

CHAPTER 313

AN ACT to amend and supplement the "Waterfront Commission Act," approved June 30, 1953 (P.L.1953, c.202.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Article II of the compact created by P.L.1953, c.202 (C.32:23-6) is amended to read as follows:

C.32:23-6 Definitions.

As used in this compact:

"The Port of New York district" shall mean the district created by Article II of the compact dated April 30, 1921, between the States of New York and New Jersey, authorized by chapter 154 of the laws of New York of 1921 and chapter 151 of the laws of New Jersey of 1921.

"Commission" shall mean the waterfront and airport commission of New York and New Jersey established by Article III hereof.

"Pier" shall include any wharf, pier, dock or quay.

"Other waterfront terminal" shall include any warehouse, depot or other terminal (other than a pier) which is located within 1,000 of any pier in the Port of New York district and which is used for waterborne freight in whole or substantial part.

"Person" shall mean not only a natural person but also any partnership, joint venture, association, corporation or any other legal entity but shall not include the United States, any state or territory thereof or any department, division, board, commission or authority of one or more of the foregoing.

"Carrier of freight by water" shall mean any person who may be engaged or who may hold himself out as willing to be engaged, whether as a common carrier, as a contract carrier or otherwise (except for carriage of liquid cargoes in bulk in tank vessels designed for use exclusively in such service or carriage by barge of bulk cargoes consisting of only a single commodity loaded or carried without wrappers or containers and delivered by the carrier without transportation mark or count) in the carriage of freight by water between any point in the Port of New York district and a point outside said district.

"Waterborne freight" shall mean freight carried by or consigned for carriage by carriers of freight by water.

"Longshoreman" shall mean a natural person, other than a hiring agent, who is employed for work at a pier or other waterfront terminal, either by a carrier of freight by water or by a stevedore,

(a) physically to move waterborne freight on vessels berthed at piers, on piers or at other waterfront terminals, or

(b) to engage in direct and immediate checking of any such freight or of the custodial accounting therefor or in the recording or tabulation of the hours worked at piers or other waterfront terminals by natural persons employed by carriers of freight by water or stevedores, or

(c) to supervise directly and immediately others who are employed as in subdivision (a) of this definition.

"Pier superintendent" shall mean any natural person other than a longshoreman who is employed for work at a pier or other waterfront terminal by a carrier of freight by water or a stevedore and whose work at such pier or other waterfront terminal includes the supervision, directly or indirectly, of the work of longshoremen.

"Port watchman" shall include any watchman, gateman, roundsman, detective, guard, guardian or protector of property employed by the operator of any pier or other waterfront terminal or by a carrier of freight by water to perform services in such capacity on any pier or other waterfront terminal.

"Longshoremen's register" shall mean the register of eligible longshoremen compiled and maintained by the commission pursuant to Article VIII.

"Stevedore" shall mean a contractor (not including an employee) engaged for compensation pursuant to a contract or arrangement with a carrier of freight by water, in moving waterborne freight carried or consigned for carriage by such carrier on vessels of such carrier berthed at piers, on piers at which such vessels are berthed or at other waterfront terminals.

"Hiring agent" shall mean any natural person, who on behalf of a carrier of freight by water or a stevedore shall select any longshoreman for employment.

"Compact" shall mean this compact and rules or regulations lawfully promulgated thereunder.

2. Article IV of the compact created by P.L.1953, c.202 (C.32:23-10) is amended to read as follows:

C.32:23-10 General powers.

In addition to the powers and duties elsewhere prescribed in this compact, the commission shall have the power:

1. To sue and be sued;
2. To have a seal and alter the same at pleasure;
3. To acquire, hold and dispose of real and personal property by gift, purchase, lease, license or other similar manner, for its corporate purposes;
4. To determine the location, size and suitability of accommodations necessary and desirable for the establishment and maintenance of the employment information centers provided in Article XII hereof and for administrative offices for the commission;
5. To appoint such officers, agents and employees as it may deem necessary, prescribe their powers, duties and qualifications and fix their compensation and retain and employ counsel and private consultants on a contract basis or otherwise;
6. To administer and enforce the provisions of this compact;
7. To make and enforce such rules and regulations as the commission may deem necessary to effectuate the purposes of this compact or to prevent the circumvention or evasion thereof, to be effective upon publication in the manner which the commission shall prescribe and upon filing in the office of the Secretary of State of each State. A certified copy of any such rules and regulations, attested as true and correct by the commission, shall be presumptive evidence of the regular making, adoption, approval and publication thereof;
8. By its members and its properly designated officers, agents and employees, to administer oaths and issue subpoenas to compel the attendance of witnesses and the giving of testimony and the production of other evidence;
9. To have for its members and its properly designated officers, agents and employees, full and free access, ingress and egress to and from all vessels, piers and other waterfront terminals or other places in the port of New York district, for the purposes of making inspection or enforcing the provisions of this compact; and no person shall obstruct or in any way interfere with any such member, officer, employee or agent in the making of such inspection, or in the enforcement of the provisions of this compact or in the performance of any other power or duty under this compact;
10. To recover possession of any suspended or revoked license issued under this compact;
11. To make investigations, collect and compile information concerning waterfront practices generally within the port of New York district and upon all matters relating to the accomplishment of the objectives of this compact;
12. To advise and consult with representatives of labor and industry and with public officials and agencies concerned with the effectuation of the purposes of this compact, upon all matters which the commission may desire, including but not limited to the form and substance of rules and regulations, the administration of the compact, maintenance of the longshoremen's register, and issuance and revocation of licenses;
13. To make annual and other reports to the Governors and Legislatures of both States containing recommendations for the improvement of the conditions of waterfront labor within the port of New York district, for the alleviation of the evils described in Article I and for the effectuation of the purposes of this compact. Such annual reports shall state the commission's finding and determination as to whether the public necessity still exists for (a) the continued registration of longshoremen, (b) the continued licensing of any occupation or employment required to be licensed hereunder and (c) the continued public operation of the employment information centers provided for in Article XII;
14. To co-operate with and receive from any department, division, bureau, board,

commission, or agency of either or both States, or of any county or municipality thereof, such assistance and data as will enable it properly to carry out its powers and duties hereunder; and to request any such department, division, bureau, board, commission, or agency, with the consent thereof, to execute such of its functions and powers, as the public interest may require.

3. Section 3 of Article V of the compact created by P.L.1953, c.202 (C.32:23-14) is amended to read as follows:

C.32:23-14 Qualifications for license; persons convicted of certain crimes ineligible.

3. No such license shall be granted:

(a) Unless the commission shall be satisfied that the prospective licensee possesses good character and integrity;

(b) If the prospective licensee has, without subsequent pardon, been convicted by a court of the United States, or any State or territory thereof, of the commission of, or the attempt or conspiracy to commit, treason, murder, manslaughter or any felony or high misdemeanor or any of the following misdemeanors or offenses: illegally using, carrying or possessing a pistol or other dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry of a building; aiding an escape from prison; unlawfully possessing, possessing with intent to distribute, sale or distribution of a controlled dangerous substance or a controlled dangerous substance analog; or violation of this compact. Any such prospective licensee ineligible for a license by reason of any such conviction may submit satisfactory evidence to the commission that he has for a period of not less than five years, measured as hereinafter provided, and up to the time of application, so conducted himself as to warrant the grant of such license, in which event the commission may, in its discretion, issue an order removing such ineligibility. The aforesaid period of five years shall be measured either from the date of payment of any fine imposed upon such person or the suspension of sentence or from the date of his unrevoked release from custody by parole, commutation or termination of his sentence;

(c) If the prospective licensee knowingly or wilfully advocates the desirability of overthrowing or destroying the government of the United States by force or violence or shall be a member of a group which advocates such desirability, knowing the purposes of such group include such advocacy.

4. Section 7 of Article V of the compact created by P.L.1953, c.202 (C.32:23-18) is amended to read as follows:

C.32:23-18 Revocation or suspension of license.

7. Any license issued pursuant to this article may be revoked or suspended for such period as the commission deems in the public interest or the licensee thereunder may be reprimanded for any of the following offenses:

(a) Conviction of a crime or act by the licensee or other cause which would require or permit his disqualification from receiving a license upon original application;

(b) Fraud, deceit or misrepresentation in securing the license, or in the conduct of the licensed activity;

(c) Violation of any of the provisions of this compact;

(d) Unlawfully possessing, possessing with intent to distribute, sale or distribution of a controlled dangerous substance or a controlled dangerous substance analog;

(e) Employing, hiring or procuring any person in violation of this compact or inducing or otherwise aiding or abetting any person to violate the terms of this compact;

(f) Paying, giving, causing to be paid or given or offering to pay or give to any person any valuable consideration to induce such other person to violate any provision of this compact or to induce any public officer, agent or employee to fail to perform his duty hereunder;

(g) Consorting with known criminals for an unlawful purpose;

(h) Transfer or surrender of possession of the license to any person either temporarily or permanently without satisfactory explanation;

(i) False impersonation of another licensee under this compact;

(j) Receipt or solicitation of anything of value from any person other than the licensee's employer as consideration for the selection or retention for employment of any longshoreman;

(k) Coercion of a longshoreman by threat of discrimination or violence or economic reprisal, to make purchases from or to utilize the services of any person;

(l) Lending any money to or borrowing any money from a longshoreman for which there is a charge of interest or other consideration; or

(m) Membership in a labor organization which represents longshoremen or port watchmen; but nothing in this section shall be deemed to prohibit pier superintendents or hiring agents from being represented by a labor organization or organizations which do not also represent longshoremen or port watchmen. The American Federation of Labor, the Congress of Industrial Organizations and any other similar federation, congress or other organization of national or international occupational or industrial labor organizations shall not be considered an organization which represents longshoremen or port watchmen within the meaning of this section although one of the federated or constituent labor organizations thereof may represent longshoremen or port watchmen.

5. Section 5 of Article XI of the compact created by P.L.1953, c.202 (C.32:23-49) is amended to read as follows:

C.32:23-49 Subpoenas, issuance of; evidence; procedure.

5. The commission, or such member, officer, employee or agent of the commission as may be designated by the commission for such purpose, shall have the power to issue subpoenas to compel the attendance of witnesses and the giving of testimony or production of other evidence and to administer oaths in connection with any such hearing. It shall be the duty of the commission or of any such member, officer, employee or agent of the commission designated by the commission for such purpose to issue subpoenas at the request of and upon behalf of the licensee, registrant or applicant. The commission or such person conducting the hearing shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure in the conduct of such hearing.

6. Section 8 of P.L.1954, c.14 (C.32:23-92) is amended to read as follows:

C.32:23-92 Denial of applications.

8. 5-h. In addition to the grounds elsewhere set forth in this act, the commission may deny an application for a license or registration for any of the following:

(1) Conviction by a court of the United States or any State or territory thereof of coercion;

(2) Conviction by any such court, after having been previously convicted by any such court of any crime or of the offenses hereinafter set forth, of a misdemeanor or any of the following offenses: assault, malicious injury to property, malicious mischief, unlawful taking of a motor vehicle, corruption of employees or possession of lottery or number slips;

(3) Fraud, deceit or misrepresentation in connection with any application or petition submitted to, or any interview, hearing or proceeding conducted by the commission;

(4) Violation of any provision of this act or commission of any offense thereunder;

(5) Refusal on the part of any applicant, or prospective licensee, or of any member, officer or stockholder required by section 2 of article VI of the compact to sign or be identified in an application for a stevedore license, to answer any material question or produce any material evidence in connection with his application or any application made on his behalf for a license or registration pursuant to this compact;

(6) Association with a person whom the applicant knows or should know is a member or associate of an organized crime group or of a terrorist group or a career offender cartel or is a member or associate of an organized crime group, a terrorist group or a career offender cartel or is a career offender. A person who has been identified by a federal, State or local law enforcement agency as a member or associate of an organized crime group or a terrorist group or career offender cartel shall be presumed to be a member or associate of an organized crime

group, or terrorist group, or a career offender cartel.

For purposes of this subsection, "career offender" shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State and a "career offender cartel" shall be defined as any group of persons who operate together as career offenders; or

(7) Commission of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity by a court of the United States, or any state or territory thereof.

7. Section 9 of P.L.1954, c.14 (C.32:23-93) is amended to read as follows:

C.32:23-93 Revocation of licenses and registrations.

9. 5-i. In addition to the grounds elsewhere set forth in this act any license or registration issued or made pursuant thereto may be revoked or suspended for such period as the commission deems in the public interest or the licensee or registrant may be reprimanded, for:

(1) Conviction of any crime or offense in relation to gambling, bookmaking, pool selling, lotteries or similar crimes or offenses if the crime or offense was committed at or on a pier or other waterfront terminal or within 500 feet thereof; or

(2) Willful commission of, or willful attempt to commit at or on a waterfront terminal or adjacent highway, any act of physical injury to any other person or of willful damage to or misappropriation of any other person's property, unless justified or excused by law; or

(3) Receipt or solicitation of anything of value from any person other than a licensee's or registrant's employer as consideration for the selection or retention for employment of such licensee or registrant; or

(4) Coercion of a licensee or registrant by threat of discrimination or violence or economic reprisal, to make purchases from or to utilize the services of any person; or

(5) Refusal to answer any material question or produce any evidence lawfully required to be answered or produced at any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of this act, or, if such refusal is accompanied by a valid plea of privilege against self-incrimination, refusal to obey an order to answer such question or produce such evidence made by the commission pursuant to the provisions of subdivision 5 of section 5-b of P.L.1954, c.14 (C.32:23-86); or

(6) Association with a person whom the licensee or registrant knows or should know is a member or associate of an organized crime group or cartel or of a terrorist group or cartel. That person, who has been identified by a federal, state or local law enforcement agency as a member or associate of an organized crime group or cartel or of a terrorist group or cartel, shall be presumed to be a member or associate of an organized crime group or cartel or of a terrorist group or cartel; or

(7) Commission of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity by a court of the United States, or any state or territory thereof.

8. Section 6 of P.L.1956, c.194 (C.32:23-105) is amended to read as follows:

C.32:23-105 Checkers.

6. 5-n. Checkers. (1) The commission shall establish within the longshoremen's register a list of all qualified longshoremen eligible, as hereinafter provided, for employment as checkers in the Port of New York District. No person shall act as a checker within the Port of New York District unless at the time he is included in the longshoremen's register as a checker, and no person shall employ another to work as a checker within the Port of New York District unless at the time such other person is included in the longshoremen's register as a checker.

(2) Any person applying for inclusion in the longshoremen's register as a checker shall file at any such place and in such manner as the commission shall designate a written statement, signed and verified by such person, setting forth the following:

(a) The full name, residence, place and date of birth and social security number of the applicant;

(b) The present and previous occupations of the applicant, including the places where he was employed and the names of his employers;

(c) Such further facts and evidence as may be required by the commission to ascertain the character, integrity and identity of the applicant.

(3) No person shall be included in the longshoremen's register as a checker

(a) Unless the commission shall be satisfied that the applicant possesses good character and integrity;

(b) If the applicant has, without subsequent pardon, been convicted by a court of the United States or any State or territory thereof, of the commission of, or the attempt or conspiracy to commit treason, murder, manslaughter or any felony or high misdemeanor or any of the following misdemeanors or offenses: illegally using, carrying or possessing a pistol or other dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry of a building; aiding an escape from prison; unlawfully possessing, possessing with intent to distribute, sale or distribution of a controlled dangerous substance or a controlled dangerous substance analog; petty larceny, where the evidence shows the property was stolen from a vessel, pier or other waterfront terminal; or violation of the compact. Any such applicant ineligible for inclusion in the longshoremen's register as a checker by reason of any such conviction may submit satisfactory evidence to the commission that he has for a period of not less than 5 years, measured as hereinafter provided, and up to the time of application, so conducted himself as to warrant inclusion in the longshoremen's register as a checker, in which event the commission may, in its discretion, issue an order removing such ineligibility. The aforesaid period of 5 years shall be measured either from the date of payment of any fine imposed upon such person or the suspension of sentence or from the date of his unrevoked release from custody by parole, commutation or termination of his sentence;

(c) If the applicant knowingly or willfully advocates the desirability of overthrowing or destroying the government of the United States by force or violence or shall be a member of a group which advocates such desirability, knowing the purposes of such group include such advocacy.

(4) When the application shall have been examined and such further inquiry and investigation made as the commission shall deem proper and when the commission shall be satisfied therefrom that the applicant possesses the qualifications and requirements prescribed by this section, the commission shall include the applicant in the longshoremen's register as a checker. The commission may permit temporary registration as a checker to any applicant under this section pending final action on an application made for such registration, under such terms and conditions as the commission may prescribe, which shall be valid for a period to be fixed by the commission, not in excess of 6 months.

(5) The commission shall have power to reprimand any checker registered under this section or to remove him from the longshoremen's register as a checker for such period of time as it deems in the public interest for any of the following offenses:

(a) Conviction of a crime or other cause which would permit disqualification of such person from inclusion in the longshoremen's register as a checker upon original application;

(b) Fraud, deceit or misrepresentation in securing inclusion in the longshoremen's register as a checker or in the conduct of the registered activity;

(c) Violation of any of the provisions of the compact;

(d) Unlawfully possessing, possessing with intent to distribute, sale or distribution of a controlled dangerous substance or a controlled dangerous substance analog;

(e) Inducing or otherwise aiding or abetting any person to violate the terms of the compact;

(f) Paying, giving, causing to be paid or given or offering to pay or give to any person any valuable consideration to induce such other person to violate any provision of the compact or to induce any public officer, agent or employee to fail to perform his duty under the compact;

(g) Consorting with known criminals for an unlawful purpose;

(h) Transfer or surrender of possession to any person either temporarily or permanently of any card or other means of identification issued by the commission as evidence of inclusion in

the longshoremen's register without satisfactory explanation; or

(i) False impersonation of another longshoreman or of another person licensed under the compact.

(6) The commission shall have the right to recover possession of any card or other means of identification issued as evidence of inclusion in the longshoremen's register as a checker in the event that the holder thereof has been removed from the longshoremen's register as a checker.

(7) Nothing contained in this section shall be construed to limit in any way any rights of labor reserved by article XV of the compact.

9. Section 1 of P.L.1976, c.102 (C.32:23-118) is amended to read as follows:

C.32:23-118 Temporary suspension of permits, licenses and registrations for indictment or other charge of crime.

1. 5.q. (1) The commission may temporarily suspend a temporary permit or a permanent license or a temporary or permanent registration pursuant to the provisions of section 4 of Article XI of this act until further order of the commission or final disposition of the underlying case, only where the permittee, licensee or registrant has been indicted for, or otherwise charged with, a crime which is equivalent to a felony in the State of New York or to a crime of the third, second, or first degree in the State of New Jersey or only where the permittee or licensee is a port watchman who is charged by the commission pursuant to Article XI of this act with misappropriating any other person's property at or on a pier or other waterfront terminal.

(2) In the case of a permittee, licensee or registrant who has been indicted for, or otherwise charged with, a crime, the temporary suspension shall terminate immediately upon acquittal or upon dismissal of the criminal charge. A person whose permit, license or registration has been temporarily suspended may, at any time, demand that the commission conduct a hearing as provided for in Article XI of this act. Within 60 days of such demand, the commission, if feasible, and within the commission's discretion, shall commence the hearing and, within 30 days of receipt of the administrative law judge's report and recommendation, the commission shall render a final determination thereon; provided, however, that these time requirements, shall not apply for any period of delay caused or requested by the permittee, licensee or registrant. A person whose permit, license or registration has been temporarily suspended by the order of the commission may, no more than four times per year subsequent to the date of temporary suspension, petition the commission to vacate the temporary suspension.

(3) The commission may, within its discretion, bar any permittee, licensee or registrant who has been suspended pursuant to the provisions of subsection (1) above, from any employment by a licensed stevedore or a carrier of freight by water, if that individual has been indicted or otherwise charged in any federal, state or territorial proceeding with any crime involving the possession with intent to distribute, sale or distribution of a controlled dangerous substance or controlled dangerous substance analog, racketeering or theft from a pier or waterfront terminal.

10. If any part of this act or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare that they would have entered into this act or the remainder thereof had the invalidity of such provision or application thereof been apparent.

11. This act constitutes an agreement between the states of New Jersey and New York, supplementary to the waterfront commission compact and amendatory thereof, and shall be liberally construed to effectuate the purposes of that compact, and the powers vested in the waterfront commission shall be construed to be in aid of and supplemental to and not in limitation of or in derogation of any of the powers heretofore conferred upon or delegated to the

waterfront commission.

12. This act shall take effect upon the enactment of substantially similar legislation by the State of New York or, if the State of New York should enact legislation of a similar substance and effect of any section of this act, that section of this act shall take effect upon that enactment; but if legislation substantially similar to this act or any section thereof already has been enacted, this act or the section in question shall take effect immediately.

Approved January 12, 2006.