



# Senate

General Assembly

**File No. 239**

January Session, 2009

Substitute Senate Bill No. 324

*Senate, March 26, 2009*

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT REQUIRING THE REGISTRATION OF PRIVATE SOLID WASTE COLLECTORS.**

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

1 Section 1. (NEW) (*Effective October 1, 2010*) As used in this section  
2 and sections 2 to 4, inclusive, of this act:

3 (1) "Certificate" means a certificate of registration issued under  
4 section 2 of this act;

5 (2) "Commissioner" means the Commissioner of Consumer  
6 Protection or any person designated by the commissioner to  
7 administer and enforce this section and sections 2 to 4, inclusive, of this  
8 act;

9 (3) "Engage in the collection of solid waste" means to collect and  
10 transport solid waste from its location to a solid waste facility for the  
11 purpose of compensation or profit;

12 (4) "Solid waste" has the same meaning as set forth in section 22a-

13 207 of the general statutes; and

14 (5) "Person" means one or more individuals, partnerships,  
15 associations, corporations, limited liability companies, business trusts,  
16 legal representatives or any organized group of persons. "Person" shall  
17 not include any state or municipal entity or quasi-public agency.

18 Sec. 2. (NEW) (*Effective October 1, 2010*) (a) No person shall engage  
19 in the collection of solid waste or hold himself or herself out as a solid  
20 waste collector unless such person has been issued a certificate of  
21 registration by the commissioner in accordance with the provisions of  
22 this section.

23 (b) Any person seeking a certificate of registration shall apply to the  
24 commissioner, in writing, on a form provided by the commissioner.  
25 The application shall include (1) the applicant's name, business street  
26 address and business telephone number, (2) the identity of the insurer  
27 that provides the applicant with insurance coverage for liability, (3) if  
28 such applicant is required by any provision of the general statutes to  
29 have workers' compensation coverage, the identity of the insurer that  
30 provides the applicant with such workers' compensation coverage, and  
31 (4) if such applicant is required by any provision of the general statutes  
32 to have an agent for service of process, the name and address of such  
33 agent. Each such application shall be accompanied by a fee of two  
34 hundred fifty dollars.

35 (c) Certificates issued to solid waste collectors shall not be  
36 transferable or assignable.

37 (d) All certificates issued under the provisions of this section shall  
38 expire annually. The fee for renewal of a certificate shall be the same as  
39 the fee charged for an original application.

40 (e) A certificate shall not be restored unless it is renewed not later  
41 than one year after its expiration.

42 (f) Failure to receive a notice of expiration or a renewal application  
43 shall not exempt a solid waste collector from the obligation to renew

44 his or her certificate.

45 (g) The certification required by this section shall be in addition to  
46 the registration required by section 22a-220a of the general statutes.

47 Sec. 3. (NEW) (*Effective October 1, 2010*) The commissioner may  
48 revoke, suspend or refuse to issue or renew any certificate issued  
49 pursuant to section 2 of this act, or place a registrant on probation or  
50 issue a letter of reprimand after notice and hearing, in accordance with  
51 the provisions of chapter 54 of the general statutes, concerning  
52 contested cases if it is shown that the holder of such certificate has: (1)  
53 Failed to comply with any provision of section 2 of this act; (2)  
54 obtained the certificate through fraud or misrepresentation; (3)  
55 engaged in conduct of a character likely to mislead, deceive or defraud  
56 the public or the commissioner; (4) engaged in any untruthful or  
57 misleading advertising; (5) engaged in an unfair or deceptive business  
58 practice under subsection (a) of section 42-110b of the general statutes;  
59 or (6) if applicable, failed to maintain a certificate of good standing  
60 issued by the office of the Secretary of the State.

61 Sec. 4. (NEW) (*Effective October 1, 2010*) (a) The commissioner may,  
62 after notice and hearing, in accordance with the provisions of chapter  
63 54 of the general statutes, impose a civil penalty on any person who (1)  
64 engages in or practices the work for which a certificate of registration  
65 is required by section 2 of this act, without having first obtained such a  
66 certificate of registration, (2) engages in or practices any of the work  
67 for which a certificate of registration is required by section 2 of this act  
68 after the expiration of such person's certificate of registration, or (3)  
69 violates any of the provisions of section 2 of this act.

70 (b) Such civil penalty shall not exceed (1) five hundred dollars for a  
71 first violation, (2) seven hundred fifty dollars for a second violation  
72 occurring not more than three years after a prior violation, and (3) one  
73 thousand five hundred dollars for a third or subsequent violation  
74 occurring not more than three years after a prior violation.

75 (c) Any civil penalty collected pursuant to this section shall be

76 deposited in the consumer protection enforcement account established  
77 in section 21a-8a of the general statutes.

78 Sec. 5. (NEW) (*Effective October 1, 2010*) A violation of any of the  
79 provisions of section 2 of this act shall be deemed an unfair or  
80 deceptive trade practice under subsection (a) of section 42-110b of the  
81 general statutes.

82 Sec. 6. Section 42-158aa of the general statutes is repealed and the  
83 following is substituted in lieu thereof (*Effective January 1, 2010*):

84 (a) No provision of a contract for refuse removal or disposal which  
85 states that the term of such contract shall be deemed renewed for a  
86 [specified additional] period of time in excess of one year shall be  
87 enforceable unless [the person against whom such provision is to be  
88 enforced initialed or signed a conspicuous statement immediately  
89 following such provision, stating, in boldface type at least twelve  
90 points in size: "I acknowledge that this contract contains an  
91 AUTOMATIC RENEWAL provision." ] the recipient of such refuse  
92 removal or disposal services initials or signs a clear and conspicuous  
93 written statement agreeing to the renewal of such contract provision  
94 not earlier than ninety days prior to the renewal date for such services.  
95 The provisions of this subsection apply to written contracts and shall  
96 also apply to contracts meeting the requirements of the Connecticut  
97 Uniform Electronic Transactions Act, sections 1-266 to 1-286, inclusive.

98 (b) The provisions of this section shall not apply to: (1) Any contract  
99 in which the automatic renewal period specified is [thirty-one days or]  
100 less than one year and can be cancelled at any time without penalty or  
101 damages, or (2) a written contract, other than a contract for refuse  
102 removal or disposal, that is subject to the provisions of section 42-126b.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	New section
Sec. 3	<i>October 1, 2010</i>	New section

Sec. 4	<i>October 1, 2010</i>	New section
Sec. 5	<i>October 1, 2010</i>	New section
Sec. 6	<i>January 1, 2010</i>	42-158aa

***Statement of Legislative Commissioners:***

In section 2, subsection (g) was added to clarify statutory registration requirements, and in sections 2 to 5, inclusive, references to "sections 2 to 4, inclusive" were changed to "this section" or "section 2" for accuracy of reference.

**GL**        *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Consumer Protection, Dept.	GF - Cost	None	600,000 to 700,000
Consumer Protection, Dept.	GF - Revenue Gain	None	12,500
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	None	275,000 to 375,000

Note: GF=General Fund

**Municipal Impact:** None

### **Explanation**

The bill results in a cost to the state in FY 11 of \$875,000 to \$1,075,000. The bill would require nine to eleven additional personnel at the Department of Consumer Protection (DCP) including Attorney(s), an Accountant, Investigators and other administrative staff plus associated fringe benefits and office equipment.

The bill would require a fee of \$250 per waste hauler. Based on the DCP estimate of 50 impacted haulers in the state, a total of \$12,500 would be generated in fee revenue. Additional potential revenue would be generated through any civil penalties and Connecticut Unfair Trade Practices Act (CUTPA) violations.

### **The Out Years**

<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller on an actual cost basis. The following is provided for estimated costs associated with additional personnel. The estimated non-pension fringe benefit rate as a percentage of payroll is 25.43%. Fringe benefit costs for new positions do not initially include pension costs as the state's pension contribution is based upon the 6/30/08 actuarial valuation for the State Employees Retirement System (SERS) which certifies the contribution for FY 10 and FY 11. Therefore, new positions will not impact the state's pension contribution until FY 12 after the next scheduled certification on 6/30/2010.

The annualized ongoing fiscal impact would be \$860,000 to \$1,060,000 per year for ongoing personnel costs.

**OLR Bill Analysis****sSB 324*****AN ACT REQUIRING THE REGISTRATION OF PRIVATE SOLID WASTE COLLECTORS.*****SUMMARY:**

This bill requires solid waste collectors, other than state or municipal entities or quasi-public agencies to obtain a certificate of registration from the Department of Consumer Protection (DCP). The commissioner may revoke, suspend, or refuse any certificate, place a registrant on probation, or issue a letter of reprimand after notice and hearing if the certificate-holder has:

1. failed to comply with the bill's provisions;
2. obtained the certificate through fraud or misrepresentation;
3. engaged in conduct likely to mislead, deceive, or defraud;
4. engaged in misleading or untruthful advertising;
5. engaged in an unfair or deceptive business practice; or
6. failed to maintain a certificate of good standing from the secretary of the state, if applicable.

The bill authorizes DCP to impose a civil penalty for engaging in work without a certificate, engaging in work after the expiration of a certificate, or violating the bill's other provisions relating to the certificate. A violation is an unfair trade practice.

The bill also limits contracts for refuse removal or disposal to one year unless the recipient of the services signs or initials a clear and conspicuous written statement. This limitation does not apply to (1)

contracts in which the auto-renewal period is less than one year and can be cancelled without penalty or (2) written contracts other than those for refuse removal.

EFFECTIVE DATE: October 1, 2010

### **CERTIFICATES**

To obtain a certificate, an applicant must provide a written application including the (1) name, business address, and business phone number; (2) insurer's identity; (3) identity of the workers' compensation coverage insurer, if applicable; (4) agent for service of process's name and identity, if applicable; and (5) a \$250 application fee.

Certificates are not assignable or transferable. The annual renewal fee is \$250. They may not be restored unless renewed within a year of expiration. Failure to receive notice of expiration does not exempt a registrant from renewal obligations.

### **PENALTIES**

After notice and hearing, DCP may impose a civil penalty on individuals engaging in work without a certificate, engaging in work after the expiration of a certificate, or violating the bill's other provisions relating to the certificate. The penalty may not exceed (1) \$500 for a first violation, (2) \$750 for a second violation within three years, (3) \$1,500 for a third or subsequent violation within three years of prior violations. These penalties must be deposited in the consumer protection enforcement account.

### **BACKGROUND**

#### ***Connecticut Unfair Trade Practices Act***

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask

the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

**Consumer Protection Enforcement Account**

The statutorily established account is funded with (1) revenue generated from imposing fines for licensing law violations and (2) up to \$400,000 per year from the Home Improvement Guaranty Fund. DCP must use the account “to fund positions and other related expenses” to enforce the licensing and registration laws it administers (CGS § 21a-8a).

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 12 Nay 7 (03/10/2009)