

13:1E-127

LEGISLATIVE HISTORY CHECKLIST
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(Solid & hazardous waste industry--
personal disclosure statements--exempt)

NJSA: 13:1E-127

LAWS OF: 1995 **CHAPTER:** 72

BILL NO: A1883

SPONSOR(S): Collins & Stuhltrager

DATE INTRODUCED: June 16, 1994

COMMITTEE: **ASSEMBLY:** Solid & Hazardous Waste
SENATE: Environment

AMENDED DURING PASSAGE: No
Assembly Committee Substitute enacted

DATE OF PASSAGE: **ASSEMBLY:** December 15, 1994
SENATE: March 2, 1995

DATE OF APPROVAL: April 10, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1883
STATE OF NEW JERSEY

ADOPTED DECEMBER 12, 1994

Sponsored by Assemblymen COLLINS and STUHLTRAGER

1 AN ACT concerning the licensing and regulation of the solid and
2 hazardous waste industries, and amending P.L.1983, c.392.

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

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

8 2. As used in [this act] the provisions of P.L.1983, c.392
9 (C.13:1E-126 et seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.):

10 a. "Applicant" means any business concern which has filed a
11 disclosure statement with the department and the Attorney
12 General and is seeking an initial license, provided that the
13 business concern has furnished the department and the Attorney
14 General with any information required pursuant to P.L.1991,
15 c.296 (C.13:1E-128.1 et al.).

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

19 c. "Business concern" means any corporation, association,
20 firm, partnership, sole proprietorship, trust or other form of
21 commercial organization.

22 d. "Department" means the Department of Environmental
23 Protection.

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

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

37 (2) The full name, business address and social security number
38 of all officers, directors, or partners of any business concern
39 disclosed in the disclosure statement and the names and addresses
40 of all persons holding any equity in or the debt liability of any
41 business concern so disclosed, or, if the business concern is a
42 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.

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

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

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

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

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

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

49 The provisions of paragraphs (1) through (9) of this subsection
50 to the contrary notwithstanding, if an applicant or a permittee is
51 a secondary business activity corporation, "disclosure statement"
52 means a statement submitted to the department and the Attorney
53 General by an applicant or a permittee, which statement shall
54 include:

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

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

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

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

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

47 (f) A listing and explanation of any judgment, decree or order,
48 whether by consent or not, issued against the applicant or
49 permittee in the 10 years immediately preceding the filing of the
50 application, and of any pending civil complaints against the
51 applicant or permittee pertaining to a violation or alleged
52 violation of federal or state antitrust laws, trade regulations or
53 securities regulations;

54 (g) A listing and explanation of any conviction issued against

1 the applicant or permittee for a felony resulting in a plea of nolo
2 contendere, or any conviction in the 10 years immediately
3 preceding the filing of the application, and of any pending
4 indictment, accusation, complaint or information for any felony
5 issued to the applicant or the permittee pursuant to any state or
6 federal statute; and

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

13 f. "Key employee" means any individual employed by the
14 applicant, the permittee or the licensee in a supervisory capacity
15 or empowered to make discretionary decisions with respect to the
16 solid waste or hazardous waste operations of the business concern
17 but shall not include employees exclusively engaged in the
18 physical or mechanical collection, transportation, treatment,
19 storage, transfer or disposal of solid waste or hazardous waste.

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

26 A "license" shall not include any registration statement or
27 engineering design approved for:

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

30 (2) Any person solely for the collection, transportation,
31 treatment, storage or disposal of solid waste or hazardous waste
32 generated by that person;

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

37 (4) Any person for the operation of a hazardous waste facility
38 which is considered as such solely as the result of the
39 reclamation, recycling or refining of hazardous wastes which are
40 or contain any of the following precious metals: gold, silver,
41 osmium, platinum, palladium, iridium, rhodium, ruthenium, or
42 copper;

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

47 A "license" shall include any registration statement approved
48 for any person who transports any other hazardous waste in
49 addition to hazardous wastes which are or contain precious
50 metals;

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

54 (7) Any regulated medical waste generator for the treatment

1 or disposal of regulated medical waste at any noncommercial
2 incinerator or noncommercial facility in this State that accepts
3 regulated medical waste for disposal.

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

9 i. "Permittee" means and shall include:

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

17 (2) Any business concern which has filed a disclosure
18 statement with the department and the Attorney General and to
19 which a temporary license has been approved, issued or renewed
20 by the department pursuant to section 10 of P.L.1983, c.392
21 (C.13:1E-135), but which has not otherwise completed the
22 requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and
23 whose application for a license has not been approved by the
24 department pursuant to section 8 of P.L.1983, c.392
25 (C.13:1E-133), provided that the temporary license remains valid,
26 and provided further that the business concern has furnished the
27 department and the Attorney General with any information
28 required pursuant to P.L.1991, c.269 (C.13:1E-128 et al.);

29 (3) Any business concern which has filed a disclosure
30 statement with the department and the Attorney General and to
31 which a valid registration statement or engineering design
32 approval for the collection, transportation, treatment, storage,
33 transfer or disposal of solid waste or hazardous waste pursuant to
34 P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49
35 et seq.) has been given by the department between February 20,
36 1985 and January 23, 1986, inclusive, provided that the
37 registration statement or engineering design approval remains
38 valid, and provided further that the business concern has
39 furnished the department and the Attorney General with any
40 information required pursuant to P.L.1991, c.269 (C.13:1E-128 et
41 al.); or

42 (4) Any business concern to which a temporary approval of
43 registration has been given by the department at any time after
44 January 23, 1986 pursuant to statute or rule and regulation,
45 provided that such temporary approval of registration, statute, or
46 rule and regulation remains valid, and provided further that the
47 business concern has furnished the department and the Attorney
48 General with any information required pursuant to P.L.1991,
49 c.269 (C.13:1E-128.1 et al.) and filed a disclosure statement with
50 the department and the Attorney General.

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

52 k. "Secondary business activity corporation" means any
53 business concern which has derived less than 5% of its annual
54 gross revenues in each of the three years immediately preceding

1 the one in which the application for a license is being made from
2 the collection, transportation, treatment, storage, recycling,
3 processing, transfer or disposal of solid waste or hazardous waste,
4 whether directly or through other business concerns partially or
5 wholly owned or controlled by the applicant or the permittee, as
6 the case may be, and which (1) has one or more classes of
7 security registered pursuant to section 12 of the "Securities
8 Exchange Act of 1934," as amended (15 U.S.C. §781), or (2) is an
9 issuer subject to subsection (d) of section 15 of the "Securities
10 Exchange Act of 1934," as amended (15 U.S.C. §780).

11 (cf: P.L.1991, c.269, s.1)

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

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

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

19 (2) Any person required to be listed in the disclosure statement
20 shall be fingerprinted for identification and investigation
21 purposes in accordance with procedures therefor established by
22 the Attorney General;

23 (3) The Attorney General shall, upon the receipt of the
24 disclosure statement from an applicant for an initial license or
25 from a permittee, prepare and transmit to the department an
26 investigative report on the applicant or the permittee, as the
27 case may be, based in part upon the disclosure statement. In
28 preparing this report, the Attorney General may request and
29 receive criminal history information from the State Commission
30 of Investigation or the Federal Bureau of Investigation; [and]

31 (4) In conducting a review of the application, the department
32 shall include a review of the disclosure statement and
33 investigative report;

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

40 (a) The applicant or permittee is a secondary business activity
41 corporation; and

42 (b) The person required to be listed in the disclosure statement
43 is (i) a director or chief executive officer; or (ii) an individual
44 who does not have any responsibility for, or control of, the
45 commercial solid waste or hazardous waste operations of the
46 applicant, permittee or licensee conducted in New Jersey, and
47 who will not exercise any such responsibility or control upon the
48 issuance of a license by the department.

49 b. All applicants, permittees and licensees shall have the
50 continuing duty to provide any assistance or information
51 requested by the department or the Attorney General, and to
52 cooperate in any inquiry or investigation conducted by the
53 Attorney General or the State Commission of Investigation and
54 any inquiry, investigation, or hearing conducted by the

1 department. [If] Except as otherwise determined by the Superior
2 Court pursuant to subsection d. of this section, if, upon issuance
3 of a formal request to answer any inquiry or produce information,
4 evidence or testimony, any applicant, permittee or licensee
5 refuses to comply, the application of the business concern for a
6 license may be denied, or the license of that business concern
7 may be revoked by the department.

8 c. If any of the information required to be included in the
9 disclosure statement changes, or if any information provided
10 concerning the applicability of an exemption under subsection d.
11 of this section changes, or if any additional information should be
12 added [after the filing of] to the disclosure statement after it has
13 been filed, the applicant, permittee or licensee shall provide that
14 information to the department and the Attorney General, in
15 writing, within 30 days of the change or addition.

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

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

54 (cf: P.L.1991, c.269, s.2)

1 3. This act shall take effect immediately.

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6 Amends the "A901" solid and hazardous waste industry licensing
7 law to exempt certain officers and directors in certain publicly
8 traded corporations from the disclosure requirements of the act.

ASSEMBLY, No. 1883

STATE OF NEW JERSEY

INTRODUCED JUNE 16, 1994

By Assemblymen COLLINS and STUHLTRAGER

1 AN ACT concerning the licensing and regulation of the solid and
2 hazardous waste industries, and amending P.L.1983, c.392.

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

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

8 2. As used in [this act] the provisions of P.L.1983, c.392
9 (C.13:1E-126 et seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.):

10 a. "Applicant" means any business concern which has filed a
11 disclosure statement with the department and the Attorney
12 General and is seeking an initial license, provided that the
13 business concern has furnished the department and the Attorney
14 General with any information required pursuant to P.L.1991,
15 c.296 (C.13:1E-128.1 et al.).

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

19 c. "Business concern" means any corporation, association, firm,
20 partnership, sole proprietorship, trust or other form of
21 commercial organization.

22 d. "Department" means the Department of Environmental
23 Protection.

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

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

37 (2) The full name, business address and social security number
38 of all officers, directors, or partners of any business concern
39 disclosed in the disclosure statement and the names and addresses
40 of all persons holding any equity in or the debt liability of any
41 business concern so disclosed, or, if the business concern is a
42 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.

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
12 hazardous waste possessed by the applicant or the permittee, as
13 the case may be, and by the key employees, officers, directors, or
14 partners thereof;

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

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

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

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

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

49 The provisions of paragraphs (1) through (9) of this subsection
50 to the contrary notwithstanding, and as an alternative thereto, if
51 an applicant or a permittee is a secondary business activity
52 corporation, "disclosure statement" means a statement submitted
53 to the department and the Attorney General by an applicant or a
54 permittee, which statement shall include:

1 (1) All information filed during the preceding reporting year
2 pursuant to the disclosure requirements of the "Securities
3 Exchange Act of 1934," 48 Stat. 881 (15 U.S.C. §78a et seq.),
4 including, but not limited to:

5 (a) The full name, business address and social security number,
6 and primary business activity of all officers and directors of the
7 business concern; and

8 (b) The disclosure of all current prosecutions or pending
9 charges in any jurisdiction against any officer or director of the
10 business concern, including, but not limited to, prosecutions or
11 charges for any of the crimes enumerated in subsection b. of
12 section 8 of P.L.1983, c.392 (C.13:1E-133).

13 (2) In addition to the information required pursuant to
14 paragraph (1) herein, all officers and key employees of the
15 business concern who are involved in the business concern's solid
16 waste or hazardous waste operations in this State shall file a
17 disclosure statement with the department and the Attorney
18 General pursuant to paragraphs (1) through (9) of this subsection,
19 and shall be fingerprinted for identification and investigation
20 purposes pursuant to subsection a. of section 3 of P.L.1983, c.392
21 (C.13:1E-128).

22 Upon good cause shown, the Attorney General may require any
23 officer, director, partner, or key employee of a secondary
24 business activity corporation and all persons holding more than
25 5% of the equity in or the debt liability of that business concern
26 to file a disclosure statement with the department and the
27 Attorney General pursuant to paragraphs (1) through (9) of this
28 subsection, or to be fingerprinted for identification and
29 investigation purposes pursuant to subsection a. of section 3 of
30 P.L.1983, c.392 (C.13:1E-128).

31 f. "Key employee" means any individual employed by the
32 applicant, the permittee or the licensee in a supervisory capacity
33 or empowered to make discretionary decisions with respect to the
34 solid waste or hazardous waste operations of the business concern
35 but shall not include employees exclusively engaged in the
36 physical or mechanical collection, transportation, treatment,
37 storage, transfer or disposal of solid waste or hazardous waste.

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

44 A "license" shall not include any registration statement or
45 engineering design approved for:

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

48 (2) Any person solely for the collection, transportation,
49 treatment, storage or disposal of solid waste or hazardous waste
50 generated by that person;

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

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

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

11 A "license" shall include any registration statement approved
12 for any person who transports any other hazardous waste in
13 addition to hazardous wastes which are or contain precious
14 metals;

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

18 (7) Any regulated medical waste generator for the treatment or
19 disposal of regulated medical waste at any noncommercial
20 incinerator or noncommercial facility in this State that accepts
21 regulated medical waste for disposal.

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

27 i. "Permittee" means and shall include:

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

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

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

1 statement or engineering design approval remains valid, and
2 provided further that the business concern has furnished the
3 department and the Attorney General with any information
4 required pursuant to P.L.1991, c.269 (C.13:1E-128 et al.); or

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

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

15 k. "Secondary business activity corporation" means any
16 business concern which is a publicly traded corporation listed on
17 the New York Stock Exchange or the American Stock Exchange
18 and whose principal business does not involve the collection,
19 transportation, treatment, storage, transfer or disposal of solid
20 waste or hazardous waste, and which has derived less than 5% of
21 its annual gross revenues in each of the preceding three years
22 from its solid waste or hazardous waste operations in this State.
23 (cf: P.L.1991, c.269, s.1)

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 person required to be listed in the disclosure statement
32 shall be fingerprinted for identification and investigation
33 purposes in accordance with procedures therefor established by
34 the Attorney General;

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

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

46 b. All applicants, permittees and licensees shall have the
47 continuing duty to provide any assistance or information
48 requested by the department or the Attorney General, and to
49 cooperate in any inquiry or investigation conducted by the
50 Attorney General or the State Commission of Investigation and
51 any inquiry, investigation, or hearing conducted by the
52 department. If, upon issuance of a formal request to answer any
53 inquiry or produce information, evidence or testimony, any
54 applicant, permittee or licensee refuses to comply, the

1 application of the business concern for a license may be denied,
2 or the license of that business concern may be revoked by the
3 department.

4 c. If any of the information required to be included in the
5 disclosure statement changes, or if any additional information
6 should be added after the filing of the disclosure statement, the
7 applicant, permittee or licensee shall provide that information to
8 the department and the Attorney General, in writing, within 30
9 days of the change or addition.

10 The provisions of this section to the contrary notwithstanding,
11 if an applicant or a permittee is a secondary business activity
12 corporation, only those officers and key employees of the
13 business concern who are involved in the business concern's solid
14 waste or hazardous waste operations in this State shall be
15 required to file a disclosure statement with the department and
16 the Attorney General pursuant to paragraphs (1) through (9) of
17 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), or to
18 be fingerprinted for identification and investigation purposes
19 pursuant to subsection a. of this section.

20 Upon good cause shown, the Attorney General may require any
21 officer, director, partner, or key employee of a secondary
22 business activity corporation and all persons holding more than
23 5% of the equity in or the debt liability of that business concern
24 to file a disclosure statement with the department and the
25 Attorney General and to be fingerprinted for identification and
26 investigation purposes pursuant to subsection a. of this section.

27 (cf: P.L.1991, c.269, s.2)

28 3. This act shall take effect immediately.

31 STATEMENT

32
33 This bill would amend the provisions of P.L.1983, c.392
34 (C.13:1E-126 et seq.), commonly referred to as "A901" or the
35 solid and hazardous waste industry licensing law, to exempt
36 officers and directors in certain publicly traded corporations
37 from the disclosure requirements of the act.

38 P.L.1983, c.392, as revised by P.L.1991, c.269 (C.13:1E-128.1
39 et al.), provides strict criteria for licensure of entities and
40 individuals performing, or seeking to perform, most activities in
41 the solid waste or hazardous waste collection and disposal
42 industries. The act, under the joint administration of the
43 Department of Environmental Protection (DEP) and the
44 Department of Law and Public Safety, requires each such
45 individual and entity to submit to the Attorney General and the
46 DEP a disclosure statement from which the Division of State
47 Police in the Department of Law and Public Safety performs a
48 background investigation. The Division of Law in the Department
49 of Law and Public Safety evaluates the information revealed by
50 each investigation and prepares a report in which it concludes
51 whether or not the DEP is precluded by the standards of "A901"
52 from granting a license. The licensing standards are designed to
53 preclude individuals or entities with criminal backgrounds or a
54 history of violations of environmental laws in this State or other

1 jurisdictions from participation in waste management activities
2 in New Jersey. The final decision as to licensure is made by DEP.

3 This bill would exempt the officers and directors of so-called
4 "secondary business activity corporations" from the disclosure
5 requirements of the act. A "secondary business activity
6 corporation" refers to any publicly traded corporation listed on
7 the New York Stock Exchange or the American Stock Exchange
8 whose principal business does not involve the collection,
9 transportation, treatment, storage, transfer or disposal of solid
10 waste or hazardous waste, and which has derived less than 5% of
11 its annual gross revenues in each of the preceding three years
12 from its solid waste or hazardous waste operations in New Jersey.

13 As an alternative to the disclosure requirements set forth in
14 the act, this bill would require any secondary business activity
15 corporation seeking an "A901" license to submit to the DEP and
16 the Attorney General all information filed during the preceding
17 reporting year pursuant to the disclosure requirements of the
18 federal "Securities Exchange Act of 1934," including, but not
19 limited to:

20 (1) The full name, business address and social security number,
21 and primary business activity of all officers and directors of the
22 corporation; and

23 (2) The disclosure of all current prosecutions or pending
24 charges in any jurisdiction against any officer or director of the
25 corporation, including, but not limited to, prosecutions or charges
26 for any of the crimes enumerated in section 8 of P.L.1983, c.392
27 (C.13:1E-133) for which a license would be denied.

28 In addition, the bill would require all officers and key
29 employees of the corporation who are involved in the firm's solid
30 waste or hazardous waste operations in New Jersey to file an
31 "A901" disclosure statement with the DEP and the Attorney
32 General, and to be fingerprinted for identification and
33 investigation purposes.

34 The bill also would provide that upon good cause shown, the
35 Attorney General may require any officer, director, partner, or
36 key employee of a secondary business activity corporation and all
37 persons holding more than 5% of the equity in or the debt liability
38 of that corporation to file an "A901" disclosure statement with
39 the DEP and the Attorney General, or to be fingerprinted for
40 identification and investigation purposes.

41 The bill recognizes that secondary business activity
42 corporations and their officers and directors are subject to
43 substantial scrutiny at the federal level and reports prepared for
44 such purposes can be used by the State of New Jersey to confirm
45 the propriety of issuing "A901" licenses to such firms.

46
47
48
49

50 Amends the "A901" solid and hazardous waste industry licensing
51 law to exempt officers and directors in certain publicly traded
52 corporations from the disclosure requirements of the act.

ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1883

STATE OF NEW JERSEY

DATED: DECEMBER 12, 1994

The Assembly Solid and Hazardous Waste Committee favorably reports an Assembly Committee Substitute for Assembly Bill No. 1883.

The Assembly Committee Substitute for Assembly Bill No. 1883 amends the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), commonly referred to as "A901" or the solid and hazardous waste industry licensing law, to limit the disclosure of personal history of certain officers and directors in publicly traded corporations peripheral to the waste industry.

P.L.1983, c.392, as revised by P.L.1991, c.269 (C.13:1E-128.1 et al.), provides strict criteria for licensure of entities and individuals performing, or seeking to perform, most activities in the solid waste or hazardous waste collection and disposal industries. The "A901" licensing law, under the joint administration of the Department of Environmental Protection (DEP) and the Department of Law and Public Safety, requires each such individual and entity to submit to the Attorney General and the DEP a disclosure statement from which the Division of State Police in the Department of Law and Public Safety performs a background investigation. The Division of Law in the Department of Law and Public Safety evaluates the information revealed by each investigation and prepares a report in which it concludes whether or not the DEP is precluded by the standards of "A901" from granting a license. The licensing standards are designed to preclude individuals or entities with criminal backgrounds or a history of violations of environmental laws in this State or other jurisdictions from participation in waste management activities in New Jersey. The final decision as to licensure is made by the DEP.

The provisions of the substitute bill apply to any publicly traded corporation that is seeking an "A901" license whose revenue from solid waste or hazardous waste activities is less than 5% of its annual gross revenue. The substitute bill exempts the officers and directors of these so-called "secondary business activity corporations," who do not control the applicant's solid waste or hazardous waste operations in New Jersey, from the full disclosure requirements of P.L.1983, c.392.

Specifically, an applicant or permittee seeking an "A901" license may file a limited disclosure statement, and a person required to be listed in the disclosure statement is exempt from the act's fingerprint and personal history disclosure requirements, provided that the following criteria are met:

The applicant or permittee is a secondary business activity corporation; and

The person required to be listed in the disclosure statement is (1) a director or chief executive officer; or (2) an individual who does not have any responsibility for, or control of, the commercial solid waste or hazardous waste operations of the applicant, permittee or licensee conducted in New Jersey, and who will not exercise any such responsibility or control upon the issuance of a license by the DEP.

However, the Attorney General may require any such applicant, permittee or person to file a completed personal history disclosure form and a full disclosure statement, or to be fingerprinted for identification and investigation purposes, if the Attorney General determines that there exists a reasonable suspicion that the additional information is likely to lead to information relevant to a determination regarding the approval or revocation of a license, or the severance of a disqualifying individual or entity, under the standards of "A901."

If the Attorney General requires any or all of this information, a written request for the additional information will be served upon the applicant, permittee or licensee. Within 60 days of receipt of a written request for additional information, the applicant, permittee or licensee may seek review of the Attorney General's determination in the Superior Court. If the applicant, permittee or licensee fails to provide the additional information to the Attorney General within 60 days of receipt of the written request, the Attorney General may file with the Superior Court a petition for an order requiring the applicant, permittee or licensee to provide the additional information. In a proceeding brought by either party, the applicant, permittee or licensee must demonstrate that the additional information requested is not likely to lead to information relevant to a determination regarding the approval or revocation of a license, or to the severance of a disqualifying person, under the standards of "A901." For good cause shown, the Court may review in camera the submission of the Attorney General or the applicant, permittee or licensee, or any part thereof.

SENATE ENVIRONMENT COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1883

STATE OF NEW JERSEY

DATED: FEBRUARY 6, 1995

The Senate Environment Committee favorably reports Assembly Bill No. 1883 ACS.

This bill amends the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), commonly referred to as "A901" or the solid and hazardous waste industry licensing law, to limit the disclosure of personal history of certain officers and directors in publicly traded corporations peripheral to the waste industry.

P.L.1983, c.392, as revised by P.L.1991, c.269 (C.13:1E-128.1 et al.), provides strict criteria for licensure of entities and individuals performing, or seeking to perform, most activities in the solid waste or hazardous waste collection and disposal industries. The "A901" licensing law, under the joint administration of the Department of Environmental Protection (DEP) and the Department of Law and Public Safety, requires each such individual and entity to submit to the Attorney General and the DEP a disclosure statement from which the Division of State Police in the Department of Law and Public Safety performs a background investigation. The Division of Law in the Department of Law and Public Safety evaluates the information revealed by each investigation and prepares a report in which it concludes whether or not the DEP is precluded by the standards of "A901" from granting a license. The licensing standards are designed to preclude individuals or entities with criminal backgrounds or a history of violations of environmental laws in this State or other jurisdictions from participation in waste management activities in New Jersey. The final decision as to licensure is made by the DEP.

The provisions of the bill apply to any publicly traded corporation that is seeking an "A901" license whose revenue from solid waste or hazardous waste activities is less than 5% of its annual gross revenue. The bill exempts the officers and directors of these so-called "secondary business activity corporations," who do not control the applicant's solid waste or hazardous waste operations in New Jersey, from the full disclosure requirements of P.L.1983, c.392.

Specifically, an applicant or permittee seeking an "A901" license may file a limited disclosure statement, and a person required to be listed in the disclosure statement is exempt from the act's fingerprint and personal history disclosure requirements, provided that the following criteria are met:

The applicant or permittee is a secondary business activity corporation; and

The person required to be listed in the disclosure statement is (1) a director or chief executive officer; or (2) an individual who does not have any responsibility for, or control of, the commercial solid waste or hazardous waste operations of the applicant, permittee or licensee conducted in New Jersey, and who will not exercise any such responsibility or control upon the issuance of a license by the DEP.

However, the Attorney General may require any such applicant, permittee or person to file a completed personal history disclosure form and a full disclosure statement, or to be fingerprinted for identification and investigation purposes, if the Attorney General determines that there exists a reasonable suspicion that the additional information is likely to lead to information relevant to a determination regarding the approval or revocation of a license, or the severance of a disqualifying individual or entity, under the standards of "A901."

If the Attorney General requires any or all of this information, a written request for the additional information will be served upon the applicant, permittee or licensee. Within 60 days of receipt of a written request for additional information, the applicant, permittee or licensee may seek review of the Attorney General's determination in the Superior Court. If the applicant, permittee or licensee fails to provide the additional information to the Attorney General within 60 days of receipt of the written request, the Attorney General may file with the Superior Court a petition for an order requiring the applicant, permittee or licensee to provide the additional information. In a proceeding brought by either party, the applicant, permittee or licensee must demonstrate that the additional information requested is not likely to lead to information relevant to a determination regarding the approval or revocation of a license, or to the severance of a disqualifying person, under the standards of "A901." For good cause shown, the Court may review in camera the submission of the Attorney General or the applicant, permittee or licensee, or any part thereof.

As reported by the Committee, A-1883 ACS is identical to S-1720.