

SENATE, No. 2331

STATE OF NEW JERSEY

INTRODUCED DECEMBER 1, 1997

By Senator DiFRANCESCO

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.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
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

1 is 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.