

SENATE, No. 2306

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JUNE 6, 2016

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Concerns regulation of solid waste, hazardous waste, and recycling industries.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/2/2017)

1 AN ACT concerning regulation of the solid waste, hazardous waste,
2 and recycling industries, amending and supplementing P.L.1983,
3 c.392, and amending P.L.1991, c.269, P.L.1970, c.40 and
4 P.L.1971, c.461.

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

8
9 1. (New section) a. No later than 90 days after the date of
10 enactment of P.L. , c. (C.) (pending before the Legislature as
11 this bill), any business concern that engages in recycling or
12 otherwise provides recycling services shall register with the
13 Attorney General. The registration shall include:

14 (1) the name of the business concern; and

15 (2) the address of the business concern and the addresses of any
16 other locations where trucks or equipment used by the business
17 concern are kept.

18 b. No more than 90 days after submission of all information
19 required to be submitted pursuant to subsection a. of this section,
20 the Attorney General shall issue a recycling registration to the
21 business concern that registers pursuant to subsection a. of this
22 section.

23
24 2. (New section) No business concern shall engage in recycling
25 services unless it holds a recycling license issued pursuant to
26 section 8 of P.L.1983, c.392 (C.13:1E-133).

27
28 3. Section 2 of P.L.1983, c.392 (C.13:1E-127) is amended to
29 read as follows:

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

32 a. "Applicant" means any business concern **【which】** that (1)
33 has filed a disclosure statement with the 【department and the】
34 Attorney General and is seeking 【an initial】 a license, provided that
35 the business concern has furnished the department and the Attorney
36 General with any information required pursuant to P.L.1991, c.269
37 (C.13:1E-128.1 et al.), or (2) has been issued a recycling
38 registration, has filed a disclosure statement with the department
39 and the Attorney General, and is seeking a recycling license.

40 b. "Application" means the forms and accompanying
41 documents filed in connection with an applicant's or permittee's
42 request for a license or a recycling license.

43 c. "Business concern" means any corporation, association,
44 firm, partnership, sole proprietorship, trust or other form of
45 commercial organization.

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 d. "Department" means the Department of Environmental
2 Protection.

3 e. "Disclosure statement" means a statement submitted to the
4 **【department and the】** Attorney General by an applicant or a
5 permittee, which statement shall include:

6 (1) The full name, business address and social security number
7 of the applicant or the permittee, as the case may be, and of any
8 officers, directors, partners, or key employees thereof and all
9 persons holding any equity in or debt liability of the applicant or
10 permittee, or, if the applicant or permittee is a publicly traded
11 corporation, all persons holding more than 5% of the equity in or
12 the debt liability of the applicant or permittee, except that (a) where
13 the equity in or debt liability of the applicant or permittee is held by
14 an institutional investor, the applicant or permittee need only supply
15 the name, business address and the basis upon which the
16 institutional investor qualifies as an institutional investor, and (b)
17 where the debt liability is held by a chartered lending institution,
18 the applicant or permittee need only supply the name and business
19 address of the lending institution;

20 (2) The full name, business address and social security number
21 of all officers, directors, or partners of any business concern
22 disclosed in the disclosure statement and the names and addresses
23 of all persons holding any equity in or the debt liability of any
24 business concern so disclosed, except that (a) where the business
25 concern is a publicly traded corporation, the applicant or permittee
26 need only supply the name and business address of the publicly
27 traded corporation and copies of its annual filings with the
28 Securities and Exchange Commission, or its foreign equivalent, (b)
29 where the equity in or debt liability of that business concern is held
30 by an institutional investor, the applicant or permittee need only
31 supply the name, business address and the basis upon which the
32 institutional investor qualifies as an institutional investor, and (c)
33 where the debt liability is held by a chartered lending institution,
34 the applicant or permittee need only supply the name and business
35 address of the lending institution;

36 (3) The full name and business address of any business concern
37 which collects, transports, treats, stores, transfers or disposes of
38 solid waste or hazardous waste, or that engages in recycling
39 services, in which the applicant or the permittee holds an equity
40 interest;

41 (4) A description of the experience and credentials in, including
42 any past or present licenses for, the collection, transportation,
43 treatment, storage, transfer or disposal of solid waste or hazardous
44 waste, or the provision of recycling services, possessed by the
45 applicant or the permittee, as the case may be, and by the key
46 employees, officers, directors, or partners thereof;

47 (5) A listing and explanation of any notices of violation or
48 prosecution, administrative orders or license revocations issued by

1 this State or any other state or federal authority, in the 10 years
2 immediately preceding the filing of the application or disclosure
3 statement, whichever is later, which are pending or have resulted in
4 a finding or a settlement of a violation of any law or rule and
5 regulation relating to the collection, transportation, treatment,
6 storage, transfer or disposal of solid waste or hazardous waste, or
7 the provision of recycling services, by the applicant or the
8 permittee, as the case may be, or by any key employee, officer,
9 director, or partner thereof;

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

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

23 (8) A listing of any agencies outside of New Jersey which had
24 regulatory responsibility over the applicant or the permittee, as the
25 case may be, in connection with the collection, transportation,
26 treatment, storage, transfer or disposal of solid waste or hazardous
27 waste or in connection with the provision of recycling services;

28 **[and]**

29 (9) The full name and business address of any individual or
30 business concern that leases real property or equipment used for the
31 collection, transportation, treatment, processing, storage, transfer,
32 or disposal of solid waste or hazardous waste, or the provision of
33 recycling services, to the applicant, permittee, or licensee;

34 (10) A listing and explanation of any civil litigation pending
35 between the applicant, permittee, licensee, key employee, officer,
36 director, or partner thereof and any other person engaged in the
37 collection, transportation, treatment, processing, storage, transfer,
38 or disposal of solid waste or hazardous waste or in the provision of
39 recycling services, related to the provision of solid waste, hazardous
40 waste or recycling services; and

41 (11) Any other information the Attorney General **[or the**
42 **department]** may require that relates to the competency, reliability
43 or integrity of the applicant or the permittee.

44 The provisions of paragraphs (1) through **[(9)] (11)** of this
45 subsection to the contrary notwithstanding, if an applicant or a
46 permittee is a secondary business activity corporation, "disclosure
47 statement" means a statement submitted to the **[department and**

1 the Attorney General by an applicant or a permittee, which
2 statement shall include:

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

14 (b) The full name, business address and federal employer
15 identification number of any business concern in any state, territory
16 or district of the United States, which (i) engages in recycling
17 services, or (ii) collects, transports, treats, stores, recycles, brokers,
18 transfers or disposes of solid waste or hazardous waste on a
19 commercial basis, in which the applicant or the permittee holds an
20 equity interest of 25% or more, and the type, amount and dates of
21 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 , or the
28 provision of recycling services, on a commercial basis in any state,
29 territory or district of the United States, and the name of every
30 agency issuing such operating 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, or the provision of
47 recycling services, by the applicant or 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, or recycling operations of the business
24 concern; any family member of an officer, director, partner, or key
25 employee, employed by the applicant or permittee; or any broker,
26 consultant or sales person employed by, or who do business with,
27 the applicant, permittee, or licensee, with respect to the solid waste,
28 hazardous waste, or recycling operations of the business concern;
29 but shall not include employees, who are not family members,
30 exclusively engaged in the physical or mechanical collection,
31 transportation, treatment, storage, transfer or disposal of solid waste
32 or hazardous waste, or the provision of recycling services .

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

39 A "license" shall not include any registration statement or
40 engineering design approved for:

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

43 (2) Any person solely for the collection, transportation,
44 treatment, storage or disposal of solid waste or hazardous waste
45 generated by that person;

46 (3) Any person for the operation of a hazardous waste facility, if
47 at least 75% of the total design capacity of that facility is utilized to
48 treat, store or dispose of hazardous waste generated 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 reclamation,
3 recycling or refining of hazardous wastes which are or contain any
4 of the following precious metals: gold, silver, osmium, platinum,
5 palladium, iridium, rhodium, ruthenium, or copper;

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

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

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

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

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

26 i. "Permittee" means and shall include:

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

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

46 (3) Any business concern which has filed a disclosure statement
47 with the department and the Attorney General and to which a valid
48 registration statement or engineering design approval for the

1 collection, transportation, treatment, storage, transfer or disposal of
2 solid waste or hazardous waste pursuant to P.L.1970, c.39
3 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has
4 been given by the department between February 20, 1985 and
5 January 23, 1986, inclusive, provided that the registration statement
6 or engineering design approval remains valid, and provided further
7 that the business concern has furnished the department and the
8 Attorney General with any information required pursuant to
9 P.L.1991, c.269 (C.13:1E-128.1 et al.); **[or]**

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

19 (5) Any business concern that has been issued a prior approval
20 to operate as a recycling center from the Department of
21 Environmental Protection pursuant to section 41 of P.L.1987, c.102
22 (C.13:1E-99.34) but whose application for a recycling license has
23 not been approved .

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

25 k. "Secondary business activity corporation" means any
26 business concern which has derived less than 5% of its annual gross
27 revenues in each of the three years immediately preceding the one
28 in which the application for a license or a recycling license is being
29 made from the collection, transportation, treatment, storage,
30 recycling, processing, transfer or disposal of solid waste or
31 hazardous waste, , or the provision of recycling services, whether
32 directly or through other business concerns partially or wholly
33 owned or controlled by the applicant or the permittee, as the case
34 may be, and which (1) has one or more classes of security registered
35 pursuant to section 12 of the "Securities Exchange Act of 1934," as
36 amended (15 U.S.C. s.781), or (2) is an issuer subject to subsection
37 (d) of section 15 of the "Securities Exchange Act of 1934," as
38 amended (15 U.S.C. s.78o).

39 l. "Institutional investor" means a retirement fund administered
40 by a public agency for the exclusive benefit of federal, state, or
41 local public employees; government or government-owned entity;
42 investment company registered under the "Investment Company Act
43 of 1940" (15 U.S.C. s.80a-1 et seq.); collective investment trust
44 organized by banks under Part Nine of the Rules of the Comptroller
45 of the Currency; closed end investment trust; chartered or licensed
46 life insurance company or property and casualty insurance
47 company; banking or other chartered or licensed lending institution;
48 partnerships, funds or trusts managed by or directed in conjunction

1 with an investment adviser registered under the "Investment
2 Advisers Act of 1940" (15 U.S.C. s.80b-1 et seq.) or an institutional
3 investment manager required to make filings under subsection (f) of
4 section 13 of the "Securities Exchange Act of 1934," as amended
5 (15 U.S.C. s.78m); institutional buyer, as defined pursuant to
6 section 2 of the "Uniform Securities Law (1997)," P.L.1967, c.93
7 (C.49:3-49); small business investment company licensed by the
8 United States Small Business Administration under subsection (c)
9 of section 301 of the "Small Business Investment Act of 1958," as
10 amended (15 U.S.C. s.681); private equity or venture capital entity
11 having or managing aggregate capital commitments in excess of
12 \$25,000,000; and other persons as the **【department】** Attorney
13 General may determine for reasons consistent with the policies of
14 P.L.1983, c.392 (C.13:1E-126 et seq.).

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

17 (1) has one or more classes of security registered pursuant to
18 section 12 of the "Securities Exchange Act of 1934," as amended
19 (15 U.S.C. s.78l);

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

23 (3) has one or more classes of securities traded in an open
24 market in any foreign jurisdiction, provided that the **【department】**
25 Attorney General determines that the foreign exchange provides
26 openness, integrity and oversight in its operations sufficient to meet
27 the intent of P.L.1983, c.392 (C.13:1E-126 et seq.), or that the
28 securities traded on the foreign exchange are regulated pursuant to a
29 statute of a foreign jurisdiction that is substantially similar, both in
30 form and effect, to section 12 or subsection (d) of section 15 of the
31 "Securities Exchange Act of 1934," as amended.

32 "Broker" means a person who arranges agreements between a
33 business concern and its customers for the collection,
34 transportation, treatment, storage, recycling, processing, transfer or
35 disposal of solid waste or hazardous waste, or the provision of
36 recycling services.

37 "Consultant" means a person who performs functions for a
38 business concern engaged in the collection, transportation,
39 treatment, storage, recycling, processing, transfer or disposal of
40 solid waste or hazardous waste, or the provision of recycling
41 services, provided that "consultant" shall not include a person who
42 performs functions for a business concern and holds a professional
43 license from the State in order to perform those functions.

44 "Family member" means spouse, domestic partner, partner in a
45 civil union, child, parent, sibling, aunt, uncle, niece, nephew, first
46 cousin, grandparent, grandchild, father-in-law, mother-in-law, son-
47 in-law, daughter-in-law, stepparent, stepchild, stepbrother,

1 stepsister, half brother, or half sister, whether the individual is
2 related by blood, marriage, or adoption.

3 "Recyclable materials" means those materials which would
4 otherwise become solid waste, and which may be collected,
5 separated or processed and returned to the economic mainstream in
6 the form of raw materials or products.

7 "Recycling license" means an approval to operate a business
8 concern engaged in recycling services issued pursuant to section 8
9 of P.L.1983, c.392 (C.13:1E-133).

10 "Recycling services" means the services provided by persons
11 engaging in the business of recycling, including the collection,
12 transportation, processing, storage, purchase, sale or disposition, or
13 any combination thereof, of recyclable materials.

14 "Sales person" means a person or persons that makes or arranges
15 for sales for a business concern, for the collection, transportation,
16 treatment, storage, recycling, processing, transfer or disposal of
17 solid waste or hazardous waste or the provision of recycling
18 services.

19 (cf: P.L.2011, c.68, s.1)

20
21 4. Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended to
22 read as follows:

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

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

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

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

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

45 (5) An applicant or permittee may file a limited disclosure
46 statement pursuant to the provisions of paragraphs (a) through (h)
47 of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and
48 a person required to be listed in the disclosure statement is exempt

1 from the fingerprint and personal history disclosure requirements;
2 if:

3 (a) The applicant or permittee is a secondary business activity
4 corporation; and

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

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

20 (b) An individual who is an officer or partner of, or who holds
21 any equity in or debt liability of, a business concern that is a
22 secondary business activity corporation, a publicly traded
23 corporation or an institutional investor, including limited
24 partnership interests, that is not the applicant or permittee but which
25 is listed in a disclosure statement pursuant to subsection e. of
26 section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from
27 the fingerprint and personal history disclosure requirements,
28 provided that the person or secondary business activity corporation
29 or publicly traded corporation or institutional investor is not and
30 will not be engaged in active management of the commercial solid
31 waste or hazardous waste operations or the recycling operations of
32 the applicant or permittee conducted in New Jersey;

33 (c) A business concern that is a secondary business activity
34 corporation or an institutional investor, including limited
35 partnership interests, that is not the applicant, licensee, or permittee
36 but which is listed in a disclosure statement pursuant to subsection
37 e. of section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt
38 from disclosure requirements established in subsection e. of section
39 2 of P.L.1983, c.392 (C.13:1E-127) provided that the secondary
40 business activity corporation or institutional investor is not and will
41 not be engaged in active management of the commercial solid waste
42 or hazardous waste operations or the recycling operations of the
43 applicant, licensee, or permittee conducted in New Jersey;

44 (d) A business concern that is a publicly traded corporation that
45 is not the applicant, licensee, or permittee but which is listed in a
46 disclosure statement pursuant to subsection e. of section 2 of
47 P.L.1983, c.392 (C.13:1E-127), shall be exempt from disclosure
48 requirements established in subsection e. of section 2 of

1 P.L.1983, c.392 (C.13:1E-127) provided that the name and business
2 address of the publicly traded corporation and copies of its annual
3 filings with the Securities and Exchange Commission, or its foreign
4 equivalent, are filed with the disclosure forms of the applicant,
5 licensee, or permittee. Subsidiaries intervening in the chain of
6 equity between the publicly traded corporation and the applicant,
7 licensee, or permittee, and the officers and directors of those
8 intervening subsidiaries, shall also be exempt from the disclosure
9 requirements established in subsection e. of section 2 of
10 P.L.1983, c.392 (C.13:1E-127) provided that the intervening
11 subsidiary is not and will not be engaged in active management of
12 the commercial solid waste or hazardous waste operations or the
13 recycling operations of the applicant, licensee, or permittee
14 conducted in New Jersey;

15 (e) An individual exempt from disclosure requirements under
16 subparagraph (b) of this paragraph, a secondary business activity
17 corporation or institutional investor exempt from disclosure
18 requirements under subparagraph (c) of this paragraph, and a
19 publicly traded corporation exempt from disclosure requirements
20 under subparagraph (d) of this paragraph, may be required by the
21 Attorney General to file disclosure forms and be fingerprinted in the
22 circumstances described in subsection d. of this section; and

23 (f) A person that holds equity in, or debt liability of, a business
24 concern that is exempt from the disclosure requirements established
25 in subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) shall
26 also be exempt from the disclosure requirements established in
27 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127).

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

43 c. If any of the information required to be included in the
44 disclosure statement changes, or if any information provided
45 concerning the applicability of an exemption under subsection d. of
46 this section changes, or if any additional information should be
47 added to the disclosure statement after it has been filed, the
48 applicant, permittee or licensee or the business concern that has

1 been issued a recycling license, shall provide that information to the
2 department and the Attorney General, in writing, within 30 days of
3 the change or addition.

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

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

48 (cf: P.L.2011, c.68, s.2)

1 5. Section 4 of P.L.1983, c.392 (C.13:1E-129) is amended to
2 read as follows:

3 4. a. Whenever the Attorney General determines that there
4 exists a reasonable suspicion that any person may have information
5 or be in possession, custody, or control of any documentary
6 materials relevant to an investigation of an applicant, permittee or
7 licensee conducted pursuant to this act, he may issue in writing, and
8 cause to be served upon that person an investigative interrogatory
9 requiring that person to answer questions under oath and produce
10 material for examination.

11 b. Each interrogatory shall:

12 (1) Identify the licensee, permittee or applicant who is the
13 subject of the investigation;

14 (2) Advise the person that he has the right to discuss the
15 interrogatory with legal counsel prior to returning it to the Attorney
16 General or prior to making material available, as provided in
17 subsection f. of this section, and that he has the right to file in
18 Superior Court a petition to modify or set aside the interrogatory, as
19 provided in subsection j. of this section;

20 (3) Describe the class or classes of documentary material to be
21 produced thereunder with sufficient particularity as to permit the
22 material to be reasonably identified;

23 (4) Prescribe a return date, which date shall provide a
24 reasonable period of time within which answers may be made and
25 material so demanded may be assembled and made available for
26 inspection and copying or reproduction, as provided in subsection f.
27 of this section.

28 c. No interrogatory shall:

29 (1) Contain any requirement which would be held to be
30 unreasonable if contained in a **【subpena】** subpoena duces tecum
31 issued in aid of a grand jury investigation; or

32 (2) Require the production of any documentary evidence which
33 would be otherwise privileged from disclosure if demanded by a
34 **【subpena】** subpoena duces tecum issued in aid of a grand jury
35 investigation.

36 d. Service of any interrogatory filed under this section may be
37 made upon any person by:

38 (1) Delivering a duly executed copy thereof to the person or any
39 partner, executive officer, managing agent, employee or general
40 agent thereof, or to any agent thereof authorized by appointment or
41 by law to receive service of process on behalf of the person; or

42 (2) Delivering a duly executed copy thereof to the principal
43 office or place of business of the person to be served; or

44 (3) Depositing a copy in the United States mail, by registered or
45 certified mail duly addressed to the person at his principal office or
46 place of business.

47 e. A verified return by the individual serving any interrogatory,
48 setting forth the manner of service, shall be prima facie proof of

1 service. In the case of service by registered or certified mail, the
2 return shall be accompanied by the return post office receipt of
3 delivery of the interrogatory.

4 f. Any person upon whom any interrogatory issued under this
5 section has been duly served which requires the production of
6 materials shall make the material available for inspection and
7 copying or reproduction to the Attorney General at the principal
8 place of business of that person in the State of New Jersey or at any
9 other place as the Attorney General and the person thereafter may
10 agree and prescribe in writing, on the return date specified in the
11 interrogatory or on a later date as the Attorney General may
12 prescribe in writing. Upon written agreement between the person
13 and the Attorney General, copies may be substituted for all or any
14 part of the original materials. The Attorney General may cause the
15 preparation of any copies of documentary material as may be
16 required for official use by the Attorney General.

17 No material produced pursuant to this section shall be available
18 for examination, without the consent of the person who produced
19 the material, by an individual other than the Attorney General or
20 any person retained by the Attorney General in connection with the
21 enforcement of this act. Under reasonable terms and conditions as
22 the Attorney General shall prescribe, documentary material while in
23 his possession shall be available for examination by the person who
24 produced the material or any of his duly authorized representatives.

25 In any investigation conducted pursuant to this act, the Attorney
26 General may present before the [department,] court or grand jury
27 any documentary material in his possession pursuant to this section,
28 subject to any protective order deemed proper by the Superior
29 Court.

30 g. Upon completion of:

31 (1) The review and investigation for which any documentary
32 material was produced under this section, and

33 (2) Any case or proceeding arising from the investigation, the
34 Attorney General shall return to the person who produced the
35 material all the material, other than copies thereof made by the
36 Attorney General pursuant to this section, which has not passed into
37 the control of [the department or] any court or grand jury through
38 the introduction thereof into the record of the case or proceeding.

39 h. When any documentary material has been produced by any
40 person under this section for use in an investigation, and no case or
41 proceeding arising therefrom has been instituted within two years
42 after completion of the examination and analysis of all evidence
43 assembled in the course of the investigation, the person shall be
44 entitled, upon written demand made upon the Attorney General, to
45 the return of all documentary material, other than copies thereof
46 made pursuant to this section so produced by him.

47 i. Whenever any person fails to comply with any investigative
48 interrogatory duly served upon him under this section, or whenever

1 satisfactory copying or reproduction of any material cannot be done
2 and he refuses to surrender the material, the Attorney General may
3 file in the Superior Court a petition for an order of the court for the
4 enforcement of this section.

5 j. At any time before the return date specified in the
6 interrogatory, the person served with the interrogatory may file in
7 the Superior Court a petition for an order modifying or setting aside
8 the interrogatory. The time allowed for compliance with the
9 interrogatory shall not run during the pendency of this petition. The
10 petition shall specify each ground upon which the petition relies in
11 seeking relief, and may be based upon any failure of the
12 interrogatory to comply with the provisions of this section or upon
13 any constitutional or other legal right or privilege of the petitioner.
14 In this proceeding, the Attorney General shall establish the
15 existence of an investigation pursuant to this act and the nature and
16 subject matter of the investigation.

17 (cf: P.L.1991, c.269, s.4)

18
19 6. Section 5 of P.L.1983, c.392 (C.13:1E-130) is amended to
20 read as follows:

21 5. a. Whenever the Attorney General determines that there
22 exists a reasonable suspicion that any person may have information
23 or knowledge relevant to an investigation conducted pursuant to this
24 act, he may issue in writing and cause to be served upon that person
25 a **【subpena】 subpoena** to appear and be examined under oath before
26 the Attorney General.

27 b. The **【subpena】 subpoena** shall:

28 (1) Identify the licensee, permittee or applicant who is the
29 subject of the investigation;

30 (2) Advise that person that he may have an attorney present
31 when he appears and testifies or otherwise responds to the
32 **【subpena】 subpoena**, that he has a right, at any time before the
33 return date of the **【subpena】 subpoena**, to file in Superior Court a
34 petition to modify or set aside the **【subpena】 subpoena**, as provided
35 in subsection f. of this section;

36 (3) Prescribe a date and time at which that person must appear
37 to testify, under oath, provided that this date shall not be less than
38 seven days from the date of service of the **【subpena】 subpoena**.

39 c. Except as otherwise provided in this section, no information
40 derived pursuant to the **【subpena】 subpoena** shall be disclosed by
41 the Attorney General **【or the department】** without the consent of the
42 person testifying.

43 In any investigation conducted pursuant to this act, the Attorney
44 General may present before the **【department,】** court or grand jury
45 any information disclosed pursuant to the **【subpena】 subpoena**,
46 subject to any protective order deemed proper by the Superior
47 Court.

1 d. Service of a **【subpena】 subpoena** pursuant to this section
2 shall be by any of those methods specified in the New Jersey Court
3 Rules for service of summons and complaint in a civil action.

4 e. Whenever any person fails to comply with any **【subpena】**
5 subpoena duly served upon him under this section, or whenever
6 satisfactory copying or reproduction of any material cannot be done
7 and he refuses to surrender the material, the Attorney General may
8 file in the Superior Court a petition for an order of the court for the
9 enforcement of the **【subpena】 subpoena**.

10 f. At any time before the return date specified in the **【subpena】**
11 subpoena, the person who has been served with the **【subpena】**
12 subpoena may file in the Superior Court a petition for an order
13 modifying or setting aside the **【subpena】 subpoena**. The time
14 allowed for compliance with the **【subpena】 subpoena** shall not run
15 during the pendency of this petition. The petition shall specify each
16 ground upon which the petitioner relies in seeking relief, and may
17 be based upon any failure of the **【subpena】 subpoena** to comply
18 with the provisions of this section or upon any constitutional or
19 other legal right or privilege of the petitioner. In this proceeding,
20 the Attorney General shall establish the existence of an
21 investigation pursuant to this act and the nature and subject matter
22 of the investigation.

23 (cf: P.L.1991, c.269, s.5)
24

25 7. Section 8 of P.L.1983, c.392 (13:1E-133) is amended to read
26 as follows:

27 8. The provisions of any law to the contrary notwithstanding,
28 no license or recycling license shall be approved by the
29 **【department】 Attorney General**:

30 a. Unless the **【department】 Attorney General** finds that the
31 applicant, or the permittee, as the case may be, in any prior
32 performance record in the collection, transportation, treatment,
33 storage, transfer or disposal of solid waste or hazardous waste, or
34 the provision of recycling services, has exhibited sufficient
35 integrity, reliability, expertise, and competency to engage in the
36 collection or transportation of solid waste or hazardous waste, or to
37 operate the solid waste facility or hazardous waste facility, or
38 engage in recycling services, given the potential economic
39 consequences for affected counties, municipalities and ratepayers or
40 significant adverse impacts upon human health and the environment
41 which could result from the irresponsible participation therein or
42 operation thereof, or if no prior record exists, that the applicant or
43 the permittee is likely to exhibit that integrity, reliability, expertise
44 and competence.

45 b. If any person required to be listed in the disclosure
46 statement, or otherwise shown to have a beneficial interest in the
47 business of the applicant, the permittee or the licensee, or to have

1 rented or leased at any or no cost real property, vehicles or other
2 equipment used for the collection, transportation, treatment,
3 processing, storage, transfer, or disposal of solid waste or hazardous
4 waste, or the provision of recycling services, to the applicant, the
5 permittee, or the licensee, has been barred from the provision of
6 solid waste, hazardous waste or recycling services in any other
7 jurisdiction outside of the State, or has been convicted of any of the
8 following crimes under the laws of New Jersey or the equivalent
9 thereof under the laws of any other jurisdiction:

- 10 (1) Murder;
- 11 (2) Kidnapping;
- 12 (3) Gambling;
- 13 (4) Robbery;
- 14 (5) Bribery;
- 15 (6) Extortion;
- 16 (7) Criminal usury;
- 17 (8) Arson;
- 18 (9) Burglary;
- 19 (10) Theft and related crimes;
- 20 (11) Forgery and fraudulent practices;
- 21 (12) Fraud in the offering, sale or purchase of securities;
- 22 (13) Alteration of motor vehicle identification numbers;
- 23 (14) Unlawful manufacture, purchase, use or transfer of
- 24 firearms;
- 25 (15) Unlawful possession or use of destructive devices or
- 26 explosives;
- 27 (16) Violation of N.J.S.2C:35-5, except possession of 84 grams
- 28 or less of marijuana, or of N.J.S.2C:35-10;
- 29 (17) Racketeering, P.L.1981, c.167 (C.2C:41-1 et seq.);
- 30 (18) Violation of criminal provisions of the "New Jersey
- 31 Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.);
- 32 (19) Any purposeful or reckless violation of the criminal
- 33 provisions of any federal or state environmental protection laws,
- 34 rules, or regulations, including, but not limited to, solid waste or
- 35 hazardous waste management laws, rules, or regulations;
- 36 (20) Violation of N.J.S.2C:17-2;
- 37 (21) Any offense specified in chapter 28 of Title 2C; or
- 38 (22) Violation of the "Solid Waste Utility Control Act of 1970,"
- 39 P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1981, c.221 (C.48:13A-
- 40 6.1).

41 c. If the Attorney General determines that there is a reasonable
42 suspicion to believe that a person required to be listed in the
43 disclosure statement, or otherwise shown to have a beneficial
44 interest in the business of the applicant, the permittee or the
45 licensee, or to have rented or leased at any cost or at no cost real
46 property, vehicles or other equipment used for the collection,
47 transportation, treatment, processing, storage, transfer, or disposal
48 of solid waste or hazardous waste, or the provision of recycling

1 services, to the applicant, the permittee, or the licensee, does not
2 possess a reputation for good character, honesty and integrity, and
3 that person or the applicant, the permittee or the licensee fails, by
4 clear and convincing evidence, to establish his reputation for good
5 character, honesty and integrity.

6 d. With respect to the approval of an initial license or a
7 recycling license, if there are current prosecutions or pending
8 charges in any jurisdiction against any person required to be listed
9 in the disclosure statement, or otherwise shown to have a beneficial
10 interest in the business of the applicant or the permittee, or to have
11 rented or leased at any or no cost real property, vehicles or other
12 equipment used for the collection, transportation, treatment,
13 processing, storage, transfer, or disposal of solid waste or hazardous
14 waste, or the provision of recycling services, to the applicant or the
15 permittee, for any of the crimes enumerated in subsection b. of this
16 section, provided, however, that at the request of the applicant,
17 permittee, or the person charged, the **【department】** Attorney
18 General shall defer decision upon such application during the
19 pendency of such charge.

20 e. If any person required to be listed in the disclosure
21 statement, or otherwise shown to have a beneficial interest in the
22 business of the applicant, permittee or the licensee, or to have
23 rented or leased at any or no cost real property, vehicles or other
24 equipment used for the collection, transportation, treatment,
25 processing, storage, transfer, or disposal of solid waste or
26 hazardous waste, or the provision of recycling services, to the
27 applicant, the permittee, or the licensee, has pursued economic gain
28 in an occupational manner or context which is in violation of the
29 criminal or civil public policies of this State, where such pursuit
30 creates a reasonable belief that the participation of that person in
31 any activity required to be licensed under this act would be inimical
32 to the policies of this act. For the purposes of this section,
33 "occupational manner or context" means the systematic planning,
34 administration, management, or execution of an activity for
35 financial gain.

36 f. If the Attorney General determines that any person required
37 to be listed in the disclosure statement, or otherwise shown to have
38 a beneficial interest in the business of the applicant, permittee or the
39 licensee, or to have rented or leased at any or no cost real property,
40 vehicles or other equipment used for the collection, transportation,
41 treatment, processing, storage, transfer, or disposal of solid waste
42 or hazardous waste, or the provision of recycling services, to the
43 applicant, the permittee, or the licensee, has been identified by the
44 State Commission of Investigation or the Federal Bureau of
45 Investigation as a career offender or a member of a career offender
46 cartel or an associate of a career offender or career offender cartel,
47 where such identification, membership or association creates a
48 reasonable belief that the participation of that person in any activity

1 required to be licensed under this act would be inimical to the
2 policies of this act. For the purposes of this section, "career
3 offender" means any person whose behavior is pursued in an
4 occupational manner or context for the purpose of economic gain,
5 utilizing such methods as are deemed criminal violations of the
6 public policy of this State; and a "career offender cartel" means any
7 group of persons who operate together as career offenders.

8 A license or a recycling license may be approved by the
9 **【department】** Attorney General for any applicant or permittee if the
10 information contained within the disclosure statement and
11 investigative report, including any determination made by the
12 Attorney General concerning the character, honesty and integrity of
13 any person required to be listed in the disclosure statement, or
14 otherwise shown to have a beneficial interest in the business of the
15 applicant or permittee, or to have rented or leased at any or no cost
16 real property, vehicles or other equipment used for the collection,
17 transportation, treatment, processing, storage, transfer, or disposal
18 of solid waste or hazardous waste, or the provision of recycling
19 services, to the applicant, the permittee, or the licensee, would not
20 require disqualification pursuant to subsection a., b. c., e. or f. of
21 this section.

22 A license or a recycling license approved by the **【department】**
23 Attorney General for any applicant or permittee pursuant to this
24 section is non-transferable and shall be valid only for the length of
25 time for which it is given.

26 Any applicant or permittee who is denied **【an initial】** a license or
27 a recycling license pursuant to this section shall, upon a written
28 request transmitted to the **【department】** Attorney General within 30
29 days of that denial, be afforded the opportunity for a hearing
30 thereon in the manner provided for contested cases pursuant to the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.).

33 (cf: P.L.1991, c.269, s.6)

34

35 8. Section 7 of P.L.1991, c.269 (C.13:1E-133.1) is amended to
36 read as follows:

37 7. a. Notwithstanding the conviction of any person required to
38 be listed in a disclosure statement, or otherwise shown to have a
39 beneficial interest in the business of an applicant, permittee or
40 licensee or to have rented or leased at any or no cost real property,
41 vehicles or other equipment used for the collection, transportation,
42 treatment, processing, storage, transfer, or disposal of solid waste
43 or hazardous waste, or the provision of recycling services, to the
44 applicant, the permittee, or the licensee, for any of the crimes
45 enumerated in subsection b. of section 8 of P.L.1983, c.392
46 (C.13:1E-133), the **【department】** Attorney General may issue or
47 renew a license or a recycling license to an applicant, permittee or
48 licensee if the **【department】** Attorney General determines in a

1 writing setting forth findings of fact that the convicted person has
2 affirmatively demonstrated rehabilitation by clear and convincing
3 evidence pursuant to the provisions of this section. If the
4 **【department】** Attorney General determines that the nature and
5 seriousness of the crime creates a reasonable doubt that an
6 applicant, permittee, or licensee will engage in the activity for
7 which a license or recycling license is sought in a lawful and
8 responsible manner, the **【department】** Attorney General shall make
9 a determination in a writing setting forth findings of fact that the
10 convicted person cannot affirmatively demonstrate rehabilitation.

11 b. In determining whether a convicted individual has
12 affirmatively demonstrated rehabilitation, the **【department shall**
13 **request a recommendation thereon from the】** Attorney General **【,**
14 **which recommendation shall be】** shall make a finding, in writing
15 **【and】**, based upon a consideration of at least the following factors:

16 (1) The nature and responsibilities of the position which a
17 convicted individual would hold;

18 (2) The nature and seriousness of the crime;

19 (3) The circumstances under which the crime was committed;

20 (4) The date of the crime;

21 (5) The age of the convicted individual when the crime was
22 committed;

23 (6) Whether the crime was an isolated or repeated act;

24 (7) Any evidence of good conduct in the community, counseling
25 or psychiatric treatment received, acquisition of additional
26 academic or vocational schooling, or the recommendation of
27 persons who have supervised the convicted individual since the
28 conviction; and

29 (8) The full criminal record of the convicted individual, any
30 record of civil or regulatory violations or notices or any complaints
31 alleging any such civil or regulatory violations, or any other
32 allegations of wrongdoing.

33 Notwithstanding any other provision of this subsection, a
34 convicted individual shall have affirmatively demonstrated
35 rehabilitation pursuant to the provisions of this section if the
36 convicted individual produces evidence of a pardon issued by the
37 Governor of this or any other state, or evidence of the expungement
38 of every conviction for any of the crimes enumerated in subsection
39 b. of section 8 of P.L.1983, c.392 (C.13:1E-133).

40 c. In determining whether a convicted business concern has
41 affirmatively demonstrated rehabilitation, the **【department shall**
42 **request a recommendation thereon from the】** Attorney General**【,**
43 **which recommendation shall be】** shall make a finding, in writing
44 **【and】**, based upon a consideration of at least the following factors:

45 (1) The nature and seriousness of the crime;

46 (2) The circumstances under which the crime was committed;

47 (3) The date of the crime;

1 (4) Whether the crime was an isolated or repeated act; and

2 (5) The full criminal record of the convicted business concern,
3 any record of civil or regulatory violations or notices or any
4 complaints alleging any such civil or regulatory violations, or any
5 other allegations of wrongdoing.

6 d. The Attorney General may require, as a predicate to a
7 determination that a convicted business concern has affirmatively
8 demonstrated rehabilitation, that the convicted business concern
9 agree, in writing, to an investigation of the crime or crimes
10 committed by the convicted business concern which caused
11 disqualification pursuant to subsection b. of section 8 of P.L.1983,
12 c.392 (C.13:1E-133), the persons involved in the crime, and any
13 corporate policies, procedures, and organizational structure that
14 may have led to the crime. At the conclusion of this investigation a
15 report shall be prepared identifying the underlying conduct giving
16 rise to any criminal convictions and any steps that have
17 subsequently been taken by the convicted business concern to
18 prevent a recurrence of the criminal activity, and recommending
19 any steps that may be deemed necessary to prevent a recurrence of
20 the criminal activity. The investigation shall be conducted by, or on
21 behalf of, the Attorney General, and the cost thereof shall be borne
22 by the convicted business concern.

23 The Attorney General may require, on the basis of this
24 investigation and as a condition of **【recommending】** determining
25 that a convicted business concern has affirmatively demonstrated
26 rehabilitation, that a convicted business concern comply, or agree in
27 writing to comply, with any of the following:

28 (1) changes in the convicted business concern's organizational
29 structure to reduce the opportunity and motivation of individual
30 employees to engage in criminal activity, including procedures for
31 informing employees of the requirements of relevant state and
32 federal law;

33 (2) changes in the convicted business concern's long and short
34 term planning to ensure that the convicted business concern
35 implements procedures and policies to prevent future violations of
36 the law;

37 (3) changes in the convicted business concern's legal,
38 accounting, or other internal or external control and monitoring
39 procedures to discourage or prevent future violations of state or
40 federal law;

41 (4) changes in the convicted business concern's ownership,
42 control, personnel, and personnel selection practices, including the
43 removal of any person shown to have a beneficial interest in the
44 convicted business concern, and the imposition of a reward or
45 disincentive system in order to encourage employees to comply
46 with relevant state and federal law;

47 (5) post-licensing monitoring of the convicted business
48 concern's activities relating to any changes in policy, procedure, or

1 structure required by the Attorney General pursuant to this
2 subsection, the cost of such monitoring to be borne by the convicted
3 business concern; and

4 (6) any other requirements deemed necessary by the Attorney
5 General.

6 e. The **【department】** Attorney General shall not determine that
7 a convicted business concern has affirmatively demonstrated
8 rehabilitation if the convicted business concern has not complied, or
9 agreed in writing to comply, with every requirement imposed by the
10 Attorney General pursuant to subsection d. of this section.

11 (cf: P.L.1991, c.269, s.7)

12
13 9. Section 8 of P.L.1991, c.269 (C.13:1E-133.2) is amended to
14 read as follows:

15 8. a. Notwithstanding any current prosecutions or pending
16 charges in any jurisdiction against any person required to be listed
17 in a disclosure statement, or otherwise shown to have a beneficial
18 interest in the business of an applicant, permittee or licensee, or to
19 have rented or leased at any or no cost cost real property, vehicles
20 or other equipment used for the collection, transportation,
21 treatment, processing, storage, transfer, or disposal of solid waste or
22 hazardous waste, or the provision of recycling services, to the
23 applicant, the permittee, or the licensee, for any of the crimes
24 enumerated in subsection b. of section 8 of P.L.1983, c.392
25 (C.13:1E-133), the **【department】** Attorney General may issue or
26 renew a license or a recycling license to an applicant, permittee or
27 licensee if the **【department】** Attorney General determines in a
28 writing setting forth findings of fact that the person against whom
29 there are current prosecutions or pending charges has affirmatively
30 reestablished a reputation for good character, honesty and integrity
31 by clear and convincing evidence pursuant to the provisions of this
32 section. If the **【department】** Attorney General determines that the
33 nature and seriousness of the crime alleged in a current prosecution
34 or pending charge creates a reasonable doubt that an applicant,
35 permittee, or licensee will engage in the activity for which a license
36 is sought in a lawful and responsible manner, the **【department】**
37 Attorney General shall make a determination in a writing setting
38 forth findings of fact that the person against whom there are current
39 prosecutions or pending charges cannot reestablish a reputation for
40 good character, honesty and integrity.

41 A person may affirmatively reestablish a reputation for good
42 character, honesty and integrity pursuant to this section in advance
43 of the disposition of the current prosecutions or pending charges
44 provided that this reestablishment consists of evidence of good
45 character, honesty and integrity rather than any defenses to the
46 current prosecutions or pending charges. A reestablishment of a
47 reputation for good character, honesty and integrity pursuant to this

1 section shall not be deemed insufficient due to a lack of admission
2 of guilt to the current prosecutions or pending charges.

3 b. In determining whether an individual against whom there are
4 current prosecutions or pending charges has affirmatively
5 reestablished a reputation for good character, honesty and integrity,
6 the [department shall request a recommendation thereon from the]
7 Attorney General [, which recommendation shall be] shall make a
8 finding, in writing, and based upon a consideration of at least the
9 following factors:

10 (1) The nature and responsibilities of the position which the
11 individual against whom there are current prosecutions or pending
12 charges would hold;

13 (2) The nature and seriousness of the alleged crime;

14 (3) The circumstances under which the alleged crime was
15 committed;

16 (4) The date of the alleged crime;

17 (5) The age of the individual against whom there are current
18 prosecutions or pending charges when the alleged crime was
19 committed;

20 (6) Whether the alleged crime was an isolated or repeated act;

21 (7) Any evidence of good conduct in the community, counseling
22 or psychiatric treatment received, acquisition of additional
23 academic or vocational schooling, or the recommendation of
24 persons who have supervised the individual since the date of the
25 alleged crime; and

26 (8) The full criminal record of the individual against whom
27 there are current prosecutions or pending charges, any record of
28 civil or regulatory violations or notices or any complaints alleging
29 any such civil or regulatory violations, or any other allegations of
30 wrongdoing.

31 c. In determining whether a business concern against whom
32 there are current prosecutions or pending charges has affirmatively
33 reestablished a reputation for good character, honesty and integrity,
34 the [department shall request a recommendation thereon from the]
35 Attorney General [, which recommendation shall be] shall make a
36 finding, in writing, and based upon a consideration of at least the
37 following factors:

38 (1) The nature and seriousness of the alleged crime;

39 (2) The circumstances under which the alleged crime was
40 committed;

41 (3) The date of the alleged crime;

42 (4) Whether the alleged crime was an isolated or repeated act;
43 and

44 (5) The full criminal record of the business concern against
45 whom there are current prosecutions or pending charges, any record
46 of civil or regulatory violations or notices or any complaints
47 alleging any such civil or regulatory violations, or any other
48 allegations of wrongdoing.

1 d. The Attorney General may require, as a predicate to a
2 determination that a business concern against which there are
3 current prosecutions or pending charges has affirmatively
4 reestablished a reputation for good character, honesty and integrity,
5 that the business concern agree, in writing, to an investigation of the
6 alleged crime or crimes committed by the business concern, the
7 persons involved in the alleged crime, and any corporate policies,
8 procedures, and organizational structure that may have led to the
9 alleged crime. At the conclusion of this investigation a report shall
10 be prepared identifying the underlying conduct giving rise to any
11 alleged criminal activity and any steps that have subsequently been
12 taken by the business concern to prevent a recurrence of the alleged
13 criminal activity, and recommending any steps that may be deemed
14 necessary to prevent a recurrence of the alleged criminal activity.
15 The investigation shall be conducted by, or on behalf of, the
16 Attorney General, and the cost thereof shall be borne by the
17 business concern.

18 The Attorney General may require, on the basis of this
19 investigation and as a condition of **[recommending]** finding that a
20 business concern against which there are current prosecutions or
21 pending charges has affirmatively reestablished a reputation for
22 good character, honesty and integrity, that a business concern
23 comply, or agree in writing to comply, with any of the following:

24 (1) changes in the business concern's organizational structure to
25 reduce the opportunity and motivation of individual employees to
26 engage in criminal activity, including procedures for informing
27 employees of the requirements of relevant state and federal law;

28 (2) changes in the business concern's long and short term
29 planning to ensure that the business concern implements procedures
30 and policies to prevent future violations of state or federal law;

31 (3) changes in the business concern's legal, accounting, or other
32 internal or external control and monitoring procedures to discourage
33 or prevent future violations of state or federal law;

34 (4) changes in the business concern's ownership, control,
35 personnel, and personnel selection practices, including the removal
36 of any person shown to have a beneficial interest in the business
37 concern, and the imposition of a reward or disincentive system in
38 order to encourage employees to comply with relevant state and
39 federal law;

40 (5) post-licensing monitoring of the business concern's activities
41 relating to any changes in policy, procedure, or structure required
42 by the Attorney General pursuant to this subsection, the cost of such
43 monitoring to be borne by the business concern; and

44 (6) any other requirements deemed necessary by the Attorney
45 General.

46 e. The **[department]** Attorney General shall not determine that
47 a business concern against which there are current prosecutions or
48 pending charges has affirmatively reestablished a reputation for

1 good character, honesty and integrity if the business concern has
2 not complied, or agreed in writing to comply, with every
3 requirement imposed by the Attorney General pursuant to
4 subsection d. of this section.

5 (cf: P.L.1991, c.269, s.8)

6
7 10. Section 17 of P.L.1991, c.269 (C.13:1E-133.3) is amended
8 to read as follows:

9 17. The Department of Environmental Protection shall not issue
10 any permits required pursuant to P.L.1954, c.212 (C.26:2C-1 et
11 seq.), P.L.1962, c.19 (C.58:16A-50 et seq.), P.L.1975, c.232
12 (C.13:1D-29 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.),
13 P.L.1981, c.262 (C.58:1A-1 et seq.), or any other law, or any rules
14 and regulations adopted thereto, to any person proposing to own or
15 operate a resource recovery facility prior to the completion by the
16 Attorney General **【and the department】** of the requirements of
17 sections 3 and 8 of P.L.1983, c.392 (C.13:1E-128 and 13:1E-133),
18 and unless the person proposing to own or operate the resource
19 recovery facility has received a license approved by the
20 **【department】** Attorney General pursuant to section 8 of
21 P.L.1983, c.392 (C.13:1E-133); except that the department may
22 issue such permits if the **【department】** Attorney General has
23 approved, issued or renewed a temporary license for such person
24 pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135).

25 (cf: P.L.1991, c.269, s.17)

26
27 11. Section 9 of P.L.1983, c.392 (C.13:1E-134) is amended to
28 read as follows:

29 9. Any license or recycling license may be revoked by the
30 **【department】** Attorney General pursuant to the "Administrative
31 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) for any of the
32 following causes:

33 a. Any cause which would require disqualification, pursuant to
34 subsection a., b., c., e. or f. of section 8 of P.L.1983, c.392
35 (C.13:1E-133), from receiving a license or a recycling license upon
36 original application;

37 b. Fraud, deceit or misrepresentation in securing the license or
38 recycling license, or in the conduct of the licensed activity;

39 c. Offering, conferring or agreeing to confer any benefit to
40 induce any other person to violate the provisions of P.L.1983, c.392
41 (C.13:1E-126 et seq.), or of any other law relating to the collection,
42 transportation, treatment, storage, transfer or disposal of solid waste
43 or hazardous waste, or the provision of recycling services, or of any
44 rule or regulation adopted pursuant thereto;

45 d. Coercion of a customer by violence or economic reprisal or
46 the threat thereof to utilize the services of any permittee or licensee,
47 or a business concern that holds a recycling license; or

1 e. Preventing, without authorization of the department, any
2 permittee or licensee from disposing of solid waste or hazardous
3 waste at a licensed, authorized or approved treatment, storage,
4 transfer or disposal facility.

5 (cf: P.L.1991, c.269, s.9)

6
7 12. Section 10 of P.L.1991, c.269 (C.13:1E-135) is amended to
8 read as follows:

9 10. a. (1) Notwithstanding the disqualification of the applicant
10 or permittee pursuant to subsection a., b., c., e. or f. of section 8 of
11 P.L.1983, c.392 (C.13:1E-133), the department may issue or renew
12 a license if the applicant or permittee severs the interest of or
13 affiliation with the person who would otherwise cause that
14 disqualification.

15 (2) The department may issue or renew a temporary license to
16 any applicant or permittee for periods not to exceed six months if
17 the department determines that the issuance or renewal of a
18 temporary license is necessitated by the public interest.

19 b. After July 1, 1992, the provisions of any other law to the
20 contrary notwithstanding, no temporary license shall be approved,
21 issued or renewed by the department for any applicant or permittee,
22 as the case may be, to own or operate a resource recovery facility or
23 other solid waste facility approved by the department for the long-
24 term solid waste disposal requirements of a district or districts
25 pursuant to the "Solid Waste Management Act," P.L.1970, c.39
26 (C.13:1E-1 et seq.) prior to the completion by the Attorney General
27 **【and the department】** of the requirements of sections 3 and 8 of
28 P.L.1983, c.392 (C.13:1E-128 and 13:1E-133); except that the
29 department may issue a temporary license to an applicant or renew
30 the temporary license of a permittee if the Commissioner of the
31 Department of Environmental Protection determines, in writing,
32 that the issuance of a temporary license for that applicant or
33 renewal of the temporary license for that permittee is necessitated
34 by the public interest.

35 (cf: P.L.1991, c.269, s.10)

36
37 13. Section 7 of P.L.1970, c.40 (C.48:13A-6) is amended to read
38 as follows:

39 7. a. No person shall engage, or be permitted to engage, in the
40 business of solid waste collection or solid waste disposal until
41 found by the Department of Environmental Protection to be
42 qualified by experience, training or education to engage in such
43 business, is able to furnish proof of financial responsibility, and
44 unless that person holds a certificate of public convenience and
45 necessity issued by the Department of Environmental Protection.

46 (1) No certificate shall be issued for solid waste collection or
47 solid waste disposal until the person proposing to engage in solid
48 waste collection or solid waste disposal, as the case may be, has

1 been registered with and approved by the Department of
2 Environmental Protection as provided by section 5 of P.L.1970,
3 c.39 (C.13:1E-5).

4 (2) No certificate of public convenience and necessity shall be
5 issued by the Department of Environmental Protection to any
6 person who has been denied approval of a license under the
7 provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), or whose
8 license has been revoked by the **Department of Environmental**
9 **Protection** Attorney General, as the case may be.

10 b. No person shall transport regulated medical waste until
11 found by the Department of Environmental Protection to be
12 qualified by experience, training or education to engage in such
13 business, and is able to furnish proof of financial responsibility, and
14 holds a certificate of public convenience and necessity issued by the
15 Department of Environmental Protection. No certificate shall be
16 issued for the transportation of regulated medical waste until the
17 proposed transporter has obtained a registration statement required
18 by section 5 of P.L.1970, c.39 (C.13:1E-5) and paid the fee imposed
19 under section 9 of P.L.1989, c.34 (C.13:1E-48.9).

20 c. Notwithstanding the provisions of subsection b. of this
21 section, the department shall not have jurisdiction over rates or
22 charges for the transportation of regulated medical waste.

23 (cf: P.L.2003, c.169, s.13)

24
25 14. Section 10 of P.L.1970, c.40 (C.48:13A-9) is amended to
26 read as follows:

27 10. The Department of Environmental Protection shall revoke or
28 suspend the certificate of public convenience and necessity issued
29 to any person engaged in the solid waste collection business or the
30 solid waste disposal business upon the finding that such person:

31 a. Has violated any provision of P.L.1970, c.40 (C.48:13A-1 et
32 seq.) or P.L.1991, c.381 (C.48:13A-7.1 et al.), or any rule,
33 regulation or administrative order adopted or issued pursuant
34 thereto; or

35 b. Has violated any provision of any laws related to pollution
36 of the air, water or lands of this State; or

37 c. Has refused or failed to comply with any lawful order of the
38 department; or

39 d. Has had its registration revoked by the Department of
40 Environmental Protection; or

41 e. Has been denied approval of a license under the provisions
42 of P.L.1983, c.392 (C.13:1E-126 et seq.), or has had its license
43 revoked by the **Department of Environmental Protection** Attorney
44 General, as the case may be.

45 (cf: P.L.2003, c.169, s.19)

46
47 15. Section 3 of P.L.1971, c.461 (C.13:1E-18) is amended to
48 read as follows:

1 3. a. The department may in accordance with a fee schedule
2 adopted as a rule or regulation establish and charge annual or
3 periodic fees for any of the services to be performed in connection
4 with the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1
5 et seq.) **【**, except that the annual or periodic fees charged by the
6 department to cover the costs incurred by any State agency relevant
7 to pre-licensing investigations, post-licensing compliance
8 monitoring or related activities under the provisions of P.L.1983,
9 c.392 (C.13:1E-126 et seq.) shall be based upon the size of the
10 business concern. For the purposes of this subsection, "business
11 concern" means any corporation, association, firm, partnership, sole
12 proprietorship, trust or other form of commercial organization;
13 "size" means the number of key employees or persons required to
14 be listed in the disclosure statement, or otherwise shown to have a
15 beneficial interest in the business of the applicant, permittee or
16 licensee as defined in section 2 of P.L.1983, c.392 (C.13:1E-127);
17 and "State agency" means any State department, division, agency,
18 commission or authority.

19 The department, upon receipt of standard billing, shall provide
20 reimbursement in full to the Attorney General or any other State
21 agency for all expenses incurred by that State agency in the
22 performance of pre-licensing investigations, post-licensing
23 compliance monitoring or any other related activities consistent
24 with the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.)**】**.

25 b. The fee schedule shall reasonably reflect the duration or
26 complexity of the specific service rendered, permit application
27 reviewed, or registration statement or engineering design
28 application approval sought.

29 (cf: P.L.1991, c.269, s.15)

30

31 16. (New section) a. The Attorney General shall establish
32 application and license fees for any license or recycling license
33 issued pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.). The fees
34 shall be based upon the cost of investigation and consideration of
35 the license application, and the actual and prospective costs of the
36 investigative and enforcement functions of the office. The annual or
37 periodic fees shall cover the costs incurred by any State agency
38 relevant to pre-licensing investigations, post-licensing compliance
39 monitoring or related activities under the provisions of
40 P.L.1983, c.392 (C.13:1E-126 et seq.) and shall be based upon the
41 size of the business concern. For the purposes of this section,
42 "business concern" means any corporation, association, firm,
43 partnership, sole proprietorship, trust or other form of commercial
44 organization; "size" means the number of key employees or persons
45 required to be listed in the disclosure statement, or otherwise shown
46 to have a beneficial interest in the business of the applicant,
47 permittee or licensee as defined in section 2 of P.L.1983, c.392

1 (C.13:1E-127); and "State agency" means any State department,
2 division, agency, commission or authority.

3 The Attorney General shall provide reimbursement in full to any
4 State agency for all expenses incurred by that State agency in the
5 performance of pre-licensing investigations, post-licensing
6 compliance monitoring or any other related activities consistent
7 with the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.)

8 b. The Attorney General shall prepare and submit, pursuant to
9 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature an
10 annual report on the establishment and implementation of the fee
11 schedule adopted pursuant to this section.

12

13 17. (New section) No later than 90 days after the date of
14 enactment of P.L. , c. (C.) (pending before the Legislature as
15 this bill), the Department of Environmental Protection, the
16 Department of the Treasury, and the Attorney General shall enter
17 into a memorandum of agreement that provides for the
18 establishment of a records and information management system to
19 provide State regulators at each department and other relevant
20 government agencies in New Jersey and elsewhere with effective
21 and efficient access to information concerning individuals and
22 business concerns that are applicants, license holders, and
23 permittees in the solid waste, hazardous waste and recycling
24 industries. The information in the system shall include license and
25 permit information, records of violations, criminal charges and
26 convictions, debarment determinations and any other information
27 deemed to be relevant.

28

29 18. (New section) The State Treasurer shall establish a list to be
30 maintained in the Department of the Treasury of individuals and
31 business concerns that have:

32 a. been debarred from contracting with or receiving funds from
33 any unit in the Executive branch of State government, including any
34 entity exercising executive branch authority or independent State
35 authority, or any unit of local government or board of education;

36 b. had a permit, license, or recycling license denied or revoked
37 pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.); or

38 c. had any license denied or revoked pursuant to
39 P.L.1977, c.110 (C.5:12-1 et seq.).

40

41 19. (New section) The Attorney General shall seek to establish
42 with the State of New York and other states in the region a
43 reciprocal information exchange system to facilitate the sharing of
44 information among the states on the solid waste, hazardous waste,
45 and recycling industries in the respective states. Each year for the
46 first three years after the date of enactment of P.L. , c. (C.)
47 (pending before the Legislature as this bill), the Attorney General
48 shall prepare and submit, pursuant to section 2 of

1 P.L.1991, c.164 (C.52:14-19.1), to the Legislature a report on the
2 progress made toward establishing and implementing this interstate
3 cooperative effort.

4
5 20. Section 2 of this act shall take effect on the 180th day after
6 the date of enactment, and the remainder of this act shall take effect
7 immediately.

8
9
10 STATEMENT

11
12 This bill would implement many of the recommendations in the
13 December 2011 report issued by the State of New Jersey
14 Commission of Investigation concerning the circumvention of
15 oversight in the solid waste and recycling industries. The bill
16 would amend the existing law to expand the requirement for
17 background checks to a broader range of persons involved in the
18 solid waste industry, such as sales persons, consultants, and
19 brokers. The bill would also subject the recycling industry to the
20 same regulation and oversight under the law as that which applies to
21 the solid waste industry. The bill would prohibit issuance of an A-
22 901 license to persons debarred from operating in other states,
23 prohibit individuals otherwise deemed unsuitable for the solid waste
24 or recycling industries, convicted felons, and others of questionable
25 character from holding an indirect, non-licensed stake in a solid
26 waste or recycling industry (for example, those involved in vehicle
27 leasing arrangements or property rental agreements with legitimate
28 licensees). The bill would consolidate A-901 responsibilities within
29 the Office of the Attorney General. Currently, these responsibilities
30 are divided between the Department of Environmental Protection
31 and the Office of the Attorney General.

32 The bill would require the Department of Environmental
33 Protection, the Department of the Treasury, and the Attorney
34 General to enter into a memorandum of agreement to provide for
35 the establishment of a records management system to provide
36 regulators with more effective and efficient access to information
37 on the solid waste and recycling industries and their license and
38 permit holders and license and permit applicants, and to facilitate
39 appropriate sharing of such information among relevant government
40 agencies in New Jersey and elsewhere. Further, the bill would
41 require the Attorney General to establish a reciprocal information
42 exchange system with the State of New York and other states in the
43 region to facilitate sharing of information on the solid waste and
44 recycling industries among the states in the region. Finally, the bill
45 would require the establishment of a centralized list in the
46 Department of the Treasury of individuals and corporate entities
47 who have been debarred by various State agencies from
48 participation in a number of regulated industries apart from solid

1 waste and recycling, such as construction, the casino gaming
2 industry, and transportation. This requirement will ensure that the
3 status of persons and businesses deemed unfit to work under one
4 agency's purview is made known to all other appropriate agencies.