

32:23-85

August 20, 1969

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Legislative Notes on R.S. 32:23-85
(Longshoremen - define and container
consolidating companies - register)

- S. 1969, Chapter 123, §705
Introduced April 10, 1969 by McFarland & Grabiak.
Statement was made. (copy enclosed)
Not amended.

No hearings or reports were located.

For newspaper articles, see Legislative Notes on R.S. 32:23-86.

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SENATE, No. 705

STATE OF NEW JERSEY

INTRODUCED APRIL 10, 1969

By Senators McDERMOTT and CRABIEL

(Without Reference)

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

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

1 1. Section 5-a of the act of which this act is amendatory
2 (C. 32:23-85) is amended to read as follows:

3 5-a. Supplementary definitions. As used in the compact:

4 (1) "Stevedore" shall also include

5 (a) contractors engaged for compensation pursuant to
6 a contract or arrangement with the United States, any State
7 or territory thereof, or any department, division, board, com-
8 mission or authority of one or more of the foregoing, in
9 moving freight carried or consigned for carriage between any
10 point in the Port of New York District and a point outside
11 said district on vessels of such a public agency berthed at piers,
12 on piers at which such vessels are berthed or at other water-
13 front terminals, or

14 (b) contractors (not including employees) engaged for com-
15 pensation pursuant to a contract or arrangement with any
16 person to perform labor or services incidental to the movement
17 of waterborne freight on vessels berthed at piers, on piers or
18 at other waterfront terminals, including, but not limited to,
19 cargo storage, cargo repairing, coopering, general maintenance,
20 mechanical and miscellaneous work, horse and cattle fitting,
21 grain ceiling, and marine carpentry, or

22 (c) contractors (not including employees) engaged for com-
23 pensation pursuant to a contract or arrangement with any
24 other person to perform labor or services involving, or inciden-
25 tal to, the movement of freight into or out of containers (which
26 have been or which will be carried by a carrier of freight by

27 *water) on vessels berthed at piers, on piers or at other water-*
 28 *front terminals.*

29 (2) "Waterborne freight" shall also include freight described
 30 in *paragraphs (a) and (c) of subdivision (1) and in subdivision*
 31 *(10) of this section and ships' stores, baggage and mail carried by*
 32 *or consigned for carriage by carriers of freight by water.*

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

36 (4) "Witness" shall mean any person whose testimony is desired
 37 in any investigation, interview or other proceeding conducted by
 38 the commission pursuant to the provisions of this act.

39 (5) "Checker" shall mean a longshoreman who is employed to
 40 engage in direct and immediate checking of waterborne freight or
 41 of the custodial accounting therefor or in the recording or tabula-
 42 tion of the hours worked at piers or other waterfront terminals by
 43 natural persons employed by carriers of freight by water or
 44 stevedores.

45 (6) "Longshoreman" shall also include a natural person, other
 46 than a hiring agent, who is employed for work at a pier or other
 47 waterfront terminal

48 (a) either by a carrier of freight by water or by a stevedore
 49 physically to perform labor or services incidental to the move-
 50 ment of waterborne freight on vessels berthed at piers, on
 51 piers or at other waterfront terminals, including, but not
 52 limited to, cargo repairmen, coopers, general maintenance men,
 53 mechanical and miscellaneous workers, horse and cattle fitters,
 54 grain ceilers and marine carpenters, or

55 (b) by any person physically to move waterborne freight
 56 to or from a barge, lighter or railroad car for transfer to or
 57 from a vessel of a carrier of freight by water which is, shall be,
 58 or shall have been berthed at the same pier or other waterfront
 59 terminal, *or*

60 (c) *by any person to perform labor or services involving,*
 61 *or incidental to, the movement of freight at a waterfront ter-*
 62 *terminal as defined in subdivision (10) of this section.*

63 (7) "Compact" shall also include any amendments or supple-
 64 ments to the Waterfront Commission Compact to implement the
 65 purposes thereof adopted by the action of the Legislature of either
 66 the State of New York or the State of New Jersey concurred in
 67 by the Legislature of the other.

68 (8) The term "select any longshoreman for employment" in the
 69 definition of a hiring agent in this act shall include selection of a

70 person for the commencement or continuation of employment as a
 70A longshoreman, or the denial or termination of employment as a
 71 longshoreman.

72 (9) "Hiring agent" shall also include any natural person, who
 73 on behalf of any other person shall select any longshoreman for
 74 employment.

75 (10) "Other waterfront terminal" shall also include any ware-
 76 house, depot or other terminal (other than a pier), whether en-
 77 closed or open, which is located in a marine terminal in the Port
 78 of New York District and any part of which is used by any person
 79 to perform labor or services involving, or incidental to, the move-
 80 ment of waterborne freight or freight.

81 As used in this section, "marine terminal" means an area which
 82 includes piers, which is used primarily for the moving, ware-
 83 housing, distributing or packing of waterborne freight or freight
 84 to or from such piers, and which, inclusive of such piers, is under
 85 common ownership or control; "freight" means freight which has
 86 been, or will be, carried by or consigned for carriage by a carrier
 87 of freight by water; and "container" means any receptacle, box,
 88 carton or crate which is specifically designed and constructed so
 89 that it may be repeatedly used for the carriage of freight by a
 90 carrier of freight by water.

91 Whenever, as a result of legislative amendments to this act or
 92 of a ruling by the commission, registration as a longshoreman is
 93 required for any person to continue in his employment, such person
 94 shall be registered as a longshoreman without regard to the pro-
 95 visions of section 5 of this act, provided, however, that such person
 96 satisfies all the other requirements of this act for registration as
 97 a longshoreman.

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

1 3. This act constitutes an agreement between the States of New
 2 York and New Jersey supplementary to the Waterfront Commis-
 3 sion Compact and amendatory thereof, and shall be liberally con-

4 strued to effectuate the purposes of said compact, and the powers
5 vested in the Waterfront Commission hereby shall be construed to
6 be in aid of and supplemental to and not in limitation of or in
7 derogation of any of the powers heretofore conferred upon or
8 delegated to the Waterfront Commission.

1 4. Sections 2, 3, and 4 of this act shall take effect immediately.
2 Section 1 of this act shall take effect 60 days after the enactment
3 into law by the State of New York of legislation having an identical
4 effect therewith, but if the State of New York shall have already
5 enacted such legislation, then such legislation shall be effective
6 60 days after section 4 of this act takes effect.

STATEMENT

The purpose of the proposed bill is to amend the definitions of longshoreman and stevedore so as to continue the Waterfront Commission's practice of requiring carpentry and maintenance companies doing business on the waterfront to be licensed as stevedores; also to require the licensing and registration of container consolidating companies and their employees at container consolidation points (that is, areas on the waterfront where containers carried or to be carried by carriers of freight by water are stuffed (loaded) and stripped (unloaded)); and also to require the licensing and registration of service companies and warehouse operators and their employees at areas located on the waterfront.

The proposed bill would thus amend the definitions of stevedore in section 5-a of the Waterfront Commission Act to require carpentry, maintenance and other service companies (such as strapping and warehousing) doing business on the waterfront and also container consolidating companies doing business on the waterfront to become licensed as stevedores. The proposed bill would also make a correlative change in the definition of longshoreman in section 5-a so as to require the waterfront employees of such companies not already registered to become registered as longshoremen.