



## Ohio Revised Code

### Section 3734.42 Disclosure statement.

Effective: September 6, 2012

Legislation: Senate Bill 294, Senate Bill 302 - 129th General Assembly

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(A)(1) Every applicant for a permit shall file a disclosure statement, on a form developed by the attorney general, with the director of environmental protection and the attorney general at the same time the applicant files an application for the permit with the director.

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

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

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

(B) All applicants and permittees shall provide any assistance or information requested by the director or the attorney general and shall cooperate in any inquiry or investigation conducted by the attorney general and any inquiry, investigation, or hearing conducted by the director. If, upon issuance of a formal request to answer any inquiry or produce information, evidence, or testimony, any applicant or permittee, any officer, director, or partner of any business concern, or any key employee of the applicant or permittee refuses to comply, the permit of the applicant or permittee



may be denied or revoked by the director.

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

(D) An appropriate applicant, a permittee, or a prospective owner shall submit to the attorney general, on a form provided by the attorney general, the following information within the periods specified:

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

(2) Information required to be included in a disclosure statement regarding the addition of any new business concern to be submitted within ninety days from the addition of the new business concern.

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

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

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

(b) Any officer, director, partner, or key employee of the applicant, permittee, or prospective owner



who has left a position previously held with the applicant, permittee, or prospective owner during the previous one-year period and the person's social security number.

(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.

(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.

(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.

(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:

(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;

(b) Any civil action in which the business concern was determined to be liable or was the subject of injunctive relief or another type of civil relief in connection with any violation of any federal or state environmental protection laws, rules, or regulations during the previous three-year period;

(c) Any criminal conviction for a violation of any federal or state environmental protection laws,



rules, or regulations that has been committed knowingly or recklessly by the business concern during the previous three-year period.

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

(H) The failure to provide information under this section may constitute the basis for the revocation of a permit or license, the denial of a permit or license application, the denial of a renewal of a permit or license, or the disapproval of a change in ownership as described in division (I) of this section. Prior to a denial, revocation, or disapproval, the director shall notify the applicant, permittee, or prospective owner of the director's intention to do so. The director shall give the applicant, permittee, or prospective owner fourteen days from the date of the notice to explain why the information was not provided. The director shall consider the explanation when determining whether to revoke the permit or license, deny the permit or license application or renewal, or disapprove the change in ownership.

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

(I)(1) Whenever there is a change in ownership of any operating off-site solid waste facility, any operating off-site infectious waste facility, or any operating off-site hazardous waste 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, any operating on-site infectious waste facility, or any operating on-site hazardous waste 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 owner, the prospective owner shall file a disclosure statement with the attorney general and the director. The prospective owner shall file the disclosure statement at least one hundred eighty days prior to the proposed change in ownership.



Upon receipt of the disclosure statement, 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 shall disapprove the change in ownership.

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

(3) As used in this section, "change in ownership" includes a change of the individuals or entities who own a solid waste facility, infectious waste facility, or hazardous waste facility. "Change in ownership" does not include a legal change in a business concern's name when its ownership otherwise remains the same. "Change in ownership" also does not include a personal name change of officers, directors, partners, or key employees contained in a disclosure statement.

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*The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B) that amendments are to be harmonized if reasonably capable of simultaneous operation.*