



General Assembly

February Session, 2008

Raised Bill No. 522

LCO No. 2437

02437 _____ GL_

Referred to Committee on General Law

Introduced by:

(GL)

AN ACT REQUIRING THE LICENSING AND OVERSIGHT OF PRIVATE SOLID WASTE HAULERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2009*) As used in sections 1 to 7,
2 inclusive, of this act:

3 (1) "Engaged in the collection of solid waste" means in the business
4 of collection and transportation of solid waste from its location to a
5 solid waste facility.

6 (2) "Solid waste" has the same meaning as set forth in section 22a-
7 207 of the general statutes.

8 (3) "Business entity" means any corporation, association, firm,
9 partnership, trust or other form of commercial organization.

10 (4) "Equity" means a financial interest or ownership right in
11 property.

12 (5) "Solid waste facility" has the same meaning as set forth in section
13 22a-207 of the general statutes.

14 (6) "Licensee" means any person issued a license pursuant to section
15 3 of this act.

16 (7) "Commissioner" means the Commissioner of the Department of
17 Consumer Protection.

18 (8) "Affiliate" or "affiliated" means a person that directly, or
19 indirectly through one or more intermediaries, controls, is controlled
20 by or is under common control with another person.

21 (9) "Control", "controlled by" or "under common control with"
22 means the possession, direct or indirect, of the power to direct or cause
23 the direction of the management and policies of a person, whether
24 through the ownership of voting securities, by contract other than a
25 commercial contract for goods or nonmanagement services, or
26 otherwise, unless the power is the result of an official position with the
27 person.

28 Sec. 2. (NEW) (*Effective January 1, 2009*) (a) No person shall engage
29 in the collection of solid waste without a license issued by the
30 Department of Consumer Protection under section 3 of this act. The
31 license shall be valid for a period of five years and renewable. The
32 provisions of this section shall not apply to any state, municipal or
33 quasi-public agency.

34 (b) The license application filed pursuant to this section shall
35 include, but not be limited to, the following:

36 (1) The full name and business address of the applicant, or if the
37 applicant is a business entity, its full name, including any other name
38 by which the business entity has been known in the ten years
39 preceding the filing of the application, its business address, its state of
40 incorporation and the name and address of each officer, director,
41 manager or partner and the name of any person or business entity
42 which directly, or indirectly through another business entity, holds
43 five per cent or more of equity or debt liability in the applicant;

44 (2) The full name and address of any business entity engaged in the
45 collection of solid waste of which the applicant has been an officer,
46 director, manager or partner, or in which the applicant has held
47 directly, or indirectly through another business entity, five per cent or
48 more of equity or debt liability in the applicant, during the five years
49 preceding the filing of the application;

50 (3) A description of the experience and credentials possessed by the
51 applicant, or if the applicant is a business entity, the experience and
52 credentials possessed by its officers, directors, managers or partners in
53 the collection of solid waste. Such description shall include past and
54 present licenses, permits and approvals for the collection of solid
55 waste;

56 (4) Information regarding any notices of violations of administrative
57 orders, civil proceedings or license revocations by any municipal, state
58 or federal authority that occurred not more than ten years preceding
59 the filing of the application, concerning a violation of any
60 environmental protection law, rule or regulation by the applicant, or if
61 the applicant is a business entity, concerning such a violation by an
62 officer, director, partner thereof, or any person or business entity,
63 which directly, or indirectly through another business entity, holds
64 five per cent or more of equity or debt liability in the applicant;

65 (5) Information regarding any pending charges in any state
66 involving violations of, or civil judgments of liability or criminal
67 convictions of, any municipal, state or federal law against the
68 applicant, or if the applicant is a business entity, such judgments or
69 convictions against any officer, director or partner or any person or
70 business entity, which directly, or indirectly through another business
71 entity, holds five per cent or more of equity or debt liability in the
72 applicant;

73 (6) A certification that all federal, state and local taxes have been
74 paid for the five years preceding the date of the application;

75 (7) The name and address of any solid waste facility operated by the
76 applicant;

77 (8) Fully audited financial information as to the financial condition
78 of the applicant for the preceding three fiscal years, or for such lesser
79 period as such applicant has been in existence;

80 (9) A list and detailed description of all affiliates of the applicant;
81 and

82 (10) Any other information the commissioner may require in
83 regulations adopted pursuant to section 7 of this act.

84 (c) The commissioner shall require the applicant or, if the applicant
85 is a business entity, any director, officer, partner or owner of more than
86 five per cent of the total outstanding stock of any class of the
87 applicant's business to submit to state and national criminal history
88 records checks in accordance with section 29-17a of the general
89 statutes.

90 Sec. 3. (NEW) (*Effective January 1, 2009*) (a) The commissioner may
91 issue, deny, modify, renew, suspend or revoke a solid waste hauling
92 license under such conditions as the commissioner may prescribe and
93 upon submission of such information as the commissioner may
94 require, in accordance with this section and the regulations adopted
95 pursuant to section 7 of this act.

96 (b) The commissioner may deny an application for a new license for
97 solid waste hauling or the renewal of such license or revoke a license
98 for solid waste hauling issued pursuant to this section, if: (1) The
99 commissioner determines that the applicant has not exhibited expertise
100 or competence in the area of collection of solid waste; (2) any person
101 listed in the license application has been convicted by a court of
102 competent jurisdiction of the following: Murder; robbery; bribery;
103 extortion; criminal usury; arson; burglary; tax evasion; tax fraud;
104 felonious acts of larceny; forgery; fraud in the offering; alteration of

105 motor vehicle identification numbers; violation of any provision of
106 chapter 420b of the general statutes; racketeering; or any violation of a
107 criminal or civil provision of the federal or state environmental
108 protection or antitrust law, rule or regulation; (3) the applicant fails to
109 submit any of the information required in the permit application
110 pursuant to section 2 of this act; (4) the financial condition of the
111 licensee or applicant is such as would harm consumers; or (5) the
112 licensee has not conducted its business in compliance with the
113 requirements of this act.

114 (c) If the commissioner denies, suspends, revokes or refuses to grant
115 an application to modify or renew a license for solid waste hauling, the
116 commissioner shall notify the applicant of such decision, the reason for
117 such decision and of the applicant's right to request a hearing not later
118 than ten days after the receipt of the notice of the commissioner's
119 decision. If the applicant or licensee requests a hearing not later than
120 ten days after the receipt of such notice, the commissioner shall
121 conduct a hearing concerning such refusal, in accordance with the
122 provisions of chapter 54 of the general statutes, concerning contested
123 matters.

124 Sec. 4. (NEW) (*Effective January 1, 2009*) All licensees shall have an
125 annual audit by an independent certified public accountant and shall
126 file an audited financial report with the commissioner on or before
127 June first for the year ended December thirty-first immediately
128 preceding. The commissioner may require any licensee to provide such
129 additional financial information as the commissioner deems necessary
130 and appropriate to ensure that a licensee remains financially viable
131 and is in compliance with the requirements of this act.

132 Sec. 5. (NEW) (*Effective January 1, 2009*) No transaction between a
133 licensee and one or more of its affiliates shall be effective until the
134 licensee has notified the commissioner in writing of its intention to
135 enter into such transaction at least thirty days prior thereto, or such
136 shorter period as the commissioner may permit, and the commissioner

137 has approved or not disapproved it within such period. The
138 commissioner may require the licensee to submit any information
139 concerning the proposed transaction as the commissioner deems
140 necessary to properly review and consider such transaction.

141 Sec. 6. (NEW) (*Effective January 1, 2009*) No person may merge with
142 or acquire control of a licensee, whether directly or indirectly, until
143 such merger or acquisition of control has been approved by the
144 commissioner. The commissioner shall approve such merger or
145 acquisition of control unless, following a public hearing, the
146 commissioner finds that: (1) After the merger or change of control the
147 licensee would not be able to satisfy the requirements for holding a
148 license under this act; (2) the financial condition of the acquiring party
149 is such as might jeopardize the financial stability of the licensee or
150 harm consumers; or (3) the competence, experience and integrity of
151 those persons who would control the operation of the licensee are such
152 that it would not be in the interest of consumers or contract holders of
153 the licensee or of the public to permit the merger or acquisition of
154 control.

155 Sec. 7. (NEW) (*Effective from passage*) Not later than January 1, 2009,
156 the commissioner shall adopt regulations, in accordance with the
157 provisions of chapter 54 of the general statutes, to implement the
158 provisions of sections 1 to 6, inclusive, of this act, including, but not
159 limited to, establishment of a reasonable application fee sufficient to
160 cover the costs of implementation of sections 1 to 6, inclusive, of this
161 act and a requirement that the licensee has an ongoing duty to notify
162 the commissioner of civil judgments of liability or convictions that
163 would be disclosed on the application pursuant to subdivision (5) of
164 subsection (b) of section 2 of this act, not later than five business days
165 after such judgment or conviction. Such regulations shall also establish
166 a bill of rights for consumers concerning services provided by a
167 licensee. Such bill of rights shall contain provisions intended to protect
168 consumers, including, but not limited to, fairness in the conduct of
169 licensee contracts with consumers and adequate minimum notice

170 provisions for the termination of such contracts or increases in the
171 rates governing such contracts.

172 Sec. 8. (NEW) (*Effective January 1, 2009*) A violation of the provisions
173 of section 2, 4, 5 or 6 or of any regulation adopted pursuant to section 7
174 of this act constitutes an unfair trade practice under subsection (a) of
175 section 42-110b of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2009</i>	New section
Sec. 2	<i>January 1, 2009</i>	New section
Sec. 3	<i>January 1, 2009</i>	New section
Sec. 4	<i>January 1, 2009</i>	New section
Sec. 5	<i>January 1, 2009</i>	New section
Sec. 6	<i>January 1, 2009</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>January 1, 2009</i>	New section

Statement of Purpose:

To protect consumers by requiring the licensing and oversight of private solid waste haulers.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]