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LAW/IS 6/24/08

P.L. 2007, CHAPTER 333, *approved January 13, 2008*  
Assembly, No. 4088 (*First Reprint*)

1 AN ACT to amend and supplement the “Waterfront Commission  
2 Act,” 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. Section 8 of P.L. 1954, c.14 (C.32:23-92) is amended to read  
8 as follows:

9 8. 5-h. In addition to the grounds elsewhere set forth in this act,  
10 the commission may deny an application for a license or  
11 registration for any of the following:

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

14 (2) Conviction by any such court, after having been previously  
15 convicted by any such court of any crime or of the offenses  
16 hereinafter set forth, of a misdemeanor or any of the following  
17 offenses: assault, malicious injury to property, malicious mischief,  
18 unlawful taking of a motor vehicle, corruption of employees or  
19 possession of lottery or number slips;

20 (3) Fraud, deceit or misrepresentation in connection with any  
21 application or petition submitted to, or any interview, hearing or  
22 proceeding conducted by the commission;

23 (4) Violation of any provision of this act or commission of any  
24 offense thereunder;

25 (5) Refusal on the part of any applicant, or prospective licensee,  
26 or of any member, officer or stockholder required by section 2 of  
27 article VI of the compact to sign or be identified in an application  
28 for a stevedore license, to answer any material question or produce  
29 any material evidence in connection with his application or any  
30 application made on his behalf for a license or registration pursuant  
31 to this compact;

32 (6) Association with a person **[whom the applicant knows or**  
33 **should know is a member or associate of an organized crime group**  
34 **or of a terrorist group or a career offender cartel or is a member or**  
35 **associate of an organized crime group, a terrorist group or a career**  
36 **offender cartel or is a career offender. A person]** who has been  
37 identified by a federal, State or local law enforcement agency as a  
38 member or associate of an organized crime group, **[or]** a terrorist  
39 group, or a career offender cartel, **[shall be presumed to be a**  
40 **member or associate of an organized crime group, or terrorist**

**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>**Assembly ATR committee amendments adopted June 14, 2007.**

1 group, or a career offender cartel] or who is a career offender,  
2 under circumstances where such association creates a reasonable  
3 belief that the participation of the applicant in any activity required  
4 to be licensed 'or registered' under this act would be inimical to the  
5 policies of this act.

6 For purposes of this subsection, a “terrorist group” shall mean a  
7 group associated, affiliated or funded in whole or in part by a  
8 terrorist organization designated by the United States Secretary of  
9 State in accordance with section 219 of the Immigration and  
10 Nationality Act, as amended from time to time, or any other  
11 organization which assists, funds, or engages in crimes or acts of  
12 terrorism as defined in the laws of the United States, or of either of  
13 the states of New Jersey or New York; a “career offender” shall [be  
14 defined as any] mean a person whose behavior is pursued in an  
15 occupational manner or context for the purpose of economic gain,  
16 utilizing such methods as are deemed criminal violations '[of]  
17 against' the public policy of [this State] the states of New Jersey  
18 and New York; and a "career offender cartel" shall [be defined as  
19 any group of persons who operate together as] mean a number of  
20 career offenders acting in concert, and may include what is  
21 commonly referred to as an organized crime group; or

22 (7) [Commission] Conviction of a racketeering activity or  
23 knowing association with a person who has been convicted of a  
24 racketeering activity by a court of the United States, or any state or  
25 territory thereof under circumstances where such association creates  
26 a reasonable belief that the participation of the applicant in any  
27 activity required to be licensed 'or registered' under this act would  
28 be inimical to the policies of this act.

29 (cf: P.L. 2005, c.313, s.6)

30

31 2. 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  
36 the public interest or the licensee or registrant may be reprimanded,  
37 for:

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

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

- 1 (3) Receipt or solicitation of anything of value from any person  
2 other than a licensee's or registrant's employer as consideration for  
3 the selection or retention for employment of such licensee or  
4 registrant; or
- 5 (4) Coercion of a licensee or registrant by threat of  
6 discrimination or violence or economic reprisal, to make purchases  
7 from or to utilize the services of any person; or
- 8 (5) Refusal to answer any material question or produce any  
9 evidence lawfully required to be answered or produced at any  
10 investigation, interview or other proceeding conducted by the  
11 commission pursuant to the provisions of this act, or, if such refusal  
12 is accompanied by a valid plea of privilege against self-  
13 incrimination, refusal to obey an order to answer such question or  
14 produce such evidence made by the commission pursuant to the  
15 provisions of subdivision 5 of section 5-b of P.L.1954, c.14  
16 (C.32:23-86); or
- 17 (6) Association with a person [whom the licensee or registrant  
18 knows or should know is a member or associate of an organized  
19 crime group or cartel or of a terrorist group or cartel. That  
20 person,] who has been identified by a federal, state or local law  
21 enforcement agency as a member or associate of an organized crime  
22 group, [or cartel or of] a terrorist group, or a career offender cartel,  
23 [shall be presumed to be a member or associate of an organized  
24 crime group or cartel or of a terrorist group or cartel] or who is a  
25 career offender, under circumstances where such association creates  
26 a reasonable belief that the participation of the licensee or registrant  
27 in any activity required to be licensed or registered under this act  
28 would be inimical to the policies of this act.
- 29 For the purposes of this subsection, a "terrorist group" shall  
30 mean a group associated, affiliated or funded in whole or in part by  
31 a terrorist organization designated by the United States Secretary of  
32 State in accordance with section 219 of the Immigration and  
33 Nationality Act, as amended from time to time, or any other  
34 organization which assists, funds, or engages in crimes or acts of  
35 terrorism as defined in the laws of the United States, or of either of  
36 the states of New Jersey or New York; a "career offender" shall  
37 mean a person whose behavior is pursued in an occupational  
38 manner or context for the purpose of economic gain utilizing such  
39 methods as are deemed criminal violations against the public policy  
40 of the states of New Jersey and New York; and a "career offender  
41 cartel" shall mean a number of career offenders acting in concert,  
42 and may include what is commonly referred to as an organized  
43 crime group; or
- 44 (7) [Commission] Conviction of a racketeering activity or  
45 knowing association with a person who has been convicted of a  
46 racketeering activity by a court of the United States, or any state or  
47 territory thereof under circumstances where such association creates

1 a reasonable belief that the participation of the licensee or registrant  
2 in any activity required to be licensed or registered under this act  
3 would be inimical to the policies of this act.

4 (cf: P.L. 2005, c.313, s.7)

5

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

8 1. 5.q. (1) The commission may temporarily suspend a  
9 temporary permit or a permanent license or a temporary or  
10 permanent registration pursuant to the provisions of section 4 of  
11 Article XI of this act until further order of the commission or final  
12 disposition of the underlying case, only where the permittee,  
13 licensee or registrant has been indicted for, or otherwise charged  
14 with, a crime which is equivalent to a felony in the State of New  
15 York or to a crime of the third, second, or first degree in the State of  
16 New Jersey or only where the permittee or licensee is a port  
17 watchman who is charged by the commission pursuant to Article XI  
18 of this act with misappropriating any other person's property at or  
19 on a pier or other waterfront terminal.

20 (2) In the case of a permittee, licensee or registrant who has  
21 been indicted for, or otherwise charged with, a crime, the temporary  
22 suspension shall terminate immediately upon acquittal or upon  
23 dismissal of the criminal charge. A person whose permit, license or  
24 registration has been temporarily suspended may, at any time,  
25 demand that the commission conduct a hearing as provided for in  
26 Article XI of this act. Within 60 days of such demand, the  
27 commission[, if feasible, and within the commission's discretion,]  
28 shall commence the hearing and, within 30 days of receipt of the  
29 administrative law judge's report and recommendation, the  
30 commission shall render a final determination thereon; provided,  
31 however, that these time requirements, shall not apply for any  
32 period of delay caused or requested by the permittee, licensee or  
33 registrant. [A person whose permit, license or registration has been  
34 temporarily suspended by the order of the commission may, no  
35 more than four times per year subsequent to the date of temporary  
36 suspension, petition the commission to vacate the temporary  
37 suspension.] Upon failure of the commission to commence a  
38 hearing or render a determination within the time limits prescribed  
39 herein, the temporary suspension of the 'permittee,' licensee or  
40 registrant shall immediately terminate. Notwithstanding any other  
41 provision of this subsection, if a federal, state, or local law  
42 enforcement agency or prosecutor's office shall request the  
43 suspension or deferment of any hearing on the ground that such a  
44 hearing would obstruct or prejudice an investigation or prosecution,  
45 the commission may in its discretion, postpone or defer such  
46 hearing for a time certain or indefinitely. Any action by the  
47 commission to postpone a hearing shall be subject to immediate  
48 judicial review as provided in section 7 of Article XI of this act.

1 (3) The commission may, within its discretion, bar any  
2 permittee, licensee or registrant who has been suspended pursuant  
3 to the provisions of subsection (1) above, from any employment by  
4 a licensed stevedore or a carrier of freight by water, if that  
5 individual has been indicted or otherwise charged in any federal,  
6 state or territorial proceeding with any crime involving the  
7 possession with intent to distribute, sale or distribution of a  
8 controlled dangerous substance or controlled dangerous substance  
9 analog, racketeering or theft from a pier or waterfront terminal.  
10 (cf: P.L. 2005, c.313, s.9)

11  
12 4. (New section) If any part or provision of this act or the  
13 application thereof to any person or circumstances be adjudged  
14 invalid by any court of competent jurisdiction, such judgment shall  
15 be confined in its operation to the part, provision or application  
16 directly involved in the controversy in which such judgment shall  
17 have been rendered and shall not affect or impair the validity of the  
18 remainder of this act or the application thereof to other persons or  
19 circumstances and the two states hereby declare that they would  
20 have entered into this act or the remainder thereof had the invalidity  
21 of such part or provision, or application thereof, been apparent.

22  
23 5. (New section) This act constitutes an agreement between the  
24 states of New Jersey and New York, supplementary to the  
25 waterfront commission compact and amendatory thereof, and shall  
26 be liberally construed to effectuate the purposes of the compact, and  
27 the powers vested in the waterfront commission shall be construed  
28 to be in aid of and supplemental to and not in limitation of or in  
29 derogation of any of the powers heretofore conferred upon or  
30 delegated to the waterfront commission.

31  
32 6. This act shall take effect upon the enactment of substantially  
33 similar legislation by the State of New York or, if the State of New  
34 York should enact legislation of a similar substance and effect of  
35 any section of this act, that section of this act shall take effect upon  
36 that enactment; but if legislation substantially similar to this act or  
37 any section thereof has been enacted, this act or the section in  
38 question shall take effect immediately.

39

40

41

42

43 Amends "Waterfront Commission Act" to clarify grounds for  
44 denial of license applications and revocation of licenses, and  
45 provides for postponement of certain hearings.

# ASSEMBLY, No. 4088

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MARCH 12, 2007

**Sponsored by:**

**Assemblyman JOHN S. WISNIEWSKI**  
**District 19 (Middlesex)**

**Co-Sponsored by:**

**Assemblyman Vas**

**SYNOPSIS**

Amends “Waterfront Commission Act” to clarify grounds for denial of license applications and revocation of licenses, and provides for postponement of certain hearings.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/16/2007)**



1 AN ACT to amend and supplement the “Waterfront Commission  
2 Act,” 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. Section 8 of P.L. 1954, c.14 (C.32:23-92) is amended to read  
8 as follows:

9 8. 5-h. In addition to the grounds elsewhere set forth in this act,  
10 the commission may deny an application for a license or  
11 registration for any of the following:

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

14 (2) Conviction by any such court, after having been previously  
15 convicted by any such court of any crime or of the offenses  
16 hereinafter set forth, of a misdemeanor or any of the following  
17 offenses: assault, malicious injury to property, malicious mischief,  
18 unlawful taking of a motor vehicle, corruption of employees or  
19 possession of lottery or number slips;

20 (3) Fraud, deceit or misrepresentation in connection with any  
21 application or petition submitted to, or any interview, hearing or  
22 proceeding conducted by the commission;

23 (4) Violation of any provision of this act or commission of any  
24 offense thereunder;

25 (5) Refusal on the part of any applicant, or prospective licensee,  
26 or of any member, officer or stockholder required by section 2 of  
27 article VI of the compact to sign or be identified in an application  
28 for a stevedore license, to answer any material question or produce  
29 any material evidence in connection with his application or any  
30 application made on his behalf for a license or registration pursuant  
31 to this compact;

32 (6) Association with a person **[whom the applicant knows or**  
33 **should know is a member or associate of an organized crime group**  
34 **or of a terrorist group or a career offender cartel or is a member or**  
35 **associate of an organized crime group, a terrorist group or a career**  
36 **offender cartel or is a career offender. A person]** who has been  
37 identified by a federal, State or local law enforcement agency as a  
38 member or associate of an organized crime group, **[or]** a terrorist  
39 group, or a career offender cartel, **[shall be presumed to be a**  
40 **member or associate of an organized crime group, or terrorist**  
41 **group, or a career offender cartel]** or who is a career offender,  
42 under circumstances where such association creates a reasonable  
43 belief that the participation of the applicant in any activity required  
44 to be licensed under this act would be inimical to the policies of this  
45 act.

**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.**

1 For purposes of this subsection, a “terrorist group” shall mean a  
2 group associated, affiliated or funded in whole or in part by a  
3 terrorist organization designated by the United States Secretary of  
4 State in accordance with section 219 of the Immigration and  
5 Nationality Act, as amended from time to time, or any other  
6 organization which assists, funds, or engages in crimes or acts of  
7 terrorism as defined in the laws of the United States, or of either of  
8 the states of New Jersey or New York; a “career offender” shall [be  
9 defined as any] mean a person whose behavior is pursued in an  
10 occupational manner or context for the purpose of economic gain,  
11 utilizing such methods as are deemed criminal violations of the  
12 public policy of [this State] the states of New Jersey and New  
13 York; and a “career offender cartel” shall [be defined as any group  
14 of persons who operate together as] mean a number of career  
15 offenders acting in concert, and may include what is commonly  
16 referred to as an organized crime group; or

17 (7) [Commission] Conviction of a racketeering activity or  
18 knowing association with a person who has been convicted of a  
19 racketeering activity by a court of the United States, or any state or  
20 territory thereof under circumstances where such association creates  
21 a reasonable belief that the participation of the applicant in any  
22 activity required to be licensed under this act would be inimical to  
23 the policies of this act.

24 (cf: P.L. 2005, c.313, s.6)

25

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

28 9. 5-i. In addition to the grounds elsewhere set forth in this act  
29 any license or registration issued or made pursuant thereto may be  
30 revoked or suspended for such period as the commission deems in  
31 the public interest or the licensee or registrant may be reprimanded,  
32 for:

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

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

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

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

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

13 (6) Association with a person [whom the licensee or registrant  
14 knows or should know is a member or associate of an organized  
15 crime group or cartel or of a terrorist group or cartel. That  
16 person,] who has been identified by a federal, state or local law  
17 enforcement agency as a member or associate of an organized crime  
18 group, [or cartel or of] a terrorist group, or a career offender cartel,  
19 [shall be presumed to be a member or associate of an organized  
20 crime group or cartel or of a terrorist group or cartel] or who is a  
21 career offender, under circumstances where such association creates  
22 a reasonable belief that the participation of the licensee or registrant  
23 in any activity required to be licensed or registered under this act  
24 would be inimical to the policies of this act.

25 For the purposes of this subsection, a “terrorist group” shall  
26 mean a group associated, affiliated or funded in whole or in part by  
27 a terrorist organization designated by the United States Secretary of  
28 State in accordance with section 219 of the Immigration and  
29 Nationality Act, as amended from time to time, or any other  
30 organization which assists, funds, or engages in crimes or acts of  
31 terrorism as defined in the laws of the United States, or of either of  
32 the states of New Jersey or New York; a “career offender” shall  
33 mean a person whose behavior is pursued in an occupational  
34 manner or context for the purpose of economic gain utilizing such  
35 methods as are deemed criminal violations against the public policy  
36 of the states of New Jersey and New York; and a “career offender  
37 cartel” shall mean a number of career offenders acting in concert,  
38 and may include what is commonly referred to as an organized  
39 crime group; or

40 (7) [Commission] Conviction of a racketeering activity or  
41 knowing association with a person who has been convicted of a  
42 racketeering activity by a court of the United States, or any state or  
43 territory thereof under circumstances where such association creates  
44 a reasonable belief that the participation of the licensee or registrant  
45 in any activity required to be licensed or registered under this act  
46 would be inimical to the policies of this act.

47 (cf: P.L. 2005, c.313, s.7)

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

3       1. 5.q. (1) The commission may temporarily suspend a  
4 temporary permit or a permanent license or a temporary or  
5 permanent registration pursuant to the provisions of section 4 of  
6 Article XI of this act until further order of the commission or final  
7 disposition of the underlying case, only where the permittee,  
8 licensee or registrant has been indicted for, or otherwise charged  
9 with, a crime which is equivalent to a felony in the State of New  
10 York or to a crime of the third, second, or first degree in the State of  
11 New Jersey or only where the permittee or licensee is a port  
12 watchman who is charged by the commission pursuant to Article XI  
13 of this act with misappropriating any other person's property at or  
14 on a pier or other waterfront terminal.

15       (2) In the case of a permittee, licensee or registrant who has  
16 been indicted for, or otherwise charged with, a crime, the temporary  
17 suspension shall terminate immediately upon acquittal or upon  
18 dismissal of the criminal charge. A person whose permit, license or  
19 registration has been temporarily suspended may, at any time,  
20 demand that the commission conduct a hearing as provided for in  
21 Article XI of this act. Within 60 days of such demand, the  
22 commission[, if feasible, and within the commission's discretion,]  
23 shall commence the hearing and, within 30 days of receipt of the  
24 administrative law judge's report and recommendation, the  
25 commission shall render a final determination thereon; provided,  
26 however, that these time requirements, shall not apply for any  
27 period of delay caused or requested by the permittee, licensee or  
28 registrant. 【A person whose permit, license or registration has been  
29 temporarily suspended by the order of the commission may, no  
30 more than four times per year subsequent to the date of temporary  
31 suspension, petition the commission to vacate the temporary  
32 suspension.】 Upon failure of the commission to commence a  
33 hearing or render a determination within the time limits prescribed  
34 herein, the temporary suspension of the licensee or registrant shall  
35 immediately terminate. Notwithstanding any other provision of this  
36 subsection, if a federal, state, or local law enforcement agency or  
37 prosecutor's office shall request the suspension or deferment of any  
38 hearing on the ground that such a hearing would obstruct or  
39 prejudice an investigation or prosecution, the commission may in its  
40 discretion, postpone or defer such hearing for a time certain or  
41 indefinitely. Any action by the commission to postpone a hearing  
42 shall be subject to immediate judicial review as provided in section  
43 7 of Article XI of this act.

44       (3) The commission may, within its discretion, bar any  
45 permittee, licensee or registrant who has been suspended pursuant  
46 to the provisions of subsection (1) above, from any employment by  
47 a licensed stevedore or a carrier of freight by water, if that  
48 individual has been indicted or otherwise charged in any federal,

1 state or territorial proceeding with any crime involving the  
2 possession with intent to distribute, sale or distribution of a  
3 controlled dangerous substance or controlled dangerous substance  
4 analog, racketeering or theft from a pier or waterfront terminal.  
5 (cf: P.L. 2005, c.313, s.9)

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

17  
18 5. (New section) This act constitutes an agreement between the  
19 states of New Jersey and New York, supplementary to the  
20 waterfront commission compact and amendatory thereof, and shall  
21 be liberally construed to effectuate the purposes of the compact, and  
22 the powers vested in the waterfront commission shall be construed  
23 to be in aid of and supplemental to and not in limitation of or in  
24 derogation of any of the powers heretofore conferred upon or  
25 delegated to the waterfront commission.

26  
27 6. This act shall take effect upon the enactment of substantially  
28 similar legislation by the State of New York or, if the State of New  
29 York should enact legislation of a similar substance and effect of  
30 any section of this act, that section of this act shall take effect upon  
31 that enactment; but if legislation substantially similar to this act or  
32 any section thereof has been enacted, this act or the section in  
33 question shall take effect immediately.

34  
35

36 STATEMENT

37

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

40 It amends the Waterfront Commission Act to clarify provisions  
41 concerning the grounds for denial of applications for licenses and  
42 registrations and the grounds for the revocation or suspension of  
43 licenses and registrations. One of the grounds for denial or for  
44 revocation or suspension is having an association with a person who  
45 is a career offender or who is a member of an organized crime  
46 group, terrorist group, or career offender cartel. Another ground for  
47 denial or for revocation or suspension is an association with a  
48 person convicted of a racketeering activity. With respect to both

1 grounds, the bill provides that for the sanctions to be imposed, the  
2 association must exist in circumstances under which it creates a  
3 reasonable belief that the participation of the applicant, licensee, or  
4 registrant in any activity required to be licensed under the  
5 Waterfront Commission Act would be inimical or harmful to the  
6 policies of the act. In the case of the first ground, this new  
7 requirement would replace a current requirement that the applicant,  
8 licensee, or registrant knows or should know of the associate's  
9 career offender status or affiliation with the group or cartel.

10 The bill amends the provisions concerning denial of applications  
11 and revocation of licenses and registrations to include a definition  
12 for "terrorist group." The bill also amends the provisions  
13 concerning the revocation of licenses and registrations to include  
14 definitions of the terms "career offender" and "career offender  
15 cartel."

16 The bill removes a provision that limits the number of times per  
17 year that a licensee or registrant may petition the commission to  
18 vacate a temporary suspension. Also, the bill adds a previously  
19 deleted provision that provides for the termination of a temporary  
20 suspension of a licensee or registrant if the commission fails to hold  
21 a hearing within the time limits prescribed by the act.

22 Finally, the bill allows for a federal, state, or local law  
23 enforcement agency or prosecutor's office to request the suspension  
24 or deferment of a hearing to consider the suspension of an  
25 individual's permit, license, or registration. Such a request may be  
26 made if the hearing would obstruct or prejudice an ongoing  
27 investigation or prosecution.

ASSEMBLY TRANSPORTATION AND PUBLIC WORKS  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 4088**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 14, 2007

The Assembly Transportation and Public Works Committee reports favorably and with amendments Assembly Bill No. 4088.

As reported, this amended bill revises the bi-state waterfront commission compact between New Jersey and New York.

The bill amends the Waterfront Commission Act to clarify provisions concerning the grounds for denial of applications for licenses and registrations and the grounds for the revocation or suspension of licenses and registrations. One of the grounds for denial or for revocation or suspension is having an association with a person who is a career offender or who is a member of an organized crime group, terrorist group, or career offender cartel. Another ground for denial or for revocation or suspension is an association with a person convicted of a racketeering activity. With respect to both grounds, the bill provides that for the sanctions to be imposed, the association must exist in circumstances under which it creates a reasonable belief that the participation of the applicant, licensee, or registrant in any activity required to be licensed or registered under the Waterfront Commission Act would be inimical to the policies of the act. In the case of the first ground, this new requirement would replace a current requirement that the applicant, licensee, or registrant knows or should know of the associate's career offender status or affiliation with the group or cartel.

The bill amends the provisions concerning denial of applications and revocation of licenses and registrations to include a definition for "terrorist group." The bill also amends the provisions concerning the revocation of licenses and registrations to include definitions of the terms "career offender" and "career offender cartel."

The bill removes a provision that limits the number of times per year that a licensee or registrant may petition the commission to vacate a temporary suspension. Also, the bill restores a previously deleted provision that provides for the termination of a temporary suspension of a permittee, licensee or registrant if the commission fails to hold a hearing within the time limits prescribed by the act.

The amended bill allows for a federal, state, or local law enforcement agency or prosecutor's office to request the suspension or deferment of a hearing to consider the suspension of an individual's permit, license, or registration. Such a request may be made if the hearing would obstruct or prejudice an ongoing investigation or prosecution.

As reported, Assembly Bill No. 4088, as amended, is identical to Senate Bill No. 2606 (1R).

#### COMMITTEE AMENDMENTS

The committee amended the bill to include "registered" in addition to "licensed" in the amendment to section 8 of P.L.1954, c.14 (C.32:23-92), so that in order for sanctions to be imposed for criminal association, the association must exist in circumstances under which it creates a reasonable belief that the participation of the applicant, licensee, or registrant in any activity required to be licensed or registered under the act would be inimical to the policies of the act. In addition, the amendments revise the restored provision regarding termination of temporary suspensions to extend its coverage to permittees, in accordance with changes made in 2005 to the section of law containing that provision. Finally, the committee amended the bill to make a technical correction.



# SENATE, No. 2606

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MARCH 15, 2007

**Sponsored by:**  
**Senator RAYMOND J. LESNIAK**  
**District 20 (Union)**

### **SYNOPSIS**

Amends “Waterfront Commission Act” to clarify grounds for denial of license applications and revocation of licenses, and provides for postponement of certain hearings.

### **CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT to amend and supplement the “Waterfront Commission  
2 Act,” 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. Section 8 of P.L. 1954, c.14 (C.32:23-92) is amended to read  
8 as follows:

9 8. 5-h. In addition to the grounds elsewhere set forth in this act,  
10 the commission may deny an application for a license or  
11 registration for any of the following:

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

14 (2) Conviction by any such court, after having been previously  
15 convicted by any such court of any crime or of the offenses  
16 hereinafter set forth, of a misdemeanor or any of the following  
17 offenses: assault, malicious injury to property, malicious mischief,  
18 unlawful taking of a motor vehicle, corruption of employees or  
19 possession of lottery or number slips;

20 (3) Fraud, deceit or misrepresentation in connection with any  
21 application or petition submitted to, or any interview, hearing or  
22 proceeding conducted by the commission;

23 (4) Violation of any provision of this act or commission of any  
24 offense thereunder;

25 (5) Refusal on the part of any applicant, or prospective licensee,  
26 or of any member, officer or stockholder required by section 2 of  
27 article VI of the compact to sign or be identified in an application  
28 for a stevedore license, to answer any material question or produce  
29 any material evidence in connection with his application or any  
30 application made on his behalf for a license or registration pursuant  
31 to this compact;

32 (6) Association with a person **[whom the applicant knows or**  
33 **should know is a member or associate of an organized crime group**  
34 **or of a terrorist group or a career offender cartel or is a member or**  
35 **associate of an organized crime group, a terrorist group or a career**  
36 **offender cartel or is a career offender. A person]** who has been  
37 identified by a federal, State or local law enforcement agency as a  
38 member or associate of an organized crime group, **[or]** a terrorist  
39 group, or a career offender cartel, **[shall be presumed to be a**  
40 **member or associate of an organized crime group, or terrorist**  
41 **group, or a career offender cartel]** or who is a career offender,  
42 under circumstances where such association creates a reasonable  
43 belief that the participation of the applicant in any activity required

**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.**

1 to be licensed under this act would be inimical to the policies of this  
2 act.

3 For purposes of this subsection, a “terrorist group” shall mean a  
4 group associated, affiliated or funded in whole or in part by a  
5 terrorist organization designated by the United States Secretary of  
6 State in accordance with section 219 of the Immigration and  
7 Nationality Act, as amended from time to time, or any other  
8 organization which assists, funds, or engages in crimes or acts of  
9 terrorism as defined in the laws of the United States, or of either of  
10 the states of New Jersey or New York; a “career offender” shall [be  
11 defined as any] mean a person whose behavior is pursued in an  
12 occupational manner or context for the purpose of economic gain,  
13 utilizing such methods as are deemed criminal violations of the  
14 public policy of [this State] the states of New Jersey and New  
15 York; and a "career offender cartel" shall [be defined as any group  
16 of persons who operate together as] mean a number of career  
17 offenders acting in concert, and may include what is commonly  
18 referred to as an organized crime group; or

19 (7) **[Commission]** Conviction of a racketeering activity or  
20 knowing association with a person who has been convicted of a  
21 racketeering activity by a court of the United States, or any state or  
22 territory thereof under circumstances where such association creates  
23 a reasonable belief that the participation of the applicant in any  
24 activity required to be licensed under this act would be inimical to  
25 the policies of this act.

26 (cf: P.L. 2005, c.313, s.6)

27

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

30 9. 5-i. In addition to the grounds elsewhere set forth in this act  
31 any license or registration issued or made pursuant thereto may be  
32 revoked or suspended for such period as the commission deems in  
33 the public interest or the licensee or registrant may be reprimanded,  
34 for:

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

39 (2) Willful commission of, or willful attempt to commit at or on  
40 a waterfront terminal or adjacent highway, any act of physical  
41 injury to any other person or of willful damage to or  
42 misappropriation of any other person's property, unless justified or  
43 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  
46 the selection or retention for employment of such licensee or  
47 registrant; or

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

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

13 (6) Association with a person [whom the licensee or registrant  
14 knows or should know is a member or associate of an organized  
15 crime group or cartel or of a terrorist group or cartel. That  
16 person,] who has been identified by a federal, state or local law  
17 enforcement agency as a member or associate of an organized crime  
18 group, [or cartel or of] a terrorist group, or a career offender cartel,  
19 [shall be presumed to be a member or associate of an organized  
20 crime group or cartel or of a terrorist group or cartel] or who is a  
21 career offender, under circumstances where such association creates  
22 a reasonable belief that the participation of the licensee or registrant  
23 in any activity required to be licensed or registered under this act  
24 would be inimical to the policies of this act.

25 For the purposes of this subsection, a “terrorist group” shall  
26 mean a group associated, affiliated or funded in whole or in part by  
27 a terrorist organization designated by the United States Secretary of  
28 State in accordance with section 219 of the Immigration and  
29 Nationality Act, as amended from time to time, or any other  
30 organization which assists, funds, or engages in crimes or acts of  
31 terrorism as defined in the laws of the United States, or of either of  
32 the states of New Jersey or New York; a “career offender” shall  
33 mean a person whose behavior is pursued in an occupational  
34 manner or context for the purpose of economic gain utilizing such  
35 methods as are deemed criminal violations against the public policy  
36 of the states of New Jersey and New York; and a “career offender  
37 cartel” shall mean a number of career offenders acting in concert,  
38 and may include what is commonly referred to as an organized  
39 crime group; or

40 (7) [Commission] Conviction of a racketeering activity or  
41 knowing association with a person who has been convicted of a  
42 racketeering activity by a court of the United States, or any state or  
43 territory thereof under circumstances where such association creates  
44 a reasonable belief that the participation of the licensee or registrant  
45 in any activity required to be licensed or registered under this act  
46 would be inimical to the policies of this act.

47 (cf: P.L. 2005, c.313, s.7)

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

3       1. 5.q. (1) The commission may temporarily suspend a  
4 temporary permit or a permanent license or a temporary or  
5 permanent registration pursuant to the provisions of section 4 of  
6 Article XI of this act until further order of the commission or final  
7 disposition of the underlying case, only where the permittee,  
8 licensee or registrant has been indicted for, or otherwise charged  
9 with, a crime which is equivalent to a felony in the State of New  
10 York or to a crime of the third, second, or first degree in the State of  
11 New Jersey or only where the permittee or licensee is a port  
12 watchman who is charged by the commission pursuant to Article XI  
13 of this act with misappropriating any other person's property at or  
14 on a pier or other waterfront terminal.

15       (2) In the case of a permittee, licensee or registrant who has  
16 been indicted for, or otherwise charged with, a crime, the temporary  
17 suspension shall terminate immediately upon acquittal or upon  
18 dismissal of the criminal charge. A person whose permit, license or  
19 registration has been temporarily suspended may, at any time,  
20 demand that the commission conduct a hearing as provided for in  
21 Article XI of this act. Within 60 days of such demand, the  
22 commission[, if feasible, and within the commission's discretion,]  
23 shall commence the hearing and, within 30 days of receipt of the  
24 administrative law judge's report and recommendation, the  
25 commission shall render a final determination thereon; provided,  
26 however, that these time requirements, shall not apply for any  
27 period of delay caused or requested by the permittee, licensee or  
28 registrant. 【A person whose permit, license or registration has been  
29 temporarily suspended by the order of the commission may, no  
30 more than four times per year subsequent to the date of temporary  
31 suspension, petition the commission to vacate the temporary  
32 suspension.】 Upon failure of the commission to commence a  
33 hearing or render a determination within the time limits prescribed  
34 herein, the temporary suspension of the licensee or registrant shall  
35 immediately terminate. Notwithstanding any other provision of this  
36 subsection, if a federal, state, or local law enforcement agency or  
37 prosecutor's office shall request the suspension or deferment of any  
38 hearing on the ground that such a hearing would obstruct or  
39 prejudice an investigation or prosecution, the commission may in its  
40 discretion, postpone or defer such hearing for a time certain or  
41 indefinitely. Any action by the commission to postpone a hearing  
42 shall be subject to immediate judicial review as provided in section  
43 7 of Article XI of this act.

44       (3) The commission may, within its discretion, bar any  
45 permittee, licensee or registrant who has been suspended pursuant  
46 to the provisions of subsection (1) above, from any employment by  
47 a licensed stevedore or a carrier of freight by water, if that  
48 individual has been indicted or otherwise charged in any federal,

1 state or territorial proceeding with any crime involving the  
2 possession with intent to distribute, sale or distribution of a  
3 controlled dangerous substance or controlled dangerous substance  
4 analog, racketeering or theft from a pier or waterfront terminal.  
5 (cf: P.L. 2005, c.313, s.9)

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

17  
18 5. (New section) This act constitutes an agreement between the  
19 states of New Jersey and New York, supplementary to the  
20 waterfront commission compact and amendatory thereof, and shall  
21 be liberally construed to effectuate the purposes of the compact, and  
22 the powers vested in the waterfront commission shall be construed  
23 to be in aid of and supplemental to and not in limitation of or in  
24 derogation of any of the powers heretofore conferred upon or  
25 delegated to the waterfront commission.

26  
27 6. This act shall take effect upon the enactment of substantially  
28 similar legislation by the State of New York or, if the State of New  
29 York should enact legislation of a similar substance and effect of  
30 any section of this act, that section of this act shall take effect upon  
31 that enactment; but if legislation substantially similar to this act or  
32 any section thereof has been enacted, this act or the section in  
33 question shall take effect immediately.

34  
35

36 STATEMENT

37

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

40 It amends the Waterfront Commission Act to clarify provisions  
41 concerning the grounds for denial of applications for licenses and  
42 registrations and the grounds for the revocation or suspension of  
43 licenses and registrations. One of the grounds for denial or for  
44 revocation or suspension is having an association with a person who  
45 is a career offender or who is a member of an organized crime  
46 group, terrorist group, or career offender cartel. Another ground for  
47 denial or for revocation or suspension is an association with a  
48 person convicted of a racketeering activity. With respect to both

1 grounds, the bill provides that for the sanctions to be imposed, the  
2 association must exist in circumstances under which it creates a  
3 reasonable belief that the participation of the applicant, licensee, or  
4 registrant in any activity required to be licensed under the  
5 Waterfront Commission Act would be inimical or harmful to the  
6 policies of the act. In the case of the first ground, this new  
7 requirement would replace a current requirement that the applicant,  
8 licensee, or registrant knows or should know of the associate's  
9 career offender status or affiliation with the group or cartel.

10 The bill amends the provisions concerning denial of applications  
11 and revocation of licenses and registrations to include a definition  
12 for "terrorist group." The bill also amends the provisions  
13 concerning the revocation of licenses and registrations to include  
14 definitions of the terms "career offender" and "career offender  
15 cartel."

16 The bill removes a provision that limits the number of times per  
17 year that a licensee or registrant may petition the commission to  
18 vacate a temporary suspension. Also, the bill adds a previously  
19 deleted provision that provides for the termination of a temporary  
20 suspension of a licensee or registrant if the commission fails to hold  
21 a hearing within the time limits prescribed by the act.

22 Finally, the bill allows for a federal, state, or local law  
23 enforcement agency or prosecutor's office to request the suspension  
24 or deferment of a hearing to consider the suspension of an  
25 individual's permit, license, or registration. Such a request may be  
26 made if the hearing would obstruct or prejudice an ongoing  
27 investigation or prosecution.

# SENATE TRANSPORTATION COMMITTEE

## STATEMENT TO

### **SENATE, No. 2606**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 24, 2007

The Senate Transportation Committee reports favorably Senate Bill No. 2606 with committee amendments.

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

It amends the Waterfront Commission Act to clarify provisions concerning the grounds for denial of applications for licenses and registrations and the grounds for the revocation or suspension of licenses and registrations. One of the grounds for denial or for revocation or suspension is having an association with a person who is a career offender or who is a member of an organized crime group, terrorist group, or career offender cartel. Another ground for denial or for revocation or suspension is an association with a person convicted of a racketeering activity. With respect to both grounds, the bill provides that for the sanctions to be imposed, the association must exist in circumstances under which it creates a reasonable belief that the participation of the applicant, licensee, or registrant in any activity required to be licensed or registered under the Waterfront Commission Act would be inimical to the policies of the act. In the case of the first ground, this new requirement would replace a current requirement that the applicant, licensee, or registrant knows or should know of the associate's career offender status or affiliation with the group or cartel.

The bill amends the provisions concerning denial of applications and revocation of licenses and registrations to include a definition for "terrorist group." The bill also amends the provisions concerning the revocation of licenses and registrations to include definitions of the terms "career offender" and "career offender cartel."

The bill removes a provision that limits the number of times per year that a licensee or registrant may petition the commission to vacate a temporary suspension. Also, the bill restores a previously deleted provision that provides for the termination of a temporary suspension of a permittee, licensee or registrant if the commission fails to hold a hearing within the time limits prescribed by the act.

The bill allows for a federal, state, or local law enforcement agency or prosecutor's office to request the suspension or deferment of a hearing to consider the suspension of an individual's permit, license,



or registration. Such a request may be made if the hearing would obstruct or prejudice an ongoing investigation or prosecution.

The committee amended the bill to include "registered" in addition to "licensed" in the amendment to section 8 of P.L.1954, c.14 (C.32:23-92), so that in order for sanctions to be imposed for criminal association, the association must exist in circumstances under which it creates a reasonable belief that the participation of the applicant, licensee, or registrant in any activity required to be licensed or registered under the act would be inimical to the policies of the act. In addition, the amendments revise the restored provision regarding termination of temporary suspensions to extend its coverage to permittees, in accordance with changes made in 2005 to this section of law containing that provision. Finally, the amendments also make a technical correction.