

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 1683

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 2019

The Senate Environment and Energy Committee favorably reports Senate Bill No. 1683 with committee amendments.

This bill amends the existing law to expand the requirement for background checks to a broader range of persons involved in the solid waste industry, such as sales persons, consultants, and brokers. The bill, as amended, also subjects persons or business concerns engaged in soil and fill recycling services to the same regulation and oversight under the law as that which applies to the solid waste industry.

Under the bill, as amended, “soil and fill recycling services” means the collection, transportation, processing, brokering, storage, purchase, sale, or disposition of soil and fill recyclable material. “Soil and fill recyclable material” means non-putrescible aggregate substitute, including broken or crushed brick, block, concrete, or other similar manufactured materials; soil or soil that may contain aggregate substitute or other debris or material, generated from land clearing, excavation, demolition, or redevelopment activities that would otherwise be managed as solid waste, and that may be returned to the economic mainstream in the form of raw materials for further processing or for use as fill material. “Soil and fill recyclable material” would not include: (1) Class A recyclable material (i.e., metal, glass, paper, plastic containers, and corrugated cardboard); (2) Class B recyclable material, such as construction and demolition debris, that is shipped to a Class B recycling center approved by the Department of Environmental Protection (DEP); (3) beneficial use material for which the generator has obtained prior approval from the DEP to transport to an approved and designated destination; and (4) virgin quarry products.

The bill, as amended, requires any business concern that actively engages in, or otherwise provides, soil and fill recycling services to register with the DEP no later than 90 days after the date of enactment of the bill. The bill establishes the information that must be provided in the registration form. No more than 90 days after submission of a registration form, the DEP would be required to issue a temporary soil and fill recycling registration to the business concern. No more than 270 days after the effective date of the bill, a registrant would be required to submit an application for a soil and fill recycling license

with the Attorney General. A soil and fill recycling registration issued under the bill would expire upon a failure by the registrant to submit an application for a soil and fill recycling license or upon a final determination by the DEP regarding the registrant's application. The soil and fill recycling registration would authorize a registrant to provide soil and fill recycling services pending the approval or denial of the registrant's application. The bill, as amended, would prohibit a business concern from engaging in soil and fill recycling services without a soil and fill recycling registration, soil and fill recycling license, or a prior approval issued by the department pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.). The registration program established in the bill is temporary in nature, and any business concern that seeks to engage in soil and fill recycling services later than 90 days after the effective date of the bill that has not submitted a registration form would be required to file an application for a soil and fill recycling license.

The bill prohibits the issuance of an A901 approval to persons debarred from operating in other states, and prohibits individuals otherwise deemed unsuitable for the solid waste or recycling industries, convicted felons, and others of questionable character from holding an indirect, non-licensed stake in a solid waste or recycling industry (for example, those involved in vehicle leasing arrangements or property rental agreements with legitimate licensees).

The bill, as amended, requires the DEP, the Department of the Treasury, and the Attorney General to enter into a memorandum of agreement to provide for a reciprocal information exchange method to provide each agency with more effective and efficient access to information on the solid waste and soil and fill recycling industries and their license and permit holders and license and permit applicants, and to facilitate appropriate sharing of such information among relevant government agencies in New Jersey and elsewhere. The bill requires the Attorney General to establish a reciprocal information exchange method with the State of New York and other states in the region to facilitate sharing of information on the solid waste and soil and fill recycling industries among the states in the region. The bill also requires the establishment of a centralized list in the Department of the Treasury of individuals and corporate entities who have been debarred by various State agencies from participation in a number of regulated industries apart from solid waste and recycling, such as construction, the casino gaming industry, and transportation. This requirement ensures that the status of persons and businesses deemed unfit to work under one agency's purview is made known to all other appropriate agencies.

The committee amendments to the bill:

(1) Replace the term "recyclable material" with "soil and fill recyclable material," and exclude from the definition: Class A recyclable materials, Class B recyclable materials that are shipped to a

licensed Class B recycling center, beneficial use material for which the generator has obtained prior approval from the DEP to transport to an approved and designated destination, and virgin quarry products;

(2) Specify that the registration established in section 1 of the bill is a temporary registration, which allows the registrant to provide soil and fill recycling services pending the approval of the registrant's application for a soil and fill recycling license, and establish timeframes for obtaining both the registration and the license;

(3) Provide that a soil and fill recycling registration would expire upon a failure by the registrant to submit a soil and fill recycling license application, or upon a final determination by the DEP regarding the registrant's application;

(4) Provide that a business concern must submit additional information in its registration form, including its corporate filing number, contact information, and a statement that the business concern is actively engaged in soil and fill recycling services;

(5) Provide that a business concern must certify to the truth and accuracy of the information contained in its registration form;

(6) Provide that, beginning 180 days after the effective date of the bill, a business concern would be prohibited from engaging in soil and fill recycling services unless it holds a soil and fill recycling registration, a soil and fill recycling license, or an A901 approval;

(7) Provide that any business concern that seeks to engage in soil and fill recycling services later than 90 days after the effective date of the bill that has not submitted a registration form would be required to apply for a soil and fill recycling license;

(8) Specify that a "key employee" includes "any individual employed *or otherwise engaged* by the applicant";

(9) Revise the definition of "license" to include certain approvals issued by the DEP for "processing" and "brokering" of solid waste or hazardous waste, and add the terms "processing" and "brokering" into various applicable sections of existing law;

(10) Revise the definition of "business concern" to include limited liability companies;

(11) Remove from the bill amendments to the law providing that the Attorney General would be responsible for issuing licenses and for certain other responsibilities, thus maintaining the provisions in existing law that the department is responsible for these things;

(12) Specify that a business concern that is issued a soil and fill recycling license is subject to the same requirements as licensees under existing law;

(13) Add aggravated assault to the list of crimes that, if committed by the applicant or certain persons associated with the applicant, disqualify the applicant from receiving an A901 approval or soil and fill recycling license under the bill;

(14) Provide that the DEP may bar a person who would otherwise cause the disqualification of an applicant for an A901 approval from

participation in the solid and hazardous waste industries and the soil and fill recycling industry;

(15) Provide that, notwithstanding the debarment of a person, the DEP may issue or renew an A901 approval or soil and fill recycling license to the person if he or she can affirmatively demonstrate rehabilitation by clear and convincing evidence;

(16) Provide that the DEP may establish annual fees and any other fees it determines necessary to defray the cost of administration of the soil and fill recycling registration and licensing programs, and provide what purposes fee revenues may be used for;

(17) Provide that the DEP may adopt rules and regulations to effectuate monitoring and enforcement of the bill's provisions; and

(18) Provide that, no later than 90 days after the date of enactment, the DEP, the Department of the Treasury, and Attorney General, would be required to establish a reciprocal information exchange method, as opposed to a records and information management system.