

## CHAPTER 201

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. Paragraph 3 of Article III of section 1 of the compact created by P.L.1953, c.202 (C.32:23-9) is amended to read as follows:

C.32:23-9 Quorum; majority vote required; minutes; actions.

3. a. Three members of the commission shall constitute a quorum; but the commission shall act only by a majority vote of all its members taken at a meeting of the commission. Any member may, by written instrument filed in the office of the commission, designate any officer or employee of the commission to act in the member's place as a member whenever the member shall be unable to attend a meeting of the commission. A vacancy in the office of a member shall not impair that designation until the vacancy shall have been filled. The commission shall elect one of its members to serve as chairman for a term of one year; provided, however, that the term of the first chairman shall expire on June 30, 1971. The chairman shall represent a State other than the State represented by the immediately preceding chairman.

b. The commission shall maintain minutes of all commission meetings. The minutes of every meeting of the commission shall, as soon as possible after the meeting, be delivered, by and under the certification of the secretary of the commission, to the Governor of the State of New Jersey and the Governor of the State of New York.

c. No action taken by a commissioner at the meeting shall have force or effect for a period of 10 days, except Saturdays, Sundays and New Jersey and New York state public holidays, after the minutes have been delivered pursuant to this section, unless the Governor of the State of New Jersey and the Governor of the State of New York shall approve the minutes, or part thereof pertaining to that action, in writing, by reciting the action approved, within this 10-day period.

d. The Governor of the State of New Jersey and the Governor of the State of New York shall return the minutes to the commission, within the 10-day period described in subsection c. of this section, either with or without a veto of any action recited in the minutes the action was taken. If the Governor of the State of New Jersey and the Governor of the State of New York do not return the minutes within this 10-day period, they shall be deemed to have approved the action taken by the commissioners, and that action shall have the force and effect as recited in the minutes, according to the wording thereof.

e. If the Governor of the State of New Jersey or the Governor of the State of New York, within the 10-day period described in subsection c. of this section, returns the minutes to the commission with a veto against an action taken at a meeting, that action shall be null and void and of no effect.

f. The provisions of subsections c., d, and e. of this section shall not apply to any commission action concerning the licensing or registration, or the suspension or revocation of the license or registration, of an individual longshoreman, checker, pier superintendent, hiring agent, port watchman, stevedore, air freight terminal operator, air freight truck carrier, airfreightman labor relations consultant, or other individual required to receive a license from or be registered with the office of the commission under this compact.

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, subject to the approval of the Governors of both States, 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 approval by the Governors of both States and 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 the commission to 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. Paragraph 2 of Article VI of section 1 of the compact created by P.L.1953, c.202 (C.32:23-20) is amended to read as follows:

C.32:23-20 Application for license.

2. Any person intending to act as a stevedore within the port of New York district shall file in the office of the commission a written application for a license to engage in such occupation, duly signed and verified as follows:

(a) If the applicant is a natural person, the application shall be signed and verified by such person and if the applicant is a partnership, the application shall be signed and verified by each natural person composing or intending to compose such partnership. The application shall state the full name, age, residence, business address, if any, present and previous occupations of each natural person so signing the application, and any other facts and evidence as may be required by the commission to ascertain the character, integrity, and identity of each natural person so signing such application.

(b) If the applicant is a corporation, the application shall be signed and verified by the president, secretary, and treasurer thereof, and shall specify the name of the corporation, the date and place of its incorporation, the location of its principal place of business, the names and addresses of, and the amount of the stock held by stockholders owning five percent or more of any of the stock thereof, and of all officers, including all members of the board of directors. The requirements of subdivision (a) of this section as to a natural person who is a member of a partnership, and such requirements as may be specified in rules and regulations promulgated by the commission, upon approval of the Governors of both States, shall apply to each such officer or stockholder and their successors in office or interest as the case may be.

In the event of the death, resignation, or removal of any officer, and in the event of any change in the list of stockholders who shall own five percent or more of the stock of the corporation, the secretary of such corporation shall forthwith give notice of that fact in writing to the commission, certified by the secretary of the commission.

4. Paragraph 3 of Article XII of section 1 of the compact created by P.L.1953, c.202 (C.32:23-54) is amended to read as follows:

C.32:23-54 Information to be furnished by employers.

3. Every employer of longshoremen or port watchmen within the port of New York district shall furnish such information as may be required by the rules and regulations prescribed by the commission, subject to the approval of the Governors of both States, with

regard to the name of each person hired as a longshoreman or port watchman, the time and place of hiring, the time, place and hours of work, and the compensation therefor.

5. Paragraph 5 of Article XIII of section 1 of the compact created by P.L.1953, c.202 (C.32:23-60) is amended to read as follows:

C.32:23-60 Collection and auditing of assessments.

5. The commission may provide by regulation approved by the Governors of both States for the collection and auditing of assessments. Such assessments hereunder shall be payable pursuant to such provisions for administration, collection, and enforcement as the States may provide by concurrent legislation. In addition to any other sanction provided by law, the commission may revoke or suspend any license held by any person under this compact, or the person's privilege of employing persons registered or licensed hereunder, for non-payment of any assessment when due.

6. Section 2 of Part II of the compact created by P.L.1953, c.202 (C.32:23-74) is amended to read as follows:

C.32:23-74 Expenses of administration.

2. A. 1. Every person subject to the payment of any assessment under the provisions of section 3 of Article XIII of the compact shall file on or before the fifteenth day of the first month of each calendar quarter-year a separate return, together with the payment of the assessment due, for the preceding calendar quarter-year during which any pay roll payments were made to longshoremen, pier superintendents, hiring agents, or port watchmen for work performed as such within the district. Returns covering the amount of assessment payable shall be filed with the commission on forms to be furnished for such purpose and shall contain such data, information, or matter as the commission may require to be included therein. The commission may grant a reasonable extension of time for filing returns, or for the payment of assessment, whenever good cause exists. Every return shall have annexed thereto a certification to the effect that the statements contained therein are true.

2. Every person subject to the payment of assessment hereunder shall keep an accurate record of the person's employment of longshoremen, pier superintendents, hiring agents, or port watchmen, which shall show the amount of compensation paid and such other information as the commission may require. Such records shall be preserved for a period of three years and be open for inspection at reasonable times. The commission may consent to the destruction of any such records at any time after that period or may require that they be kept longer, but not in excess of six years.

3. (a) The commission shall audit and determine the amount of assessment due from the return filed and such other information as is available to it. Whenever a deficiency in payment of the assessment is determined, the commission shall give notice of any such determination to the person liable therefor. Such determination shall finally and conclusively fix the amount due, unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply in writing to the commission for a hearing, or unless the commission on its own motion shall reduce the deficiency. After such hearing, the commission shall give notice of its decision to the person liable therefor. A determination of the commission under this section shall be subject to judicial review, if application for such review is made within 30 days after the giving of notice of such

decision. Any determination under this section shall be made within five years from the time the return was filed and if no return was filed such determination may be made at any time.

(b) Any notice authorized or required under this section may be given by mailing the same to the person for whom it is intended at the last address given by the person to the commission, or in the last return filed by him with the commission under this section, or, if no return has been filed then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the notice by the person to whom addressed. Any period of time, which is determined according to the provision of this section, for the giving of notice shall commence to run from the date of mailing of such notice.

4. Whenever any person shall fail to pay, within the time limited herein, any assessment which the person is required to pay to the commission under the provisions of this section, the commission may enforce payment of such fee by civil action for the amount of such assessment with interest and penalties.

5. The employment by a nonresident of a longshoreman, or a licensed pier superintendent, hiring agent, or port watchman in either State or the designation by a nonresident of a longshoreman, pier superintendent, hiring agent, or port watchman to perform work in such State shall be deemed equivalent to an appointment by such nonresident of the Secretary of State of such State to be the nonresident's true and lawful attorney upon whom may be served the process in any action or proceeding against the nonresident growing out of any liability for assessments, penalties, or interest, and a consent that any such process against the nonresident which is so served shall be of the same legal force and validity as if served on the nonresident personally within such State and within the territorial jurisdiction of the court from which the process issues. Service of process within either State shall be made by either (1) personally delivering to and leaving with the Secretary of State or a deputy Secretary of State of such State duplicate copies thereof at the office of the Department of State in the capital city of such State, in which event such Secretary of State shall forthwith send by registered mail one of such copies to the person at the last address designated by the nonresident to the commission for any purpose under this section or in the last return filed by the nonresident under this section with the commission or as shown on the records of the commission, or if no return has been filed, at the nonresident's last known office address within or without such State, or (2) personally delivering to and leaving with the Secretary of State or a deputy Secretary of State of such State a copy thereof at the office of the Department of State in the capital city of such State and by delivering a copy thereof to the person, personally without such State. Proof of such personal service without such State shall be filed with the clerk of the court in which the process is pending within 30 days after such service and such service shall be complete 10 days after proof thereof is filed.

6. Whenever the commission shall determine that any moneys received as assessments were paid in error, it may cause the same to be refunded, provided an application therefor is filed with the commission within two years from the time the erroneous payment was made.

7. In addition to any other powers authorized hereunder, the commission shall have power to make reasonable rules and regulations, subject to the approval of the Governors of both States, to effectuate the purposes of this section.

8. When any person shall wilfully fail to pay any assessment due hereunder, the person shall be assessed interest at a rate of one per centum per month on the amount due and unpaid and penalties of five per centum of the amount due for each 30 days or part thereof

that the assessment remains unpaid. The commission may, for good cause shown, abate all or part of such penalty.

9. Any person who shall wilfully furnish false or fraudulent information or shall wilfully fail to furnish pertinent information, as required, with respect to the amount of assessment due, shall be guilty of a misdemeanor, punishable by a fine of not more than \$1,000, or imprisonment for not more than one year, or both.

10. All funds of the commission shall be deposited with such responsible banks or trust companies as may be designated by the commission. The commission may require that all such deposits be secured by obligations of the United States or of the States of New Jersey or New York of a market value equal at all times to the amount of the deposits, and all banks and trust companies are authorized to give such security for such deposits. The moneys so deposited shall be withdrawn only by check signed by both members of the commission or by such other officers or employees of the commission as it may from time to time designate.

11. The accounts, books and records of the commission, including its receipts, disbursements, contracts, leases, investments and any other matters relating to its financial standing shall be examined and audited annually by independent auditors to be retained for such purpose by the commission. No independent auditor shall be retained without the approval of the Governors of both States.

B. The commission shall reimburse each State for any funds advanced to the commission exclusive of sums appropriated pursuant to section four of Article XIII of the compact.

7. Article III of section 4 of P.L.1970, c.58 (C.32:23-153) is amended to read as follows:

C.32:23-153 General powers.

In addition to the powers and duties of the commission elsewhere conferred in this act or in the act to which this act is amendatory or supplementary, the commission shall have the power:

1. To administer and enforce the provisions of this compact;
2. To establish such divisions and departments within the commission as the commission may deem necessary and to appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties, and qualifications and fix their compensation and, subject to the approval of the Governors of both States, retain and employ counsel and private consultants on a contract basis or otherwise;
3. To make and enforce such rules and regulations, subject to the approval of the Governors of both States, as the commission may deem necessary to effectuate the purposes of this compact or to prevent the circumvention or evasion thereof including, but not limited to, rules and regulations, which shall be applicable to any person licensed by the commission, the person's employer, or any other person within an airport, to provide for the maximum protection of air freight, such as checking and custodial accounting, guarding, storing, fencing, gatehouses, access to air freight, air freight loss reports, and any other requirements which the commission in its discretion may deem to be necessary and appropriate to provide such maximum protection. The rules and regulations of the commission shall 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;
4. To have for its members and its properly designated officers, agents, and employees, full and free access, ingress and egress to and from all airports, air freight terminals, all

aircraft traveling to or from an airport, and all trucks or other motor vehicles or equipment which are carrying air freight to or from any airport or air freight terminal for the purposes of conducting investigations, making inspections, 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 investigation or inspection or in the enforcement of the provisions of this compact or in the performance of any other power or duty under this compact;

5. To make investigations, collect, and compile information concerning airport practices generally, and upon all matters relating to the accomplishment of the objectives of this compact;

6. 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 and the administration of the compact and the expeditious handling and efficient movement of air freight consistent with the security of such air freight;

7. To make annual and other reports to the Governors and Legislatures of both States containing recommendations for the effectuation of the purposes of this compact;

8. To issue temporary licenses and temporary permits under such terms and conditions as the commission may prescribe;

9. In any case in which the commission has the power to revoke or suspend any license or permit, the commission shall also have the power to impose as an alternative to such revocation or suspension, a penalty, which the licensee or permittee may elect to pay the commission in lieu of the revocation or suspension. The maximum penalty shall be \$5,000 for each separate offense. The commission may, for good cause shown, abate all or part of such penalty;

10. To determine the location, size, and suitability of field and administrative offices and any other accommodations necessary and desirable for the performance of the commission's duties under this compact;

11. To acquire, hold, and dispose of real and personal property, by gift, purchase, lease, license, or other similar manner, for its corporate purposes, and in connection therewith to borrow money;

12. To recover possession of any card or other means of identification issued by the commission as evidence of a license or permit in the event that the holder thereof no longer is a licensee or permittee;

13. To require any licensee or permittee to exhibit upon demand the license or permit issued to him by the commission or to wear such license or permit.

The powers and duties of the commission may be exercised by officers, employees, and agents designated by the commission, except the power to make rules and regulations. The commission shall have such additional powers and duties as may hereafter be delegated to or imposed upon it from time to time by the action of the Legislature of either State concurred in by the Legislature of the other.

8. Section 2 of Article V of section 4 of P.L.1970, c.58 (C.32:23-161) is amended to read as follows:

C.32:23-161 Application for license.

2. Any person intending to act as an air freight terminal operator or as an air freight truck carrier or as an airfreightman labor relations consultant within the State of New York

of the State of New Jersey shall file in the office of the commission a written application for a license to engage in such occupation duly signed and verified as follows:

(a) If the applicant is a natural person, the application shall be signed and verified by such person and if the applicant is a partnership, the application shall be signed and verified by each natural person composing or intending to compose such partnership. The application shall state the full name, age, residence, business address, if any, present and previous occupations of each natural person so signing the application, and any other facts and evidence as may be required by the commission to ascertain the character, integrity, identity, and criminal record, if any, of each natural person so signing such application.

(b) If the applicant is a corporation, the application shall be signed and verified by the president, secretary and treasurer thereof, and shall specify the name of the corporation, the date and place of its incorporation, the location of its principal place of business, the names and addresses of, and the amount of the stock held by stockholders owning 10 percent or more of any of the stock thereof, and of all the officers, including all members of the board of directors. The requirements of subdivision (a) of this section as to a natural person who is a member of a partnership, and such requirements as may be specified in rules and regulations promulgated by the commission, subject to the approval of the Governors of both States, shall apply to each such officer or stockholder and their successors in office or interest as the case may be.

In the event of the death, resignation or removal of any officer, and in the event of any change in the list of stockholders who shall own 10 percent or more of the stock of the corporation, the secretary of such corporation shall forthwith give notice of that fact in writing to the commission, certified by the secretary of the commission.

9. Section 15 of Article VIII of section 4 of P.L.1970, c.58 (C.32:23-194) is amended to read as follows:

C.32:23-194 Rules and regulations.

15. In addition to any other powers authorized hereunder, the commission shall have power to make reasonable rules and regulations, subject to the approval of the Governors of both States, to effectuate the purposes of this article.

10. Section 19 of Article VIII of section 4 of P.L.1970, c.58 (C.32:23-198) is amended to read as follows:

C.32:23-198 Examination and audit of books.

19. The accounts, books, and records of the commission, including its receipts, disbursements, contracts, leases, investments, and any other matters relating to its financial standing shall be examined and audited annually by independent auditors to be retained for such purpose by the commission. No independent auditor shall be retained without the approval of the Governors of both States.

11. The Governor is authorized to enter into a supplemental compact or agreement, on behalf of the State of New Jersey, with the State of New York amending the compact created by P.L.1953, c.202.

12. This act shall take effect upon the enactment of substantially similar legislation by the State of New York, but if the State of New York shall have already enacted legislation of



similar substance and effect of this act or any section thereof, this act or the section in question shall take effect immediately and shall be retroactive to October 1, 2010 but shall not be construed to interfere with, or impair any vested right or obligation under any contract prior to enactment.

Approved August 7, 2017.