

CHAPTER 333

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. 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; definitions.

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 who has been identified by a federal, State or local law enforcement agency as a member or associate of an organized crime group, a terrorist group, or a career offender cartel, or who is a career offender, under circumstances where such association creates a reasonable belief that the participation of the applicant in any activity required to be licensed or registered under this act would be inimical to the policies of this act.

For purposes of this subsection, a "terrorist group" shall mean a group associated, affiliated or funded in whole or in part by a terrorist organization designated by the United States Secretary of State in accordance with section 219 of the Immigration and Nationality Act, as amended from time to time, or any other organization which assists, funds, or engages in crimes or acts of terrorism as defined in the laws of the United States, or of either of the states of New Jersey or New York; a "career offender" shall mean a 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 against the public policy of the states of New Jersey and New York; and a "career offender cartel" shall mean a number of career offenders acting in concert, and may include what is commonly referred to as an organized crime group; or

(7) Conviction 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 under circumstances where such association creates a reasonable belief that the participation of the applicant in any activity required to be licensed or registered under this act would be inimical to the policies of this act.

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

C.32:23-93 Revocation, suspension of licenses and registrations; definitions.

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 who has been identified by a federal, state or local law enforcement agency as a member or associate of an organized crime group, a terrorist group, or a career offender cartel, or who is a career offender, under circumstances where such association creates a reasonable belief that the participation of the licensee or registrant in any activity required to be licensed or registered under this act would be inimical to the policies of this act.

For the purposes of this subsection, a "terrorist group" shall mean a group associated, affiliated or funded in whole or in part by a terrorist organization designated by the United States Secretary of State in accordance with section 219 of the Immigration and Nationality Act, as amended from time to time, or any other organization which assists, funds, or engages in crimes or acts of terrorism as defined in the laws of the United States, or of either of the states of New Jersey or New York; a "career offender" shall mean a 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 against the public policy of the states of New Jersey and New York; and a "career offender cartel" shall mean a number of career offenders acting in concert, and may include what is commonly referred to as an organized crime group; or

(7) Conviction 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 under circumstances where such association creates a reasonable belief that the participation of the licensee or registrant in any activity required to be licensed or registered under this act would be inimical to the policies of this act.

3. 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 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. Upon failure of the commission to commence a hearing or render a determination within the time limits prescribed herein, the temporary suspension of the permittee, licensee or registrant shall immediately terminate. Notwithstanding any other provision of this subsection, if a federal, state, or local law enforcement agency or prosecutor's office shall request the suspension or deferment of any hearing on the ground that such a hearing would obstruct or prejudice an investigation or prosecution, the commission may in its discretion, postpone or defer such hearing for a time certain or indefinitely. Any action by the commission to postpone a hearing shall be subject to immediate judicial review as provided in section 7 of Article XI of this act.

(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.

4. If any part or provision 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 part or provision, or application thereof, been apparent.

5. 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 the 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.

6. 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 has been enacted, this act or the section in question shall take effect immediately.

Approved January 13, 2008.