

SB 302-FN - AS INTRODUCED

2025 SESSION

25-1167
08/09

SENATE BILL **302-FN**
AN ACT requiring background checks for solid waste facility owners.
SPONSORS: Sen. Pearl, Dist 17
COMMITTEE: Executive Departments and Administration

ANALYSIS

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

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT requiring background checks for solid waste facility owners.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Background Checks. RSA 147-A:4, II-c and II-d is repealed and reenacted to read as follows:

2 II-c.(a) Applications for permits shall be upon such forms and shall include such information
3 as the department requires by rules adopted under RSA 147-A:3. The application information shall
4 include, but not be limited to, a performance history of the applicant and of its owners, officers,
5 directors, partners, members, or managers relative to the operation, financial security, and
6 ownership of all facilities owned or operated by such persons.

7 (b)(1) The applicant and all persons and entities set forth in subparagraph (b)(2) seeking
8 a permit under this chapter shall be subject to a criminal records check consisting of a New
9 Hampshire criminal records check and a fingerprint-based criminal record check utilizing national
10 crime information databases, as set forth in subparagraphs (b)(3) through (b)(6). The department
11 may make rules under RSA 541-A exempting certain types of permit applications from the
12 performance history and criminal records check requirements of this section.

13 (2) In this paragraph:

14 (A) "Owner" means each owner or part owner of a privately held corporation;

15 (B) "Officer" means those persons described in a corporation's bylaws or articles
16 of incorporation or elected or appointed by the board of directors to manage the daily operations of a
17 corporation, such as a chief executive officer, chief financial officer, secretary, treasurer, president,
18 and vice president. "Officer" includes those persons described within RSA 293-A:8.40.

19 (C) "Director" means a person appointed or elected to sit on a governing board of
20 a corporation. "Director" includes trustees, managers, and governors and those persons described
21 within New Hampshire RSA 293-A:8.01-8.11.

22 (D) "Partner" means one of 2 or more persons carrying on as co-owners of a
23 business for profit. "Partner" includes, but is not limited to, a limited or general partner of a
24 partnership, professional association, or foreign partnership or such partners as set forth in title
25 XXVIII.

26 (E) "Member" means a person who has been admitted to a limited liability
27 company as a member in accordance with RSA 304-C or in accordance with the laws of the state or
28 foreign country or jurisdiction under which the limited liability company is organized. "Member"
29 includes each member of a limited liability company, foreign limited liability company, or
30 professional limited liability company as set forth in RSA 304-C and RSA 304-D.

SB 302-FN - AS INTRODUCED

- Page 2 -

1 (F) "Manager" means a person who is named or designated as a manager of a
2 limited liability company in an operating agreement. "Manager" includes each manager of a limited
3 liability company, foreign limited liability company, or professional limited liability company as set
4 forth in RSA 304-C and RSA 304-D.

5 (3) Except for governmental entities and municipalities, the persons subject to the
6 criminal records checks pursuant to subparagraph (b)(1) above are as follows:

7 (A) The applicant;

8 (B) If the applicant is an individual(s), each individual;

9 (C) If the applicant is a publicly traded corporation, each officer and director;

10 (D) If the applicant is a privately held corporation, each owner, officer, and
11 director;

12 (E) If the applicant is a general or limited partnership, each partner;

13 (F) If the applicant is a limited liability company, foreign limited liability
14 company, or professional limited liability company, each manager and member;

15 (G) If the permit sought is for the transfer of a permit to a new person or a
16 change in ownership of the current permit holder at an existing facility, then the transferee
17 applicant and all persons related to the transferee applicant as set forth in subparagraph (b)(3).

18 (4) All persons set forth in subparagraph (b)(3) shall submit to the department a
19 New Hampshire department of safety, division of state police, a criminal history records release
20 authorization form, as provided by the division of state police, which authorizes the division of state
21 police to conduct a criminal history records check through its state records and through the Federal
22 Bureau of Investigation and to release to the department, for the purposes of this section, a report of
23 the criminal history and record information, including confidential criminal history record
24 information, of the applicant and all persons set forth in subparagraph (b)(3). The release form shall
25 name the assistant director of the department of environmental services waste management division
26 and the administrator of the department of environmental services, hazardous waste management
27 bureau as authorized recipients and shall specify any payment required by the division of state
28 police.

29 (5) All persons set forth in subparagraph (b)(3) shall submit to the department,
30 along with their criminal record release authorization form required in subparagraph (b)(4), a
31 complete set of fingerprints taken by a qualified law enforcement agency or authorized employee of
32 the department of safety. If the national crime information database is unavailable for any reason,
33 the department may accept New Hampshire criminal records or police clearances from every city,
34 town, or county where the person has lived during the past 5 years.

35 (6) The department shall submit the criminal records release authorization forms
36 and fingerprint forms to the department of safety, division of state police, which shall conduct a
37 criminal history records check through its records and through the Federal Bureau of Investigation.

1 Upon completion of the records check, the division of state police shall release copies of the criminal
2 history records to the department. The department shall maintain the confidentiality of all criminal
3 history records information received pursuant to this section.

4 (7) The department may bill the applicant for any costs or fees associated with the
5 performance history review and the criminal records check, including, but not limited to, any fee
6 charged by the department of safety or the Federal Bureau of Investigation for the criminal records
7 checks set forth in this subsection. The department shall destroy all criminal history record
8 information within 60 days after the department's decision on the application or upon the conclusion
9 of any appeal of the department's decision, whichever is later.

10 II-d. The department may deny a permit application under this section to a person if any of
11 the following applies:

12 (a) The person or any person set forth in RSA 147-A:4, II-c(b)(3) fails to demonstrate
13 sufficient reliability, expertise, integrity and competence to operate a hazardous waste facility.

14 (b) The person has been convicted of, or pled guilty or no contest to, a felony in any state
15 or federal court during the 5 years before the date of the permit application.

16 2 Permit Applicants; Criminal Records. Amend RSA 147-A:4, IV-a to read as follows:

17 IV-a. No permit issued by the department under this section shall be transferred by the
18 permittee to any person without the prior written approval of the department. Applications for the
19 transfer of permits shall be upon such forms and shall include such information as the department
20 requires by rules adopted under RSA 147-A:3, IX. ***The applicant and all related persons as set***
21 ***forth RSA 147-A:4, II-c(b) shall comply with the performance history review and criminal***
22 ***record provisions of RSA 147-A:4, II-c in all respects.*** [~~The application information shall~~
23 ~~include, but not be limited to, a performance history of the applicant and of its officers and directors~~
24 ~~relative to the operation, financial security, and ownership of all facilities owned or operated by the~~
25 ~~applicant. Whenever requested by the department, the attorney general shall conduct a background~~
26 ~~investigation of the performance history and criminal record of the applicant and of its officers and~~
27 ~~directors, partners, and individuals or entities having managerial, supervisory, or substantial~~
28 ~~decision-making authority and responsibility for the management of operations or activities for~~
29 ~~which a permit is being sought, if any, and make a report to the department. The criminal~~
30 ~~background check shall consist of and follow the same procedures set forth in paragraph II-e.] The
31 applicant shall also submit a statement that the proposed facility is consistent with the provisions of
32 a district plan. [~~The cost of any investigation under this paragraph shall be borne by the applicant.~~]
33 The department shall hold a public hearing no later than 30 days prior to making any final decision
34 on an application to transfer a permit issued under this section. Notice of such public hearing shall
35 be published in a newspaper of local circulation within the region of the public or private hazardous
36 waste facility at least 2 weeks prior to such public hearing. The applicant shall notify abutters of the
37 request for transfer of a permit under this section.~~

1 3 Disclosure of Ownership. Amend RSA 147-A:4-b, II to read as follows:

2 II. If the applicant is a corporation, the state of incorporation, the address of its principal
3 place of business, and the names and addresses of its *owners*, directors, *and* officers~~],—and~~
4 ~~shareholders~~]; if the applicant is a partnership, the state of formation, the address of its principal
5 place of business, and the names and addresses of its partners, whether general or limited; and if the
6 applicant is any other kind of association, the state of formation, the address of its principal place of
7 business, and the names and addresses of its *partners*, members, *managers*, or participants.

8 4 Background Checks. RSA 149-M:9, III is repealed and reenacted to read as follows:

9 III.(a) Applications for permits shall be upon such forms and shall include such information
10 as the department requires by rules adopted under RSA 147-A:3. The application information shall
11 include, but not be limited to, a performance history of the applicant and of its owners, officers,
12 directors, partners, members, or managers relative to the operation, financial security, and
13 ownership of all facilities owned or operated by such persons.

14 (b)(1) The applicant and all persons and entities set forth in subparagraph (b)(2) seeking
15 a permit, permit modification, or permit transfer under this chapter shall be subject to a criminal
16 records check consisting of a New Hampshire criminal records check and a fingerprint-based
17 criminal record check utilizing national crime information databases, as set forth in subparagraphs
18 (b)(3) through (b)(6). The department may make rules under RSA 541-A exempting certain types of
19 permit applications from the performance history and criminal records check requirements of this
20 section.

21 (2) In this paragraph:

22 (A) "Owner" means each owner or part owner of a privately held corporation;

23 (B) "Officer" means those persons described in a corporation's bylaws or articles
24 of incorporation or elected or appointed by the board of directors to manage the daily operations of a
25 corporation, such as a chief executive officer, chief financial officer, secretary, treasurer, president,
26 and vice president. "Officer" includes those persons described within RSA 293-A:8.40.

27 (C) "Director" means a person appointed or elected to sit on a governing board of
28 a corporation. "Director" includes trustees, managers, and governors and those persons described
29 within New Hampshire RSA 293-A:8.01 through RSA 293-A:8.11.

30 (D) "Partner" means one of 2 or more persons carrying on as co-owners of a
31 business for profit. "Partner" includes, but is not limited to, a limited or general partner of a
32 partnership, professional association, or foreign partnership or such partners as set forth in title
33 XXVIII.

34 (E) "Member" means a person who has been admitted to a limited liability
35 company as a member in accordance with RSA 304-C or in accordance with the laws of the state or
36 foreign country or jurisdiction under which the limited liability company is organized. "Member"

1 includes each member of a limited liability company, foreign limited liability company, or
2 professional limited liability company as set forth in RSA 304-C and RSA 304-D.

3 (F) "Manager" means a person who is named or designated as a manager of a
4 limited liability company in an operating agreement. "Manager" includes each manager of a limited
5 liability company, foreign limited liability company, or professional limited liability company as set
6 forth in RSA 304-C and RSA 304-D.

7 (3) Except for governmental entities and municipalities, the persons subject to the
8 criminal records checks pursuant to subparagraph (b)(1) above are as follows:

9 (A) The applicant.

10 (B) If the applicant is an individual(s), each individual.

11 (C) If the applicant is a publicly traded corporation, each officer and director.

12 (D) If the applicant is a privately held corporation, each owner, officer, and
13 director.

14 (E) If the applicant is a general or limited partnership, each partner.

15 (F) If the applicant is a limited liability company, foreign limited liability
16 company, or professional limited liability company, each manager and member.

17 (G) If the permit sought is for the transfer of a permit to a new person or a
18 change in ownership of the current permit holder pursuant to RSA 149-M:9, XII an rules adopted by
19 the department under RSA 541-A, then the transferee applicant and all persons related to the
20 transferee applicant as set forth in subparagraph (b)(3).

21 (4) All persons set forth in subparagraph (b)(3) shall submit to the department a
22 New Hampshire department of safety, division of state police, a criminal history records release
23 authorization form, as provided by the division of state police, which authorizes the division of state
24 police to conduct a criminal history records check through its state records and through the Federal
25 Bureau of Investigation and to release to the department, for the purposes of this section, a report of
26 the criminal history and record information, including confidential criminal history record
27 information, of the applicant and all persons set forth in subparagraph (b)(3). The release form shall
28 name the assistant director of the department of environmental services waste management division
29 and the administrator of the department of environmental services, hazardous waste management
30 bureau as authorized recipients and shall specify any payment required by the division of state
31 police.

32 (5) All persons set forth in subparagraph (b)(3) shall submit to the department,
33 along with their criminal record release authorization form required in subparagraph (b)(4), a
34 complete set of fingerprints taken by a qualified law enforcement agency or authorized employee of
35 the department of safety. If the national crime information database is unavailable for any reason,
36 the department may accept New Hampshire criminal records or police clearances from every city,
37 town, or county where the person has lived during the past 5 years.

SB 302-FN - AS INTRODUCED
- Page 6 -

1 (6) The department shall submit the criminal records release authorization forms
2 and fingerprint forms to the department of safety, division of state police, which shall conduct a
3 criminal history records check through its records and through the Federal Bureau of Investigation.
4 Upon completion of the records check, the division of state police shall release copies of the criminal
5 history records to the department. The department shall maintain the confidentiality of all criminal
6 history records information received pursuant to this section.

7 (7) The department may bill the applicant for any costs or fees associated with the
8 performance history review and the criminal records check, including, but not limited to, any fee
9 charged by the department of safety or the Federal Bureau of Investigation for the criminal records
10 checks set forth in this subsection. The department shall destroy all criminal history record
11 information within 60 days after the department's decision on the application or upon the conclusion
12 of any appeal of the department's decision, whichever is later.

13 5 Denial of Application. Amend RSA 149-M:9, IX(b) and (c) to read as follows:

14 (b) The person ***or any person defined in RSA 149-M:9, III(b)*** has been convicted of, or
15 pled guilty or no contest to, a felony in any state or federal court during the 5 years before the date of
16 the permit application.

17 ~~[(c) In the case of a corporation or business entity, if any of its officers, directors,~~
18 ~~partners, key employees or persons or business entities holding 10 percent or more of its equity or~~
19 ~~debt liability has been convicted of, or pled guilty or no contest to, a felony in any state or federal~~
20 ~~court during the 5 years before the date of the permit application.]~~

21 6 Applications; Transfer of Permits. Amend RSA 149-M:9, XII(a) to read as follows:

22 (a) Applications for the transfer of permits shall be filed by the person to whom such
23 permit is to be transferred upon such forms and shall include such information as the department
24 requires by rules adopted under RSA 149-M:7. ***The applicant and all related persons as set***
25 ***forth in RSA 149-M:9, III(b) shall comply with the performance history review and criminal***
26 ***provisions of RSA 149-M:9, III in all respects.*** ~~[The application information shall include, but not~~
27 ~~be limited to, a performance history of the applicant and of its officers and directors relative to the~~
28 ~~operation, financial security, and ownership of all facilities owned or operated by the applicant.~~
29 ~~Whenever requested by the department, the attorney general shall conduct a background~~
30 ~~investigation of the performance history and criminal record of the applicant and of its officers and~~
31 ~~directors, partners, and individuals or entities having managerial, supervisory, or substantial~~
32 ~~decision-making authority and responsibility for the management of operations or activities for~~
33 ~~which a permit is being sought, if any, and make a report to the department. The criminal~~
34 ~~background check shall consist of and follow the same procedures set forth in paragraph III.] The~~
35 applicant shall also submit a statement that the proposed facility is consistent with the provisions of
36 a district plan. ~~[The cost of any investigation under this paragraph shall be borne by the applicant.]~~

37 7 Disclosure of Ownership. Amend RSA 149-M:10, I to read as follows:

SB 302-FN - AS INTRODUCED

- Page 7 -

1 I. Any application for a permit under RSA 149-M:9 shall be signed under oath by a
2 representative of the applicant and shall contain the following information:

3 (a) Name and address of the applicant.

4 (b) If the applicant is a corporation, the state of incorporation, the address of its
5 principal place of business, and the names and addresses of its **owners**, directors, **and** officers~~[-and~~
6 ~~shareholders]~~; if the applicant is a partnership, the state of formation, the address of its principal
7 place of business, and the names and addresses of its partners, whether general or limited; and if the
8 applicant is any other kind of association, the state of formation, the address of its principal place of
9 business, and the names and addresses of its principals, **partners**, members, **managers, and** ~~[or]~~
10 participants.

11 (c) The exact location where the applicant intends to conduct the business for which it is
12 seeking the permit.

13 (d) Such financial information as the department may require under RSA 149-M:9 **or**
14 **rules adopted by the department.**

15 8 Effective Date. This act shall take effect 60 days after its passage.

LBA
25-1167
Revised 3/7/25

SB 302-FN- FISCAL NOTE
AS INTRODUCED

AN ACT requiring background checks for solid waste facility owners.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2025 through 2028.

AGENCIES CONTACTED:

Department of Environmental Services