer or partner of, or who holds any equity in or debt liability of, a business concern that is a secondary business activity corporation that is not the applicant or permittee but which is listed in the disclosure statement of an applicant or a permittee would be exempt from the fingerprint and personal history disclosure requirements, provided that the person or secondary business activity corporation does not and will not have any responsibility for, or control of, the commercial solid waste or hazardous waste operations of the applicant or permittee conducted in New Jersey.

STATEMENT TO
ASSEMBLY, No. 4340

with Assembly Floor Amendments
(Proposed by Assemblyman PRIETO)

ADOPTED: JANUARY 7, 2010

This floor amendment would allow a person who is a director, chief executive officer, officer, or partner of, or who holds any equity in or debt liability of, a business concern that is a publicly traded corporation or an institutional investor and is not the applicant or permittee but which is listed in the disclosure statement of an applicant or permittee, to be exempt from the fingerprint and personal history disclosure requirements pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.), commonly referred to as “A901.”

SENATE, No. 3126

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED DECEMBER 7, 2009

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

Concerns disclosure statements and certain other requirements for licensing of solid waste and hazardous waste operations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning disclosure statements and certain other
2 requirements for the licensing of solid waste and hazardous
3 waste operations, and amending and supplementing P.L.1983,
4 c.392.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) Notwithstanding any provision of section 2
10 of P.L.1983, c.392 (C.13:1E-127) or section 3 of P.L.1983, c.392
11 (C.13:1E-128), or any rules or regulations adopted pursuant thereto,
12 to the contrary, a business concern that is a secondary business
13 activity corporation which is identified in the disclosure statement
14 of an applicant or a permittee as required pursuant to P.L.1983,
15 c.392 (C.13:1E-126 et seq.), and that is not the applicant or
16 permittee, shall not be required to disclose or submit any more
17 information than that which is required of a secondary business
18 activity corporation that is an applicant or a permittee, as provided
19 pursuant to paragraphs (a) through (h) of subsection e. of section 2
20 of P.L.1983, c.392.

21
22 2. Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended to
23 read as follows:

24 3. In addition to any other procedure, condition or information
25 required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1981,
26 c.279 (C.13:1E-49 et seq.) or any other law:

27 a. (1) Every applicant and permittee shall file a disclosure
28 statement with the department and the Attorney General;

29 (2) **[Any]** Except as otherwise provided in this subsection, any
30 person required to be listed in the disclosure statement shall be
31 fingerprinted for identification and investigation purposes in
32 accordance with procedures therefor established by the Attorney
33 General;

34 (3) The Attorney General shall, upon the receipt of the
35 disclosure statement from an applicant for an initial license or from
36 a permittee, prepare and transmit to the department an investigative
37 report on the applicant or the permittee, as the case may be, based
38 in part upon the disclosure statement. In preparing this report, the
39 Attorney General may request and receive criminal history
40 information from the State Commission of Investigation or the
41 Federal Bureau of Investigation;

42 (4) In conducting a review of the application, the department
43 shall include a review of the disclosure statement and investigative
44 report;

45 (5) An applicant or permittee may file a limited disclosure
46 statement pursuant to the provisions of paragraphs (a) through (h)

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and
2 a person required to be listed in the disclosure statement is exempt
3 from the fingerprint and personal history disclosure requirements;
4 if:

5 (a) The applicant or permittee is a secondary business activity
6 corporation; and

7 (b) The person required to be listed in the disclosure statement
8 is (i) a director or chief executive officer; or (ii) an individual who
9 does not have any responsibility for, or control of, the commercial
10 solid waste or hazardous waste operations of the applicant,
11 permittee or licensee conducted in New Jersey, and who will not
12 exercise any such responsibility or control upon the issuance of a
13 license by the department ; and

14 (6) A person who is an officer, director, or partner of, or holds
15 any equity in or debt liability of, a business concern that is a
16 secondary business activity corporation identified in the disclosure
17 statement of an applicant or permittee, pursuant to subsection e. of
18 section 2 of P.L.1983, c.392, (C.13:1E-127), shall be exempt from
19 the fingerprint and personal history disclosure requirements,
20 provided that the person or secondary business activity corporation
21 is not the applicant or permittee and does not and will not have any
22 responsibility for, or control of, the commercial solid waste or
23 hazardous waste operations of the applicant or permittee conducted
24 in New Jersey .

25 b. All applicants, permittees and licensees shall have the
26 continuing duty to provide any assistance or information requested
27 by the department or the Attorney General, and to cooperate in any
28 inquiry or investigation conducted by the Attorney General or the
29 State Commission of Investigation and any inquiry, investigation,
30 or hearing conducted by the department. Except as otherwise
31 determined by the Superior Court pursuant to subsection d. of this
32 section, if, upon issuance of a formal request to answer any inquiry
33 or produce information, evidence or testimony, any applicant,
34 permittee or licensee refuses to comply, the application of the
35 business concern for a license may be denied, or the license of that
36 business concern may be revoked by the department.

37 c. If any of the information required to be included in the
38 disclosure statement changes, or if any information provided
39 concerning the applicability of an exemption under subsection d. of
40 this section changes, or if any additional information should be
41 added to the disclosure statement after it has been filed, the
42 applicant, permittee or licensee shall provide that information to the
43 department and the Attorney General, in writing, within 30 days of
44 the change or addition.

45 d. The provisions of paragraph (5) of subsection a. of this
46 section to the contrary notwithstanding, the Attorney General may
47 at any time require any person required to be listed in the disclosure
48 statement to file a completed personal history disclosure form and a

1 full disclosure statement with the department and the Attorney
2 General pursuant to paragraphs (1) through (9) of subsection e. of
3 section 2 of P.L.1983, c.392 (C.13:1E-127), or to be fingerprinted
4 for identification and investigation purposes pursuant to paragraph
5 (2) of subsection a. of this section, if the Attorney General
6 determines that there exists a reasonable suspicion that the
7 additional information is likely to lead to information relevant to a
8 determination regarding the approval of a license pursuant to
9 section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a
10 license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or
11 the severance of a disqualifying person pursuant to section 10 of
12 P.L.1983, c.392 (C.13:1E-135).

13 If the Attorney General requires any or all of this information, a
14 written request for the additional information shall be served upon
15 the applicant, permittee or licensee. Within 60 days of receipt of a
16 written request for additional information, the applicant, permittee
17 or licensee may seek review of the Attorney General's
18 determination in the Superior Court. If the applicant, permittee or
19 licensee fails to provide the additional information to the Attorney
20 General within 60 days of receipt of the written request, the
21 Attorney General may file with the Superior Court a petition for an
22 order requiring the applicant, permittee or licensee to provide the
23 additional information. In a proceeding brought by either party, the
24 applicant, permittee or licensee shall demonstrate that the additional
25 information requested is not likely to lead to information relevant to
26 a determination regarding the approval of a license pursuant to
27 section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a
28 license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or
29 the severance of a disqualifying person pursuant to section 10 of
30 P.L.1983, c.392 (C.13:1E-135). For good cause shown, the court
31 may review in camera the submission of the Attorney General or
32 the applicant, permittee or licensee, or any part thereof.

33 (cf: P.L.1995, c.72, s.2)

34

35 3. This act shall take effect immediately.

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37

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STATEMENT

39

40 This bill would change certain disclosure and related
41 requirements for licensed solid waste and hazardous waste
42 operations.

43 Current law, P.L.1983, c.392 (C.13:1E-126 et seq.), commonly
44 referred to as "A901," provides for limited disclosure by an
45 applicant or permittee that is a secondary business activity
46 corporation, and exemption from fingerprint and personal history
47 disclosure requirements for a director or chief executive officer or
48 other person who does not have responsibility for, or control of, the

S3126 LESNIAK

1 commercial solid waste or hazardous waste operations. This bill
2 would provide that for any secondary business activity corporation
3 listed in a disclosure statement by an applicant or permittee, no
4 more information would be required to be submitted than that which
5 is required for a secondary business activity corporation that is an
6 applicant or permittee.

7 Additionally, this bill would amend current law to allow a person
8 who is an officer, director, or partner of, or holds any equity in or
9 debt liability of, a business concern that is a secondary business
10 activity corporation, identified in the disclosure statement of an
11 applicant or a permittee, to be exempt from the fingerprint and
12 personal history disclosure requirements, provided that the person
13 or secondary business activity corporation is not the applicant or
14 permittee and does not and will not have any responsibility for, or
15 control of, the commercial solid waste or hazardous waste
16 operations of the applicant or permittee conducted in New Jersey.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 3126

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2009

The Senate Economic Growth Committee reports favorably Senate Bill, No. 3126.

This bill would change certain disclosure and related requirements for licensed solid waste and hazardous waste operations.

Current law, P.L.1983, c.392 (C.13:1E-126 et seq.), commonly referred to as "A901," provides for limited disclosure by an applicant or permittee that is a secondary business activity corporation, and exemption from fingerprint and personal history disclosure requirements for a director or chief executive officer or other person who does not have responsibility for, or control of, the commercial solid waste or hazardous waste operations. This bill would provide that for any secondary business activity corporation listed in a disclosure statement by an applicant or permittee, no more information would be required to be submitted than that which is required for a secondary business activity corporation that is an applicant or permittee.

Additionally, this bill would amend current law to allow a person who is an officer, director, or partner of, or holds any equity in or debt liability of, a business concern that is a secondary business activity corporation, identified in the disclosure statement of an applicant or a permittee, to be exempt from the fingerprint and personal history disclosure requirements, provided that the person or secondary business activity corporation is not the applicant or permittee and does not and will not have any responsibility for, or control of, the commercial solid waste or hazardous waste operations of the applicant or permittee conducted in New Jersey.

STATEMENT TO

SENATE, No. 3126

with Senate Floor Amendments
(Proposed by Senator LESNIAK)

ADOPTED: JANUARY 7, 2010

The floor amendments to the bill:

1) Add that any secondary business activity corporation, that is not an applicant or permittee, may be asked to provide the Attorney General's office with additional information, as applicable under the Attorney General's investigative interrogatory or subpoena power;

2) Change the titles of the persons who are exempt from fingerprint and personal history disclosure requirements;

3) Provide that persons otherwise exempt from the fingerprint and personal history disclosure requirements would be subject to the existing authority of the Attorney General to request such information under certain circumstances; and

4) Allow a person who is a director, chief executive officer, officer, or partner of, or who holds any equity in or debt liability of, a business concern that is a publicly traded corporation or an institutional investor and is not the applicant or permittee but which is listed in the disclosure statement of an applicant or permittee, to be exempt from the fingerprint and personal history disclosure requirements.