

ASSEMBLY, No. 3491

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MAY 5, 2003

Sponsored by:

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

SYNOPSIS

Prohibits the idling or queuing of heavy-duty diesel trucks at marine terminals for more than 30 minutes.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the operation of heavy-duty diesel trucks at all
2 marine terminals, and agreeing with the State of New York with
3 respect to the operation of heavy-duty diesel trucks at marine
4 terminals leased by the Port Authority of New York and New
5 Jersey, and supplementing P.L.1947, c.44 (C.32:1-35.28 et seq.),
6 and amending and supplementing P.L.1968, c.60.

7

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

10

11 1. (New section) The Legislature finds and declares: that air
12 pollution in the State is an ongoing problem that impacts the health
13 and safety of its residents; that marine terminals in the State often
14 become congested with long lines forcing heavy-duty diesel trucks to
15 idle for extended periods of time; that idling heavy-duty diesel trucks
16 emit air contaminants, including carbon dioxide, carbon monoxide,
17 oxides of nitrogen, and particulate matter; that many marine terminals
18 and the port districts in the State are in close proximity to residential
19 areas and businesses frequented by the public; that owners and
20 operators of marine terminals generally do not directly own or control
21 the heavy-duty diesel trucks that move containers and other cargo to
22 and from, or transact business at, the marine terminals, but, due to the
23 manner in which some marine terminals operate, including, but not
24 limited to, the setting of short gate hours and maintaining systems that
25 do not disperse truck transactions throughout the day, heavy-duty
26 diesel trucks are forced to operate within the systems established by
27 the owners and operators of marine terminals and idle for extended
28 periods of time, creating severe congestion on public roadways in
29 communities in which the marine terminals are located, communities
30 near marine terminals, and communities in the port districts.

31

32 The Legislature therefore determines it is in the best interest of the
33 public health and safety of the residents of the State to prohibit the
34 extended idling of heavy-duty diesel trucks at marine terminals in the
35 port districts in order to protect the health and safety of all the
36 residents of the State; and that by enacting the provisions of this act,
37 the State may significantly reduce the particulate matter emissions that
38 are released by heavy-duty diesel trucks idling at marine terminals in
39 the State.

40

41 2. (New section) a. The Department of Environmental Protection,
42 in consultation and in conjunction with the Division of Motor Vehicles
43 and the Division of State Police, shall monitor the operation of marine
terminals in the South Jersey Port District pursuant to P.L. , c.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (C.) (now pending before the Legislature as this bill), the
2 compliance of marine terminals with the provisions of section 3 of
3 P.L. , c. (C.) (now pending before the Legislature as this bill),
4 and to the extent practicable, any air quality benefit from reduced
5 particulate emissions that may be quantifiable from the enactment and
6 enforcement of the provisions of P.L. , c. (C.) (now pending
7 before the Legislature as this bill).

8 b. The Department of Environmental Protection shall determine the
9 necessary level of monitoring commensurate with the magnitude of the
10 heavy-duty diesel truck idling problem at each marine terminal in the
11 State as reported to the Department of Environmental Protection by
12 the Division of Motor Vehicles pursuant to subsection b. of section 4
13 of P.L. , c. (C.) (now pending before the Legislature as this
14 bill), and shall adopt, in consultation with the Division of Motor
15 Vehicles, any rules or regulations necessary to effectuate the
16 reduction of particulate matter emissions from idling or queuing
17 heavy-duty diesel trucks at marine terminals.

18 c. For the purposes of this section, "heavy-duty diesel truck" means
19 any diesel-powered motor vehicle, whether registered in this State or
20 elsewhere, with a gross vehicle weight rating (GVWR) of 18,000 or
21 more pounds that is designed or used for the transporting of property
22 on any public road, street or highway or any public or quasi-public
23 property in the State. Heavy-duty diesel truck shall not mean a
24 heavy-duty diesel truck owned and operated by a county, municipality,
25 fire district, or duly incorporated nonprofit organization for first aid,
26 emergency, ambulance, rescue, or fire-fighting purposes.

27 d. The provisions of this section shall not apply to marine terminals
28 within the South Jersey Port District until 180 days after the effective
29 date of P.L. , c. (C.) (now pending before the Legislature as
30 this bill).

31
32 3. (New section) a. Except as provided in subsection e. of this
33 section, no heavy-duty diesel truck may idle or queue for more than 30
34 minutes while waiting to enter any marine terminal.

35 b. No owner or operator of a marine terminal may take any action
36 intended to avoid complying with, or to circumvent, the requirements
37 of this act, or to avoid or circumvent the reduction of particulate
38 matter emissions from idling or queuing heavy-duty diesel trucks,
39 including, but not limited to:

40 (1) Diverting an idling heavy-duty diesel truck to area highways or
41 alternate staging areas;

42 (2) Requiring a heavy-duty diesel truck to idle or queue inside the
43 gate of a marine terminal; or

44 (3) Requiring or directing a heavy-duty diesel truck driver to turn
45 on and off an engine while queuing.

1 c. It shall not constitute a violation of this section if a heavy-duty
2 diesel truck is idling or queuing for more than 30 minutes while
3 waiting to enter the gate of a marine terminal if the idling or queuing
4 is caused by:

5 (1) an act of God;

6 (2) a labor dispute;

7 (3) a declared federal or State emergency; or

8 (4) an event that the Director of the Division of Motor Vehicles or
9 the Superintendent of State Police determines was unavoidable or
10 unforeseeable, and that the owner and the operator of the marine
11 terminal are otherwise in good faith compliance with the act.

12 d. The operator of a marine terminal shall be subject to a fine of
13 \$250 for each heavy-duty diesel truck found in violation of subsection
14 a. of this section, and shall be subject to a fine of \$750 for each truck
15 involved in a violation of subsection b. of this section. Failure to pay
16 a fine imposed pursuant to this subsection, or the imposition of three
17 or more such fines during a three month period shall constitute
18 grounds for the suspension of the marine terminal motor carrier
19 property permit, and the Division of Motor Vehicles shall forward a
20 recommendation to the federal Motor Carrier Safety Administration
21 for administrative or other action deemed necessary against the motor
22 carrier's interstate operating authority.

23 e. A marine terminal shall be exempt from the provisions of
24 subsection a. of this section , provided that:

25 (1) the owner or operator of the marine terminal provides two
26 continuous hours of uninterrupted, fully staffed receiving and delivery
27 gates two hours prior to and after peak commuter hours each day, as
28 determined by the Division of Motor Vehicles, at least five days per
29 wee; or fully staffed receiving and delivery gates for 70 or more hours,
30 five days per week; and

31 (2) the owner or operator of the marine terminal notifies in writing
32 the Department of Environmental Protection and the Division of
33 Motor Vehicles of the implementation of the provisions of paragraph
34 (1) of this section and the date of the implementation.

35 The exemption of a marine terminal pursuant to this subsection shall
36 be effective on the date of receipt of the notification required under
37 subsection f. of this section from the Department of Environmental
38 Protection or the Division of Motor Vehicles, whichever date is later.
39 The exemption shall not take effect until both the Department of
40 Environmental Protection and the Division of Motor Vehicles have
41 notified the owner or operator of receipt of the notification from the
42 owner or operator pursuant to paragraph (2) of this subsection.

43 f. The Department of Environmental Protection and the Division
44 of Motor Vehicles shall each notify in writing the owner or operator
45 of the marine terminal who provides notification pursuant to paragraph
46 (2) of this subsection that the notification has been received.

1 g. The Division of Motor Vehicles shall promptly notify the
2 Superintendent of State Police of any marine terminal exempted from
3 the provisions of subsection a. of this section pursuant to subsection
4 d. of this section, and no owner or operator of a marine terminal that
5 is exempt shall be liable for any fine assessed against the owner or
6 operator due to the Superintendent of State Police not receiving this
7 notification.

8 h. For the purposes of this section, "heavy-duty diesel truck"
9 means any diesel-powered motor vehicle, whether registered in this
10 State or elsewhere, with a gross vehicle weight rating (GVWR) of
11 18,000 or more pounds that is designed or used for the transporting
12 of property on any public road, street or highway or any public or
13 quasi-public property in the State. Heavy-duty diesel truck shall not
14 mean a heavy-duty diesel truck owned and operated by a county,
15 municipality, fire district, or duly incorporated nonprofit organization
16 for first aid, emergency, ambulance, rescue, or fire-fighting purposes.

17 i. The provisions of this section shall not apply to marine terminals
18 within the South Jersey Port District until 180 days after the effective
19 date of P.L. , c. (C.)(now pending before the Legislature
20 as this bill).

21
22 4. (New section) a. The Division of State Police, in conjunction
23 with the Division of Motor Vehicles, shall enforce the provisions of
24 P.L. , c. (C.)(now pending before the Legislature as this bill).

25 b. The Superintendent of State Police and the Director of the
26 Division of Motor Vehicles, in consultation with each other and
27 independently, may adopt, pursuant to the "Administrative Procedure
28 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or regulations
29 necessary for the implementation and enforcement of P.L. , c.
30 (C.)(now pending before the Legislature as this bill), except that
31 the Superintendent of State Police or the Director of the Division of
32 Motor Vehicles, as appropriate, and in the appropriate manner, shall
33 provide for citations issued pursuant to P.L. , c. (C.)(now
34 pending before the Legislature as this bill) to include the truck license
35 plate number, the name of the marine terminal and port district at
36 which the violation occurred, and the date and time of the violation.

37 c. The Division of Motor Vehicles shall report annually to the
38 Department of Environmental Protection concerning the magnitude of
39 the heavy-duty diesel truck idling problem at each marine terminal in
40 the State. The Division of Motor Vehicles shall consult with the
41 Department of Environmental Protection as to the information that the
42 Department of Environmental Protection would find most useful in
43 assessing the magnitude of the heavy-duty diesel truck idling problem,
44 including, but not limited to, the number of violations of the act.

45 d. The provisions of this section shall not apply to marine terminals
46 within the South Jersey Port District until 180 days after the effective

1 date of P.L. , c. (C.)(now pending before the Legislature as
2 this bill).

3

4 5. Section 3 of P.L.1968, c.60 (C.12:11A-3) is amended to read as
5 follows:

6 3. As used in this act:

7 "Corporation" or "port corporation" [shall mean] means the South
8 Jersey Port Corporation, created by this act, or, if said corporation
9 shall be abolished, the board, body or commission succeeding to the
10 principal functions thereof or to whom the powers given by this act to
11 the corporation shall be given by law[.]:

12 "Cost," in addition to the usual meanings thereof, means the cost
13 of acquisition or construction of all or any part of a marine terminal
14 and of all or any property, rights, easements, privileges, agreements
15 and franchises deemed by the corporation to be necessary or useful
16 and convenient therefor or in connection therewith, including interest
17 or discount on bonds, cost of issuance of bonds; engineering and
18 inspection costs and legal expenses; cost of financial, professional and
19 other estimates and advice; organization, administration, operation
20 and other expenses of the corporation prior to and during such
21 acquisition or construction; and all such other expenses as may be
22 necessary or incident to the financing, acquisition, construction and
23 completion of said marine terminal or part thereof and placing of same
24 in operation; and also such provision or reserves for working capital,
25 operating or maintenance or replacement expenses, or for payment or
26 security of principal of or interest on bonds prior to during or after
27 such acquisition or construction and including also payments to its
28 South Jersey Port Corporation Reserve Fund and payments required
29 under Tax Agreements with counties or municipalities pursuant to
30 section 20 of this act "District" or "port district" shall mean the
31 South Jersey Port District created by this act;

32 "Heavy-duty diesel truck" means any diesel-powered motor vehicle,
33 whether registered in this State or elsewhere, with a gross vehicle
34 weight rating (GVWR) of 18,000 or more pounds that is designed or
35 used for the transporting of property on any public road, street or
36 highway or any public or quasi-public property in the State.
37 Heavy-duty diesel truck shall not mean a heavy-duty diesel truck
38 owned and operated by a county, municipality, fire district, or duly
39 incorporated nonprofit organization for first aid, emergency,
40 ambulance, rescue, or fire-fighting purposes;

41 "Marine terminals" [shall mean] means developments, consisting
42 of one or more piers, wharves, docks, bulkheads, slips, basins,
43 vehicular roadways, railroad connections, side tracks, sidings or other
44 buildings, structures, facilities or improvements, necessary or
45 convenient to the accommodation of steamships or other vessels and
46 their cargoes or passengers[.]:

1 "Marine terminal purposes" [shall mean] means the effectuation,
2 establishment, acquisition, construction, rehabilitation, improvement,
3 maintenance, ownership and operation of marine terminals[.];

4 "Private marine terminal" means any marine terminal operated and
5 maintained by a private marine terminal operator; and;

6 "Private marine terminal operator" [shall mean] means any person
7 or persons, corporation, partnership or any business organization
8 which shall operate and maintain any of the marine terminals
9 established, acquired, constructed, rehabilitated or improved by the
10 South Jersey Port Corporation by means of and through leasing
11 agreements entered into by any such person or persons, corporation,
12 partnership or any business organization with the South Jersey Port
13 Corporation.

14 ["Cost," in addition to the usual meanings thereof, means the cost
15 of acquisition or construction of all or any part of a marine terminal
16 and of all or any property, rights, easements, privileges, agreements
17 and franchises deemed by the corporation to be necessary or useful
18 and convenient therefor or in connection therewith, including interest
19 or discount on bonds, cost of issuance of bonds; engineering and
20 inspection costs and legal expenses; cost of financial, professional and
21 other estimates and advice; organization, administration, operation
22 and other expenses of the corporation prior to and during such
23 acquisition or construction; and all such other expenses as may be
24 necessary or incident to the financing, acquisition, construction and
25 completion of said marine terminal or part thereof and placing of same
26 in operation; and also such provision or reserves for working capital,
27 operating or maintenance or replacement expenses, or for payment or
28 security of principal of or interest on bonds prior to during or after
29 such acquisition or construction and including also payments to its
30 South Jersey Port Corporation Reserve Fund and payments required
31 under Tax Agreements with counties or municipalities pursuant to
32 section 20 of this act.]

33 (cf: P.L.1968, c. 60, s. 3)

34

35 6. (New section) Within 180 days after the effective date of P.L.
36 , c. (C.)(now before the Legislature as this bill), the South
37 Jersey Port Corporation shall establish and implement procedures for
38 the operations of the marine terminals within the South Jersey Port
39 District owned, operated and maintained by the port corporation, any
40 private marine terminal in the port district leased by the corporation,
41 and any municipal marine terminal in the port district in use by the port
42 corporation, that shall ensure the maximum compliance with the
43 requirements of section 3 of P.L. , c.
44 (C.)(now pending before the Legislature as this bill).

1 7. (New section) To the extent that any provision of P.L. ,
2 c. (C.)(now pending before the Legislature as this bill) may
3 abrogate any provision of any contract entered into by the South
4 Jersey Port Corporation, that provision shall not be enforced until such
5 time as the contract expires or the terms of the contract can be legally
6 renegotiated to reflect compliance with the provisions of P.L. ,
7 c. (C.)(now pending before the Legislature as this bill).

8
9 8. (New section) The Legislature finds and declares: that air
10 pollution in the State is an ongoing problem that impacts the health
11 and safety of its residents; that marine terminals in the State often
12 become congested with long lines forcing heavy-duty diesel trucks to
13 idle for extended periods of time; that idling heavy-duty diesel trucks
14 emit air contaminants, including carbon dioxide, carbon monoxide,
15 oxides of nitrogen, and particulate matter; that many marine terminals
16 and the port districts in the State are in close proximity to residential
17 areas and businesses frequented by the public; that owners and
18 operators of marine terminals generally do not directly own or control
19 the heavy-duty diesel trucks that move containers and other cargo to
20 and from, or transact business at, the marine terminals, but, due to the
21 manner in which some marine terminals operate, including, but not
22 limited to, the setting of short gate hours and maintaining systems that
23 do not disperse truck transactions throughout the day, heavy-duty
24 diesel trucks are forced to operate within the systems established by
25 the owners and operators of marine terminals and idle for extended
26 periods of time, creating severe congestion on public roadways in
27 communities in which the marine terminals are located, communities
28 near marine terminals, and communities in the port districts.

29 The Legislature therefore determines it is in the best interest of the
30 public health and safety of the residents of the State to prohibit the
31 extended idling of heavy-duty diesel trucks at marine terminals in the
32 port districts in order to protect the health and safety of all the
33 residents of the State; and that by enacting the provisions of this act,
34 the State may significantly reduce the particulate matter emissions that
35 are released by heavy-duty diesel trucks idling at marine terminals in
36 the State.

37
38 9. (New section) a. The Department of Environmental Protection,
39 in consultation and in conjunction with the Division of Motor Vehicles
40 and the Division of State Police, shall monitor the operation of marine
41 terminals in the port district of New York and New Jersey, the
42 compliance of marine terminals with the provisions of section 10 of
43 P.L. , c. (C.)(now pending before the Legislature as this bill),
44 and to the extent practicable, any air quality benefit from reduced
45 particulate emissions that may be quantifiable from the enactment and
46 enforcement of the provisions of sections 8 through 13 inclusive of

1 P.L. , c. (C.)(now pending before the Legislature as this bill).

2 b. The Department of Environmental Protection shall determine the
3 necessary level of monitoring commensurate with the magnitude of the
4 heavy-duty diesel truck idling problem at each marine terminal in the
5 port district of New York and New Jersey as reported to the
6 Department of Environmental Protection by the Division of Motor
7 Vehicles pursuant to subsection c. of section 11 of P.L. , c.
8 (C.)(now pending before the Legislature as this bill), and shall
9 adopt, in consultation with the Division of Motor Vehicles, any rules
10 or regulations necessary to effectuate the reduction of particulate
11 matter emissions from idling or queuing heavy-duty diesel trucks at
12 marine terminals in the port district of New York and New Jersey.

13 c. For the purposes of this section, "heavy-duty diesel truck" means
14 any diesel-powered motor vehicle, whether registered in this State or
15 elsewhere, with a gross vehicle weight rating (GVWR) of 18,000 or
16 more pounds that is designed or used for the transporting of property
17 on any public road, street or highway or any public or quasi-public
18 property in the State. Heavy-duty diesel truck shall not mean a
19 heavy-duty diesel truck owned and operated by a county, municipality,
20 fire district, or duly incorporated nonprofit organization for first aid,
21 emergency, ambulance, rescue, or fire-fighting purposes.

22

23 10. (New section) a. Except as provided in subsection e. of this
24 section, no heavy-duty diesel truck may idle or queue for more than 30
25 minutes while waiting to enter any marine terminal in the port district
26 of New York and New Jersey.

27 b. No owner or operator of a marine terminal in the port district
28 may take any action intended to avoid complying with, or to
29 circumvent, the requirements of this act, or to avoid or circumvent the
30 reduction of particulate matter emissions from idling or queuing
31 trucks, including, but not limited to:

32 (1) Diverting an idling truck to area highways or alternate staging
33 areas;

34 (2) Requiring a truck to idle or queue inside the gate of a marine
35 terminal; or

36 (3) Requiring or directing a truck driver to turn on and off an
37 engine while queuing.

38 c. It shall not constitute a violation of this section if a heavy-duty
39 diesel truck is idling or queuing for more than 30 minutes while
40 waiting to enter the gate of a marine terminal in the port district if the
41 idling or queuing is caused by:

42 (1) an act of God;

43 (2) a labor dispute;

44 (3) a declared federal or State emergency; or

45 (4) an event that the Director of the Division of Motor Vehicles or
46 the Superintendent of State Police determines was unavoidable or

1 unforseeable, and that the owner and the operator of the marine
2 terminal are otherwise in good faith compliance with the act.

3 d. The operator of a marine terminal in the port district shall be
4 subject to a fine of \$250 for each heavy-duty diesel truck found in
5 violation of subsection a. of this section, and shall be subject to a fine
6 of \$750 for each truck involved in a violation of subsection b. of this
7 section. Failure to pay a fine imposed pursuant to this subsection, or
8 the imposition of three or more such fines during a three month period
9 shall constitute grounds for the suspension of the marine terminal
10 motor carrier property permit, and the Division of Motor Vehicles
11 shall forward a recommendation to the federal Motor Carrier Safety
12 Administration for administrative or other action deemed necessary
13 against the motor carrier's interstate operating authority.

14 e. A marine terminal in the port district shall be exempt from the
15 provisions of subsection a. of this section , provided that:

16 (1) the owner or operator of the marine terminal provides two
17 continuous hours of uninterrupted, fully staffed receiving and delivery
18 gates two hours prior to and after peak commuter hours each day, as
19 determined by the Division of Motor Vehicles, at least five days per
20 wee; or fully staffed receiving and delivery gates for 70 or more hours,
21 five days per week; and

22 (2) the owner or operator of the marine terminal notifies in writing
23 the Department of Environmental Protection and the Division of
24 Motor Vehicles of the implementation of the provisions of paragraph
25 (1) of this section and the date of the implementation.

26 The exemption of a marine terminal pursuant to this subsection shall
27 be effective on the date of receipt of the notification required under
28 subsection f. of this section from the Department of Environmental
29 Protection or the Division of Motor Vehicles, whichever date is later.
30 The exemption shall not take effect until both the Department of
31 Environmental Protection and the Division of Motor Vehicles have
32 notified the owner or operator of receipt of the notification from the
33 owner or operator pursuant to paragraph (2) of this subsection.

34 f. The Department of Environmental Protection and the Division
35 of Motor Vehicles shall each notify in writing the owner or operator
36 of the marine terminal who provides notification pursuant to paragraph
37 (2) of subsection e. of this section that the notification has been
38 received.

39 g. The Division of Motor Vehicles shall promptly notify the
40 Superintendent of State Police of any marine terminal exempted from
41 the provisions of subsection a. of this section pursuant to subsection
42 e. of this section, and no owner or operator of a marine terminal that
43 is exempt shall be liable for any fine assessed against the owner or
44 operator due to the Superintendent of State Police not receiving this
45 notification.

1 h. For the purposes of this section, "heavy-duty diesel truck"
2 means any diesel-powered motor vehicle, whether registered in this
3 State or elsewhere, with a gross vehicle weight rating (GVWR) of
4 18,000 or more pounds that is designed or used for the transporting
5 of property on any public road, street or highway or any public or
6 quasi-public property in the State. Heavy-duty diesel truck shall not
7 mean a heavy-duty diesel truck owned and operated by a county,
8 municipality, fire district, or duly incorporated nonprofit organization
9 for first aid, emergency, ambulance, rescue, or fire-fighting purposes.
10

11 11. (New section) a. The Division of State Police, in conjunction
12 with the Division of Motor Vehicles, shall enforce the provisions of
13 sections 8 through 13 inclusive of P.L. , c. (C.)(now pending
14 before the Legislature as this bill).

15 b. The Superintendent of State Police and the Director of the
16 Division of Motor Vehicles, in consultation with each other and
17 independently, may adopt, pursuant to the "Administrative Procedure
18 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or regulations
19 necessary for the implementation and enforcement of sections 8
20 through 13 inclusive of P.L. , c. (C.)(now pending before the
21 Legislature as this bill), except that the Superintendent of State Police
22 or the Director of the Division of Motor Vehicles, as appropriate, and
23 in the appropriate manner, shall provide for citations issued pursuant
24 to P.L. , c. (C.)(now pending before the Legislature as this
25 bill) to include the truck license plate number, the name of the marine
26 terminal and port district at which the violation occurred, and the date
27 and time of the violation.

28 c. The Division of Motor Vehicles shall report annually to the
29 Department of Environmental Protection concerning the magnitude of
30 the heavy-duty diesel truck idling problem at each marine terminal in
31 the State. The Division of Motor Vehicles shall consult with the
32 Department of Environmental Protection as to the information that the
33 Department of Environmental Protection would find most useful in
34 assessing the magnitude of the heavy-duty diesel truck idling problem,
35 including, but not limited to, the number of violations of the act.
36

37 12. (New section) The Port Authority of New York and New
38 Jersey shall establish and implement procedures for the operations of
39 the marine terminals owned by the Port Authority of New York and
40 New Jersey that shall ensure the maximum compliance with the
41 requirements of section 10 of P.L. , c. (C.)(now pending
42 before the Legislature as this bill), and shall include these procedures
43 in the terms of any leasing contract with any marine terminal operator
44 in the port district of New York and New Jersey.

1 13. (New section) To the extent that any provision of sections 8
2 through 12 of P.L. , c. (C.)(now pending before the
3 Legislature as this bill) may abrogate any provision of any contract
4 entered into by the Port Authority of New York and New Jersey, that
5 provision shall not be enforced until such time as the contract expires
6 or the terms of the contract can be legally renegotiated to reflect
7 compliance with the provisions of sections 8 through 12 of P.L. ,
8 c. (C.)(now pending before the Legislature as this bill).

9
10 14. This act shall take effect immediately, except for sections 8
11 through 13 inclusive that shall take effect upon the enactment into law
12 by the State of New York of legislation having an identical effect with
13 sections 8 through 13 inclusive of this act, or, if the State of New
14 York shall have already enacted such legislation, then sections 8
15 through 13 inclusive of this act shall take effect immediately.

16
17
18 STATEMENT

19
20 This bill provides for the reduction of particulate matter emissions
21 from heavy-duty diesel trucks operating at marine terminals in port
22 districts in the State by prohibiting the idling or queuing of such trucks
23 at marine terminals for more than 30 minutes.

24 Because there are two port districts in the State with marine
25 terminals that are owned, operated or leased by two separate
26 independent authorities, sections 1 through 7 of the bill provide for
27 this regulation of heavy-duty diesel trucks in the South Jersey Port
28 District by the South Jersey Port Corporation and sections 8 through
29 13 of the bill provide for this regulation of heavy-duty diesel trucks
30 in the port district of New York and New Jersey by the Port Authority
31 of New York and New Jersey. The requirements and enforcement
32 provisions under sections 1 through 7 are identical in their effect on
33 marine terminals and heavy-duty diesel trucks as the requirements and
34 enforcement provisions under sections 8 through 13. The bill also
35 provides for sections 8 through 13 to take effect when the State of
36 New York has enacted legislation having an identical effect, or
37 immediately, if the State of New York has already enacted such
38 legislation. Because the port district of New York and New Jersey is
39 governed by a bi-state compact, any legislation affecting the
40 operations within the port district must be enacted by both the State
41 of New Jersey and the State of New York.

42 The bill directs the Department of Environmental Protection (DEP)
43 to monitor the operation and compliance of marine terminals in the
44 port districts, and to the extent practicable, any air quality benefit from
45 reduced particulate emissions that may be quantifiable. The DEP is
46 further directed to determine the level of monitoring required based on

1 the magnitude of the problem of idling trucks as reported by the
2 Division of Motor Vehicles (DMV), and adopt, in consultation with
3 the Division of Motor Vehicles, any rules or regulations necessary to
4 reduce particulate matter emissions from idling or queuing heavy-duty
5 diesel trucks at marine terminals.

6 The bill prohibits heavy-duty diesel trucks from idling or queuing
7 for more than 30 minutes while waiting to enter any marine terminal,
8 and any owner or operator of a marine terminal from taking any action
9 intended to avoid complying with, or to circumvent, the requirements
10 of the act including, but not limited to:

11 1) diverting an idling truck to area highways or alternate staging
12 areas;

13 2) requiring a truck to idle or queue inside the gate of a marine
14 terminal; or

15 3) requiring or directing a truck driver to turn on and off an engine
16 while queuing.

17 The bill provides that the operator of a marine terminal is subject
18 to a fine of \$250 for each heavy-duty diesel truck found in violation of
19 the idling or queuing prohibition, and is subject to a fine of \$750 for
20 each truck involved in a violation of avoiding compliance with, or
21 circumventing, the act. Failure to pay a fine imposed, or the
22 imposition of three or more such fines during a three month period
23 constitutes grounds for the suspension of the marine terminal motor
24 carrier property permit, and bill directs the Division of Motor Vehicles
25 to forward a recommendation to the federal Motor Carrier Safety
26 Administration for administrative or other action deemed necessary
27 against the motor carrier's interstate operating authority.

28 The bill exempts from enforcement any violations caused by acts of
29 God, labor disputes, declared federal or State emergencies, or events
30 the Director of the Division of Motor Vehicles or the Superintendent
31 of State Police determine are unavoidable or unforeseeable, provided
32 that the owner and the operator of the marine terminal are otherwise
33 in good faith compliance with the act. Marine terminals that establish
34 certain procedures are exempt from the idling or queuing prohibition.
35 The exempting procedures are: 1) the owner or operator of the marine
36 terminal provides two continuous hours of uninterrupted, fully staffed
37 receiving and delivery gates two hours prior to and after peak
38 commuter hours each day, as determined by the Division of Motor
39 Vehicles, at least five days per week; or 2) fully staffed receiving and
40 delivery gates for 70 or more hours, five days per week.

41 The bill authorizes the Division of State Police, in conjunction with
42 the Division of Motor Vehicles, to enforce the act. The bill also
43 authorizes the Department of Environmental Protection, the Division
44 of Motor Vehicles, and the Division of State Police to adopt any
45 regulations necessary to implement the act, except that the
46 Superintendent of State Police or the Director of the Division of

1 Motor Vehicles, as appropriate, and in the appropriate manner, are
2 required to provide that any citations issued include the truck license
3 plate number, the name of the marine terminal and port district at
4 which the violation occurred, and the date and time of the violation.

5 Finally, the bill provides that the South Jersey Port Corporation and
6 the Port Authority of New York and New Jersey, each under the
7 respective sections of the bill addressing their respective jurisdictions,
8 establish and implement procedures for the operations of marine
9 terminals in their respective jurisdictions to ensure the maximum
10 compliance with the act, and include these procedures in the terms of
11 any leasing contract entered into by the respective independent
12 authority with any marine terminal operator in their respective port
13 districts. To the extent that any provision of the bill may abrogate any
14 provision of any contract entered into by either independent authority,
15 the bill provides that the provision would not be enforced until such
16 time as the contract expires or the terms of the contract can be legally
17 renegotiated to reflect compliance with the act.