

P.L. 1997, CHAPTER 433, *approved January 19, 1998*
Assembly, No. 3024

1 AN ACT empowering the waterfront commission to grant permanent
2 registration to certain checkers, container equipment operators and
3 longshoremen with temporary registration and amending P.L.1966,
4 c.18.

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

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9 1. Section 2 (5-p) of P.L.1966, c.18 (C.32:23-114) is amended to
10 read as follows:

11 2. 5-p 1. The commission shall suspend the acceptance of
12 applications for inclusion in the longshoremen's register for a period
13 of 60 days after the effective date of this act. Upon the termination of
14 such 60 day period the commission shall thereafter have the power to
15 make determinations to suspend the acceptance of applications for
16 inclusion in the longshoremen's register for such periods of time as the
17 commission may from time to time establish and, after any such period
18 of suspension, the commission shall have the power to make
19 determinations to accept applications, which shall be processed in the
20 order in which they are filed with the commission, for such period of
21 time as the commission may establish or in such number as the
22 commission may determine, or both. Such determinations to suspend
23 or accept applications shall be made by the commission on its own
24 initiative or upon the joint recommendation in writing of stevedores
25 and other employers of longshoremen in the Port of New York
26 District, acting through their representative for the purposes of
27 collective bargaining with a labor organization representing such
28 longshoremen in such district and such labor organization, which joint
29 recommendation the commission shall have the power to accept or
30 reject.

31 2. In administering the provisions of this section, the commission
32 shall observe the following standards:

33 (a) To encourage as far as practicable the regularization of the
34 employment of longshoremen;

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

Matter underlined thus is new matter.

1 (b) To bring the number of eligible longshoremen into balance with
2 the demand for longshoremen's services within the Port of New York
3 District without reducing the number of eligible longshoremen below
4 that necessary to meet the requirements of longshoremen in the Port
5 of New York District;

6 (c) To encourage the mobility and full utilization of the existing
7 work force of longshoremen;

8 (d) To protect the job security of the existing work force of
9 longshoremen;

10 (e) To eliminate oppressive and evil hiring practices injurious to
11 waterfront labor and waterborne commerce in the Port of New York
12 District, including, but not limited to, those oppressive and evil hiring
13 practices that may result from either a surplus or shortage of
14 waterfront labor;

15 (f) To consider the effect of technological change and automation
16 and such other economic data and facts as are relevant to a proper
17 determination.

18 In observing the foregoing standards and before determining to
19 suspend or accept applications for inclusion in the longshoremen's
20 register, the commission shall consult with and consider the views of,
21 including any statistical data or other factual information concerning
22 the size of the longshoremen's register submitted by, carriers of freight
23 by water, stevedores, waterfront terminal owners and operators, any
24 labor organization representing employees registered by the
25 commission, and any other person whose interests may be affected by
26 the size of the longshoremen's register.

27 3. Any determination by the commission pursuant to this section
28 to suspend or accept applications for inclusion in the longshoremen's
29 register shall be made upon a record, shall not become effective until
30 five days after notice thereof to the collective bargaining
31 representative of stevedores and other employers of longshoremen in
32 the Port of New York District and to the labor organization
33 representing such longshoremen and shall be subject to judicial review
34 for being arbitrary, capricious, and an abuse of discretion in a
35 proceeding jointly instituted by such representative and such labor
36 organization. Such judicial review proceeding may be instituted in
37 either state in the manner provided by the law of such state for review
38 of the final decision or action of administrative agencies of such state,
39 provided, however, that such proceeding shall be decided directly by
40 the appellate division as the court of first instance (to which the
41 proceeding shall be transferred by order of transfer by the Supreme
42 Court in the state of New York or in the State of New Jersey by notice
43 of appeal from the commission's determination), and provided further
44 that notwithstanding any other provision of law in either state no court
45 shall have power to stay the commission's determination prior to final
46 judicial decision for more than 15 days. In the event that the court

1 enters a final order setting aside the determination by the commission
2 to accept applications for inclusion in the longshoremen's register, the
3 registration of any longshoremen included in the longshoremen's
4 register as a result of such determination by the commission shall be
5 canceled.

6 This section shall apply, notwithstanding any other provision of this
7 act, provided, however, such action shall not in any way limit or
8 restrict the provision of section 5 of article IX of this act empowering
9 the commission to register longshoremen on a temporary basis to meet
10 special or emergency needs or the provisions of section 4 of article IX
11 of this act relating to the immediate reinstatement of persons removed
12 from the longshoremen's register pursuant to article IX of this act.
13 Nothing in this section shall be construed to modify, limit or restrict
14 in any way any of the rights protected by article 15 of this act.

15 4. Notwithstanding any other provision of this act, the commission
16 may include in the longshoremen's register under such terms and
17 conditions as the commission may prescribe:

18 (a) A person issued registration on a temporary basis to meet
19 special or emergency needs, who, on the effective date of this act, is
20 still so registered by the commission;

21 (b) A person defined as a "longshoreman" in subdivision (6) of
22 section 1(5-a) of P.L.1954, c.14 (C.32:23-85), who is employed by a
23 stevedore as defined in paragraph (b) or (c) of subdivision (1) of the
24 same section (C.32:23-85) and whose employment is not subject to the
25 guaranteed annual income provisions of any collective bargaining
26 agreement relating to longshoremen;

27 (c) No more than 20 persons issued and holding registration
28 pursuant to paragraph (b) of this subdivision who are limited to acting
29 as scalemen and who are no longer employed as scalemen on the
30 effective date of this 1987 amendatory act; [and]

31 (d) A person issued registration on a temporary basis as a checker
32 to meet special or emergency needs who applied for such registration
33 prior to January 15, 1986 and who is still so registered by the
34 commission[.] ;

35 (e) A person issued registration on a temporary basis as a checker
36 to meet special or emergency needs in accordance with a waterfront
37 commission resolution of September 4, 1996 and who is still so
38 registered by the commission;

39 (f) A person issued registration on a temporary basis as a container
40 equipment operator to meet special or emergency needs in accordance
41 with a waterfront commission resolution of September 4, 1996 and
42 who is still so registered by the commission; and

43 (g) A person issued registration on a temporary basis as a
44 longshoreman to meet special or emergency needs in accordance with
45 a waterfront commission resolution of September 4, 1996 and who is

1 still so registered by the commission.

2 (cf: P.L.1988, c.22, s.1)

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4 2. (New section) If any part or provision of this act or the
5 application thereof to any person or circumstances be adjudged invalid
6 by any court of competent jurisdiction, such judgment shall be
7 confined in its operation to the part, provision or application directly
8 involved in the controversy in which such judgment shall have been
9 rendered and shall not affect or impair the validity of the remainder of
10 this act or the application thereof to other persons or circumstances
11 and the two states hereby declare that they would have entered into
12 this act or the remainder thereof had the invalidity of such provisions
13 or application thereof been apparent.

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15 3. (New section) This act constitutes an agreement between the
16 states of New Jersey and New York, supplementary to the waterfront
17 commission compact and amendatory thereof, and shall be liberally
18 construed to effectuate the purposes of that compact and the powers
19 vested in the waterfront commission hereby shall be construed to be
20 in aid of and supplemental to and not in limitation of or in derogation
21 of any of the powers heretofore conferred upon or delegated to the
22 waterfront commission.

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24 4. This act shall take effect immediately but shall remain
25 inoperative until the enactment into law by the State of New York of
26 legislation of substantially similar substance and effect; but if such
27 legislation already has been enacted, this act shall take effect
28 immediately.

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STATEMENT

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33 This bill permits the Waterfront Commission of New York harbor
34 (the "Waterfront Commission") to grant permanent registration in the
35 longshoremen's register to certain checkers, container equipment
36 operators and longshoremen. In order to qualify for this permanent
37 registration, the personnel in question must have been issued
38 registration on a temporary basis to meet special or emergency needs
39 in accordance with a Waterfront Commission resolution of September
40 4, 1996. This permanent exception to the longshoremen's register
41 provisions of the existing law would facilitate the continued
42 employment of skilled personnel for positions which it has proven
43 difficult to fill from those with permanent registration on the
44 longshoremen's register, which has been "closed" to new permanent
45 registrations for almost 30 years.

46 For the provisions of this act to have the force of law, the State of

1 New York must adopt substantially similar legislation.

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6 Permits Waterfront Commission of New York harbor to grant

7 permanent registration in longshoremen's register to certain temporary

8 registrants.