

# 32:23-6

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005 **CHAPTER:** 313

**NJSA:** 32:23-6 (Amends "Waterfront Commission Act" to expand the commission's jurisdiction over certain licensing and registration procedures)

**BILL NO:** S189 (Substituted for A884)

**SPONSOR(S):** Lesniak and others

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:** **ASSEMBLY:**

**SENATE:** Transportation

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** January 9, 2006

**SENATE:** January 5, 2006

**DATE OF APPROVAL:** January 12, 2006

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (Senate Committee Substitute (1R) for S189 enacted)

**S189**

[SPONSOR'S STATEMENT:](#) (Begins on page 6 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

**LEGISLATIVE FISCAL ESTIMATE:** No

**A884**

[SPONSOR'S STATEMENT:](#) (Begins on page 6 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** [ASSEMBLY:](#) [Yes](#)

**SENATE:** No

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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No

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No

IS 1/29/08

P.L. 2005, CHAPTER 313, *approved January 12, 2006*  
Senate Committee Substitute (*First Reprint*) for  
Senate, No. 189

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

3

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

6

7 1. Article II of the compact created by P.L.1953, c.202 (C.32:23-  
8 6) is amended to read as follows:

9 As used in this compact:

10 "The Port of New York district" shall mean the district created by  
11 Article II of the compact dated April thirtieth, one thousand nine  
12 hundred and twenty-one, between the States of New York and New  
13 Jersey, authorized by chapter one hundred fifty-four of the laws of  
14 New York of one thousand nine hundred and twenty-one and chapter  
15 one hundred fifty-one of the laws of New Jersey of one thousand nine  
16 hundred and twenty-one.

17 "Commission" shall mean the waterfront commission of New York  
18 harbor established by Article III hereof.

19 "Pier" shall include any wharf, pier, dock or quay.

20 "Other waterfront terminal" shall include any warehouse, depot or  
21 other terminal (other than a pier) which is located within one thousand  
22 yards of any pier in the Port of New York district and which is used  
23 for waterborne freight in whole or substantial part.

24 "Person" shall mean not only a natural person but also any  
25 partnership, joint venture, association, corporation or any other legal  
26 entity but shall not include the United States, any state or territory  
27 thereof or any department, division, board, commission or authority of  
28 one or more of the foregoing.

29 "Carrier of freight by water" shall mean any person who may be  
30 engaged or who may hold himself out as willing to be engaged,  
31 whether as a common carrier, as a contract carrier or otherwise  
32 (except for carriage of liquid cargoes in bulk in tank vessels designed  
33 for use exclusively in such service or carriage by barge of bulk cargoes  
34 consisting of only a single commodity loaded or carried without  
35 wrappers or containers and delivered by the carrier without  
36 transportation mark or count) in the carriage of freight by water  
37 between any point in the Port of New York district and a point outside  
38 said district.

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Senate floor amendments adopted December 8, 2005.**

1 "Waterborne freight" shall mean freight carried by or consigned for  
2 carriage by carriers of freight by water <sup>1</sup>[and shall also include freight  
3 which has been or will be carried by or consigned for carriage by  
4 carriers of freight by water]<sup>1</sup>.

5 "Longshoreman" shall mean a natural person, other than a hiring  
6 agent, who is employed for work at a pier or other waterfront  
7 terminal, either by a carrier of freight by water or by a stevedore

8 (a) physically to move waterborne freight on vessels berthed at  
9 piers, on piers or at other waterfront terminals, or

10 (b) to engage in direct and immediate checking of any such freight  
11 or of the custodial accounting therefor or in the recording or  
12 tabulation of the hours worked at piers or other waterfront terminals  
13 by natural persons employed by carriers of freight by water or  
14 stevedores, or

15 (c) to supervise directly and immediately others who are employed  
16 as in subdivision (a) of this definition.

17 "Pier superintendent" shall mean any natural person other than a  
18 longshoreman who is employed for work at a pier or other waterfront  
19 terminal by a carrier of freight by water or a stevedore and whose  
20 work at such pier or other waterfront terminal includes the  
21 supervision, directly or indirectly, of the work of longshoremen.

22 "Port watchman" shall include any watchman, gateman,  
23 roundsman, detective, guard, guardian or protector of property  
24 employed by the operator of any pier or other waterfront terminal or  
25 by a carrier of freight by water to perform services in such capacity on  
26 any pier or other waterfront terminal.

27 "Longshoremen's register" shall mean the register of eligible  
28 longshoremen compiled and maintained by the commission pursuant  
29 to Article VIII.

30 "Stevedore" shall mean a contractor (not including an employee)  
31 engaged for compensation pursuant to a contract or arrangement with  
32 a carrier of freight by water, in moving waterborne freight carried or  
33 consigned for carriage by such carrier on vessels of such carrier  
34 berthed at piers, on piers at which such vessels are berthed or at other  
35 waterfront terminals.

36 "Hiring agent" shall mean any natural person, who on behalf of a  
37 carrier of freight by water or a stevedore shall select any longshoreman  
38 for employment.

39 "Compact" shall mean this compact and rules or regulations  
40 lawfully promulgated thereunder.

41 (cf: P.L.1953, c.202, Article II)

42

43 2. Article IV of the compact created by P.L.1953, c.202 (C.32:23-  
44 10) is amended to read as follows:

45 In addition to the powers and duties elsewhere prescribed in this  
46 compact, the commission shall have the power:

- 1       1. To sue and be sued;
- 2       2. To have a seal and alter the same at pleasure;
- 3       3. To acquire, hold and dispose of real and personal property by  
4 gift, purchase, lease, license or other similar manner, for its corporate  
5 purposes;
- 6       4. To determine the location, size and suitability of  
7 accommodations necessary and desirable for the establishment and  
8 maintenance of the employment information centers provided in  
9 Article XII hereof and for administrative offices for the commission;
- 10      5. To appoint such officers, agents and employees as it may deem  
11 necessary, prescribe their powers, duties and qualifications and fix  
12 their compensation and retain and employ counsel and private  
13 consultants on a contract basis or otherwise;
- 14      6. To administer and enforce the provisions of this compact;
- 15      7. To make and enforce such rules and regulations as the  
16 commission may deem necessary to effectuate the purposes of this  
17 compact or to prevent the circumvention or evasion thereof, to be  
18 effective upon publication in the manner which the commission shall  
19 prescribe and upon filing in the office of the Secretary of State of each  
20 State. A certified copy of any such rules and regulations, attested as  
21 true and correct by the commission, shall be presumptive evidence of  
22 the regular making, adoption, approval and publication thereof;
- 23      8. By its members and its properly designated officers, agents and  
24 employees, to administer oaths and issue subpoenas [throughout both  
25 States] to compel the attendance of witnesses and the giving of  
26 testimony and the production of other evidence;
- 27      9. To have for its members and its properly designated officers,  
28 agents and employees, full and free access, ingress and egress to and  
29 from all vessels, piers and other waterfront terminals or other places  
30 in the port of New York district, for the purposes of making  
31 inspection or enforcing the provisions of this compact; and no person  
32 shall obstruct or in any way interfere with any such member, officer,  
33 employee or agent in the making of such inspection, or in the  
34 enforcement of the provisions of this compact or in the performance  
35 of any other power or duty under this compact;
- 36      10. To recover possession of any suspended or revoked license  
37 issued under this compact;
- 38      11. To make investigations, collect and compile information  
39 concerning waterfront practices generally within the port of New York  
40 district and upon all matters relating to the accomplishment of the  
41 objectives of this compact;
- 42      12. To advise and consult with representatives of labor and  
43 industry and with public officials and agencies concerned with the  
44 effectuation of the purposes of this compact, upon all matters which  
45 the commission may desire, including but not limited to the form and  
46 substance of rules and regulations, the administration of the compact,

1 maintenance of the longshoremen's register, and issuance and  
2 revocation of licenses;

3 13. To make annual and other reports to the Governors and  
4 Legislatures of both States containing recommendations for the  
5 improvement of the conditions of waterfront labor within the port of  
6 New York district, for the alleviation of the evils described in Article  
7 I and for the effectuation of the purposes of this compact. Such  
8 annual reports shall state the commission's finding and determination  
9 as to whether the public necessity still exists for (a) the continued  
10 registration of longshoremen, (b) the continued licensing of any  
11 occupation or employment required to be licensed hereunder and (c)  
12 the continued public operation of the employment information centers  
13 provided for in Article XII;

14 14. To co-operate with and receive from any department, division,  
15 bureau, board, commission, or agency of either or both States, or of  
16 any county or municipality thereof, such assistance and data as will  
17 enable it properly to carry out its powers and duties hereunder; and to  
18 request any such department, division, bureau, board, commission, or  
19 agency, with the consent thereof, to execute such of its functions and  
20 powers, as the public interest may require.  
21 (cf: P.L.1953, c. 202, Article IV)

22

23 3. Section 3 of Article V of the compact created by P.L.1953,  
24 c.202 (C.32:23-14) is amended to read as follows:

25 3. No such license shall be granted:

26 (a) Unless the commission shall be satisfied that the prospective  
27 licensee possesses good character and integrity;

28 (b) If the prospective licensee has, without subsequent pardon,  
29 been convicted by a court of the United States, or any State or  
30 territory thereof, of the commission of, or the attempt or conspiracy  
31 to commit, treason, murder, manslaughter or any felony or high  
32 misdemeanor or any of the following misdemeanors or offenses:  
33 illegally using, carrying or possessing a pistol or other dangerous  
34 weapon; making or possessing burglar's instruments; buying or  
35 receiving stolen property; unlawful entry of a building; aiding an  
36 escape from prison; ~~unlawfully possessing or distributing~~  
37 ~~habit-forming narcotic drugs; and] unlawfully possessing, possessing  
38 with intent to distribute, sale or distribution of a controlled dangerous  
39 substance or a controlled dangerous substance analog; or violation of  
40 this compact. Any such prospective licensee ineligible for a license by  
41 reason of any such conviction may submit satisfactory evidence to the  
42 commission that he has for a period of not less than five years,  
43 measured as hereinafter provided, and up to the time of application, so  
44 conducted himself as to warrant the grant of such license, in which  
45 event the commission may, in its discretion, issue an order removing  
46 such ineligibility. The aforesaid period of five years shall be measured~~

1 either from the date of payment of any fine imposed upon such person  
2 or the suspension of sentence or from the date of his unrevoked  
3 release from custody by parole, commutation or termination of his  
4 sentence;

5 (c) If the prospective licensee knowingly or wilfully advocates the  
6 desirability of overthrowing or destroying the government of the  
7 United States by force or violence or shall be a member of a group  
8 which advocates such desirability, knowing the purposes of such group  
9 include such advocacy.

10 (cf: P.L.1953, c. 202, Article V)

11

12 4. Section 7 of Article V of the compact created by P.L.1953,  
13 c.202 ( C.32:23-18) is amended to read as follows:

14 7. Any license issued pursuant to this article may be revoked or  
15 suspended for such period as the commission deems in the public  
16 interest or the licensee thereunder may be reprimanded for any of the  
17 following offenses:

18 (a) Conviction of a crime or act by the licensee or other cause  
19 which would require or permit his disqualification from receiving a  
20 license upon original application;

21 (b) Fraud, deceit or misrepresentation in securing the license, or in  
22 the conduct of the licensed activity;

23 (c) Violation of any of the provisions of this compact;

24 (d) [Addiction to the use of or trafficking in morphine, opium,  
25 cocaine or other narcotic drug] Unlawfully possessing, possessing  
26 with intent to distribute, sale or distribution of a controlled dangerous  
27 substance or a controlled dangerous substance analog;

28 (e) Employing, hiring or procuring any person in violation of this  
29 compact or inducing or otherwise aiding or abetting any person to  
30 violate the terms of this compact;

31 (f) Paying, giving, causing to be paid or given or offering to pay or  
32 give to any person any valuable consideration to induce such other  
33 person to violate any provision of this compact or to induce any public  
34 officer, agent or employee to fail to perform his duty hereunder;

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

36 (h) Transfer or surrender of possession of the license to any person  
37 either temporarily or permanently without satisfactory explanation;

38 (i) False impersonation of another licensee under this compact;

39 (j) Receipt or solicitation of anything of value from any person  
40 other than the licensee's employer as consideration for the selection or  
41 retention for employment of any longshoreman;

42 (k) Coercion of a longshoreman by threat of discrimination or  
43 violence or economic reprisal, to make purchases from or to utilize the  
44 services of any person;

45 (l) Lending any money to or borrowing any money from a  
46 longshoreman for which there is a charge of interest or other

1 consideration; ~~[and]~~or

2 (m) Membership in a labor organization which represents  
3 longshoremen or port watchmen; but nothing in this section shall be  
4 deemed to prohibit pier superintendents or hiring agents from being  
5 represented by a labor organization or organizations which do not  
6 also represent longshoremen or port watchmen. The American  
7 Federation of Labor, the Congress of Industrial Organizations and any  
8 other similar federation, congress or other organization of national or  
9 international occupational or industrial labor organizations shall not be  
10 considered an organization which represents longshoremen or port  
11 watchmen within the meaning of this section although one of the  
12 federated or constituent labor organizations thereof may represent  
13 longshoremen or port watchmen.

14 (cf: P.L.1953, c. 202, Article V)

15

16 5. Section 5 of Article XI of the compact created by P.L.1953,  
17 c.202 (C.32:23-49) is amended to read as follows:

18 5. The commission, or such member, officer, employee or agent  
19 of the commission as may be designated by the commission for such  
20 purpose, shall have the power to issue subpoenas ~~[throughout both~~  
21 ~~States]~~ to compel the attendance of witnesses and the giving of  
22 testimony or production of other evidence and to administer oaths in  
23 connection with any such hearing. It shall be the duty of the  
24 commission or of any such member, officer, employee or agent of the  
25 commission designated by the commission for such purpose to issue  
26 subpoenas at the request of and upon behalf of the licensee, registrant  
27 or applicant. The commission or such person conducting the hearing  
28 shall not be bound by common law or statutory rules of evidence or by  
29 technical or formal rules of procedure in the conduct of such hearing.

30 (cf: P.L.1953, c.202, Article XI)

31

32 6. Section 8 of P.L.1954, c.14 (C.32:23-92) is amended to read  
33 as follows:

34 8. 5-h. In addition to the grounds elsewhere set forth in this act,  
35 the commission may deny an application for a license or registration  
36 for any of the following:

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

39 (2) Conviction by any such court, after having been previously  
40 convicted by any such court of any crime or of the offenses hereinafter  
41 set forth, of a misdemeanor or any of the following offenses: assault,  
42 malicious injury to property, malicious mischief, unlawful taking of a  
43 motor vehicle, corruption of employees or possession of lottery or  
44 number slips; ~~[or]~~

45 (3) Fraud, deceit or misrepresentation in connection with any  
46 application or petition submitted to, or any interview, hearing or

1 proceeding conducted by the commission[.];

2 (4) Violation of any provision of this act or commission of any  
3 offense thereunder[.];

4 (5) Refusal on the part of any applicant, or prospective licensee, or  
5 of any member, officer or stockholder required by section 2 of article  
6 VI of the compact to sign or be identified in an application for a  
7 stevedore license, to answer any material question or produce any  
8 material evidence in connection with his application or any application  
9 made on his behalf for a license or registration pursuant to this  
10 compact[.];

11 (6) Association with a person whom the applicant knows or should  
12 know is a member or associate of an organized crime group or of a  
13 terrorist group or a career offender cartel or is a member or associate  
14 of an organized crime group, a terrorist group or a career offender  
15 cartel or is a career offender. A person who has been identified by a  
16 federal, State or local law enforcement agency as a member or  
17 associate of an organized crime group or a terrorist group or career  
18 offender cartel shall be presumed to be a member or associate of an  
19 organized crime group, or terrorist group, or a career offender cartel.

20 For purposes of this subsection, "career offender" shall be defined  
21 as any person whose behavior is pursued in an occupational manner or  
22 context for the purpose of economic gain, utilizing such methods as  
23 are deemed criminal violations of the public policy of this State and  
24 a "career offender cartel" shall be defined as any group of persons who  
25 operate together as career offenders; or

26 (7) Commission of a racketeering activity or knowing association  
27 with a person who has been convicted of a racketeering activity by a  
28 court of the United States, or any state or territory thereof.

29 (cf: P.L.1956, c.194, s.3)

30

31 7. Section 9 of P.L.1954, c.14 (C.32:23-93) is amended to read  
32 as follows:

33 9. 5-i. In addition to the grounds elsewhere set forth in this act  
34 any license or registration issued or made pursuant thereto may be  
35 revoked or suspended for such period as the commission deems in the  
36 public interest or the licensee or registrant may be reprimanded, for:

37 (1) Conviction of any crime or offense in relation to gambling,  
38 bookmaking, pool selling, lotteries or similar crimes or offenses if the  
39 crime or offense was committed at or on a pier or other waterfront  
40 terminal or within 500 feet thereof; or

41 (2) Willful commission of, or willful attempt to commit at or on a  
42 waterfront terminal or adjacent highway, any act of physical injury to  
43 any other person or of willful damage to or misappropriation of any  
44 other person's property, unless justified or excused by law; or

45 (3) Receipt or solicitation of anything of value from any person  
46 other than a licensee's or registrant's employer as consideration for the

1 selection or retention for employment of such licensee or registrant; or

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

5 (5) Refusal to answer any material question or produce any  
6 evidence lawfully required to be answered or produced at any  
7 investigation, interview or other proceeding conducted by the  
8 commission pursuant to the provisions of this act, or, if such refusal  
9 is accompanied by a valid plea of privilege against self-incrimination,  
10 refusal to obey an order to answer such question or produce such  
11 evidence made by the commission pursuant to the provisions of  
12 subdivision 5 of section 5-b of [this act.]P.L.1954, c.14 (C.32:23-  
13 86);or

14 (6) Association with a person whom the licensee or registrant  
15 knows or should know is a member or associate of an organized crime  
16 group or cartel or of a terrorist group or cartel. That person, who has  
17 been identified by a federal, state or local law enforcement agency as  
18 a member or associate of an organized crime group or cartel or of a  
19 terrorist group or cartel, shall be presumed to be a member or  
20 associate of an organized crime group or cartel or of a terrorist group  
21 or cartel; or

22 (7) Commission of a racketeering activity or knowing association  
23 with a person who has been convicted of a racketeering activity by a  
24 court of the United States, or any state or territory thereof.

25 (cf: P.L.1956, c.194, s.4)

26

27 8. Section 6 of P.L.1956, c.194 (C.32:23-105) is amended to read  
28 as follows:

29 6. 5-n. Checkers. (1) The commission shall establish within the  
30 longshoremen's register a list of all qualified longshoremen eligible, as  
31 hereinafter provided, for employment as checkers in the Port of New  
32 York District. No person shall act as a checker within the Port of  
33 New York District unless at the time he is included in the  
34 longshoremen's register as a checker, and no person shall employ  
35 another to work as a checker within the Port of New York District  
36 unless at the time such other person is included in the longshoremen's  
37 register as a checker.

38 (2) Any person applying for inclusion in the longshoremen's  
39 register as a checker shall file at any such place and in such manner as  
40 the commission shall designate a written statement, signed and verified  
41 by such person, setting forth the following:

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

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

1 (c) Such further facts and evidence as may be required by the  
2 commission to ascertain the character, integrity and identity of the  
3 applicant.

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

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

8 (b) If the applicant has, without subsequent pardon, been convicted  
9 by a court of the United States or any State or territory thereof, of the  
10 commission of, or the attempt or conspiracy to commit treason,  
11 murder, manslaughter or any felony or high misdemeanor or any of the  
12 following misdemeanors or offenses: illegally using, carrying or  
13 possessing a pistol or other dangerous weapon; making or possessing  
14 burglar's instruments; buying or receiving stolen property; unlawful  
15 entry of a building; aiding an escape from prison; ~~[unlawfully~~  
16 ~~possessing or distributing habit-forming narcotic drugs]~~ unlawfully  
17 possessing, possessing with intent to distribute, sale or distribution of  
18 a controlled dangerous substance or a controlled dangerous substance  
19 analog; petty larceny, where the evidence shows the property was  
20 stolen from a vessel, pier or other waterfront terminal; ~~[and]~~or  
21 violation of the compact. Any such applicant ineligible for inclusion  
22 in the longshoremen's register as a checker by reason of any such  
23 conviction may submit satisfactory evidence to the commission that he  
24 has for a period of not less than 5 years, measured as hereinafter  
25 provided, and up to the time of application, so conducted himself as  
26 to warrant inclusion in the longshoremen's register as a checker, in  
27 which event the commission may, in its discretion, issue an order  
28 removing such ineligibility. The aforesaid period of 5 years shall be  
29 measured either from the date of payment of any fine imposed upon  
30 such person or the suspension of sentence or from the date of his  
31 unrevoked release from custody by parole, commutation or  
32 termination of his sentence;

33 (c) If the applicant knowingly or willfully advocates the desirability  
34 of overthrowing or destroying the government of the United States by  
35 force or violence or shall be a member of a group which advocates  
36 such desirability, knowing the purposes of such group include such  
37 advocacy.

38 (4) When the application shall have been examined and such  
39 further inquiry and investigation made as the commission shall deem  
40 proper and when the commission shall be satisfied therefrom that the  
41 applicant possesses the qualifications and requirements prescribed by  
42 this section, the commission shall include the applicant in the  
43 longshoremen's register as a checker. The commission may permit  
44 temporary registration as a checker to any applicant under this section  
45 pending final action on an application made for such registration,  
46 under such terms and conditions as the commission may prescribe,

1 which shall be valid for a period to be fixed by the commission, not in  
2 excess of 6 months.

3 (5) The commission shall have power to reprimand any checker  
4 registered under this section or to remove him from the  
5 longshoremen's register as a checker for such period of time as it  
6 deems in the public interest for any of the following offenses:

7 (a) Conviction of a crime or other cause which would permit  
8 disqualification of such person from inclusion in the longshoremen's  
9 register as a checker upon original application;

10 (b) Fraud, deceit or misrepresentation in securing inclusion in the  
11 longshoremen's register as a checker or in the conduct of the  
12 registered activity;

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

14 (d) [Addiction to the use of or trafficking in morphine, opium,  
15 cocaine or other narcotic drug]~~Unlawfully possessing, possessing with~~  
16 intent to distribute, sale or distribution of a controlled dangerous  
17 substance or a controlled dangerous substance analog;

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

20 (f) Paying, giving, causing to be paid or given or offering to pay or  
21 give to any person any valuable consideration to induce such other  
22 person to violate any provision of the compact or to induce any public  
23 officer, agent or employee to fail to perform his duty under the  
24 compact;

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

26 (h) Transfer or surrender of possession to any person either  
27 temporarily or permanently of any card or other means of  
28 identification issued by the commission as evidence of inclusion in the  
29 longshoremen's register without satisfactory explanation; or

30 (i) False impersonation of another longshoreman or of another  
31 person licensed under the compact.

32 (6) The commission shall have the right to recover possession of  
33 any card or other means of identification issued as evidence of  
34 inclusion in the longshoremen's register as a checker in the event that  
35 the holder thereof has been removed from the longshoremen's register  
36 as a checker.

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

39 (cf: P.L.1956, c.194, s. 6)

40

41 9. Section 1 of P.L.1976, c.102 (C.32:23-118) is amended to read  
42 as follows:

43 1. 5.q. (1) The commission may temporarily suspend a temporary  
44 permit or a permanent license or a temporary or permanent registration  
45 pursuant to the provisions of section 4 of Article XI of this act until  
46 further order of the commission or final disposition of the underlying

1 case, only where the permittee, licensee or registrant has been indicted  
2 for, or otherwise charged with, a crime which is equivalent to a felony  
3 in the State of New York or to a [high misdemeanor]crime of the  
4 third, second, or first degree in the State of New Jersey or only where  
5 the permittee or licensee [or registrant] is a port watchman who is  
6 charged by the commission pursuant to Article XI of this act with  
7 misappropriating any other person's property at or on a pier or other  
8 waterfront terminal. [The provisions of this paragraph shall not be  
9 applicable to the temporary suspension of a temporary permit or  
10 temporary registration issued by the commission.]

11 (2) In the case of a permittee, licensee or registrant who has been  
12 indicted for, or otherwise charged with, a crime, the temporary  
13 suspension shall terminate immediately upon acquittal or upon  
14 dismissal of the criminal charge. A person whose permit, license or  
15 registration has been temporarily suspended may, at any time, demand  
16 that the commission conduct a hearing as provided for in Article XI of  
17 this act. Within 60 days of such demand, the commission, if feasible,  
18 and within the commission's discretion, shall commence the hearing  
19 and, within 30 days of [the conclusion of testimony and other evidence  
20 in such hearing]receipt of the administrative law judge's report and  
21 recommendation, the commission shall render a final determination  
22 thereon; provided, however, that these time requirements, shall not  
23 apply for any period of delay caused or requested by the permittee,  
24 licensee or [applicant]registrant. [ Upon failure of the commission to  
25 commence a hearing or render a determination within the time limits  
26 prescribed herein, the temporary suspension of the licensee or  
27 registrant shall immediately terminate.] A person whose permit,  
28 license or registration has been temporarily suspended by the order of  
29 the commission may, no more than four times per year subsequent to  
30 the date of temporary suspension, petition the commission to vacate  
31 the temporary suspension.

32 (3) The commission may, within its discretion, bar any permittee,  
33 licensee or registrant who has been suspended pursuant to the  
34 provisions of subsection (1) above, from any employment by a licensed  
35 stevedore or a carrier of freight by water, if that individual has been  
36 indicted or otherwise charged in any federal, state or territorial  
37 proceeding with any crime involving the possession with intent to  
38 distribute, sale or distribution of a controlled dangerous substance or  
39 controlled dangerous substance analog, racketeering or theft from a  
40 pier or waterfront terminal.

41 (cf: P.L.1976, c. 102, s. 1)

42

43 <sup>1</sup>[10. (New section) Commercial motor vehicle operations which  
44 are regulated by the federal Department of Transportation pursuant  
45 to 49 C.F.R. part 390 et al. are exempt from the provisions of the

1 "Waterfront Commission Act" ( P.L.1953, c.202, C. 32:23-1 et seq.)  
2 as amended and supplemented.]<sup>1</sup>

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

14  
15 <sup>1</sup>[12.] 11.<sup>1</sup> (New section) This act constitutes an agreement  
16 between the states of New Jersey and New York, supplementary to the  
17 waterfront commission compact and amendatory thereof, and shall be  
18 liberally construed to effectuate the purposes of that compact, and the  
19 powers vested in the waterfront commission 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.

23  
24 <sup>1</sup>[13.] 12.<sup>1</sup> This act shall take effect upon the enactment of  
25 substantially similar legislation by the State of New York or, if the  
26 State of New York should enact legislation of a similar substance and  
27 effect of any section of this act, that section of this act shall take effect  
28 upon that enactment; but if legislation substantially similar to this act  
29 or any section thereof already has been enacted, this act or the  
30 section in question shall take effect immediately.

31

32

33

34

35 Amends "Waterfront Commission Act" to expand the commission's  
36 jurisdiction over certain licensing and redistration procedures.

**SENATE, No. 189**

**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Senator RAYMOND J. LESNIAK**

**District 20 (Union)**

**SYNOPSIS**

Amends "Waterfront Commission Act" to expand the commission's jurisdiction over waterborne freight and certain licensing and registration procedures.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Article II of the compact created by P.L.1953, c.202  
8 (C.32:23-6) is amended to read as follows:

9 As used in this compact:

10 "The Port of New York district" shall mean the district created by  
11 Article II of the compact dated April thirtieth, one thousand nine  
12 hundred and twenty-one, between the States of New York and New  
13 Jersey, authorized by chapter one hundred fifty-four of the laws of  
14 New York of one thousand nine hundred and twenty-one and chapter  
15 one hundred fifty-one of the laws of New Jersey of one thousand nine  
16 hundred and twenty-one.

17 "Commission" shall mean the waterfront commission of New York  
18 harbor established by Article III hereof.

19 "Pier" shall include any wharf, pier, dock or quay.

20 "Other waterfront terminal" shall include any warehouse, depot or  
21 other terminal (other than a pier) which is located within one thousand  
22 yards of any pier in the Port of New York district and which is used  
23 for waterborne freight in whole or substantial part.

24 "Person" shall mean not only a natural person but also any  
25 partnership, joint venture, association, corporation or any other legal  
26 entity but shall not include the United States, any state or territory  
27 thereof or any department, division, board, commission or authority of  
28 one or more of the foregoing.

29 "Carrier of freight by water" shall mean any person who may be  
30 engaged or who may hold himself out as willing to be engaged,  
31 whether as a common carrier, as a contract carrier or otherwise  
32 (except for carriage of liquid cargoes in bulk in tank vessels designed  
33 for use exclusively in such service or carriage by barge of bulk  
34 cargoes consisting of only a single commodity loaded or carried  
35 without wrappers or containers and delivered by the carrier without  
36 transportation mark or count) in the carriage of freight by water  
37 between any point in the Port of New York district and a point outside  
38 said district.

39 "Waterborne freight" shall mean freight carried by or consigned for  
40 carriage by carriers of freight by water and shall include freight which  
41 has been or will be carried by or consigned for carriage by carriers of  
42 freight by water.

**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 "Longshoreman" shall mean a natural person, other than a hiring  
2 agent, who is employed for work at a pier or other waterfront  
3 terminal, either by a carrier of freight by water or by a stevedore

4 (a) physically to move waterborne freight on vessels berthed at  
5 piers, on piers or at other waterfront terminals, or

6 (b) to engage in direct and immediate checking of any such freight  
7 or of the custodial accounting therefor or in the recording or  
8 tabulation of the hours worked at piers or other waterfront terminals  
9 by natural persons employed by carriers of freight by water or  
10 stevedores, or

11 (c) to supervise directly and immediately others who are employed  
12 as in subdivision (a) of this definition.

13 "Pier superintendent" shall mean any natural person other than a  
14 longshoreman who is employed for work at a pier or other waterfront  
15 terminal by a carrier of freight by water or a stevedore and whose  
16 work at such pier or other waterfront terminal includes the  
17 supervision, directly or indirectly, of the work of longshoremen.

18 "Port watchman" shall include any watchman, gateman, roundsman,  
19 detective, guard, guardian or protector of property employed by the  
20 operator of any pier or other waterfront terminal or by a carrier of  
21 freight by water to perform services in such capacity on any pier or  
22 other waterfront terminal.

23 "Longshoremen's register" shall mean the register of eligible  
24 longshoremen compiled and maintained by the commission pursuant  
25 to Article VIII.

26 "Stevedore" shall mean a contractor (not including an employee)  
27 engaged for compensation pursuant to a contract or arrangement with  
28 a carrier of freight by water, in moving waterborne freight carried or  
29 consigned for carriage by such carrier on vessels of such carrier  
30 berthed at piers, on piers at which such vessels are berthed or at other  
31 waterfront terminals.

32 "Hiring agent" shall mean any natural person, who on behalf of a  
33 carrier of freight by water or a stevedore shall select any longshoreman  
34 for employment.

35 "Compact" shall mean this compact and rules or regulations  
36 lawfully promulgated thereunder.

37 (cf: P.L.1953, c.202, Article II)

38  
39 2. Section 8 of P.L.1954, c.14 (C.32:23-92) is amended to read as  
40 follows:

41 8. 5-h. In addition to the grounds elsewhere set forth in this act,  
42 the commission may deny an application for a license or registration  
43 for any of the following:

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

46 (2) Conviction by any such court, after having been previously

1 convicted by any such court of any crime or of the offenses hereinafter  
2 set forth, of a misdemeanor or any of the following offenses: assault,  
3 malicious injury to property, malicious mischief, unlawful taking of a  
4 motor vehicle, corruption of employees or possession of lottery or  
5 number slips; or

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

9 (4) Violation of any provision of this act or commission of any  
10 offense thereunder.

11 (5) Refusal on the part of any applicant, or prospective licensee, or  
12 of any member, officer or stockholder required by section 2 of article  
13 VI of the compact to sign or be identified in an application for a  
14 stevedore license, to answer any material question or produce any  
15 material evidence in connection with his application or any application  
16 made on his behalf for a license or registration pursuant to this  
17 compact.

18 (6) Association with a person whom the applicant knows or should  
19 know is a member or associate of an organized crime group or cartel  
20 or of a terrorist group or cartel. Said person, who has been identified  
21 by a federal, state or local law enforcement agency as a member or  
22 associate of an organized crime group or cartel or of a terrorist group  
23 or cartel, shall be presumed to be a member or associate of an  
24 organized crime group or cartel or of a terrorist group or cartel.

25 (7) Commission of a racketeering activity or knowing association  
26 with a person who has been convicted of a racketeering activity by a  
27 court of the United States, or any state or territory thereof.

28 (cf: P.L.1956, c.194, s.3)

29

30 3. Section 9 of P.L.1954, c.14 (C.32:23-93) is amended to read as  
31 follows:

32 9. 5-i. In addition to the grounds elsewhere set forth in this act any  
33 license or registration issued or made pursuant thereto may be revoked  
34 or suspended for such period as the commission deems in the public  
35 interest or the licensee or registrant may be reprimanded, for:

36 (1) Conviction of any crime or offense in relation to gambling,  
37 bookmaking, pool selling, lotteries or similar crimes or offenses if the  
38 crime or offense was committed at or on a pier or other waterfront  
39 terminal or within 500 feet thereof; or

40 (2) Willful commission of, or willful attempt to commit at or on a  
41 waterfront terminal or adjacent highway, any act of physical injury to  
42 any other person or of willful damage to or misappropriation of any  
43 other person's property, unless justified or excused by law; or

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

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

4 (5) 【Refusal to answer any question or produce any evidence  
5 lawfully required to be answered or produced at any investigation,  
6 interview or other proceeding conducted by the commission pursuant  
7 to the provisions of this act, or, if such refusal is accompanied by a  
8 valid plea of privilege against self-incrimination, refusal to obey an  
9 order to answer such question or produce such evidence made by the  
10 commission pursuant to the provisions of subdivision 5 of section 5-b  
11 of this act.】 Association with a person whom the licensee or  
12 registrant knows or should know is a member or associate of an  
13 organized crime group or cartel or of a terrorist group or cartel. Said  
14 person, who has been identified by a federal, state or local law  
15 enforcement agency as a member or associate of an organized crime  
16 group or cartel or of a terrorist group or cartel, shall be presumed to  
17 be a member or associate of an organized crime group or cartel or of  
18 a terrorist group or cartel; or

19 (6) Commission of a racketeering activity or knowing association  
20 with a person who has been convicted of a racketeering activity by a  
21 court of the United States, or any state or territory thereof; or

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

30 (cf: P.L.1956, c.194, s.4)

31  
32 4. (New section) If any part of this act or the application thereof  
33 to any person or circumstances be adjudged invalid by any court of  
34 competent jurisdiction, such judgment shall be confined in its  
35 operation to the part, provision or application directly involved in the  
36 controversy in which such judgment shall have been rendered and shall  
37 not affect or impair the validity of the remainder of this act or the  
38 application thereof to other persons or circumstances and the two  
39 states hereby declare that they would have entered into this act or the  
40 remainder thereof had the invalidity of such provision or application  
41 thereof been apparent.

42  
43 5. (New section) This act constitutes an agreement between the  
44 states of New Jersey and New York, supplementary to the waterfront  
45 commission compact and amendatory thereof, and shall be liberally  
46 construed to effectuate the purposes of that compact, and the powers

1 vested in the waterfront commission shall be construed to be in aid of  
2 and supplemental to and not in limitation of or in derogation of any of  
3 the powers heretofore conferred upon or delegated to the waterfront  
4 commission.

5  
6 6. This act shall take effect immediately but shall remain  
7 inoperative until the enactment into law by the State of New York of  
8 legislation of substantially similar substance and effect; but if such  
9 legislation already has been enacted, this act shall take effect  
10 immediately.

11  
12  
13 STATEMENT  
14

15 This bill revises the bi-state waterfront commission compact  
16 between New Jersey and New York.

17 It amends the definition of "waterborne freight" to clarify that the  
18 waterfront commission's jurisdiction extends to persons who work in  
19 warehouses that store freight on or in close proximity to an active  
20 commercial pier. Under current law, the waterfront commission is  
21 able to regulate warehouse employees who work within a marine  
22 terminal but is not able to register all warehouse employees who work  
23 outside a marine terminal, although such employees have control over  
24 waterborne freight. The effect of changing the current definition of  
25 "waterborne freight" is to include freight taken from a ship and stored  
26 in a warehouse in a non-marine terminal setting.

27 The bill also broadens the commission's ability to reject applicants  
28 for licensure or registration with the commission or to revoke or  
29 suspend any license or registration for employees with ties to  
30 organized crime or terrorist organizations, both of which pose great  
31 risk of harm at the New Jersey - New York ports. Under current law,  
32 a criminal conviction or a finding that the applicant is a danger to the  
33 public peace or safety or lacks good character and integrity are  
34 grounds for denial of an application depending upon the employment  
35 category of the applicant. The same holds true with respect to the  
36 revocation of a registration or license. The bill would add additional  
37 grounds for denial or revocation based upon a finding of a  
38 disqualifying association.

# SENATE TRANSPORTATION COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 189**

# **STATE OF NEW JERSEY**

DATED: JANUARY 31, 2005

The Senate Transportation Committee reports favorably a Senate Committee Substitute for Senate Bill No. 189.

This substitute bill revises the bi-state waterfront commission compact between New Jersey and New York.

It amends the definition of "waterborne freight" to extend the waterfront commission's jurisdiction to persons who work in warehouses that store freight on or in close proximity to an active commercial pier. Under current law, the waterfront commission is able to regulate warehouse employees who work within a marine terminal but is not able to register all warehouse employees who work outside a marine terminal, although such employees have control over waterborne freight. The effect of changing the current definition of "waterborne freight" is to include freight taken from a ship and stored in a warehouse in a non-marine terminal setting.

The bill also broadens the commission's ability to reject applicants for licensure or registration with the commission or to revoke or suspend any license or registration for employees with ties to organized crime or terrorist organizations, both of which pose great risk of harm at the New Jersey - New York ports. Under current law, a criminal conviction or a finding that the applicant is a danger to the public peace or safety or lacks good character and integrity are grounds for denial of an application depending upon the employment category of the applicant. The same holds true with respect to the revocation of a registration or license. The bill would add additional grounds for denial or revocation based upon a finding of a disqualifying association.

The bill updates and expands the provisions concerning possession and distribution of controlled dangerous substances.

The bill amends the provisions concerning the temporary suspension of a permit, license or registration issued by the commission.

The bill provides that commercial motor vehicle operations which are regulated by the federal Department of Transportation are exempt from the provisions of the Waterfront Commission Act.

The bill amends existing law to clarify that the commission may subpoena witnesses who do not reside in New York or New Jersey.

# SENATE TRANSPORTATION COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 189**

# **STATE OF NEW JERSEY**

DATED: JANUARY 31, 2005

The Senate Transportation Committee reports favorably a Senate Committee Substitute for Senate Bill No. 189.

This substitute bill revises the bi-state waterfront commission compact between New Jersey and New York.

It amends the definition of "waterborne freight" to extend the waterfront commission's jurisdiction to persons who work in warehouses that store freight on or in close proximity to an active commercial pier. Under current law, the waterfront commission is able to regulate warehouse employees who work within a marine terminal but is not able to register all warehouse employees who work outside a marine terminal, although such employees have control over waterborne freight. The effect of changing the current definition of "waterborne freight" is to include freight taken from a ship and stored in a warehouse in a non-marine terminal setting.

The bill also broadens the commission's ability to reject applicants for licensure or registration with the commission or to revoke or suspend any license or registration for employees with ties to organized crime or terrorist organizations, both of which pose great risk of harm at the New Jersey - New York ports. Under current law, a criminal conviction or a finding that the applicant is a danger to the public peace or safety or lacks good character and integrity are grounds for denial of an application depending upon the employment category of the applicant. The same holds true with respect to the revocation of a registration or license. The bill would add additional grounds for denial or revocation based upon a finding of a disqualifying association.

The bill updates and expands the provisions concerning possession and distribution of controlled dangerous substances.

The bill amends the provisions concerning the temporary suspension of a permit, license or registration issued by the commission.

The bill provides that commercial motor vehicle operations which are regulated by the federal Department of Transportation are exempt from the provisions of the Waterfront Commission Act.

The bill amends existing law to clarify that the commission may subpoena witnesses who do not reside in New York or New Jersey.

STATEMENT TO  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 189**

with Senate Floor Amendments  
(Proposed By Senator Lesniak)

ADOPTED: DECEMBER 8, 2005

These amendments delete the addition of "freight which has been or will be carried by or consigned for carriage by carriers of freight by water" from the definition of "waterborne freight" and delete in its entirety section 10 which exempts commercial motor vehicle operations which are regulated by the federal Department of Transportation from the provisions of the "Waterfront Commission Act," P.L.1953, c.202 (C.32:33-1 et seq.).

# ASSEMBLY, No. 884

## STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Assemblyman PETER J. BARNES, JR.**

**District 18 (Middlesex)**

**Assemblyman JAMES W. HOLZAPFEL**

**District 10 (Monmouth and Ocean)**

**Assemblyman JOHN S. WISNIEWSKI**

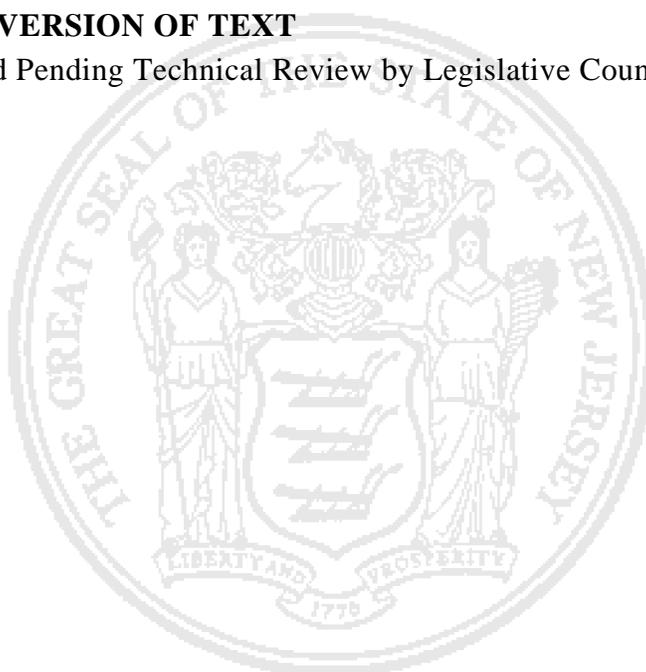
**District 19 (Middlesex)**

**SYNOPSIS**

Amends "Waterfront Commission Act" to expand the commission's jurisdiction over waterborne freight and certain licensing and registration procedures.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 1/12/2005)**

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

3

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

6

7 1. Article II of the compact created by P.L.1953, c.202  
8 (C.32:23-6) is amended to read as follows:

9 As used in this compact:

10 "The Port of New York district" shall mean the district created by  
11 Article II of the compact dated April thirtieth, one thousand nine  
12 hundred and twenty-one, between the States of New York and New  
13 Jersey, authorized by chapter one hundred fifty-four of the laws of  
14 New York of one thousand nine hundred and twenty-one and chapter  
15 one hundred fifty-one of the laws of New Jersey of one thousand nine  
16 hundred and twenty-one.

17 "Commission" shall mean the waterfront commission of New York  
18 harbor established by Article III hereof.

19 "Pier" shall include any wharf, pier, dock or quay.

20 "Other waterfront terminal" shall include any warehouse, depot or  
21 other terminal (other than a pier) which is located within one thousand  
22 yards of any pier in the Port of New York district and which is used  
23 for waterborne freight in whole or substantial part.

24 "Person" shall mean not only a natural person but also any  
25 partnership, joint venture, association, corporation or any other legal  
26 entity but shall not include the United States, any state or territory  
27 thereof or any department, division, board, commission or authority  
28 of one or more of the foregoing.

29 "Carrier of freight by water" shall mean any person who may be  
30 engaged or who may hold himself out as willing to be engaged,  
31 whether as a common carrier, as a contract carrier or otherwise  
32 (except for carriage of liquid cargoes in bulk in tank vessels designed  
33 for use exclusively in such service or carriage by barge of bulk  
34 cargoes consisting of only a single commodity loaded or carried  
35 without wrappers or containers and delivered by the carrier without  
36 transportation mark or count) in the carriage of freight by water  
37 between any point in the Port of New York district and a point  
38 outside said district.

39 "Waterborne freight" shall mean freight carried by or consigned for  
40 carriage by carriers of freight by water and shall include freight which  
41 has been or will be carried by or consigned for carriage by carriers of  
42 freight by water.

43 "Longshoreman" shall mean a natural person, other than a hiring

**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 agent, who is employed for work at a pier or other waterfront  
2 terminal, either by a carrier of freight by water or by a stevedore

3 (a) physically to move waterborne freight on vessels berthed at  
4 piers, on piers or at other waterfront terminals, or

5 (b) to engage in direct and immediate checking of any such freight  
6 or of the custodial accounting therefor or in the recording or  
7 tabulation of the hours worked at piers or other waterfront terminals  
8 by natural persons employed by carriers of freight by water or  
9 stevedores, or

10 (c) to supervise directly and immediately others who are employed  
11 as in subdivision (a) of this definition.

12 "Pier superintendent" shall mean any natural person other than a  
13 longshoreman who is employed for work at a pier or other waterfront  
14 terminal by a carrier of freight by water or a stevedore and whose  
15 work at such pier or other waterfront terminal includes the  
16 supervision, directly or indirectly, of the work of longshoremen.

17 "Port watchman" shall include any watchman, gateman, roundsman,  
18 detective, guard, guardian or protector of property employed by the  
19 operator of any pier or other waterfront terminal or by a carrier of  
20 freight by water to perform services in such capacity on any pier or  
21 other waterfront terminal.

22 "Longshoremen's register" shall mean the register of eligible  
23 longshoremen compiled and maintained by the commission pursuant  
24 to Article VIII.

25 "Stevedore" shall mean a contractor (not including an employee)  
26 engaged for compensation pursuant to a contract or arrangement with  
27 a carrier of freight by water, in moving waterborne freight carried or  
28 consigned for carriage by such carrier on vessels of such carrier  
29 berthed at piers, on piers at which such vessels are berthed or at other  
30 waterfront terminals.

31 "Hiring agent" shall mean any natural person, who on behalf of a  
32 carrier of freight by water or a stevedore shall select any longshoreman  
33 for employment.

34 "Compact" shall mean this compact and rules or regulations  
35 lawfully promulgated thereunder.

36 (cf: P.L.1953, c.202, Article II)

37

38 2. Section 8 of P.L.1954, c.14 (C.32:23-92) is amended to read as  
39 follows:

40 8. 5-h. In addition to the grounds elsewhere set forth in this act,  
41 the commission may deny an application for a license or registration  
42 for any of the following:

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

45 (2) Conviction by any such court, after having been previously  
46 convicted by any such court of any crime or of the offenses hereinafter

1 set forth, of a misdemeanor or any of the following offenses: assault,  
2 malicious injury to property, malicious mischief, unlawful taking of a  
3 motor vehicle, corruption of employees or possession of lottery or  
4 number slips; or

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

8 (4) Violation of any provision of this act or commission of any  
9 offense thereunder.

10 (5) Refusal on the part of any applicant, or prospective licensee, or  
11 of any member, officer or stockholder required by section 2 of article  
12 VI of the compact to sign or be identified in an application for a  
13 stevedore license, to answer any material question or produce any  
14 material evidence in connection with his application or any application  
15 made on his behalf for a license or registration pursuant to this  
16 compact.

17 (6) Association with a person whom the applicant knows or should  
18 know is a member or associate of an organized crime group or cartel  
19 or of a terrorist group or cartel. Said person, who has been identified  
20 by a federal, state or local law enforcement agency as a member or  
21 associate of an organized crime group or cartel or of a terrorist group  
22 or cartel, shall be presumed to be a member or associate of an  
23 organized crime group or cartel or of a terrorist group or cartel.

24 (7) Commission of a racketeering activity or knowing association  
25 with a person who has been convicted of a racketeering activity by a  
26 court of the United States, or any state or territory thereof.

27 (cf: P.L.1956, c.194, s.3)

28

29 3. Section 9 of P.L.1954, c.14 (C.32:23-93) is amended to read as  
30 follows:

31 9. 5-i. In addition to the grounds elsewhere set forth in this act any  
32 license or registration issued or made pursuant thereto may be revoked  
33 or suspended for such period as the commission deems in the public  
34 interest or the licensee or registrant may be reprimanded, for:

35 (1) Conviction of any crime or offense in relation to gambling,  
36 bookmaking, pool selling, lotteries or similar crimes or offenses if the  
37 crime or offense was committed at or on a pier or other waterfront  
38 terminal or within 500 feet thereof; or

39 (2) Willful commission of, or willful attempt to commit at or on a  
40 waterfront terminal or adjacent highway, any act of physical injury to  
41 any other person or of willful damage to or misappropriation of any  
42 other person's property, unless justified or excused by law; or

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

46 (4) Coercion of a licensee or registrant by threat of discrimination

1 or violence or economic reprisal, to make purchases from or to utilize  
2 the services of any person; or

3 (5) [Refusal to answer any question or produce any evidence  
4 lawfully required to be answered or produced at any investigation,  
5 interview or other proceeding conducted by the commission pursuant  
6 to the provisions of this act, or, if such refusal is accompanied by a  
7 valid plea of privilege against self-incrimination, refusal to obey an  
8 order to answer such question or produce such evidence made by the  
9 commission pursuant to the provisions of subdivision 5 of section 5-b  
10 of this act.] Association with a person whom the licensee or registrant  
11 knows or should know is a member or associate of an organized crime  
12 group or cartel or of a terrorist group or cartel. Said person, who has  
13 been identified by a federal, state or local law enforcement agency as  
14 a member or associate of an organized crime group or cartel or of a  
15 terrorist group or cartel, shall be presumed to be a member or  
16 associate of an organized crime group or cartel or of a terrorist group  
17 or cartel; or

18 (6) Commission of a racketeering activity or knowing association  
19 with a person who has been convicted of a racketeering activity by a  
20 court of the United States, or any state or territory thereof; or

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

29 (cf: P.L.1956, c.194, s.4)

30

31 4. (New section) If any part of this act or the application thereof  
32 to any person or circumstances be adjudged invalid by any court of  
33 competent jurisdiction, such judgment shall be confined in its  
34 operation to the part, provision or application directly involved in the  
35 controversy in which such judgment shall have been rendered and shall  
36 not affect or impair the validity of the remainder of this act or the  
37 application thereof to other persons or circumstances and the two  
38 states hereby declare that they would have entered into this act or the  
39 remainder thereof had the invalidity of such provision or application  
40 thereof been apparent.

41

42 5. (New section) This act constitutes an agreement between the  
43 states of New Jersey and New York, supplementary to the waterfront  
44 commission compact and amendatory thereof, and shall be liberally  
45 construed to effectuate the purposes of that compact, and the powers  
46 vested in the waterfront commission shall be construed to be in aid of

1 and supplemental to and not in limitation of or in derogation of any of  
2 the powers heretofore conferred upon or delegated to the waterfront  
3 commission.

4  
5 6. This act shall take effect immediately but shall remain  
6 inoperative until the enactment into law by the State of New York of  
7 legislation of substantially similar substance and effect; but if such  
8 legislation already has been enacted, this act shall take effect  
9 immediately.

10  
11  
12 STATEMENT

13  
14 This bill revises the bi-state waterfront commission compact  
15 between New Jersey and New York.

16 It amends the definition of "waterborne freight" to clarify that the  
17 waterfront commission's jurisdiction extends to persons who work in  
18 warehouses that store freight on or in close proximity to an active  
19 commercial pier. Under current law, the waterfront commission is  
20 able to regulate warehouse employees who work within a marine  
21 terminal but is not able to register all warehouse employees who work  
22 outside a marine terminal, although such employees have control over  
23 waterborne freight. The effect of changing the current definition of  
24 "waterborne freight" is to include freight taken from a ship and stored  
25 in a warehouse in a non-marine terminal setting.

26 The bill also broadens the commission's ability to reject applicants  
27 for licensure or registration with the commission or to revoke or  
28 suspend any license or registration for employees with ties to  
29 organized crime or terrorist organizations, both of which pose great  
30 risk of harm at the New Jersey - New York ports. Under current law,  
31 a criminal conviction or a finding that the applicant is a danger to the  
32 public peace or safety or lacks good character and integrity are  
33 grounds for denial of an application depending upon the employment  
34 category of the applicant. The same holds true with respect to the  
35 revocation of a registration or license. The bill would add additional  
36 grounds for denial or revocation based upon a finding of a  
37 disqualifying association.

# ASSEMBLY TRANSPORTATION COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 884**

# **STATE OF NEW JERSEY**

DATED: JANUARY 13, 2005

The Assembly Transportation Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 884.

This substitute bill revises the bi-state waterfront commission compact between New Jersey and New York.

It amends the definition of "waterborne freight" to extend the waterfront commission's jurisdiction to persons who work in warehouses that store freight on or in close proximity to an active commercial pier. Under current law, the waterfront commission is able to regulate warehouse employees who work within a marine terminal but is not able to register all warehouse employees who work outside a marine terminal, although such employees have control over waterborne freight. The effect of changing the current definition of "waterborne freight" is to include freight taken from a ship and stored in a warehouse in a non-marine terminal setting.

The bill also broadens the commission's ability to reject applicants for licensure or registration with the commission or to revoke or suspend any license or registration for employees with ties to organized crime or terrorist organizations, both of which pose great risk of harm at the New Jersey - New York ports. Under current law, a criminal conviction or a finding that the applicant is a danger to the public peace or safety or lacks good character and integrity are grounds for denial of an application depending upon the employment category of the applicant. The same holds true with respect to the revocation of a registration or license. The bill would add additional grounds for denial or revocation based upon a finding of a disqualifying association.

The bill updates and expands the provisions concerning possession and distribution of controlled dangerous substances.

The bill amends the provisions concerning the temporary suspension of a permit, license or registration issued by the commission.

The bill provides that commercial motor vehicle operations which are regulated by the federal Department of Transportation are exempt from the provisions of the Waterfront Commission Act.

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 884**

with Assembly Floor Amendments  
(Proposed By Assemblyman WISNIEWSKI)

ADOPTED: DECEMBER 12, 2005

These amendments delete the addition of "freight which has been or will be carried by or consigned for carriage by carriers of freight by water" from the definition of "waterborne freight" and delete in its entirety section 8 which exempts commercial motor vehicle operations which are regulated by the federal Department of Transportation from the provisions of the "Waterfront Commission Act," P.L.1953, c.202 (C.32:23-1 et seq.).

These amendments strengthen the power of the commission by removing the restriction that the commission can only issue subpoenas in New York and New Jersey.