

Senate Executive Departments and Administration Committee

Kevin Condict 271-7875

SB 302-FN, requiring background checks for solid waste facility owners.

Hearing Date: March 5, 2025

Time Opened: 9:39 a.m.

Time Closed: 9:46 a.m.

Members of the Committee Present: Senators Pearl, McGough, Gannon, Altschiller and Reardon

Members of the Committee Absent : None

Bill Analysis: This bill requires background checks for solid waste facility owners including partners and managers.

Sponsors:

Sen. Pearl

Who supports the bill: Sen. Howard Pearl (SD 17) and Mike Wimsatt (NHDES).

Who opposes the bill: Curtis Howland and James Gardner.

Who is neutral on the bill: Christine Shea (NHSP).

Summary of testimony presented:

Senator Howard Pearl, Senate District 17

- Sen. Pearl introduced Senate Bill 302.
- Sen. Pearl said that this is his third time introducing the bill and expressed his desire to get this bill completed so that there can be appropriate background checks of solid waste facility owners.
- Sen. Pearl explained that there were two earlier versions of the bill, but that problems were experienced with implementation.

Mike Wimsatt, Director of the Waste Management Division for New Hampshire Environmental Services

- Dir. Wimsatt testified in support of SB 302.

- Dir. Wimsatt said that prior to the 2023 legislative session, it came to attention during a consultation with the Department of Justice that there were some problems with the language.
- Dir. Wimsatt explained that these criminal record checks for solid waste facility owners, which have been in statute for many years, have been used for many years without incident.
- Dir. Wimsatt said that these background checks pass through a national criminal records database. He said that over time the Federal Bureau of Investigation (FBI) has become very specific about the underlying statutory language that gives states the authority to conduct these background checks.
- Dir. Wimsatt explained that the bill did not pass last year because the underlying language was not satisfactory to the FBI.
- Dir. Wimsatt said that attorney Josh Harrison from the Department of Justice has worked closely with all parties involved in the drafting of the bill to ensure that the language is correct.
- Dir. Wimsatt said that a key change that helped to address the concerns of the federal authorities is that it needs to be made very clear who is subject to criminal records checks. He said the new language clarifies this.
- Dir. Wimsatt further explained that the language clarifies which specific officials at the Department of Justice were authorized to receive the criminal records.
- Dir. Wimsatt said that they went through the Department of Justice to conduct the background checks, but that this was not entirely helpful, and it created further confusion.
- Dir. Wimsatt elaborated that what the new process will do is take the Department of Justice out of the process, so when an applicant comes to the Department of Environmental Services (DES) for a permit application, they will identify, based on the language in the law, which of their officers or directors are required to provide an authorization for a criminal records check. They would then fill out the appropriate form that the Division of State Police provides.
- Dir. Wimsatt said that this bill covers two statutes RSA 147:A and RSA 149:M, for hazardous waste and solid waste respectively.
- Dir. Wimsatt said that he hasn't had a chance to talk to Sen. Pearl yet about a handful of problems with the language that he had identified.
- Dir. Wimsatt said that he would like the opportunity to prepare an appropriate draft amendment for the Committee's consideration prior to action on the bill.
- Sen. Pearl stated that, unfortunately, the Committee had to act on the bill this morning because it has a fiscal note. He told Dir. Wimsatt that he could either present the changes as a floor amendment or he could go through the House.

- Dir. Wimsatt said that he would be happy to do it in the House so that there is more time to ensure that the language of the bill is correct.

KC

Date Hearing Report completed: March 7, 2025