

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 302**

**Senator Manning**

**Cosponsors: Senators Coley, Patton, Seitz**

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**A B I L L**

To amend sections 3734.41 and 3734.42 of the Revised 1  
Code to revise requirements governing background 2  
investigations for purposes of the Solid, 3  
Hazardous, and Infectious Wastes Law. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3734.41 and 3734.42 of the Revised 5  
Code be amended to read as follows: 6

**Sec. 3734.41.** As used in sections 3734.41 to 3734.47 of the 7  
Revised Code: 8

(A) "Applicant" means any person seeking a permit or license 9  
for an off-site facility and any person or business concern 10  
operating such a facility for an applicant. 11

(B) "Application" means the forms and accompanying documents 12  
filed in connection with the applicant's request for a permit. 13

(C) "Business concern" means any corporation, association, 14  
firm, partnership, trust, or other form of commercial 15  
organization. 16

(D) "Disclosure statement" means a statement submitted to the 17  
director of environmental protection and the attorney general by 18

an applicant. The statement shall include all of the following: 19

(1) The full name, business address, and social security 20  
number of the applicant or, if the applicant is a business 21  
concern, of all officers, directors, partners, or key employees 22  
thereof and all individuals or business concerns holding any 23  
equity in or debt liability of that business concern or, if the 24  
business concern is a publicly traded corporation, all individuals 25  
or business concerns holding more than five per cent of the equity 26  
in or debt liability of that business concern, except that when 27  
the debt liability is held by a chartered lending institution, the 28  
applicant need supply only the name and business address of the 29  
lending institution; 30

(2) The full name, business address, and social security 31  
number of all officers, directors, or partners of any business 32  
concern disclosed in the statement and the names and addresses of 33  
all persons holding any equity in or debt liability of any 34  
business concern so disclosed or, if the business concern is a 35  
publicly traded corporation, all individuals or business concerns 36  
holding more than five per cent of the equity in or debt liability 37  
of that business concern, except that when the debt liability is 38  
held by a chartered lending institution, the applicant need supply 39  
only the name and business address of the lending institution; 40

(3) The full name and business address of any company in 41  
which the applicant holds an equity interest and that collects, 42  
transfers, transports, treats, stores, or disposes of solid 43  
wastes, infectious wastes, or hazardous waste or processes solid 44  
wastes that consist of scrap tires; 45

(4) A description of the experience and credentials, 46  
including any past or present permits or licenses, for the 47  
collection, transfer, transportation, treatment, storage, or 48  
disposal of solid wastes, infectious wastes, or hazardous waste, 49  
or the processing of solid wastes that consist of scrap tires, 50

possessed by the applicant or, if the applicant is a business 51  
concern, by the officers, directors, partners, or key employees 52  
thereof; 53

(5) A listing and explanation of any civil or criminal 54  
prosecution by government agencies, administrative enforcement 55  
actions resulting in the imposition of sanctions, or license 56  
revocations or denials issued by any state or federal authority in 57  
the ten years immediately preceding the filing of the application, 58  
that are pending or have resulted in a finding or a settlement of 59  
a violation of any law or rule or regulation relating to the 60  
collection, transfer, transportation, treatment, storage, or 61  
disposal of solid wastes, infectious wastes, or hazardous waste, 62  
or the processing of solid wastes that consist of scrap tires, or 63  
of any other environmental protection statute, by the applicant 64  
or, if the applicant is a business concern, by the business 65  
concern or any officer, director, partner, or key employee 66  
thereof. For the purposes of division (D)(5) of this section, 67  
violations of any law or rule relating to the transportation of 68  
solid wastes, infectious wastes, or hazardous waste do not include 69  
violations that also apply to the transportation of commodities 70  
that are not wastes. 71

(6) A listing and explanation of any judgment of liability or 72  
conviction that was rendered pursuant to any state or federal law 73  
or local ordinance resulting in the imposition of a sanction 74  
against the applicant or, if the applicant is a business concern, 75  
against the business concern or any officer, director, partner, or 76  
key employee thereof in the five years immediately preceding the 77  
initial filing of an application; 78

(7) A listing of any agency outside this state that has or 79  
has had regulatory responsibility over the applicant in connection 80  
with its collection, transfer, transportation, treatment, storage, 81  
or disposal of solid wastes, infectious wastes, or hazardous waste 82

or processing of solid wastes that consist of scrap tires+ 83

~~(8) Any other information the attorney general or the 84  
director may require that relates to the competency, reliability, 85  
or good character of the applicant in the five years immediately 86  
preceding the initial filing of an application. 87~~

(E) "Key employee" means any individual, other than a public 88  
official or employee as defined in division (B) of section 102.01 89  
of the Revised Code who is required to file a statement under 90  
section 102.02 of the Revised Code, employed by the applicant or 91  
the licensee in a supervisory capacity or empowered to make 92  
discretionary decisions with respect to the solid waste, 93  
infectious waste, or hazardous waste operations of the business 94  
concern, but does not include any employee exclusively engaged in 95  
the physical or mechanical collection, transfer, transportation, 96  
treatment, storage, or disposal of solid wastes, infectious 97  
wastes, or hazardous waste or processing of solid wastes that 98  
consist of scrap tires. If the applicant or permittee has entered 99  
into a contract with another person to operate the facility that 100  
is the subject of the permit or license or application for a 101  
permit or license, "key employee" also includes those employees of 102  
the contractor who act in a supervisory capacity, or are empowered 103  
to make discretionary decisions, with respect to the operation of 104  
the solid, infectious, or hazardous waste facility. An officer or 105  
director of a business concern required to file a disclosure 106  
statement under section 3734.42 of the Revised Code who meets the 107  
definition of "key employee" shall be considered a key employee 108  
for purposes of the filing and disclosure requirements of sections 109  
3734.42 to 3734.47 of the Revised Code. 110

(F) "License" means the annual license required by section 111  
3734.05 of the Revised Code for an off-site solid waste disposal 112  
or transfer facility or an off-site infectious waste treatment 113  
facility. 114

(G) "Off-site facility" means a facility that is located off 115  
the premises where the solid wastes, infectious wastes, or 116  
hazardous waste is generated, but does not include any such 117  
facility that exclusively disposes of wastes that are generated 118  
from the combustion of coal, or from the combustion of primarily 119  
coal in combination with scrap tires, that is not combined in any 120  
way with garbage or any such facility that is owned and operated 121  
by the generator of the waste and that exclusively stores, 122  
processes, or disposes of or transfers solid wastes, exclusively 123  
treats infectious wastes, or exclusively disposes of hazardous 124  
waste, generated at one or more premises owned by the generator. 125

(H) "Permit" means a permit to install and any subsequent 126  
modifications for an off-site solid waste disposal facility, 127  
including an incineration facility, or transfer facility, issued 128  
under section 3734.05 of the Revised Code; a permit to install and 129  
any subsequent modifications for an off-site solid waste facility 130  
that is a scrap tire storage, monocell, monofill, or recovery 131  
facility issued under section 3734.76, 3734.77, or 3734.78 of the 132  
Revised Code, as applicable; a permit to install and any 133  
subsequent modifications for an off-site infectious waste 134  
treatment facility issued under section 3734.05 of the Revised 135  
Code; and a permit to install and operate an off-site hazardous 136  
waste treatment, storage, or disposal facility and the 137  
modification or renewal of a hazardous waste permit for the 138  
treatment, storage, or disposal of hazardous waste issued under 139  
section 3734.05 of the Revised Code. 140

(I) "Permittee" means any person who has received a permit or 141  
license for an off-site facility. 142

**Sec. 3734.42.** (A)(1) ~~Except as otherwise provided in division~~ 143  
~~(E)(2) of this section, every~~ Every applicant for a permit other 144  
than a permit modification or renewal shall file a disclosure 145

statement, on a form developed by the attorney general, with the 146  
director of environmental protection and the attorney general at 147  
the same time the applicant files an application for a permit 148  
other than a permit modification or renewal with the director. 149

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(2) Any individual required to be listed in the disclosure 151  
statement shall be fingerprinted for identification and 152  
investigation purposes in accordance with procedures established 153  
by the attorney general. An individual required to be 154  
fingerprinted under this section shall not be required to be 155  
fingerprinted more than once under this section. 156

(3) The attorney general, within one hundred eighty days 157  
after receipt of the disclosure statement from an applicant for a 158  
permit, shall prepare and transmit to the director an 159  
investigative report on the applicant, based in part upon the 160  
disclosure statement, except that this deadline may be extended 161  
for a reasonable period of time, for good cause, by the director 162  
or the attorney general. In preparing this report, the attorney 163  
general may request and receive criminal history information from 164  
the federal bureau of investigation and any other law enforcement 165  
agency or organization. The attorney general may provide such 166  
confidentiality regarding the information received from a law 167  
enforcement agency as may be imposed by that agency as a condition 168  
for providing that information to the attorney general. 169

(4) The review of the application by the director shall 170  
include a review of the disclosure statement and investigative 171  
report. 172

(B) All applicants and permittees shall provide any 173  
assistance or information requested by the director or the 174  
attorney general and shall cooperate in any inquiry or 175  
investigation conducted by the attorney general and any inquiry, 176  
investigation, or hearing conducted by the director. If, upon 177

issuance of a formal request to answer any inquiry or produce 178  
information, evidence, or testimony, any applicant or permittee, 179  
any officer, director, or partner of any business concern, or any 180  
key employee of the applicant or permittee refuses to comply, the 181  
permit of the applicant or permittee may be denied or revoked by 182  
the director. 183

(C) The attorney general may charge and collect such fees 184  
from applicants and permittees as are necessary to cover the costs 185  
of administering and enforcing the investigative procedures 186  
authorized in sections 3734.41 to 3734.47 of the Revised Code. The 187  
attorney general shall transmit moneys collected under this 188  
division to the treasurer of state to be credited to the solid and 189  
hazardous waste background investigations fund, which is hereby 190  
created in the state treasury. Moneys in the fund shall be used 191  
solely for paying the attorney general's costs of administering 192  
and enforcing the investigative procedures authorized in sections 193  
3734.41 to 3734.47 of the Revised Code. 194

~~(D) Annually on the anniversary date of the submission to the 195  
director by the attorney general of the investigative report for a 196  
specific facility, or annually on another date assigned by the 197  
attorney general, the An appropriate applicant, a permittee, or a 198  
prospective owner shall submit to the attorney general, on a form 199  
provided by the attorney general, ~~any and all information required~~ 200  
~~to be included in a disclosure statement that has changed or been~~ 201  
~~added in the immediately preceding year. If, in the immediately~~ 202  
~~preceding year, there have been no changes in or additions to the~~ 203  
~~information required to be included in a disclosure statement, the~~ 204  
~~appropriate applicant, permittee, or prospective owner shall~~ 205  
~~submit to the attorney general an affidavit stating that there~~ 206  
~~have been no changes in or additions to that information during~~ 207  
~~that time period.~~ 208~~

~~Notwithstanding the requirement for an annual submission of 209~~

~~information, the following information shall be submitted within~~ 210  
the periods specified: 211

(1) Information required to be included in the disclosure 212  
statement for any new officer, director, partner, or key employee, 213  
to be submitted within ninety days from the addition of the 214  
officer, director, partner, or key employee; 215

(2) Information required to be included in a disclosure 216  
statement ~~for~~ regarding the addition of any new business concern, 217  
to be submitted within ninety days from the addition of the new 218  
business concern; 219

~~(3) Information regarding any new criminal conviction, to be~~ 220  
~~submitted within ninety days from the judgment entry of~~ 221  
~~conviction.~~ 222

(E)(1) The attorney general shall enter in the database 223  
established under section 109.5721 of the Revised Code the name, 224  
the fingerprints, and other relevant information concerning each 225  
officer, director, partner, or key employee of an applicant, 226  
permittee, or prospective owner. 227

(2) For purposes of section 109.5721 of the Revised Code, 228  
annually on a date assigned by the attorney general, an applicant, 229  
permittee, or prospective owner shall provide the attorney general 230  
with a list of both of the following: 231

(a) Each officer, director, partner, or key employee of the 232  
applicant, permittee, or prospective owner and the person's 233  
address and social security number; 234

(b) Any officer, director, partner, or key employee of the 235  
applicant, permittee, or prospective owner who has left a position 236  
previously held with the applicant, permittee, or prospective 237  
owner during the previous one-year period and the person's social 238  
security number. 239



(3) Annually, the attorney general shall update the database established under section 109.5721 of the Revised Code to reflect the information provided by an applicant, permittee, or prospective owner under divisions (E)(2)(a) and (b) of this section. 240  
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(4) Notwithstanding division (C) of this section, the attorney general shall charge and collect fees from an applicant, permittee, or prospective owner that is required to submit information under this division in accordance with rules adopted under section 109.5721 of the Revised Code. The fees shall not exceed fees that are charged to any other person who is charged fees for purposes of the database established under that section and who is not an officer, director, partner, or key employee of an applicant, permittee, or prospective owner under this section. 245  
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(F)(1) Every three years, the attorney general shall request from the federal bureau of investigation any information regarding a criminal conviction with respect to each officer, director, partner, or key employee of an applicant, permittee, or prospective owner. The attorney general may take any actions necessary for purposes of this division, including, as necessary, requesting the submission of any necessary documents authorizing the release of information. 254  
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(2) Every three years, an applicant, permittee, or prospective owner shall submit an affidavit listing all of the following regarding a business concern required to be listed in the applicant's, permittee's, or prospective owner's disclosure statement: 262  
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(a) Any administrative enforcement order issued to the business concern in connection with any violation of any federal or state environmental protection laws, rules, or regulations during the previous three-year period; 267  
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(b) Any civil action in which the business concern was 271  
determined to be liable or was the subject of injunctive relief or 272  
another type of civil relief in connection with any violation of 273  
any federal or state environmental protection laws, rules, or 274  
regulations during the previous three-year period; 275

(c) Any criminal conviction for a violation of any federal or 276  
state environmental protection laws, rules, or regulations that 277  
has been committed knowingly or recklessly by the business concern 278  
during the previous three-year period. 279

(G) With respect to an applicant, permittee, or prospective 280  
owner, the attorney general shall notify the director of 281  
environmental protection of any crime ascertained under division 282  
(E) or (F) of this section that is a disqualifying crime under 283  
section 3734.44 of the Revised Code. The attorney general shall 284  
provide the notification not later than thirty days after the 285  
crime was ascertained. 286

(H) The failure to provide ~~such~~ information under this 287  
section may constitute the basis for the revocation ~~or~~ of a permit 288  
or license, the denial of a permit or license application, the 289  
denial of a renewal of ~~any~~ a permit or license issued in 290  
accordance with this chapter, ~~provided that prior, or the~~ 291  
disapproval of a change in ownership as described in division (I) 292  
of this section. Prior to ~~any such~~ a denial ~~or~~, revocation, ~~or~~ 293  
disapproval, the director shall notify the applicant ~~or~~, 294  
permittee, or prospective owner of the director's intention to do 295  
so ~~and~~. The director shall give the applicant ~~or~~, permittee, ~~or~~ 296  
prospective owner fourteen days from the date of the notice to 297  
explain why the information was not provided. The director shall 298  
consider ~~this information~~ the explanation when determining whether 299  
to revoke ~~or deny~~ the permit or license, deny the permit or 300  
license application or renewal, or disapprove the change in 301  
ownership. 302

Nothing in this ~~division~~ section affects the rights of the 303  
director or the attorney general granted under sections 3734.40 to 304  
3734.47 of the Revised Code to request information from a person 305  
at any other time. 306

~~(E)(1) Except as otherwise provided in division (E)(2) of 307  
this section, every permittee who is not otherwise required to 308  
file a disclosure statement shall file a disclosure statement 309  
within five years after June 24, 1988, pursuant to a schedule for 310  
submissions of disclosure statements developed by the attorney 311  
general. The schedule shall provide all permittees and holders of 312  
a license with at least one hundred eighty days' notice prior to 313  
the date upon which the statement is to be submitted. All other 314  
terms of the schedule shall be established at the discretion of 315  
the attorney general and shall not be subject to judicial review. 316~~

~~(2) An applicant for a permit for an off site solid waste 317  
facility that is a scrap tire storage, monocell, monofill, or 318  
recovery facility issued under section 3734.76, 3734.77, or 319  
3734.78 of the Revised Code, as applicable, shall file a 320  
disclosure statement within five years after October 29, 1993, 321  
pursuant to a schedule for submissions of disclosure statements 322  
developed by the attorney general. The schedule shall provide all 323  
such applicants with at least one hundred eighty days' notice 324  
prior to the date upon which the statement shall be submitted. All 325  
other terms of the schedule shall be established at the discretion 326  
of the attorney general and shall not be subject to judicial 327  
review. 328~~

~~Beginning five years after October 29, 1993, an applicant for 329  
such a permit shall file a disclosure statement in accordance with 330  
division (A)(1) of this section. 331~~

~~(3) When a permittee submits a disclosure statement at the 332  
time it submits an application for a renewal or modification of 333  
its permit, the attorney general shall remove the permittee from 334~~

~~the submission schedule established pursuant to division (E)(1) or (2) of this section.~~ 335  
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~~(4) After receiving a disclosure statement under division (E)(1) or (2) of this section, the attorney general shall prepare an investigative report and transmit it to the director. The director shall review the disclosure statement and investigative report to determine whether the statement or report contains information that if submitted with a permit application would require a denial of the permit pursuant to section 3734.44 of the Revised Code. If the director determines that the statement or report contains such information, the director may revoke any previously issued permit pursuant to section 3734.45 of the Revised Code, or the director shall deny any application for a renewal of a permit or license. When the renewal of the license is being performed by a board of health, the director shall instruct the board of health about those circumstances under which the renewal is required to be denied by this section.~~ 337  
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~~(F)(I)(1) Whenever there is a change in ownership of any operating off-site solid waste facility, including incinerators; any operating transfer facility; any operating off-site infectious waste treatment facility; or any operating off-site hazardous waste treatment, storage, or disposal facility, the prospective owner shall file a disclosure statement with the attorney general and the director at least one hundred eighty days prior to the proposed change in ownership. In addition, whenever there is a change in ownership of any operating on-site solid waste facility, including incinerators; any operating on-site transfer facility; any operating on-site infectious waste treatment facility; or any operating on-site hazardous waste treatment, storage, or disposal facility and the prospective owner intends to operate the facility as an off-site facility by accepting wastes other than wastes generated by the facility~~ 352  
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owner, the prospective owner shall file a disclosure statement 367  
with the attorney general and the director. The prospective owner 368  
shall file the disclosure statement at least one hundred eighty 369  
days prior to the proposed change in ownership. ~~Upon~~ 370

Upon receipt of the disclosure statement, the attorney 371  
general shall prepare an investigative report and transmit it to 372  
the director. The director shall review the disclosure statement 373  
and investigative report to determine whether the statement or 374  
report contains information that if submitted with a permit 375  
application would require a denial of the permit pursuant to 376  
section 3734.44 of the Revised Code. If the director determines 377  
that the statement or report contains such information, the 378  
director shall disapprove the change in ownership. 379

(2) If the parties to a change in ownership decide to proceed 380  
with the change prior to the action of the director on the 381  
disclosure statement and investigative report, the parties shall 382  
include in all contracts or other documents reflecting the change 383  
in ownership language expressly making the change in ownership 384  
subject to the approval of the director and expressly negating the 385  
change if it is disapproved by the director pursuant to division 386  
(~~F~~)(I)(1) of this section. 387

(3) As used in this section, "change in ownership" includes 388  
any a change in the names, other than those of the individuals or 389  
entities that own an off-site solid waste facility, off-site 390  
infectious waste treatment facility, or off-site hazardous waste 391  
treatment, storage, or disposal facility. "Change in ownership" 392  
does not include a legal change in a business concern's name when 393  
its ownership otherwise remains the same. "Change in ownership" 394  
also does not include a personal name change of officers, 395  
directors, partners, or key employees, contained in ~~the~~ a 396  
disclosure statement. 397

**Section 2.** That existing sections 3734.41 and 3734.42 of the 398

Revised Code are hereby repealed.

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