

ASSEMBLY, No. 2206

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 27 (Essex and Morris)

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

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District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblywoman Pinkin and Assemblyman Danielsen

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning regulation of the solid waste, hazardous waste,
2 and soil and fill recycling industries, amending and
3 supplementing P.L.1983, c.392, and amending P.L.1991, c.269
4 and 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 effective date
10 of P.L. , c. (C.) (pending before the Legislature as this bill), any
11 business concern that is not already a licensee pursuant to P.L.1991,
12 c.269 (C.13:1E-126 et seq.), and that actively engages in, or otherwise
13 provides, soil and fill recycling services shall register with the
14 department. The registration shall include, but need not be limited to:

15 (1) the name of the business concern and its New Jersey corporate
16 filing number;

17 (2) the address of the business concern and the addresses of any
18 other locations where trucks or equipment used by the business
19 concern are kept;

20 (3) contact information for the business concern, including, but not
21 limited to, a valid phone number and email address; and

22 (4) a statement by the business concern that it is actively engaged
23 in soil and fill recycling services at the time of registration.

24 b. A business concern shall submit the information required
25 pursuant to subsection a. of this section on a registration form
26 prescribed by the department. The business concern shall certify to the
27 truth and accuracy of the information provided in the registration form.

28 c. No more than 90 days after submission of a registration form
29 pursuant to this section, the department shall issue a soil and fill
30 recycling registration to the business concern . Issuance of a soil and
31 fill recycling registration pursuant to this section shall not preclude the
32 department from subsequently denying a soil and fill recycling license
33 to the registrant.

34 d. No more than 270 days after the effective date of P.L. ,
35 c. (C.) (pending before the Legislature as this bill), a registrant
36 shall submit a valid and administratively complete application for a
37 soil and fill recycling license with the Attorney General. Registrants
38 may request a 90-day extension to file a soil and fill recycling license
39 application pursuant to this section, and the Attorney General may
40 grant the request upon a showing of good cause.

41 e. A soil and fill recycling registration issued pursuant to this
42 section shall automatically expire and become invalid upon: (1) failure
43 by the registrant to submit a valid and administratively complete
44 application for a soil and fill recycling license within the required

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 timeframe; or (2) a final determination by the department regarding the
2 registrant's application for a soil and fill recycling license.

3 f. A soil and fill recycling registration issued pursuant to this
4 section is non-transferable and shall temporarily authorize the
5 registrant to provide soil and fill recycling services pending the
6 approval or denial of the registrant's application for a soil and fill
7 recycling license.

8 g. Any business concern that seeks to engage in soil and fill
9 recycling services later than 90 days after the effective date of this act
10 that has not submitted a registration form pursuant to subsection a. of
11 this section shall file an application for a soil and fill recycling license
12 with the Attorney General.

13 h. As used in this section, "registrant" means any person who
14 applies for and is issued a soil and fill recycling registration pursuant
15 to this section.

16
17 2. (New section) Beginning 180 days after the effective date of
18 P.L. , c. (C.) (pending before the Legislature as this bill), no
19 business concern shall engage in soil and fill recycling services unless
20 it holds a soil and fill recycling registration issued pursuant to section
21 1 of P.L. , c. (C.) (pending before the Legislature as this bill), a
22 soil and fill recycling license issued pursuant to
23 section 8 of P.L.1983, c.392 (C.13:1E133) , or is a licensee pursuant to
24 section 8 of P.L.1983, c.392 (C.13:1E-133).

25
26 3. Section 2 of P.L.1983, c.392 (C.13:1E-127) is amended to read
27 as follows:

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

30 a. "Applicant" means any business concern **【which】** that (1) has
31 filed a disclosure statement with the 【department and the】 Attorney
32 General and is seeking 【an initial】 a license, provided that the business
33 concern has furnished the department and the Attorney General with
34 any information required pursuant to 【P.L.1991, C.269 (C.13:1E-
35 128.1 et al)】 P.L.1983, c.392 (C.13:1E-126 et seq.) , or (2) has been
36 issued a soil and fill recycling registration pursuant to section 1 of
37 P.L. , c. (C.) (pending before the Legislature as this bill), has filed
38 a disclosure statement with the Attorney General, and is seeking a soil
39 and fill recycling license.

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

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

46 d. "Department" means the Department of Environmental
47 Protection.

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

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

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

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

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

45 (5) A listing and explanation of any notices of violation or
46 prosecution, administrative orders or license revocations issued by this
47 State or any other state or federal authority, in the 10 years
48 immediately preceding the filing of the application or disclosure

1 statement, whichever is later, which are pending or have resulted in a
2 finding or a settlement of a violation of any law or rule and regulation
3 relating to the collection, transportation, treatment, storage, brokering,
4 transfer or disposal of solid waste or hazardous waste, or the provision
5 of soil and fill recycling services, by the applicant or the permittee, as
6 the case may be, or by any key employee, officer, director, or partner
7 thereof;

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

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

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

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

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

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

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

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

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

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

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

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

39 (e) A listing and explanation of any notices of violation or
40 prosecution, administrative orders or license revocations issued by this
41 State or any other state or federal authority to the applicant or
42 permittee in the 10 years immediately preceding the filing of the
43 application or disclosure statement, whichever is later, which are
44 pending or have resulted in a finding or a settlement of a violation of
45 any law or rule or regulation relating to the collection, transportation,
46 treatment, storage, brokering, recycling, processing, transfer or
47 disposal of solid waste or hazardous waste, or the provision of soil and
48 fill 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 in
3 the 10 years immediately preceding the filing of the application, and of
4 any pending civil complaints against the applicant or permittee
5 pertaining to a violation or alleged violation of federal or state antitrust
6 laws, trade regulations or securities regulations;

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

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

19 f. "Key employee" means any individual employed or otherwise
20 engaged by the applicant, the permittee or the licensee in a supervisory
21 capacity or empowered to make discretionary decisions with respect to
22 the solid waste [or], hazardous waste , or soil and fill recycling
23 operations of the business concern; any family member of an officer,
24 director, partner, or key employee, employed or otherwise engaged by
25 the applicant or permittee; or any broker, consultant or sales person
26 employed or otherwise engaged by, or who do business with, the
27 applicant, permittee, or licensee, with respect to the solid waste,
28 hazardous waste, or soil and fill recycling operations of the business
29 concern; but shall not include (1) employees, who are not family
30 members, exclusively engaged in the physical or mechanical
31 collection, transportation, treatment, storage, transfer or disposal of
32 solid waste or hazardous waste, or the provision of soil and fill
33 recycling services; or (2) a sales person employed by a publicly traded
34 corporation or a direct or indirect subsidiary of a publicly traded
35 corporation.

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

42 A "license" shall not include any registration statement or
43 engineering design approved for:

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

46 (2) Any person solely for the collection, transportation, treatment,
47 storage, processing, brokering, transfer, or disposal of solid waste or
48 hazardous waste generated by that person, provided that the

1 department may adopt regulations to limit the scope of this exemption
2 based on volume or other standards;

3 (3) Any person for the operation of a hazardous waste facility, if at
4 least 75 **【%】** percent of the total design capacity of that facility is
5 utilized to treat, store or dispose of hazardous waste generated by that
6 person;

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

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

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

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

22 (7) Any regulated medical waste generator for the treatment or
23 disposal of regulated medical waste at any noncommercial incinerator
24 or noncommercial facility in this State that accepts regulated medical
25 waste for disposal.

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

31 i. "Permittee" means and shall include:

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

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

1 information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et
2 al.);

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

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

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

25 k. "Secondary business activity corporation" means any business
26 concern which has derived less than **【5%】** five percent of its annual
27 gross revenues in each of the three years immediately preceding the
28 one in which the application for a license or a soil and fill recycling
29 license is being made from the collection, transportation, treatment,
30 storage, **【recycling,】** processing, brokering, transfer or disposal of
31 solid waste or hazardous waste, or the provision of soil and **【debris】**
32 fill recycling services, whether directly or through other business
33 concerns partially or wholly owned or controlled by the applicant or
34 the permittee, as the case may be, and which (1) has one or more
35 classes of security registered pursuant to section 12 of the "Securities
36 Exchange Act of 1934," as amended (15 U.S.C. s.78l), or (2) is an
37 issuer subject to subsection (d) of section 15 of the "Securities
38 Exchange Act of 1934," as 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 local
41 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 of
45 the Currency; closed end investment trust; chartered or licensed life
46 insurance company or property and casualty insurance company;
47 banking or other chartered or licensed lending institution; partnerships,
48 funds or trusts managed by or directed in conjunction with an

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

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

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

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

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

30 n. "Broker" means a person who for direct or indirect
31 compensation arranges agreements between a business concern and its
32 customers for the collection, transportation, treatment, storage,
33 processing, transfer or disposal of solid waste or hazardous waste, or
34 the provision of soil and fill recycling services.

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

42 p. "Family member" means spouse, domestic partner, partner in a
43 civil union, child, parent, sibling, aunt, uncle, niece, nephew, first
44 cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-
45 law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half
46 brother, or half sister, whether the individual is related by blood,
47 marriage, or adoption.

1 q. "Soil and fill recyclable materials" means non-putrescible
2 aggregate substitute, including, but not limited to, broken or crushed
3 brick, block, concrete, or other similar manufactured materials; soil or
4 soil that may contain aggregate substitute or other debris or material,
5 generated from land clearing, excavation, demolition, or
6 redevelopment activities that would otherwise be managed as solid
7 waste, and that may be returned to the economic mainstream in the
8 form of raw materials for further processing or for use as fill material.
9 "Soil and fill recyclable materials" shall not include: (1) Class A
10 recyclable material, as defined by regulation adopted pursuant to
11 section 4 of P.L.1989, c.268 (C.13:1E-99.43); (2) Class B recyclable
12 material, as defined by regulation adopted pursuant to section 4 of
13 P.L.1989, c.268 (C.13:1E-99.43), that is shipped to a Class B recycling
14 center approved by the department for receipt, storage, processing, or
15 transfer in accordance with subsection b. of section 41 of P.L.1987,
16 c.102 (C.13:1E-99.34); (3) beneficial use material for which the
17 generator has obtained prior approval from the department to transport
18 to an approved and designated destination pursuant to regulations
19 adopted pursuant to subsection a. of section 6 of P.L.1970, c.39
20 (C.13:1E-6); and (4) virgin quarry products including, but not limited
21 to, rock, stone, gravel, sand, clay and other mined products.

22 r. "Sales person" means a person or persons that makes or
23 arranges for sales for a business concern, for the collection,
24 transportation, treatment, storage, processing, transfer or disposal of
25 solid waste or hazardous waste or the provision of soil and fill
26 recycling services.

27 s. "Soil and fill recycling license" means an approval to operate a
28 business concern engaged in soil and fill recycling services issued
29 pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133).

30 t. "Soil and fill recycling services" means the services provided
31 by persons engaging in the business of the collection, transportation,
32 processing, brokering, storage, purchase, sale or disposition, or any
33 combination thereof, of soil and fill recyclable materials. "Soil and fill
34 recycling services" shall not include the operation of a solar electric
35 power generation facility at a properly closed sanitary landfill where
36 soil and fill materials have been previously deposited for permanent
37 disposal.

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

39
40 4. Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended to read
41 as follows:

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

45 a. (1) Every applicant and permittee shall file a disclosure
46 statement with the [department and the] Attorney General;

47 (2) Except as otherwise provided in this subsection, any person
48 required to be listed in the disclosure statement shall be fingerprinted

1 for identification and investigation purposes in accordance with
2 procedures therefor established by the Attorney General;

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

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

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

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

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

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

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

1 operations or the soil and fill recycling operations of the applicant or
2 permittee conducted in New Jersey;

3 (c) A business concern that is a secondary business activity
4 corporation or an institutional investor, including limited partnership
5 interests, that is not the applicant, licensee, **[or]** permittee, or business
6 concern that has been issued a soil and fill recycling license, but
7 which is listed in a disclosure statement pursuant to subsection e. of
8 section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from
9 disclosure requirements established in subsection e. of section 2 of
10 P.L.1983, c.392 (C.13:1E-127) provided that the secondary business
11 activity corporation or institutional investor is not and will not be
12 engaged in active management of the commercial solid waste or
13 hazardous waste operations or the soil and fill recycling service
14 operations of the applicant, licensee, **[or]** permittee, or business
15 concern that has been issued a soil and fill recycling license conducted
16 in New Jersey;

17 (d) A business concern that is a publicly traded corporation that is
18 not the applicant, licensee, **[or]** permittee, or business concern that has
19 been issued a soil and fill recycling license but which is listed in a
20 disclosure statement pursuant to subsection e. of section 2 of P.L.1983,
21 c.392 (C.13:1E-127), shall be exempt from disclosure requirements
22 established in subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-
23 127) provided that the name and business address of the publicly
24 traded corporation and copies of its annual filings with the Securities
25 and Exchange Commission, or its foreign equivalent, are filed with the
26 disclosure forms of the applicant, licensee, **[or]** permittee, or business
27 concern that has been issued a soil and fill recycling license.
28 Subsidiaries intervening in the chain of equity between the publicly
29 traded corporation and the applicant, licensee, **[or]** permittee, or
30 business concern that has been issued a soil and fill recycling license ,
31 and the officers and directors of those intervening subsidiaries, shall
32 also be exempt from the disclosure requirements established in
33 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) provided
34 that the intervening subsidiary is not and will not be engaged in active
35 management of the commercial solid waste or hazardous waste
36 operations or the soil and fill recycling service operations of the
37 applicant, licensee, **[or]** permittee, or business concern that has been
38 issued a soil and fill recycling license conducted in New Jersey;

39 (e) An individual exempt from disclosure requirements under
40 subparagraph (b) of this paragraph, a secondary business activity
41 corporation or institutional investor exempt from disclosure
42 requirements under subparagraph (c) of this paragraph, and a publicly
43 traded corporation exempt from disclosure requirements under
44 subparagraph (d) of this paragraph, may be required by the Attorney
45 General to file disclosure forms and be fingerprinted in the
46 circumstances described in subsection d. of this section; and

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

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

22 c. If any of the information required to be included in the disclosure
23 statement changes, or if any information provided concerning the
24 applicability of an exemption under subsection d. of this section
25 changes, or if any additional information should be added to the
26 disclosure statement after it has been filed, the applicant, permittee or
27 licensee, or the business concern that has been issued a soil and fill
28 recycling license, shall provide that information to the department and
29 the Attorney General, in writing, within 30 days of the change or
30 addition and on any subsequent annual updated required to be filed. If
31 the applicant, permittee, licensee, or business concern that has been
32 issued a soil and fill recycling license adds a new person who is
33 required to be listed in the disclosure statement, that person is subject
34 to the same disclosure requirements as set forth in this section, and the
35 applicant, permittee, licensee, or business concern that has been issued
36 a soil and fill recycling license shall be required to pay an additional
37 fee in accordance with a fee schedule adopted pursuant to rules and
38 regulations promulgated by the department.

39 d. The provisions of paragraphs (5) and (6) of subsection a. of this
40 section to the contrary notwithstanding, the Attorney General may at
41 any time require any person required to be listed in the disclosure
42 statement to file a completed personal history disclosure form and a
43 full disclosure statement with the 【department and the】 Attorney
44 General pursuant to paragraphs (1) through (9) of subsection e. of
45 section 2 of P.L.1983, c.392 (C.13:1E-127), or to be fingerprinted for
46 identification and investigation purposes pursuant to paragraph (2) of
47 subsection a. of this section, if the Attorney General determines that
48 there exists a reasonable suspicion that the additional information is

1 likely to lead to information relevant to a determination regarding the
2 approval of a license or a soil and fill recycling license pursuant to
3 section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a license
4 or soil and fill recycling license pursuant to section 9 of P.L.1983,
5 c.392 (C.13:1E-134), or the severance of a disqualifying person
6 pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135).

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

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

35
36 5. Section 4 of P.L.1983, c.392 (C.13:1E-129) is amended to read
37 as follows:

38 4. a. Whenever the Attorney General determines that there exists
39 a reasonable suspicion that any person may have information or be in
40 possession, custody, or control of any documentary materials relevant
41 to an investigation of an applicant, permittee or licensee, or business
42 concern that has been issued a soil and fill recycling license conducted
43 pursuant to this act, he may issue in writing, and cause to be served
44 upon that person an investigative interrogatory requiring that person to
45 answer questions under oath and produce material for examination.

46 b. Each interrogatory shall:

1 (1) Identify the licensee, permittee or applicant, or business
2 concern that has been issued a soil and fill recycling license who is the
3 subject of the investigation;

4 (2) Advise the person that he has the right to discuss the
5 interrogatory with legal counsel prior to returning it to the Attorney
6 General or prior to making material available, as provided in
7 subsection f. of this section, and that he has the right to file in Superior
8 Court a petition to modify or set aside the interrogatory, as provided in
9 subsection j. of this section;

10 (3) Describe the class or classes of documentary material to be
11 produced thereunder with sufficient particularity as to permit the
12 material to be reasonably identified;

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

17 c. No interrogatory shall:

18 (1) Contain any requirement which would be held to be
19 unreasonable if contained in a **[subpena]** subpoena duces tecum
20 issued in aid of a grand jury investigation; or

21 (2) Require the production of any documentary evidence which
22 would be otherwise privileged from disclosure if demanded by a
23 **[subpena]** subpoena duces tecum issued in aid of a grand jury
24 investigation.

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

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

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

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

36 e. A verified return by the individual serving any interrogatory,
37 setting forth the manner of service, shall be prima facie proof of
38 service. In the case of service by registered or certified mail, the return
39 shall be accompanied by the return post office receipt of delivery of
40 the interrogatory.

41 f. Any person upon whom any interrogatory issued under this
42 section has been duly served which requires the production of
43 materials shall make the material available for inspection and copying
44 or reproduction to the Attorney General at the principal place of
45 business of that person in the State of New Jersey or at any other place
46 as the Attorney General and the person thereafter may agree and
47 prescribe in writing, on the return date specified in the interrogatory or
48 on a later date as the Attorney General may prescribe in writing. Upon

1 written agreement between the person and the Attorney General,
2 copies may be substituted for all or any part of the original materials.
3 The Attorney General may cause the preparation of any copies of
4 documentary material as may be required for official use by the
5 Attorney General.

6 No material produced pursuant to this section shall be available for
7 examination, without the consent of the person who produced the
8 material, by an individual other than the Attorney General or any
9 person retained by the Attorney General in connection with the
10 enforcement of this act. Under reasonable terms and conditions as the
11 Attorney General shall prescribe, documentary material while in his
12 possession shall be available for examination by the person who
13 produced the material or any of his duly authorized representatives.

14 In any investigation conducted pursuant to this act, the Attorney
15 General may present before the department, or court or grand jury any
16 documentary material in his possession pursuant to this section,
17 subject to any protective order deemed proper by the Superior Court.

18 g. Upon completion of:

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

21 (2) Any case or proceeding arising from the investigation, the
22 Attorney General shall return to the person who produced the material
23 all the material, other than copies thereof made by the Attorney
24 General pursuant to this section, which has not passed into the control
25 of the department or any court or grand jury through the introduction
26 thereof into the record of the case or proceeding.

27 h. When any documentary material has been produced by any
28 person under this section for use in an investigation, and no case or
29 proceeding arising therefrom has been instituted within two years after
30 completion of the examination and analysis of all evidence assembled
31 in the course of the investigation, the person shall be entitled, upon
32 written demand made upon the Attorney General, to the return of all
33 documentary material, other than copies thereof made pursuant to this
34 section so produced by him.

35 i. Whenever any person fails to comply with any investigative
36 interrogatory duly served upon him under this section, or whenever
37 satisfactory copying or reproduction of any material cannot be done
38 and he refuses to surrender the material, the Attorney General may file
39 in the Superior Court a petition for an order of the court for the
40 enforcement of this section.

41 j. At any time before the return date specified in the
42 interrogatory, the person served with the interrogatory may file in the
43 Superior Court a petition for an order modifying or setting aside the
44 interrogatory. The time allowed for compliance with the interrogatory
45 shall not run during the pendency of this petition. The petition shall
46 specify each ground upon which the petition relies in seeking relief,
47 and may be based upon any failure of the interrogatory to comply with
48 the provisions of this section or upon any constitutional or other legal

1 right or privilege of the petitioner. In this proceeding, the Attorney
2 General shall establish the existence of an investigation pursuant to
3 this act and the nature and subject matter of the investigation.

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

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

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

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

15 (1) Identify the licensee, permittee or applicant, or business
16 concern that has been issued a soil and fill recycling license who is the
17 subject of the investigation;

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

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

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

31 In any investigation conducted pursuant to this act, the Attorney
32 General may present before the **【department,】** department, court or
33 grand jury any information disclosed pursuant to the **【subpena】**
34 subpoena, subject to any protective order deemed proper by the
35 Superior Court.

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

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

45 f. At any time before the return date specified in the **【subpena】**
46 subpoena, the person who has been served with the **【subpena】**

1 subpoena may file in the Superior Court a petition for an order
2 modifying or setting aside the **【subpena】 subpoena**. The time allowed
3 for compliance with the **【subpena】 subpoena** shall not run during the
4 pendency of this petition. The petition shall specify each ground upon
5 which the petitioner relies in seeking relief, and may be based upon
6 any failure of the **【subpena】 subpoena** to comply with the provisions
7 of this section or upon any constitutional or other legal right or
8 privilege of the petitioner. In this proceeding, the Attorney General
9 shall establish the existence of an investigation pursuant to this act and
10 the nature and subject matter of the investigation.

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

12

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

15 8. The provisions of any law to the contrary notwithstanding, no
16 license or soil and fill recycling license shall be approved by the
17 department:

18 a. Unless the department finds that the applicant, or the permittee,
19 as the case may be, in any prior performance record in the collection,
20 transportation, treatment, storage, transfer or disposal of solid waste or
21 hazardous waste, or the provision of soil and fill recycling services,
22 has exhibited sufficient integrity, reliability, expertise, and competency
23 to engage in the collection or transportation of solid waste or
24 hazardous waste, or to operate the solid waste facility or hazardous
25 waste facility, or engage in soil and fill recycling services, given the
26 potential economic consequences for affected counties, municipalities
27 and ratepayers or significant adverse impacts upon human health and
28 the environment which could result from the irresponsible
29 participation therein or operation thereof, or if no prior record exists,
30 that the applicant or the permittee is likely to exhibit that integrity,
31 reliability, expertise and competence.

32 b. If any person required to be listed in the disclosure statement,
33 or otherwise shown to have a beneficial interest in the business of the
34 applicant, the permittee or the licensee, or the business concern that
35 has been issued a soil and fill recycling license, or to have rented or
36 leased at any or no cost real property, vehicles or other equipment used
37 for the collection, transportation, treatment, processing, storage,
38 brokering, transfer, or disposal of solid waste or hazardous waste, or
39 the provision of soil and fill recycling services, to the applicant, the
40 permittee, the licensee, or the business concern that has been issued a
41 soil and fill recycling license has been barred from the provision of
42 solid waste, hazardous waste or soil and fill recycling services in the
43 State or any other jurisdiction outside of the State, or has been
44 convicted of any of the following crimes under the laws of New Jersey
45 or the equivalent thereof under the laws of any other jurisdiction:

46 (1) Murder;

47 (2) Kidnapping;

48 (3) Gambling;

- 1 (4) Robbery;
- 2 (5) Bribery;
- 3 (6) Extortion;
- 4 (7) Criminal usury;
- 5 (8) Arson;
- 6 (9) Burglary;
- 7 (10) Theft and related crimes;
- 8 (11) Forgery and fraudulent practices;
- 9 (12) Fraud in the offering, sale or purchase of securities;
- 10 (13) Alteration of motor vehicle identification numbers;
- 11 (14) Unlawful manufacture, purchase, use or transfer of firearms;
- 12 (15) Unlawful possession or use of destructive devices or
- 13 explosives;
- 14 (16) Violation of N.J.S.2C:35-5, except possession of 84 grams or
- 15 less of marijuana, or of N.J.S.2C:35-10;
- 16 (17) Racketeering, **[P.L.1981, c.167 (C.2C:41-1 et seq.)]**
- 17 N.J.S.2C:41-1 et seq.;
- 18 (18) Violation of criminal provisions of the "New Jersey Antitrust
- 19 Act," P.L.1970, c.73 (C.56:9-1 et seq.);
- 20 (19) Any purposeful or reckless violation of the criminal
- 21 provisions of any federal or state environmental protection laws, rules,
- 22 or regulations, including, but not limited to, solid waste or hazardous
- 23 waste management laws, rules, or regulations;
- 24 (20) Violation of N.J.S.2C:17-2;
- 25 (21) Any offense specified in chapter 28 of Title 2C; **[or]**
- 26 (22) Violation of the "Solid Waste Utility Control Act of 1970,"
- 27 P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1981, c.221 (C.48:13A-
- 28 6.1) ; or
- 29 (23) Aggravated assault.
- 30 c. If the Attorney General determines that there is a reasonable
- 31 suspicion to believe that a person required to be listed in the disclosure
- 32 statement, or otherwise shown to have a beneficial interest in the
- 33 business of the applicant, the permittee or the licensee, or the business
- 34 concern that has been issued a soil and fill recycling license, or to have
- 35 rented or leased at any cost or at no cost real property, vehicles or
- 36 other equipment used for the collection, transportation, treatment,
- 37 processing, storage, brokering, transfer, or disposal of solid waste or
- 38 hazardous waste, or the provision of soil and fill recycling services, to
- 39 the applicant, the permittee, the licensee, or the business concern that
- 40 has been issued a soil and fill recycling license, does not possess a
- 41 reputation for good character, honesty and integrity, and that person or
- 42 the applicant, the permittee or the licensee, or the business concern
- 43 that has been issued a soil and fill recycling license fails, by clear and
- 44 convincing evidence, to establish his reputation for good character,
- 45 honesty and integrity.
- 46 d. With respect to the approval of an initial license or a soil and
- 47 fill recycling license, if there are current prosecutions or pending
- 48 charges in any jurisdiction against any person required to be listed in

1 the disclosure statement, or otherwise shown to have a beneficial
2 interest in the business of the applicant or the permittee, or to have
3 rented or leased at any or no cost real property, vehicles or other
4 equipment used for the collection, transportation, treatment,
5 processing, storage, brokering, transfer, or disposal of solid waste or
6 hazardous waste, or the provision of soil and fill recycling services, to
7 the applicant or the permittee, for any of the crimes enumerated in
8 subsection b. of this section, provided, however, that at the request of
9 the applicant, permittee, or the person charged, the department shall
10 defer decision upon such application during the pendency of such
11 charge.

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

29 f. If the Attorney General determines that any person required to
30 be listed in the disclosure statement, or otherwise shown to have a
31 beneficial interest in the business of the applicant, permittee or the
32 licensee, or the business concern that has been issued a soil and fill
33 recycling license, or to have rented or leased at any or no cost real
34 property, vehicles or other equipment used for the collection,
35 transportation, treatment, processing, storage, brokering, transfer, or
36 disposal of solid waste or hazardous waste, or the provision of soil
37 and fill recycling services, to the applicant, the permittee, the licensee,
38 or the business concern that has been issued a soil and fill recycling
39 license, has been identified by the State Commission of Investigation
40 or the Federal Bureau of Investigation as a career offender or a
41 member of a career offender cartel or an associate of a career offender
42 or career offender cartel, where such identification, membership or
43 association creates a reasonable belief that the participation of that
44 person in any activity required to be licensed under this act would be
45 inimical to the policies of this act. For the purposes of this section,
46 "career offender" means any person whose behavior is pursued in an
47 occupational manner or context for the purpose of economic gain,
48 utilizing such methods as are deemed criminal violations of the public

1 policy of this State; and a "career offender cartel" means any group of
2 persons who operate together as career offenders.

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

17 The department may issue a license or a soil and fill recycling
18 license subject to such conditions, restrictions, limitations, or
19 covenants as the department determines necessary to accomplish the
20 objectives of P.L.1983, c.392 (C.13:1E-126 et seq.).

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

25 Any applicant or permittee who is denied **[an initial]** a license or a
26 soil and fill recycling license pursuant to this section shall, upon a
27 written request transmitted to the department within 30 days of that
28 denial, be afforded the opportunity for a hearing thereon in the manner
29 provided for contested cases pursuant to the "Administrative
30 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
31 (cf: P.L.1991, c.269, s.6)

32
33 8. Section 7 of P.L.1991, c.269 (C.13:1E-133.1) is amended to
34 read as follows:

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

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

14 b. In determining whether a debarred or convicted individual has
15 affirmatively demonstrated rehabilitation, the department shall request
16 a recommendation thereon from the Attorney General, which
17 recommendation shall be in writing and based upon a consideration of
18 at least the following factors:

19 (1) The nature and responsibilities of the position which a debarred
20 or convicted individual would hold;

21 (2) The nature and seriousness of the debarment or crime;

22 (3) The circumstances under which the debarment was imposed or
23 the crime was committed;

24 (4) The date of the debarment or crime;

25 (5) The age of the debarred or convicted individual when the cause
26 of debarment or crime **【was committed】** took place;

27 (6) Whether the cause of the debarment or crime was an isolated or
28 repeated event or act;

29 (7) Any evidence of good conduct in the community, counseling or
30 psychiatric treatment received, acquisition of additional academic or
31 vocational schooling, or the recommendation of persons who have
32 supervised the debarred or convicted individual since the debarment or
33 conviction; and

34 (8) The full criminal record of the debarred or convicted
35 individual, any record of civil or regulatory violations or notices or any
36 complaints alleging any such civil or regulatory violations, or any
37 other allegations of wrongdoing.

38 Notwithstanding any other provision of this subsection, a
39 convicted individual shall have affirmatively demonstrated
40 rehabilitation pursuant to the provisions of this section if the convicted
41 individual produces evidence of a pardon issued by the Governor of
42 this or any other state, or evidence of the expungement of every
43 conviction for any of the crimes enumerated in subsection b. of section
44 8 of P.L.1983, c.392 (C.13:1E-133).

45 c. In determining whether a debarred or convicted business
46 concern has affirmatively demonstrated rehabilitation, the department
47 shall request a recommendation thereon from the Attorney General,

1 which recommendation shall be in writing and, based upon a
2 consideration of at least the following factors:

- 3 (1) The nature and seriousness of the debarment or crime;
- 4 (2) The circumstances under which the debarment was imposed or
5 the crime was committed;
- 6 (3) The date of the debarment or crime;
- 7 (4) Whether the cause of debarment or crime was an isolated or
8 repeated event or act; and
- 9 (5) The full criminal record of the debarred or convicted business
10 concern, any record of civil or regulatory violations or notices or any
11 complaints alleging any such civil or regulatory violations, or any
12 other allegations of wrongdoing.

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

32 The Attorney General may require, on the basis of this
33 investigation and as a condition of recommending that a debarred or
34 convicted business concern has affirmatively demonstrated
35 rehabilitation, that a debarred or convicted business concern comply,
36 or agree in writing to comply, with any of the following:

- 37 (1) changes in the debarred or convicted business concern's
38 organizational structure to reduce the opportunity and motivation of
39 individual employees to engage in criminal activity, including
40 procedures for informing employees of the requirements of relevant
41 state and federal law;
- 42 (2) changes in the debarred or convicted business concern's long
43 and short term planning to ensure that the debarred or convicted
44 business concern implements procedures and policies to prevent future
45 violations of the law;
- 46 (3) changes in the debarred or convicted business concern's legal,
47 accounting, or other internal or external control and monitoring

1 procedures to discourage or prevent future violations of state or federal
2 law;

3 (4) changes in the debarred or convicted business concern's
4 ownership, control, personnel, and personnel selection practices,
5 including the removal of any person shown to have a beneficial
6 interest in the debarred or convicted business concern, and the
7 imposition of a reward or disincentive system in order to encourage
8 employees to comply with relevant state and federal law;

9 (5) post-licensing monitoring of the debarred or convicted business
10 concern's activities relating to any changes in policy, procedure, or
11 structure required by the Attorney General pursuant to this subsection,
12 the cost of such monitoring to be borne by the debarred or convicted
13 business concern; and

14 (6) any other requirements deemed necessary by the Attorney
15 General.

16 e. The department shall not determine that a debarred or
17 convicted business concern has affirmatively demonstrated
18 rehabilitation if the debarred or convicted business concern has not
19 complied, or agreed in writing to comply, with every requirement
20 imposed by the Attorney General pursuant to subsection d. of this
21 section.

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

23
24 9. Section 8 of P.L.1991, c.269 (C.13:1E-133.2) is amended to
25 read as follows:

26 8. a. Notwithstanding any current prosecutions or pending
27 charges in any jurisdiction against any person required to be listed in a
28 disclosure statement, or otherwise shown to have a beneficial interest
29 in the business of an applicant, permittee or licensee, or business
30 concern that has been issued a soil and fill recycling license , or to
31 have rented or leased at any or no cost real property, vehicles or other
32 equipment used for the collection, transportation, treatment,
33 processing, storage, brokering, transfer, or disposal of solid waste or
34 hazardous waste, or the provision of soil and fill recycling services,
35 to the applicant, the permittee, or the licensee, or business concern that
36 has been issued a soil and fill recycling license, for any of the crimes
37 enumerated in subsection b. of section 8 of P.L.1983, c.392 (C.13:1E-
38 133), the department may issue or renew a license or a soil and fill
39 recycling license to an applicant, permittee or licensee, or business
40 concern that has been issued a soil and fill recycling license if the
41 department determines in a writing setting forth findings of fact that
42 the person against whom there are current prosecutions or pending
43 charges has affirmatively reestablished a reputation for good character,
44 honesty and integrity by clear and convincing evidence pursuant to the
45 provisions of this section. If the department determines that the nature
46 and seriousness of the crime alleged in a current prosecution or
47 pending charge creates a reasonable doubt that an applicant, permittee,
48 or licensee, or business concern that has been issued a soil and fill

1 recycling license will engage in the activity for which a license is
2 sought in a lawful and responsible manner, the department shall make
3 a determination in a writing setting forth findings of fact that the
4 person against whom there are current prosecutions or pending charges
5 cannot reestablish a reputation for good character, honesty and
6 integrity.

7 A person may affirmatively reestablish a reputation for good
8 character, honesty and integrity pursuant to this section in advance of
9 the disposition of the current prosecutions or pending charges provided
10 that this reestablishment consists of evidence of good character,
11 honesty and integrity rather than any defenses to the current
12 prosecutions or pending charges. A reestablishment of a reputation for
13 good character, honesty and integrity pursuant to this section shall not
14 be deemed insufficient due to a lack of admission of guilt to the
15 current prosecutions or pending charges.

16 b. In determining whether an individual against whom there are
17 current prosecutions or pending charges has affirmatively
18 reestablished a reputation for good character, honesty and integrity, the
19 department shall request a recommendation thereon from the Attorney
20 General, which recommendation shall be in writing, and based upon a
21 consideration of at least the following factors:

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

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

26 (3) The circumstances under which the alleged crime was
27 committed;

28 (4) The date of the alleged crime;

29 (5) The age of the individual against whom there are current
30 prosecutions or pending charges when the alleged crime was
31 committed;

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

33 (7) Any evidence of good conduct in the community, counseling or
34 psychiatric treatment received, acquisition of additional academic or
35 vocational schooling, or the recommendation of persons who have
36 supervised the individual since the date of the alleged crime; and

37 (8) The full criminal record of the individual against whom there
38 are current prosecutions or pending charges, any record of civil or
39 regulatory violations or notices or any complaints alleging any such
40 civil or regulatory violations, or any other allegations of wrongdoing.

41 c. In determining whether a business concern against whom there
42 are current prosecutions or pending charges has affirmatively
43 reestablished a reputation for good character, honesty and integrity, the
44 department shall request a recommendation thereon from the Attorney
45 General, which recommendation shall be in writing, and based upon a
46 consideration of at least the following factors:

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

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

3 (3) The date of the alleged crime;

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

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

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

25 The Attorney General may require, on the basis of this
26 investigation and as a condition of recommending that a business
27 concern against which there are current prosecutions or pending
28 charges has affirmatively reestablished a reputation for good character,
29 honesty and integrity, that a business concern comply, or agree in
30 writing to comply, with any of the following:

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

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

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

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

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

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

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

5 e. The department shall not determine that a business concern
6 against which there are current prosecutions or pending charges has
7 affirmatively reestablished a reputation for good character, honesty
8 and integrity if the business concern has not complied, or agreed in
9 writing to comply, with every requirement imposed by the Attorney
10 General pursuant to subsection d. of this section.

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

12
13 10. Section 9 of P.L.1983, c.392 (C.13:1E-134) is amended to read
14 as follows:

15 9. Any license or soil and fill recycling license may be revoked
16 by the department pursuant to the "Administrative Procedure Act,"
17 P.L.1968, c.410 (C.52:14B-1 et seq.) for any of the following causes:

18 a. Any cause which would require disqualification, pursuant to
19 subsection a., b., c., e. or f. of section 8 of P.L.1983, c.392 (C.13:1E-
20 133), from receiving a license or a soil and fill recycling license upon
21 original application;

22 b. Fraud, deceit or misrepresentation in securing or maintaining
23 the license or soil and fill recycling license, or in the conduct of the
24 licensed activity;

25 c. Offering, conferring or agreeing to confer any benefit to induce
26 any other person to violate the provisions of P.L.1983, c.392 (C.13:1E-
27 126 et seq.), or of any other law relating to the collection,
28 transportation, treatment, storage, brokering, transfer or disposal of
29 solid waste or hazardous waste, or the provision of soil and fill
30 recycling services, or of any rule or regulation adopted pursuant
31 thereto;

32 d. Coercion of a customer by violence or economic reprisal or the
33 threat thereof to utilize the services of any permittee or licensee, or a
34 business concern that holds a soil and fill recycling license; **[or]** e.

35 Preventing, without authorization of the department, any permittee
36 or licensee, or business concern that has been issued a soil and fill
37 recycling license from disposing of solid waste or hazardous waste at a
38 licensed, authorized or approved treatment, storage, transfer or
39 disposal facility, or

40 f. Failing to file timely annual updates as directed by the
41 Attorney General.

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

43
44 11. Section 10 of **[P.L.1991, c.269]** P.L.1983, c.392 (C.13:1E-
45 135) is amended to read as follows:

46 10. a. (1) Notwithstanding the disqualification of the applicant or
47 permittee pursuant to subsection a., b., c., e. or f. of section 8 of
48 P.L.1983, c.392 (C.13:1E-133), the department may issue or renew a

1 license or a soil and fill recycling license if the applicant or permittee
2 severs the interest of or affiliation with the person who would
3 otherwise cause that disqualification. The department may bar the
4 person that would otherwise cause the disqualification from
5 participation in the collection, transportation, treatment, storage,
6 processing, brokering, transfer, or disposal of solid or hazardous
7 waste, or the provision of soil and fill recycling services.

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

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

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

28
29 12. Section 3 of P.L.1971, c.461 (C.13:1E-18) is amended to
30 read as follows:

31 3. a. The department may in accordance with a fee schedule
32 adopted as a rule or regulation establish and charge annual or
33 periodic fees for any of the services to be performed in connection
34 with the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1
35 et seq.) **],** except that the annual or periodic fees charged by the
36 department to cover the costs incurred by any State agency relevant
37 to pre-licensing investigations, post-licensing compliance
38 monitoring or related activities under the provisions of P.L.1983,
39 c.392 (C.13:1E-126 et seq.) shall be based upon the size of the
40 business concern. For the purposes of this subsection, "business
41 concern" means any corporation, association, firm, partnership, sole
42 proprietorship, trust or other form of commercial organization;
43 "size" means the number of key employees or persons required to
44 be listed in the disclosure statement, or otherwise shown to have a
45 beneficial interest in the business of the applicant, permittee or
46 licensee as defined in section 2 of P.L.1983, c.392 (C.13:1E-127);
47 and "State agency" means any State department, division, agency,
48 commission or authority.

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

7 b. The fee schedule shall reasonably reflect the duration or
8 complexity of the specific service rendered, permit application
9 reviewed, or registration statement or engineering design
10 application approval sought.

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

12
13 13. (New section) a. The department shall establish application and
14 license fees, annual fees, and any other fees the department determines
15 necessary to defray the costs of administration, for any license or soil
16 and fill recycling license issued pursuant to P.L.1983, c.392 (C.13:1E-
17 126 et seq.), or the soil and fill recycling registration issued pursuant to
18 section 1 of P.L. , c. (C.) (pending before the Legislature as this
19 bill). The fees shall be used to pay costs related to consideration of
20 license and soil and fill recycling license applications, investigations,
21 monitoring, enforcement, and related activities, and to reimburse any
22 State agency for expenses incurred by the agency in the performance
23 of pre-licensing investigations, post-licensing compliance monitoring,
24 or any other related activities consistent with the provisions of
25 P.L.1983, c.392 (C.13:1E-126 et seq.). Annual fees shall be assessed
26 on licensees and the holders of soil and fill recycling licenses based on
27 a percentage their gross operating revenue from intrastate operations
28 during the preceding calendar year. Fees collected under this section
29 shall be deposited into a special account, to be administered by the
30 department, and shall be used only for the costs associated with
31 administering the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.).

32 b. The department may, pursuant to the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and
34 regulations to effectuate monitoring and enforcement of P.L.1983,
35 c.392 (C.13:1E-126 et seq.) and P.L. , c. (C.) (pending before the
36 Legislature as this bill).

37 c. The department shall prepare and submit, pursuant to section 2
38 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature an annual report
39 on the establishment and implementation of the fee schedule adopted
40 pursuant to this section.

41
42 14. (New section) No later than 90 days after the effective date of
43 P.L. , c. (C.) (pending before the Legislature as this bill), the
44 Department of Environmental Protection, the Department of the
45 Treasury, and the Attorney General shall enter into a memorandum of
46 agreement that provides for a reciprocal information_exchange method
47 to provide the Department of Environmental Protection, the
48 Department of Treasury, and the Attorney General¹ with effective and

1 efficient access to information concerning individuals and business
2 concerns that are applicants, license holders, and permittees in the
3 solid waste, hazardous waste and recycling industries as determined to
4 be appropriate by the Attorney General.

5
6 15. (New section) The State Treasurer shall establish a list to be
7 maintained in the Department of the Treasury of individuals and
8 business concerns that have:

9 a. been debarred from contracting with or receiving funds from
10 any unit in the Executive branch of State government, including any
11 entity exercising executive branch authority or independent State
12 authority, or any unit of local government or board of education;

13 b. had a permit, license, soil and fill recycling registration issued
14 pursuant to section 1 of P.L. , c. (C.) (pending before the
15 Legislature as this bill), or soil and fill recycling license denied or
16 revoked pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.); or

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

19
20 16. (New section) The Attorney General shall seek to establish
21 with the State of New York and other states in the region a reciprocal
22 information exchange method to facilitate the sharing of information
23 among the states on the solid waste, hazardous waste, and recycling
24 industries in the respective states. Each year for the first three years
25 after the effective date of P.L. , c. (C.) (pending before the
26 Legislature as this bill), the Attorney General shall prepare and submit,
27 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
28 Legislature a report on the progress made toward establishing and
29 implementing this interstate cooperative effort.

30
31 17. (New section) a. The department shall adopt, pursuant to the
32 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.),
33 rules and regulations establishing a schedule of penalties for violations
34 of P.L.1983, c.392 (C.13:1E-126 et seq.), to be applied pursuant to this
35 section.

36 b. Whenever, on the basis of available information, the
37 department finds that a person has violated any provision of P.L.1983,
38 c.392 (C.13:1E-126 et seq.), or any rule or regulation adopted, or
39 license issued, pursuant thereto, the department may:

40 (1) Issue an order requiring the person found to be in violation to
41 comply in accordance with subsection c. of this section;

42 (2) Bring a civil action in accordance with subsection d. of this
43 section;

44 (3) Levy a civil administrative penalty in accordance with
45 subsection e. of this section;

46 (4) Bring an action for a civil penalty in accordance with
47 subsection f. of this section; or

1 (5) Petition the Attorney General to bring a criminal action in
2 accordance with subsection g. of this section.

3 c. Whenever the department finds that a person has violated any
4 provision of P.L.1983, c.392 (C.13:1E-126 et seq.), or any rule or
5 regulation adopted, or license issued, pursuant thereto, the department
6 may issue an order specifying the provision or provisions of P.L.1983,
7 c.392 (C.13:1E-126 et seq.), or the rule, regulation, or license of which
8 the person is in violation, citing the action which constituted the
9 violation, ordering abatement of the violation, and giving notice to the
10 person of his right to a hearing on the matters contained in the order.
11 The ordered party shall have 20 calendar days from receipt of the order
12 within which to deliver to the department a written request for a
13 hearing. Such order shall be effective upon receipt, and any person to
14 whom such order is directed shall comply with the order immediately.
15 A request for hearing shall not automatically stay the effect of the
16 order.

17 d. The department, a local board of health, or a county health
18 department may institute an action or proceeding in the Superior Court
19 for injunctive and other relief, including the appointment of a receiver
20 for any violation of P.L.1983, c.392 (C.13:1E-126 et seq.), or of any
21 rule or regulation adopted, or license issued, pursuant to P.L.1983,
22 c.392 (C.13:1E-126 et seq.), and the court may proceed in the action in
23 a summary manner. In any such proceeding the court may grant
24 temporary or interlocutory relief. Such relief may include, singly or in
25 combination:

26 (1) A temporary or permanent injunction;

27 (2) Assessment of the violator for the costs of any investigation,
28 inspection, or monitoring survey which led to the establishment of the
29 violation, and for the reasonable costs of preparing and litigating the
30 case under this subsection;

31 (3) Assessment of the violator for any cost incurred by the State in
32 removing, correcting, or terminating the adverse effects upon air
33 quality or water quality resulting from any violation of any provision
34 of P.L.1983, c.392 (C.13:1E-126 et seq.), or any rule or regulation
35 adopted, or licensed issued, pursuant thereto for which the action
36 under this subsection may have been brought;

37 (4) Assessment against the violator of compensatory damages for
38 any loss or destruction of wildlife, fish or aquatic life, and for any
39 other actual damages caused by any violation of P.L.1983, c.392
40 (C.13:1E-126 et seq.) or any rule or regulation adopted, or license
41 issued, pursuant thereto for which the action under this subsection may
42 have been brought. Assessments under this subsection shall be paid to
43 the State Treasurer, or to the local board of health, or to the county
44 health department, as the case may be, except that compensatory
45 damages may be paid by specific order of the court to any persons who
46 have been aggrieved by the violation.

47 If a proceeding is instituted by a local board of health or county
48 health department, notice thereof shall be served upon the department

1 in the same manner as if the department were a named party to the
2 action or proceeding. The department may intervene as a matter of
3 right in any proceeding brought by a local board of health or county
4 health department.

5 e. The department is authorized to assess a civil administrative
6 penalty of not more than \$50,000.00 for each violation provided that
7 each day during which the violation continues shall constitute an
8 additional, separate, and distinct offense. The department shall not
9 assess a civil administrative penalty in excess of \$25,000.00 for a
10 single violation, or in excess of \$2,500.00 for each day during which a
11 violation continues, until the department has adopted, pursuant to the
12 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.),
13 rules and regulations requiring the department, in assessing a civil
14 administrative penalty, to consider the operational history of the
15 violator, the severity of the violation, the measures taken to mitigate or
16 prevent further violations, and whether the penalty will maintain an
17 appropriate deterrent. No assessment shall be levied pursuant to this
18 section until after the violator has been notified by certified mail or
19 personal service. The notice shall include a reference to the section of
20 the statute, rule, regulation, or license violated, a concise statement of
21 the facts alleged to constitute a violation, a statement of the amount of
22 the civil administrative penalties to be imposed, and a statement of the
23 party's right to a hearing. The ordered party shall have 20 calendar
24 days from receipt of the notice within which to deliver to the
25 department a written request for a hearing. After the hearing and upon
26 finding that a violation has occurred, the department may issue a final
27 order after assessing the amount of the fine specified in the notice. If
28 no hearing is requested, the notice shall become a final order after the
29 expiration of the 20-day period. Payment of the assessment is due
30 when a final order is issued or the notice becomes a final order. The
31 authority to levy a civil administrative penalty is in addition to all
32 other enforcement provisions in P.L.1983, c.392 (C.13:1E-126 et seq.)
33 and P.L.1970, c. 39 (C. 13:1E-1 et seq.), and the payment of any
34 assessment shall not be deemed to affect the availability of any other
35 enforcement provisions in connection with the violation for which the
36 assessment is levied. The department may settle any civil
37 administrative penalty assessed under this section in an amount the
38 department determines appropriate.

39 f. Any person who violates the provisions of P.L.1983, c.392
40 (C.13:1E-126 et seq.), or any rule or regulation adopted, or licensed
41 issued, pursuant thereto shall be liable to a penalty of not more than
42 \$50,000.00 per day, to be collected in a civil action commenced by a
43 local board of health, a county health department, or the department.

44 Any person who violates an administrative order issued pursuant to
45 subsection c. of this section, or a court order issued pursuant to
46 subsection d. of this section, or who fails to pay an administrative
47 assessment in full pursuant to subsection e. of this section is subject

1 upon order of a court to a civil penalty not to exceed \$100,000.00 per
2 day of such violations.

3 Any penalty imposed pursuant to this subsection may be collected
4 with costs in a summary proceeding pursuant to "the penalty
5 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and the
6 municipal court shall have jurisdiction to enforce the provisions of
7 "the penalty enforcement law" in connection with this act.

8 g. Any person who engages in soil and fill recycling services
9 without a registration issued pursuant to section 1 of P.L. , c. (C.)
10 (pending before the Legislature as this bill), or a soil and fill recycling
11 license issued pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133),
12 as appropriate, or who knowingly makes any false or misleading
13 statement to the department or the Attorney General in connection
14 with a registration or license, shall, upon conviction, be guilty of a
15 crime of the third degree and, notwithstanding the provisions of
16 N.J.S.2C:43-3, shall be subject to a fine of not more than \$50,000.00
17 for the first offense and not more than \$100,000.00 for the second and
18 each subsequent offense and restitution, in addition to any other
19 appropriate disposition authorized by subsection b. of N.J.S.2C:43-2.

20 h. Any person who collects, transports, treats, stores, brokers,
21 transfers, or disposes of solid waste or hazardous waste, or that
22 engages in soil and fill recycling services, shall furnish the appropriate
23 license or registration upon the request of any law enforcement officer
24 or any agent of the department, a local board of health, or a county
25 health department.

26 i. Pursuit of any remedy specified in this section shall not preclude
27 the pursuit of any other remedy provided by any other law.
28 Administrative and judicial remedies provided in this section may be
29 pursued simultaneously
30

31 18. (New section) The department, a local board of health, and a
32 county health department shall have the right to enter, inspect, and
33 take samples at or from, any facility or premises used in connection
34 with the provision of soil and fill recycling services in order to
35 determine compliance with a registration issued pursuant to section 1
36 of P.L. , c. (C.) (pending before the Legislature as this bill), a soil
37 and fill recycling license issued pursuant to section 8 of P.L.1983,
38 c.392 (C.13:1E-133), and any other applicable law, and rules and
39 regulations adopted pursuant thereto.
40
41

42 STATEMENT

43
44 This bill amends existing law to expand the requirement for
45 background checks to a broader range of persons involved in the solid
46 waste industry, such as sales persons, consultants, and brokers. The
47 bill also subjects persons or business concerns engaged in soil and fill

1 recycling services to the same regulation and oversight under the law
2 as that which applies to the solid waste industry.

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

22 The bill requires any business concern that actively engages in, or
23 otherwise provides soil and fill recycling services to register with the
24 DEP no later than 90 days after the date of enactment of the bill. The
25 bill establishes the information that must be provided in the
26 registration form. No more than 90 days after submission of a
27 registration form, the DEP would be required to issue a temporary soil
28 and fill recycling registration to the business concern. No more than
29 270 days after the effective date of the bill, a registrant would be
30 required to submit an application for a soil and fill recycling license
31 with the Attorney General. A soil and fill recycling registration issued
32 under the bill would expire upon a failure by the registrant to submit
33 an application for a soil and fill recycling license or upon a final
34 determination by the DEP regarding the registrant’s application. The
35 soil and fill recycling registration would authorize a registrant to
36 provide soil and fill recycling services pending the approval or denial
37 of the registrant’s application. The bill would prohibit a business
38 concern from engaging in soil and fill recycling services without a soil
39 and fill recycling registration, soil and fill recycling license, or a prior
40 approval issued by the department pursuant to P.L.1983, c.392
41 (C.13:1E-126 et seq.). The registration program established in the bill
42 is temporary in nature, and any business concern that seeks to engage
43 in soil and fill recycling services later than 90 days after the effective
44 date of the bill that has not submitted a registration form would be
45 required to file an application for a soil and fill recycling license.

46 The bill prohibits the issuance of an A901 approval to persons
47 debarred from operating in other states, and prohibits individuals
48 otherwise deemed unsuitable for the solid waste or recycling

1 industries, convicted felons, and others of questionable character from
2 holding an indirect, non-licensed stake in a solid waste or recycling
3 industry (for example, those involved in vehicle leasing arrangements
4 or property rental agreements with legitimate licensees).

5 The bill requires the DEP, the Department of the Treasury, and the
6 Attorney General to enter into a memorandum of agreement to provide
7 for a reciprocal information exchange method to provide each agency
8 with more effective and efficient access to information on the solid
9 waste and soil and fill recycling industries and their license and permit
10 holders and license and permit applicants, and to facilitate appropriate
11 sharing of such information among relevant government agencies in
12 New Jersey and elsewhere. The bill requires the Attorney General to
13 establish a reciprocal information exchange method with the State of
14 New York and other states in the region to facilitate sharing of
15 information on the solid waste and soil and fill recycling industries
16 among the states in the region. The bill also requires the establishment
17 of a centralized list in the Department of the Treasury of individuals
18 and corporate entities who have been debarred by various State
19 agencies from participation in a number of regulated industries apart
20 from solid waste and recycling, such as construction, the casino
21 gaming industry, and transportation.

22 The bill also adds a penalty section to P.L.1983, c.392 (C.13:1E-
23 126 et seq.) (the "A901" licensing law). The bill requires any person
24 who collects, transports, treats, stores, brokers, transfers, or disposes of
25 solid waste or hazardous waste, or who engages in soil and fill
26 recycling services, to furnish the appropriate license or registration
27 upon the request of any law enforcement officer or any agent of the
28 DEP, a local board of health, or a county health department. In
29 addition, the bill permits the DEP, a local board of health, and a county
30 health department to enter, inspect, and take samples at or from any
31 facility or premises used in connection with the provision of soil and
32 fill recycling services in order to determine compliance with the
33 provisions of the bill, P.L.1983, c.392 (C.13:1E-133), and any other
34 applicable law, rule, or regulation.