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**State of Connecticut**

**TESTIMONY OF  
ATTORNEY GENERAL RICHARD BLUMENTHAL  
BEFORE THE GENERAL LAW COMMITTEE  
FEBRUARY 13, 2009**

I appreciate the opportunity to support Senate Bill 324, An Act Concerning the Mandatory Licensing and Oversight of Trash Haulers with the attached amendment.

This proposal requires the Department of Consumer Protection to license all trash haulers and conduct criminal background checks on all officers and managers. The proposal grants broad oversight authority to the Department.

I support the concept of Senate Bill 324 but urge the committee to consider the attached amendment that requires private solid waste haulers that have more than 3 trash hauling vehicles to obtain a license from the Department of Environmental Protection. Prior to issuing such a license the DEP must conduct a background check on the hauler's owner and key officers and directors, ensuring that only reputable individuals are working in this industry that -- while containing many law-abiding citizens -- has been fraught with illegal activity and organized crime connections. The proposal mandates sufficient insurance for any environmental contamination and establishes civil penalties for solid waste hauler violations of environmental laws. The proposal also prohibits certain contractual provisions that are used to limit a consumer's ability to obtain competitive offers or purchase services from a competing firm.

These proposals are not new or novel. Several states and New York counties have enacted these provisions to combat illegal activity in the solid waste hauling industry.

For more than ten years, I have advocated licensing requirements for solid waste haulers, following our successful antitrust civil actions against the solid waste companies in the Hartford and Stamford areas. We recovered almost \$2 million in forfeitures and restitution. The cases we did in the early 1990's, in cooperation with the Department of Justice, involved illegality similar to the violations currently prosecuted by federal authorities. I continue to investigate wrongdoing within this industry.

Connecticut needs an adequately funded system of licensing -- with thorough, comprehensive background checks. DEP already licenses solid waste facilities and hazardous waste haulers. There would be significant economies of scale and efficiency in extending this licensing system to solid waste haulers. I urge the committee's favorable consideration of Senate Bill 324 with the attached amendment.

**PROPOSED AMENDMENT TO SENATE BILL 324, AN ACT CONCERNING THE  
MANDATORY LICENSING AND OVERSIGHT OF TRASH HAULERS**

**SUMMARY:** This proposal requires any private solid waste hauler that operates with four or more vehicles to be licensed by the Department of Environmental Protection. The DEP shall require background information on any person with a significant ownership interest in the solid waste hauler and shall only issue a license to an applicant that exhibits expertise and competence in the collection of solid waste and insurance liability coverage of no less than \$1 million for environmental damage. The DEP shall conduct a criminal background check on the applicant and individuals with a significant interest in the business. Any person who operates a solid waste hauling business without a license shall be liable for a civil penalty of up to \$25,000 per day. Any person who knowingly operates a solid waste hauling business without a license may be assessed a criminal fine of up to \$25,000 for the first violation and a prison term of up to 2 years; for any subsequent violation such person would be assessed a criminal fine of up to \$50,000 and a prison term of up to 5 years. Finally, the proposal prohibits abusive contractual terms that have been found in Connecticut solid waste contracts by: (1) prohibiting contract terms of longer than 2 years for contracts with consumers and small businesses; (2) requiring consumers have the ability to terminate any contract that was automatically renewed; (3) limiting consumer notice of termination to the licensee to no more than 30 days prior to the extension of such contract; (4) prohibiting a licensee from requiring the consumer disclose any competitive offers for solid waste pick-up and transportation services; (5) requiring consumers receive notice of any increase in rates at least 30 days prior to such increase going into effect and notice of any subcontract or assignment of a licensee's responsibilities at least 60 days prior to such subcontract or assignment going into effect and providing the consumer with the ability to terminate such contract after such notice. These provisions do not apply to municipal contracts or to large solid waste contracts with private businesses.

**TEXT:**

Section 1. (NEW) (*Effective January 1, 2010*) As used in this act:

(1) "Engage in the collection of solid waste" means in the business of pickup and transportation of solid waste from its location to a solid waste facility.

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

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

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

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

Section 2. (NEW) (*Effective January 1, 2010*) (a) No person shall engage in the collection of solid waste from property that is not owned by such person without a license issued by the Department of Environmental Protection under section 3 of this act. The provisions of this section shall not apply to (1) any state, municipal or quasi-public agency or (2) any person who owns or operates less than four vehicles for the transportation of solid waste, including any such vehicles owned or operated by any other person or business entity engaged in the collection of solid waste in which such person holds five percent or more of the equity or debt liability. As used in this subsection, "vehicle" shall mean any motor vehicle designed, used or maintained primarily for the transportation of solid waste.

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

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

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

(3) If the applicant is an individual, a description of experience and credentials possessed by the applicant, or if the applicant is a business entity, the experience and credentials possessed by its officers, directors, managers or partners, in the collection of solid waste. Such description shall include past and present licenses, permits and approvals for the collection of solid waste;

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

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

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

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

(8) Proof of liability insurance in an amount not less than one million dollars for the costs of any remediating any environmental damage caused by such person; and

(9) Any other information the commissioner deems relevant.

(c) The Commissioner shall require the applicant or, if the applicant is a business entity, any director, officer, partner or owner of more than five percent of the total outstanding stock of any class of the applicant's business to submit to state and national criminal history records checks in accordance with section 29-17a.

Section 3. (NEW) (*Effective January 1, 2010*) (a) The Commissioner of Environmental Protection may issue, deny, modify, renew, suspend, revoke or transfer a license, under such conditions as the commissioner may prescribe and upon submission of such information as the commissioner may require, for the collection of solid waste, in accordance with this section and the regulations adopted pursuant to section 4 of this act.

(b) The commissioner may deny an application, renewal of a license or license transfer or revoke a license issued pursuant to this act, if (1) the commissioner determines that the applicant has not exhibited expertise or competence in the area of collection of solid waste; (2) any person listed in the license application has been convicted by a court of competent jurisdiction of the following: Murder; robbery; bribery; extortion; criminal

usury; arson; burglary; tax evasion; tax fraud; felonious acts of larceny; forgery; fraud in the offering; alteration of motor vehicle identification numbers; violation of any provision of chapter 420b of the general statutes; racketeering or any violation of a criminal or civil provision of the federal or state environmental protection or antitrust law, rule or regulation or (3) the applicant fails to submit any information required in the permit application pursuant to section 2 of this act.

(c) If the commissioner denies, suspends, revokes or refuses to grant an application to modify, renew, or transfer a license, the commissioner shall notify the applicant of such decision and of the applicant's right to request a hearing within ten days from the receipt of the notice of the commissioner's decision. If the applicant or licensee requests a hearing within ten days, the commissioner shall give notice of the grounds for such decision and shall conduct a hearing concerning such refusal, in accordance with the provisions of chapter 54 of the general statutes, concerning contested matters.

Section 4. (NEW) (*Effective January 1, 2010*) The Commissioner of Environmental Protection may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the provisions of this act, including, but not limited to, establishment of an application fee sufficient to cover the costs of implementation of this act and a requirement that the licensee have an ongoing duty to notify the Commissioner of civil judgments of liability or convictions that would be disclosed on the application pursuant to subdivision (5) of subsection (a) of section 3 of this act, within five business days of such judgment or conviction.

Section 5. Section 22a-226 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2010*):

(a) Any person who violates section 2 of this act or any provision of this chapter or any regulation, permit or order adopted or issued under this chapter, or any owner of land who knowingly permits such violations to occur on his land, shall be assessed a civil penalty not to exceed twenty-five thousand dollars, to be fixed by the court, for each offense. Each violation shall be a separate and distinct offense and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Attorney General, upon request of the commissioner, shall institute a civil action in the superior court for the judicial district of Hartford to recover such penalty.

(b) If any person violates section 2 of this act or any provision of this chapter or any regulation, permit or order adopted or issued under this chapter, the commissioner may request the Attorney General to bring an action in the superior court for the judicial district of Hartford to enjoin such person from such violation and to order remedial

measures to prevent, control or abate pollution. If two or more persons are responsible for a violation of section 2 of this act or any provision of this chapter or any regulation, permit or order adopted or issued under this chapter, such persons shall be jointly and severally liable under this subsection.

(c) Any action brought by the Attorney General pursuant to this section shall have precedence in the order of trial as provided in section 52-191.

Section 6. Section 22a-226a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2010*):

Any person who knowingly violates any provision of section 22a-252, section 22a-208a, section 22a-208c, section 2 of this act, any permit issued under said section 22a-208a, subsection (c) or (d) of section 22a-250, any regulation adopted under section 22a-209 or 22a-231, or any order issued pursuant to section 22a-225 shall be fined not more than twenty-five thousand dollars per day for each day of violation or imprisoned not more than two years or both. A subsequent conviction for any such violation shall carry a fine of not more than fifty thousand dollars per day for each day of violation or imprisonment for not more than five years or both.

Section 7. (NEW) (*Effective January 1, 2010*): (a) A contract between a consumer and a person engaged in the business of transportation of solid waste for the pickup and transportation of solid waste from a residential property or a commercial property within Connecticut to a solid waste facility shall:

- (1) not exceed two years in duration;
- (2) authorize the consumer, upon thirty days written notice to the licensee, to terminate such contract during a renewal period when such contract was extended by an automatic renewal of such contract;
- (3) allow a consumer to terminate such contract upon notice to the licensee not more than thirty days prior to the extension of such contract;
- (4) not include any requirement that the consumer notify the licensee of competitive offers for the pickup and transportation of solid waste of the consumer or otherwise limit the ability of the consumer to select their licensee of choice;
- (5) require the licensee to provide the consumer with written notice of any increase in the amount charged for such pickup and transportation services no less than thirty days prior to the effective date of such increase and of any subcontract or assignment of

contractual duties by the licensee no less than sixty days prior to the effective date of such subcontract or assignment. The contract shall also provide the consumer with no less than fourteen days after notice of such increase, subcontract or assignment to terminate such contract;

(6) not require a consumer to pay liquidated damages in the event such contract is terminated prior to the end of the initial or extended contract term.

(b) The provisions of subsection (a) shall not apply to any contract with any political subdivision of the state or with any person for the purposes of collecting more than three tons of solid waste annually.