

CHAPTER 433

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

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

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

C.32:23-114 Longshoremen's register.

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

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

- (a) To encourage as far as practicable the regularization of the employment of longshoremen;
- (b) To bring the number of eligible longshoremen into balance with the demand for longshoremen's services within the Port of New York District without reducing the number of eligible longshoremen below that necessary to meet the requirements of longshoremen in the Port of New York District;
- (c) To encourage the mobility and full utilization of the existing work force of longshoremen;
- (d) To protect the job security of the existing work force of longshoremen;
- (e) To eliminate oppressive and evil hiring practices injurious to waterfront labor and waterborne commerce in the Port of New York District, including, but not limited to, those oppressive and evil hiring practices that may result from either a surplus or shortage of waterfront labor;
- (f) To consider the effect of technological change and automation and such other economic data and facts as are relevant to a proper determination.

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

3. Any determination by the commission pursuant to this section to suspend or accept applications for inclusion in the longshoremen's register shall be made upon a record, shall not become effective until five days after notice thereof to the collective bargaining representative of stevedores and other employers of longshoremen in the Port of New York District and to the labor organization representing such longshoremen and shall be subject to judicial review for being arbitrary, capricious, and an abuse of discretion in a proceeding jointly instituted by such representative and such labor organization. Such judicial review proceeding may be instituted in either state in the manner provided by the law of such state for review of the final decision or action of administrative agencies of such state, provided, however, that such proceeding shall be decided directly by the appellate division as the court of first instance (to which the proceeding shall be transferred by order of transfer by the Supreme Court in the state of New York or in the State of New Jersey by notice of appeal from the commission's determination),

and provided further that notwithstanding any other provision of law in either state no court shall have power to stay the commission's determination prior to final judicial decision for more than 15 days. In the event that the court enters a final order setting aside the determination by the commission to accept applications for inclusion in the longshoremen's register, the registration of any longshoremen included in the longshoremen's register as a result of such determination by the commission shall be canceled.

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

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

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

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

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

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

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

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

(g) A person issued registration on a temporary basis as a longshoreman to meet special or emergency needs in accordance with a waterfront commission resolution of September 4, 1996 and who is still so registered by the commission.

2. 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 provisions or application thereof been apparent.

3. 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 hereby 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.

4. This act shall take effect immediately but shall remain inoperative until the enactment into law by the State of New York of legislation of substantially similar substance and effect; but if

such legislation already has been enacted, this act shall take effect immediately.

Approved January 19, 1998.