

SENATE, No. 385

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 17, 1956

By Messrs. McCAY, RIDOLFI and DUMONT

Referred to Committee on Judiciary

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. Section 5-a of the act of which this act is amendatory is amended to  
read as follows:

5-a. Supplementary definitions as used in the compact:

(1) "Stevedore" shall also include contractors engaged for compensa-  
tion pursuant to a contract or arrangement with the United States, any  
State or territory thereof, or any department, division, board, commis-  
sion or authority of one or more of the foregoing, in moving freight carried  
or consigned for carriage between any point in the Port of New York Dis-  
trict and a point outside said district on vessels of such a public agency  
berthed at piers, on piers at which such vessels are berthed or at other  
waterfront terminals.

(2) "Waterborne freight" shall also include freight described in sub-  
division (1) of this section [.] and ships' stores, baggage and mail carried  
by or consigned for carriage by carriers of freight by water.

(3) "Court of the United States" shall mean all courts enumerated in  
section 451 of Title 28 of the United States Code and the courts-martial  
of the Armed Forces of the United States.

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

18 (4) "Witness" shall mean any person whose testimony is desired in  
 19 any investigation, interview or other proceeding conducted by the commis-  
 20 sion pursuant to the provisions of this act.

21 (5) "Checker" shall mean a longshoreman who is employed to engage  
 22 in direct and immediate checking of waterborne freight or of the custodial  
 23 accounting therefor or in the recording or tabulation of the hours worked  
 24 at piers or other waterfront terminals by natural persons employed by car-  
 25 riers of freight by water or stevedores.

26 (6) "Longshoreman" shall also include a natural person, other than a  
 27 hiring agent, who is employed for work at a pier or other waterfront ter-  
 28 minal, either by a carrier of freight by water or by a stevedore physically  
 29 to perform labor or services incidental to the movement of waterborne freight  
 30 on vessels berthed at piers, on piers or at other waterfront terminals, includ-  
 31 ing, but not limited to, cargo repairmen, coopers, general maintenance men,  
 32 mechanical and miscellaneous workers, horse and catile fitters, grain ceilers  
 33 and marine carpenters.

34 (7) "Compact" shall also include any amendments or supplements to  
 35 the waterfront commission compact to implement the purposes thereof  
 36 adopted by the action of the Legislature of either the State of New York or  
 37 the State of New Jersey concurred in by the Legislature of the other.

38 (8) The term "select any longshoreman for employment" in the defini-  
 39 tion of a hiring agent in article II of this act shall include selection of a per-  
 40 son for the commencement or continuation of employment as a longshore-  
 41 man, or the denial or termination of employment as a longshoreman.

1 2. Section 5-b of the act of which this act is amendatory is amended to  
 2 read as follows:

3 5-b. Additional powers of the commission. In addition to the powers  
 4 and duties elsewhere described in this act the commission shall have the  
 5 following powers:

6 (1) **T**o issue temporary permits and permit temporary registrations  
 7 under such terms and conditions as the commission may prescribe which shall

8 be valid for a period to be fixed by the commission not in excess of 6 months.

9 (2) To require any applicant for a license or registration or any prospec-  
10 tive licensee to furnish such facts and evidence as the commission may deem  
11 appropriate to enable it to ascertain whether the license or registration should  
12 be granted.

13 (3) In any case in which the commission has the power to revoke, cancel  
14 or suspend any stereore license the commission shall also have the power  
15 to impose as an alternative to such revocation, cancellation or suspension, a  
16 penalty, which the licensee may elect to pay to the commission in lieu of the  
17 revocation, cancellation or suspension. The maximum penalty shall be  
18 \$5,000.00 for each separate offense. The commission may, for good cause  
19 shown, abate all or part of such penalty.

20 (4) To designate any officer, agent or employee of the commission to be  
21 an investigator who shall be vested with the powers of a peace officer of the  
22 State of New York in that State, and of the State of New Jersey in that State.

23 (5) To confer immunity, in the following manner: In any investigation,  
24 interview or other proceeding conducted by the commission or any duly  
25 authorized officer, employee or agent thereof, if a person refuses to answer a  
26 question or produce evidence of any other kind on the ground that he may be  
27 incriminated thereby, and, notwithstanding such refusal, an order is made  
28 upon 24 hours' prior written notice to the appropriate Attorney-General of  
29 the State of New York or the State of New Jersey, and to the appropriate  
30 district attorney or prosecutor having an official interest therein, by the  
31 unanimous vote of both members of the commission or their designees ap-  
32 pointed pursuant to the provisions of section 3 of article III of this act, that  
33 such person answer the question or produce the evidence, such person shall  
34 comply with the order. If such person complies with the order, and if, but  
35 for this subdivision, he would have been privileged to withhold the answer  
36 given or the evidence produced by him, then immunity shall be conferred upon  
37 him, as provided for herein.

38 *"Immunity" as used in this subdivision means that such person shall not*  
39 *be prosecuted or subjected to any penalty or forfeiture for or on account of*  
40 *any transaction, matter or thing concerning which, in accordance with the*  
41 *order by the unanimous vote of both members of the commission or their*  
42 *designees appointed pursuant to the provisions of section 3 of article III of*  
43 *this act, he gave answer or produced evidence, and that no such answer given*  
44 *or evidence produced shall be received against him upon any criminal*  
45 *proceeding. But he may nevertheless be prosecuted or subjected to penalty*  
46 *or forfeiture for any perjury or contempt committed in answering, or failing*  
47 *to answer, or in producing or failing to produce evidence, in accordance with*  
48 *the order, and any such answer given or evidence produced shall be admis-*  
49 *sible against him upon any criminal proceeding concerning such perjury or*  
50 *contempt.*

51 *Immunity shall not be conferred upon any person except in accordance*  
52 *with the provisions of this subdivision. If, after compliance with the provi-*  
53 *sions of this subdivision, a person is ordered to answer a question or produce*  
54 *evidence of any other kind and complies with such order, and it is there-*  
55 *after determined that the appropriate Attorney-General or district attorney*  
56 *or prosecutor having an official interest therein was not notified, such failure*  
57 *or neglect shall not deprive such person of any immunity otherwise properly*  
58 *conferred upon him.*

1 3. Section 5-h of the act of which this act is amendatory is amended to  
2 read as follows:

3 5-h. Denial of applications. In addition to the grounds elsewhere set  
4 forth in this act, the commission may deny an application for a license or  
5 registration for any of the following:

6 (1) Conviction by a court of the United States or any State or territory  
7 thereof of coercion;

8 (2) Conviction by any court, after having been previously convicted by  
9 any such court of any crime or of the offenses hereinafter set forth, of a  
10 misdemeanor or any of the following offenses: assault, malicious injury

11 to property, malicious mischief, unlawful taking of a motor vehicle, corrup-  
 12 tion of employees or possession of lottery or number slips; or

13 (3) Fraud, deceit or misrepresentation in connection with any application  
 14 or petition submitted to, or any interview, hearing or proceeding conducted  
 15 by the commission.

16 (4) *Violation of any provision of this act or commission of any offense*  
 17 *thereunder.*

18 (5) *Refusal on the part of any applicant, or prospective licensee, or of*  
 19 *any member, officer or stockholder required by section 2 of article VI of the*  
 20 *compact to sign or be identified in an application for a stevedore license, to*  
 21 *answer any material question or produce any material evidence in connection*  
 22 *with his application or any application made on his behalf for a license or*  
 23 *registration pursuant to this compact.*

1 4. Section 5-i of the act of which this act is amendatory is amended to  
 2 read as follows:

3 5-i. Revocation of licenses and registrations. In addition to the grounds  
 4 elsewhere set forth in this act any license or registration issued or made  
 5 pursuant thereto may be revoked or suspended for such period as the com-  
 6 mission deems in the public interest or the licensee or registrant may be rep-  
 7 rimanded, for:

8 (1) *Conviction of any crime or offense in relation to gambling, book*  
 9 *making, pool selling, lotteries or similar crimes or offenses if the crime or*  
 10 *offense was committed at or on a pier or other waterfront terminal or within*  
 11 *500 feet thereof; or*

12 (2) *Willful commission of, or willful attempt to commit at or on a water-*  
 13 *front terminal or adjacent highway, any act of physical injury to any other*  
 14 *person or of willful damage to or misappropriation of any other person's*  
 15 *property, unless justified or excused by law; or*

16 (3) *Receipt or solicitation of anything of value from any person other*  
 17 *than a licensee's or registrant's employer as consideration for the selection*  
 18 *or retention for employment of such licensee or registrant; or*

19 (4) Coercion of a licensee or registrant by threat of discrimination or  
 20 violence or economic reprisal, to make purchases from or to utilize the  
 21 services of any person; or

22 (5) Refusal to answer any question or produce any evidence lawfully re-  
 23 quired to be answered or produced at any investigation, interview or other  
 24 proceeding conducted by the commission pursuant to the provisions of this  
 25 act, or, if such refusal is accompanied by a valid plea of privilege against  
 26 self-incrimination, refusal to obey an order to answer such question or pro-  
 27 duce such evidence made by the commission pursuant to the provisions of  
 28 subdivision 5 of section 5-b of this act.

1 5. Section 5-k of the act of which this act is amendatory is amended to  
 2 read as follows:

3 5-k. Petition for order to remove an ineligibility. A petition for an  
 4 order to remove an ineligibility under subdivision (b) of section 3 of article  
 5 V, subdivision (e) of section 3 of article VI, [or] subdivision (b) of sec-  
 6 tion 3 of article X, or subdivision 3(b) of section 5-n of this act may be made  
 7 to the commission before or after the hearing required by article XI of the  
 8 compact.

1 6. The act of which this act is amendatory is amended by adding to said  
 2 act a new section, to follow section 5-m, to be section 5-n, to read as follows:

3 5-n. Checkers. (1) The commission shall establish within the longshore-  
 4 men's register a list of all qualified longshoremen eligible, as hereinafter  
 5 provided, for employment as checkers in the Port of New York District. No  
 6 person shall act as a checker within the Port of New York District unless  
 7 at the time he is included in the longshoremen's register as a checker, and  
 8 no person shall employ another to work as a checker within the Port of New  
 9 York District unless at the time such other person is included in the long-  
 10 shoremen's register as a checker.

11 (2) Any person applying for inclusion in the longshoremen's register as  
 12 a checker shall file at any such place and in such manner as the commission

13 shall designate a written statement, signed and verified by such person, set-  
14 ting forth the following:

15 (a) The full name, residence, place and date of birth and social security  
16 number of the applicant;

17 (b) The present and previous occupations of the applicant, including the  
18 places where he was employed and the names of his employers;

19 (c) Such further facts and evidence as may be required by the commis-  
20 sion to ascertain the character, integrity and identity of the applicant.

21 (3) No person shall be included in the longshoremen's register as a  
22 checker

23 (a) Unless the commission shall be satisfied that the applicant possesses  
24 good character and integrity;

25 (b) If the applicant has, without subsequent pardon, been convicted by  
26 a court of the United States or any State or territory thereof, of the com-  
27 mission of, or the attempt or conspiracy to commit treason, murder, man-  
28 slaughter or any felony or high misdemeanor or any of the following mis-  
29 demeanors or offenses: illegally using, carrying or possessing a pistol or other  
30 dangerous weapon; making or possessing burglar's instruments; buying or  
31 receiving stolen property; unlawful entry of a building; aiding an escape  
32 from prison; unlawfully possessing or distributing habit-forming narcotic  
33 drugs; petty larceny, where the evidence shows the property was stolen from  
34 a vessel, pier or other waterfront terminal; and violation of the compact.  
35 Any such applicant ineligible for inclusion in the longshoremen's register as  
36 a checker by reason of any such conviction may submit satisfactory evidence  
37 to the commission that he has for a period of not less than 5 years, meas-  
38 ured as hereinafter provided, and up to the time of application, so conducted  
39 himself as to warrant inclusion in the longshoremen's register as a checker,  
40 in which event the commission may, in its discretion, issue an order remov-  
41 ing such ineligibility. The aforesaid period of 5 years shall be measured  
42 either from the date of payment of any fine imposed upon such person or

43 the suspension of sentence or from the date of his unrevoked release from  
44 custody by parole, commutation or termination of his sentence;

45 (c) If the applicant knowingly or willfully advocates the desirability  
46 of overthrowing or destroying the government of the United States by force  
47 or violence or shall be a member of a group which advocates such desira-  
48 bility, knowing the purposes of such group include such advocacy.

49 (4) When the application ~~is~~ all have been examined and such further in-  
50 quiry and investigation made as the commission shall deem proper and when  
51 the commission shall be satisfied therefrom that the applicant possesses the  
52 qualifications and requirements prescribed by this section, the commission  
53 shall include the applicant in the longshoremen's register as a checker. The  
54 commission may permit temporary registration as a checker to any appli-  
55 cant under this section pending final action on an application made for such  
56 registration, under such terms and conditions as the commission may pre-  
57 scribe, which shall be valid for a period to be fixed by the commission, not in  
58 excess of 6 months.

59 (5) The commission shall have power to reprimand any checker regis-  
60 tered under this section or to remove him from the longshoremen's register  
61 as a checker for such period of time as it deems in the public interest for  
62 any of the following offenses:

63 (a) Conviction of a crime or other cause which would permit disqualifi-  
64 cation of such person from inclusion in the longshoremen's register as a  
65 checker upon original application;

66 (b) Fraud, deceit or misrepresentation in securing inclusion in the long-  
67 shoremen's register as a checker or in the conduct of the registered activity;

68 (c) Violation of any of the provisions of the compact;

69 (d) Addiction to the use of or trafficking in morphine, opium, cocaine or  
70 other narcotic drug;

71 (e) Inducing or otherwise aiding or abetting any person to violate the  
72 terms of the compact;

73 (f) Paying, giving, causing to be paid or given or offering to pay or give  
 74 to any person any valuable consideration to induce such other person to vio-  
 75 late any provision of the compact or to induce any public officer, agent or  
 76 employee to fail to perform his duty under the compact;

77 (g) Consorting with known criminals for an unlawful purpose;

78 (h) Transfer or surrender of possession to any person either temporar-  
 79 ily or permanently of any card or other means of identification issued by the  
 80 commission as evidence of inclusion in the longshoremen's register without  
 81 satisfactory explanation;

82 (i) False impersonation of another longshoreman or of another person  
 83 licensed under the compact.

84 (6) The commission shall have the right to recover possession of any card  
 85 or other means of identification issued as evidence of inclusion in the long-  
 86 shoremen's register as a checker in the event that the holder thereof has  
 87 been removed from the longshoremen's register as a checker.

88 (7) Nothing contained in this section shall be construed to limit in any  
 89 way any rights of labor reserved by article XV of the compact.

1 7. Section 7 of the act of which this act is amendatory is amended to  
 2 read as follows:

3 7. Prohibition against loitering. Any person who shall, without a  
 4 satisfactory explanation, loiter upon any vessel, dock, wharf, pier, bulkhead,  
 5 terminal, warehouse, or other waterfront facility or within 500 feet thereof in  
 6 that portion of the Port of New York District within the State of New Jersey,  
 7 shall be a disorderly person.

1 8. Separability of act. If any part or provision of this act or the applica-  
 2 tion thereof to any person or circumstances be adjudged invalid by any court  
 3 of competent jurisdiction, such judgment shall be confined in its operation  
 4 to the part, provision or application directly involved in the controversy in  
 5 which such judgment shall have been rendered and shall not affect or impair  
 6 the validity of the remainder of this act or the application thereof to other  
 7 persons or circumstances and the 2 States hereby declare that they would

8 have entered into this act or the remainder thereof had the invalidity of  
9 such provision or application thereof been apparent.

1 9. This act, except section 7, constitutes an agreement between the  
2 States of New York and New Jersey, supplementary to the waterfront com-  
3 mission compact and amendatory thereof, and shall be liberally construed to  
4 effectuate the purposes of said compact and the powers vested in the water-  
5 front commission hereby shall be construed to be in aid of and supplemental  
6 to and not in limitation of or in derogation of any of the powers heretofore  
7 conferred upon or delegated to the waterfront commission.

1 10. Sections 7, 8, 9 and 10 of this act shall each take effect immediately.  
2 So much of section 1 of this act as defines "stevedore," "waterborne  
3 freight," "Court of the United States," "witness," "select any longshore-  
4 men for employment" and "compact" and sections 2, 3, 4 and 5 shall each  
5 take effect upon the enactment into law by the State of New York of legisla-  
6 tion having an identical effect therewith, but if the State of New York shall  
7 have already enacted such legislation, then such legislation shall take effect  
8 immediately. So much of section 1 of this act as defines "checker" and  
9 "longshoreman" and sections 5 and 6 of this act shall each take effect  
10 days after the enactment into law by the State of New York of legislation  
11 having an identical effect therewith, but if the State of New York shall have  
12 already enacted such legislation, then such legislation shall be effective  
13 days after section 10 of this act takes effect.

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#### STATEMENT

The proposed legislation is designed to strengthen the licensing, enforce-  
ment and investigative powers of the Waterfront Commission, including the  
strengthening of licensing powers for the purpose of preventing pilferage, the  
coverage of other categories of waterfront labor, the power to grant immunity  
from criminal prosecution to witnesses, the power to appoint peace officers, and  
the strengthening of the prohibition against loitering; and to make technical,  
clarificatory, and other changes.

1. 5-a(2) Makes specific the definition of waterborne freight as including ships' stores, baggage and mail. While it is believed that the present definition covers these categories, questions have been raised and the bill would set these questions to rest and eliminate litigation [See *Archer vs. Waterfront Commission of New York Harbor*, Sup. Ct., N. Y. Co., N. Y. L. J. Aug. 2, 1956, page 2].

5-a(4) Would assure a full scope to the commission's investigatory and subpoena powers by adding to the act a definition of the word "witness." No contention has on occasion been raised that registrants and licensees whose conduct is under investigation are not subject to commission process. To eliminate such claims and avoid possible time-consuming and costly litigation, the bill provides that a witness is "any person" whose testimony is desired in any commission investigation or proceeding.

5-a(5) Adds a definition of "checker" [as a category of longshoreman].

5-a(6) Includes in the definition of longshoreman persons providing labor or services incidental to the movement of waterborne freight at a pier including but not limited to such persons as coopers, carpenters and other employees customarily hired for work on the waterfront for a steamship company or stevedore. This extension is occasioned by the commission's survey which shows that a number of persons who were denied registration as longshoremen on the basis of substantial criminal records have been found working on the piers in these heretofore uncovered categories.

5-a(7) Makes clear that amendments and supplements are included in the term "Compact."

5-a(8) Defines "select any longshoreman for employment" as contained in the compact definition of "hiring agent" to include selection for initial employment or continuation therein or for denial of or termination of employment. Now, a hiring agent is defined as a person who selects longshoremen for employment. Under this definition contentions have been raised that the hiring agent's function relates solely to the initial selection for employment. It is obvious that to accomplish the objectives of the compact it is just as important to license the act of continuing a man's employment or of terminating it as it is

to license the act of initial selection. Otherwise, the employer's freedom in selecting employ es of his own choice, subject to lawful collective bargaining agreements, would be an empty shell for improper pressures might then freely be placed upon him as to the duration of the employment or as to the termination of the employment. While it is believed that the present law is broad enough to eliminate the possibility of time-consuming and costly litigation, the bill makes clear the definition of a hiring agent : u this score.

2. 5 b(1) Amends a present provision authorizing the commission to grant temporary license or registration pending final action on application to permit the commission to impose terms and conditions upon such temporary license or registration. This is a routine administrative provision which would eliminate any question of the commission's power to terminate such temporary registration where the applicant, for example, fails to appear for an interview or provide additional information in connection with the application.

5-b(2) Requires that any applicant must furnish all information pertinent to his application. Applicants for registration as longshoremen have on occasion contended that they are only required to answer questions concerning their identity and criminal record [Compact, Section 2, Art. VIII]. The present provision is designed to eliminate the possibility of litigation and make clear that the commission also has the power, obviously needed, to require whether such applicants advocate the overthrow of the government by force or belong to a group which they know advocates such illegality; whether such applicant has engaged in conduct which would render his presence on the waterfront a danger to the public peace and safety, and finally whether such applicant has engaged in conduct which would affect in one way or another the commission's exercise of discretion in determining whether to grant registration or not.

5-b(3) Authorizes the comamission, for any offenses under the compact, after a full hearing, subject to review in the courts, to impose a money penalty payable to the commission which a stevedore may elect to pay in lieu of suffering suspension of license. The maximum penalty is \$5,000.00 for each separate offense. The commission may abate all or any portion of the penalty in its discretion.

The bill is required to eliminate possible injustices on one hand and to strengthen the commission's powers on the other hand. Presently, when the commission suspends a stevedore license it is possible for consequences far beyond the mere suspension to follow. Thus, a stevedore whose license was suspended for only 10 days might lose a very valuable contract or suffer withdrawal of bank credit. Where such factors come to the attention of the commission, the commission as a practical matter may be limited to the imposition of reprimand which in a given case might be totally inadequate. By this provision of the bill, the commission can impose an appropriate suspension and provide, as an alternative, an appropriate fine of up to \$5,000.00 for each offense. The licensee can evaluate his problem and accept the suspension or pay the fine to avoid suffering such consequences as loss of contract. The Civil Aeronautics Board, the Federal Communications Commission and the Bureau of Customs have long had authority to impose fines, penalties and forfeitures, and then to enter into arrangements to limit, mitigate, or compromise.

5-b(4) Would grant the commission power to designate peace officers authorized to make arrests for violations of the Waterfront Commission Act including such provisions as section 7 which bars loitering on the waterfront without satisfactory explanation. Such peace officers could also make arrests for breaches of the peace, and for assault on the waterfront. The very presence of such peace officers on the piers would have a deterrent effect on gambling law violations and on pilferage.

5-b(5) Authorizes the 2 commissioners, acting unanimously, to grant immunity from criminal prosecution in connection with any commission investigation or proceeding, but only after notifying the appropriate prosecutor and Attorney-General and giving them an opportunity to point out why, in the particular case, the granting of immunity would not be in the public interest. Heretofore, a number of important investigations conducted by the commission in an effort to identify the real principals in kickback and other rackets on the waterfront have been thwarted by a valid claim of privilege against self-incrimination made by underlings. The commission could unseal such lips by

granting immunity and compelling testimony from such underlings in cases where the public interest would thereby be served.

It is to be noted that at least 10 administrative agencies in New York State and 7 in New Jersey are permitted to exercise this power by statute.

In New York these agencies are: The Departments of Public Works, Conservation, Insurance, Labor, Agriculture and Markets, State, the Banking Department, Public Service Commission, the Emergency Housing Rent Commission, and the Port of New York Authority.

In New Jersey they are: The Bank Examiners of the Department of Banking and Insurance, Bureau of Building and Loan Associations, Civil Service Commission, Office of Milk Industry, Department of Public Utilities, Division of Water Policy and Supply of the Department of Conservation and Economic Development, and the Attorney-General in investigations conducted under the Securities Law.

The language of the section is practically identical with the provisions for granting immunity as codified through the efforts of the New York State Crime Commission and set forth in Section 2447 of the Penal Law of New York.

3. 5-h(4) Permits denial of an application for license or registration upon proof that the applicant has violated any provision of the act or committed any offense thereunder. The commission presently has power to revoke a license or registration for an offense under the compact. This could lead to an anomalous situation where during the 6-month period of a temporary license or registration the applicant committed an offense. The commission could then revoke the temporary license for the offense and yet have no legal basis to deny the application for license or registration.

5-h(5) Permits denial for refusal on the part of any applicant to answer any material question that may be put to him by the commission in connection with the application. Presently the commission only has express power to deny applications for fraud in connection with any application. The commission certainly should be allowed to deny an application where it appears that

the applicant has refused to answer any pertinent question [See *Federal Communications Commission vs. Radio Station WOKO*, 329 U. S. 223, 227 (1946)].

4. 5-i(2) Permits revocation or suspension of a license for an assault or theft upon a pier. Presently these grounds apply only to a longshoreman's registration [Compact, Art. VIII, Section 5(e)].

5-i(3) Permits revocation or suspension of a registration for taking kick-backs. Presently this ground only applies to a pier superintendent's or a hiring agent's license [Compact, Art. V, Section 7(j)].

5-i(4) Permits revocation or suspension of a registration for employing coercion to make a registrant or licensee make purchases or utilize the services of another person. Presently these grounds only apply to a pier superintendent's or a hiring agent's license [Compact, Art. V, Section 7(k)].

5-i(5) Permits revocation or suspension of a license or registration for refusal to answer any question which the registrant or licensee may be lawfully required to answer in connection with any investigation or proceeding conducted by the commission. This provision would also apply to a person who refused to answer questions after a grant of immunity.

5. 5-k Extends the right to petition for an order to remove an ineligibility to the new category of checkers established by the bill.

6. 5-n(1) Establishes, within the longshoreman's register, a new category, checkers.

5-n(2) Sets forth the information required to be given by an applicant for registration as a checker.

5-n(3) Requires good character and integrity for registration as a checker and bars such registration for conviction, without subsequent pardon, of a felony or certain misdemeanors, or for advocating or for knowing membership in an organization which advocates the overthrow of the government by force. In the case of ineligibility for registration because of a conviction, the commission may remove this ineligibility upon petition, if the applicant has, for a period of 5 years, conducted himself in such a way as to evidence that he has been rehabilitated and may be considered a person of good character and integrity.

5-n(4) Authorizes investigation of the application and final action thereon and permits temporary registration as a checker pending such final action.

5-n(5) Lists the grounds for reprimand or removal from the register as a checker. Such registration may be revoked for the same offenses for which a hiring agent's license may presently be revoked.

5-n(6) Permits the commission to recover possession of registration cards and other means of identification as a checker upon removal from the register.

5-n(7) Provides that nothing contained in this section shall be construed to limit in any way rights of labor reserved by article XV of the compact.

7.7 Amends section 7 of the act to extend the prohibition against loitering without satisfactory explanation to vessels and to areas within 500 feet of the waterfront. This section is a law enforcement tool to aid in eliminating loan-sharking, bookmaking, policy, and other waterfront rackets by barring loitering of persons who have no legitimate business at the waterfront. The present section has been held, in 2 cases, not to apply to loitering on a vessel itself. Experience has shown that notorious characters, though barred from the piers, have continued to loiter nearby.

S- COMMITTEE AMENDMENTS TO

SENATE, No. 385

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STATE OF NEW JERSEY

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ADOPTED NOVEMBER 29, 1956

Amend page 1, section 1, line 3, after "definitions" insert "."; delete "as" substitute "As".

Amend page 2, section 2, line 4, after "act" insert ",".

Amend page 3, section 2, line 24, after "conducted" insert "under oath".

Amend page 4, section 3, line 8, after "any" insert "such".

Amend page 5, section 4, line 11, italicize "or".

Amend page 6, section 5, line 6, after "Article X" insert "[of the compact]".

APPROVED 12/28/56

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SENATE, No. 385

# STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 17, 1956

By Messrs. McCAY, RIDOLFI and DUMONT

Referred to Committee on Judiciary

AN ACT to amend and supplement the "Waterfront Commission Act," approved June 30, 1953 (P. L. 1953, c. 202).

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

3 1. Section 5-a of the act of which this act is amendatory is amended to  
4 read as follows:

5 5-a. Supplementary definitions. [as] As used in the compact:

6 (1) "Stevedore" shall also include contractors engaged for compensa-  
7 tion pursuant to a contract or arrangement with the United States, any  
8 State or territory thereof, or any department, division, board, commission  
9 or authority of one or more of the foregoing, in moving freight carried  
10 or consigned for carriage between any point in the Port of New York Dis-  
11 trict and a point outside said district on vessels of such a public agency  
12 berthed at piers, on piers at which such vessels are berthed or at other  
13 waterfront terminals.

14 (2) "Waterborne freight" shall also include freight described in sub-  
15 division (1) of this section [.] and ships' stores, baggage and mail carried  
16 by or consigned for carriage by carriers of freight by water.

17 (3) "Court of the United States" shall mean all courts enumerated in  
18 section 451 of Title 28 of the United States Code and the courts-martial  
19 of the Armed Forces of the United States.

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

18 (4) "Witness" shall mean any person whose testimony is desired in  
 19 any investigation, interview or other proceeding conducted by the commis-  
 20 sion pursuant to the provisions of this act.

21 (5) "Checker" shall mean a longshoreman who is employed to engage  
 22 in direct and immediate checking of waterborne freight or of the custodial  
 23 accounting therefor or in the recording or tabulation of the hours worked  
 24 at piers or other waterfront terminals by natural persons employed by car-  
 25 riers of freight by water or stevedores.

26 (6) "Longshoreman" shall also include a natural person, other than a  
 27 hiring agent, who is employed for work at a pier or other waterfront ter-  
 28 minal, either by a carrier of freight by water or by a stevedore physically  
 29 to perform labor or services incidental to the movement of waterborne freight  
 30 on vessels berthed at piers, on piers or at other waterfront terminals, includ-  
 31 ing, but not limited to, cargo repairmen, coopers, general maintenance men,  
 32 mechanical and miscellaneous workers, horse and cattle fitters, grain ceilers  
 33 and marine carpenters.

34 (7) "Compact" shall also include any amendments or supplements to  
 35 the waterfront commission compact to implement the purposes thereof  
 36 adopted by the action of the Legislature of either the State of New York or  
 37 the State of New Jersey concurred in by the Legislature of the other.

38 (8) The term "select any longshoreman for employment" in the defini-  
 39 tion of a hiring agent in article II of this act shall include selection of a per-  
 40 son for the commencement or continuation of employment as a longshore-  
 41 man, or the denial or termination of employment as a longshoreman.

1 2. Section 5-b of the act of which this act is amendatory is amended to  
 2 read as follows:

3 5-b. Additional powers of the commission. In addition to the powers  
 4 and duties elsewhere described in this act, the commission shall have the  
 5 following powers:

6 (1) T[t]o issue temporary permits and permit temporary registrations  
 7 under such terms and conditions as the commission may prescribe which shall

8 be valid for a period to be fixed by the commission not in excess of 6 months.

9 (2) To require any applicant for a license or registration or any prospec-  
10 tive licensee to furnish such facts and evidence as the commission may deem  
11 appropriate to enable it to ascertain whether the license or registration should  
12 be granted.

13 (3) In any case in which the commission has the power to revoke, cancel  
14 or suspend any stevedore license the commission shall also have the power  
15 to impose as an alternative to such revocation, cancellation or suspension, a  
16 penalty, which the licensee may elect to pay to the commission in lieu of the  
17 revocation, cancellation or suspension. The maximum penalty shall be  
18 \$5,000.00 for each separate offense. The commission may, for good cause  
19 shown, abate all or part of such penalty.

20 (4) To designate any officer, agent or employee of the commission to be  
21 an investigator who shall be vested with the powers of a peace officer of the  
22 State of New York in that State, and of the State of New Jersey in that State.

23 (5) To confer immunity, in the following manner: In any investigation,  
24 interview or other proceeding conducted under oath by the commission or any  
25 duly authorized officer, employee or agent thereof, if a person refuses to answer  
26 a question or produce evidence of any other kind on the ground that he may be  
27 incriminated thereby, and, notwithstanding such refusal, an order is made  
28 upon 24 hours' prior written notice to the appropriate Attorney General of  
29 the State of New York or the State of New Jersey, and to the appropriate  
30 district attorney or prosecutor having an official interest therein, by the  
31 unanimous vote of both members of the commission or their designees ap-  
32 pointed pursuant to the provisions of section 3 of article III of this act, that  
33 such person answer the question or produce the evidence, such person shall  
34 comply with the order. If such person complies with the order, and if, but  
35 for this subdivision, he would have been privileged to withhold the answer  
36 given or the evidence produced by him, then immunity shall be conferred upon  
37 him, as provided for herein.

38 "Immunity" as used in this subdivision means that such person shall not  
39 be prosecuted or subjected to any penalty or forfeiture for or on account of  
40 any transaction, matter or thing concerning which, in accordance with the  
41 order by the unanimous vote of both members of the commission or their  
42 designees appointed pursuant to the provisions of section 3 of article III of  
43 this act, he gave answer or produced evidence, and that no such answer given  
44 or evidence produced shall be received against him upon any criminal  
45 proceeding. But he may nevertheless be prosecuted or subjected to penalty  
46 or forfeiture for any perjury or contempt committed in answering, or failing  
47 to answer, or in producing or failing to produce evidence, in accordance with  
48 the order, and any such answer given or evidence produced shall be admis-  
49 sible against him upon any criminal proceeding concerning such perjury or  
50 contempt.

51 Immunity shall not be conferred upon any person except in accordance  
52 with the provisions of this subdivision. If, after compliance with the provi-  
53 sions of this subdivision, a person is ordered to answer a question or produce  
54 evidence of any other kind and complies with such order, and it is there-  
55 after determined that the appropriate Attorney-General or district attorney  
56 or prosecutor having an official interest therein was not notified, such failure  
57 or neglect shall not deprive such person of any immunity otherwise properly  
58 conferred upon him.

1 3. Section 5-h of the act of which this act is amendatory is amended to  
2 read as follows:

3 5-h. Denial of applications. In addition to the grounds elsewhere set  
4 forth in this act, the commission may deny an application for a license or  
5 registration for any of the following:

6 (1) Conviction by a court of the United States or any State or territory  
7 thereof of coercion;

8 (2) Conviction by any such court, after having been previously convicted  
9 by any such court of any crime or of the offenses hereinafter set forth, of a  
10 misdemeanor or any of the following offenses: assault, malicious injury

11 to property, malicious mischief, unlawful taking of a motor vehicle, corrup-  
12 tion of employees or possession of lottery or number slips; or

13 (3) Fraud, deceit or misrepresentation in connection with any application  
14 or petition submitted to, or any interview, hearing or proceeding conducted  
15 by the commission.

16 (4) *Violation of any provision of this act or commission of any offense*  
17 *hereunder.*

18 (5) *Refusal on the part of any applicant, or prospective licensee, or of*  
19 *any member, officer or stockholder required by section 2 of article VI of the*  
20 *compact to sign or be identified in an application for a stevedore license, to*  
21 *answer any material question or produce any material evidence in connection*  
22 *with his application or any application made on his behalf for a license or*  
23 *registration pursuant to this compact.*

1 4. Section 5-i of the act of which this act is amendatory is amended to  
2 read as follows:

3 5-i. Revocation of licenses and registrations. In addition to the grounds  
4 elsewhere set forth in this act any license or registration issued or made  
5 pursuant thereto may be revoked or suspended for such period as the com-  
6 mission deems in the public interest or the licensee or registrant may be rep-  
7 rimanded, for:

8 (1) *C[on]viction of any crime or offense in relation to gambling, book-*  
9 *making, pool selling, lotteries or similar crimes or offenses if the crime or*  
10 *offense was committed at or on a pier or other waterfront terminal or within*  
11 *500 feet thereof; or*

12 (2) *Willful commission of, or willful attempt to commit at or on a water-*  
13 *front terminal or adjacent highway, any act of physical injury to any other*  
14 *person or of willful damage to or misappropriation of any other person's*  
15 *property, unless justified or excused by law; or*

16 (3) *Receipt or solicitation of anything of value from any person other*  
17 *than a licensee's or registrant's employer as consideration for the selection*  
18 *or retention for employment of such licensee or registrant; or*

19 (4) Coercion of a licensee or registrant by threat of discrimination or  
 20 violence or economic reprisal, to make purchases from or to utilize the  
 21 services of any person; or

22 (5) Refusal to answer any question or produce any evidence lawfully re-  
 23 quired to be answered or produced at any investigation, interview or other  
 24 proceeding conducted by the commission pursuant to the provisions of this  
 25 act, or, if such refusal is accompanied by a valid plea of privilege against  
 26 self-incrimination, refusal to obey an order to answer such question or pro-  
 27 duce such evidence made by the commission pursuant to the provisions of  
 28 subdivision 5 of section 5-b of this act.

1 5. Section 5-k of the act of which this act is amendatory is amended to  
 2 read as follows:

3 5-k. Petition for order to remove an ineligibility. A petition for an  
 4 order to remove an ineligibility under subdivision (b) of section 3 of article  
 5 V, subdivision (e) of section 3 of article VI, [or] subdivision (b) of sec-  
 6 tion 3 of article X [of the compact], or subdivision 3 (b) of section 5-n of this  
 7 act may be made to the commission before or after the hearing required by  
 8 article XI of the compact.

1 6. The act of which this act is amendatory is amended by adding to said  
 2 act a new section, to follow section 5-m, to be section 5-n, to read as follows:

3 5-n. Checkers. (1) The commission shall establish within the longshore-  
 4 men's register a list of all qualified longshoremen eligible, as hereinafter  
 5 provided, for employment as checkers in the Port of New York District. No  
 6 person shall act as a checker within the Port of New York District unless  
 7 at the time he is included in the longshoremen's register as a checker, and  
 8 no person shall employ another to work as a checker within the Port of New  
 9 York District unless at the time such other person is included in the long-  
 10 shoremen's register as a checker.

11 (2) Any person applying for inclusion in the longshoremen's register as  
 12 a checker shall file at any such place and in such manner as the commission

13 shall designate a written statement, signed and verified by such person, set-  
14 ting forth the following:

15 (a) The full name, residence, place and date of birth and social security  
16 number of the applicant;

17 (b) The present and previous occupations of the applicant, including the  
18 places where he was employed and the names of his employers;

19 (c) Such further facts and evidence as may be required by the commis-  
20 sion to ascertain the character, integrity and identity of the applicant.

21 (3) No person shall be included in the longshoremen's register as a  
22 checker

23 (a) Unless the commission shall be satisfied that the applicant possesses  
24 good character and integrity;

25 (b) If the applicant has, without subsequent pardon, been convicted by  
26 a court of the United States or any State or territory thereof, of the com-  
27 mission of, or the attempt or conspiracy to commit treason, murder, man-  
28 slaughter or any felony or high misdemeanor or any of the following mis-  
29 demeanors or offenses: illegally using, carrying or possessing a pistol or other  
30 dangerous weapon; making or possessing burglar's instruments; buying or  
31 receiving stolen property; unlawful entry of a building; aiding an escape  
32 from prison; unlawfully possessing or distributing habit-forming narcotic  
33 drugs; petty larceny, where the evidence shows the property was stolen from  
34 a vessel, pier or other waterfront terminal; and violation of the compact.  
35 Any such applicant ineligible for inclusion in the longshoremen's register as  
36 a checker by reason of any such conviction may submit satisfactory evidence  
37 to the commission that he has for a period of not less than 5 years, meas-  
38 ured as hereinafter provided, and up to the time of application, so conducted  
39 himself as to warrant inclusion in the longshoremen's register as a checker,  
40 in which event the commission may, in its discretion, issue an order remov-  
41 ing such ineligibility. The aforesaid period of 5 years shall be measured  
42 either from the date of payment of any fine imposed upon such person or

43 the suspension of sentence or from the date of his unrevoked release from  
44 custody by parole, commutation or termination of his sentence;

45 (c) If the applicant knowingly or willfully advocates the desirability  
46 of overthrowing or destroying the government of the United States by force  
47 or violence or shall be a member of a group which advocates such desira-  
48 bility, knowing the purposes of such group include such advocacy.

49 (4) When the application shall have been examined and such further in-  
50 quiry and investigation made as the commission shall deem proper and when  
51 the commission shall be satisfied therefrom that the applicant possesses the  
52 qualifications and requirements prescribed by this section, the commission  
53 shall include the applicant in the longshoremen's register as a checker. The  
54 commission may permit temporary registration as a checker to any appli-  
55 cant under this section pending final action on an application made for such  
56 registration, under such terms and conditions as the commission may pre-  
57 scribe, which shall be valid for a period to be fixed by the commission, not in  
58 excess of 6 months.

59 (5) The commission shall have power to reprimand any checker regis-  
60 tered under this section or to remove him from the longshoremen's register  
61 as a checker for such period of time as it deems in the public interest for  
62 any of the following offenses:

63 (a) Conviction of a crime or other cause which would permit disqualifi-  
64 cation of such person from inclusion in the longshoremen's register as a  
65 checker upon original application;

66 (b) Fraud, deceit or misrepresentation in securing inclusion in the long-  
67 shoremen's register as a checker or in the conduct of the registered activity;

68 (c) Violation of any of the provisions of the compact;

69 (d) Addiction to the use of or trafficking in morphine, opium, cocaine or  
70 other narcotic drug;

71 (e) Inducing or otherwise aiding or abetting any person to violate the  
72 terms of the compact;

73 (f) Paying, giving, causing to be paid or given or offering to pay or give  
 74 to any person any valuable consideration to induce such other person to vio-  
 75 late any provision of the compact or to induce any public officer, agent or  
 76 employee to fail to perform his duty under the compact;

77 (g) Consorting with known criminals for an unlawful purpose;

78 (h) Transfer or surrender of possession to any person either temporar-  
 79 ily or permanently of any card or other means of identification issued by the  
 80 commission as evidence of inclusion in the longshoremen's register without  
 81 satisfactory explanation;

82 (i) False impersonation of another longshoreman or of another person  
 83 licensed under the compact.

84 (6) The commission shall have the right to recover possession of any card  
 85 or other means of identification issued as evidence of inclusion in the long-  
 86 shoremen's register as a checker in the event that the holder thereof has  
 87 been removed from the longshoremen's register as a checker.

88 (7) Nothing contained in this section shall be construed to limit in any  
 89 way any rights of labor reserved by article XV of the compact.

1 7. Section 7 of the act of which this act is amendatory is amended to  
 2 read as follows:

3 7. Prohibition against loitering. Any person who shall, without a  
 4 satisfactory explanation, loiter upon any vessel, dock, wharf, pier, bulkhead,  
 5 terminal, warehouse, or other waterfront facility or within 500 feet thereof in  
 6 that portion of the Port of New York District within the State of New Jersey,  
 7 shall be a disorderly person.

1 8. Separability of act. If any part or provision of this act or the applica-  
 2 tion thereof to any person or circumstances be adjudged invalid by any court  
 3 of competent jurisdiction, such judgment shall be confined in its operation  
 4 to the part, provision or application directly involved in the controversy in  
 5 which such judgment shall have been rendered and shall not affect or impair  
 6 the validity of the remainder of this act or the application thereof to other  
 7 persons or circumstances and the 2 States hereby declare that they would

8 have entered into this act or the remainder thereof had the invalidity of  
9 such provision or application thereof been apparent.

1 9. This act, except section 7, constitutes an agreement between the  
2 States of New York and New Jersey, supplementary to the waterfront com-  
3 mission compact and amendatory thereof, and shall be liberally construed to  
4 effectuate the purposes of said compact and the powers vested in the water-  
5 front commission hereby shall be construed to be in aid of and supplemental  
6 to and not in limitation of or in derogation of any of the powers heretofore  
7 conferred upon or delegated to the waterfront commission.

1 10. Sections 7, 8, 9 and 10 of this act shall each take effect immediately.  
2 So much of section 1 of this act as defines "stevedore," "waterborne  
3 freight," "Court of the United States," "witness," "select any longshore-  
4 men for employment" and "compact" and sections 2, 3, 4 and 5 shall each  
5 take effect upon the enactment into law by the State of New York of legisla-  
6 tion having an identical effect therewith, but if the State of New York shall  
7 have already enacted such legislation, then such legislation shall take effect  
8 immediately. So much of section 1 of this act as defines "checker" and  
9 "longshoreman" and sections 5 and 6 of this act shall each take effect 60  
10 days after the enactment into law by the State of New York of legislation  
11 having an identical effect therewith, but if the State of New York shall have  
12 already enacted such legislation, then such legislation shall be effective 60  
13 days after section 10 of this act takes effect.