

32:23-114

LEGISLATIVE HISTORY CHECKLIST  
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NJSA: 32:23-114 (Longshoremen register)  
LAWS OF: 1997 CHAPTER: 433  
BILL NO: A3024  
SPONSOR(S): DiGaetano  
DATE INTRODUCED: June 5, 1997  
COMMITTEE: ASSEMBLY: Transportation  
SENATE: —  
AMENDED DURING PASSAGE: No  
DATE OF PASSAGE: ASSEMBLY: January 8, 1998  
SENATE: January 12, 1998  
DATE OF APPROVAL: January 19, 1998  
FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:  
SPONSOR STATEMENT: Yes  
COMMITTEE STATEMENT: ASSEMBLY: Yes  
SENATE: No  
FISCAL NOTE: No  
VETO MESSAGE: No  
MESSAGE ON SIGNING: No  
FOLLOWING WERE PRINTED:  
REPORTS: No  
HEARINGS: No  
New York Legislation - attached.  
KBP:pp

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1 still so registered by the commission.

2 (cf: P.L.1988, c.22, s.1)

3

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

14

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

23

24 4. This act shall take effect immediately but shall remain  
25 inoperative until the enactment into law by the State of New York of  
26 legislation of substantially similar substance and effect; but if such  
27 legislation already has been enacted, this act shall take effect  
28 immediately.

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#### STATEMENT

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33 This bill permits the Waterfront Commission of New York harbor  
34 (the "Waterfront Commission") to grant permanent registration in the  
35 longshoremen's register to certain checkers, container equipment  
36 operators and longshoremen. In order to qualify for this permanent  
37 registration, the personnel in question must have been issued  
38 registration on a temporary basis to meet special or emergency needs  
39 in accordance with a Waterfront Commission resolution of September  
40 4, 1996. This permanent exception to the longshoremen's register  
41 provisions of the existing law would facilitate the continued  
42 employment of skilled personnel for positions which it has proven  
43 difficult to fill from those with permanent registration on the  
44 longshoremen's register, which has been "closed" to new permanent  
45 registrations for almost 30 years.

46 For the provisions of this act to have the force of law, the State of

1 New York must adopt substantially similar legislation.

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6 Permits Waterfront Commission of New York harbor to grant  
7 permanent registration in longshoremen's register to certain temporary  
8 registrants.

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO

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ASSEMBLY, No. 3024

**STATE OF NEW JERSEY**

DATED: DECEMBER 11, 1997

The Assembly Transportation and Communications Committee reports favorably Assembly Bill No. 3024.

This bill permits the Waterfront Commission of New York harbor (the "Waterfront Commission") to grant permanent registration in the longshoremen's register to certain checkers, container equipment operators and longshoremen. In order to qualify for this permanent registration, the personnel in question must have been issued registration on a temporary basis to meet special or emergency needs in accordance with a Waterfront Commission resolution of September 4, 1996. This permanent exception to the longshoremen's register provisions of the existing law would facilitate the continued employment of skilled personnel for positions which it has proven difficult to fill from those with permanent registration on the longshoremen's register, which has been "closed" to new permanent registrations for almost 30 years.

The bill provides that the act would become operative when the State of New York adopts substantially similar legislation. New York enacted substantially similar legislation in July, 1997, therefore the bill would become operative immediately upon enactment.

N.E.2d 421, reargument denied 72 N.Y.2d 910, 532 N.Y.S.2d 758, 528 N.E.2d 1231.

**§ 9920. Suspension or acceptance of applications for inclusion in longshoremen's register; exceptions**

[See main volume for 1 to 3]

4. [Eff. until condition of L.1997, c. 322, § 4, post. See, also, subd. 4, below.] Notwithstanding any other provision of this act, the commission may include in the longshoremen's register under such terms and conditions as the commission may prescribe:

(a) a person issued registration on a temporary basis to meet special or emergency needs who is still so registered by the commission;

(b) a person defined as a longshoreman in subdivision six of section five-a of this act who is employed by a stevedore defined in paragraph (b) or (c) of subdivision one of said section five-a and whose employment is not subject to the guaranteed annual income provisions of any collective bargaining agreement relating to longshoremen;

(c) no more than twenty persons issued registration limited to acting as scalmen pursuant to the provisions of chapter nine hundred fifty-three of the laws of nineteen hundred sixty-nine and chapter sixty-four of the laws of nineteen hundred eighty-two who are still so registered by the commission and who are no longer employed as scalmen on the effective date of this subdivision; and

(d) a person issued registration on a temporary basis as a checker to meet special or emergency needs who applied for such registration prior to January fifteenth, nineteen hundred eighty-six and who is still so registered by the commission.

4. [Effective upon condition of L.1997, c. 322, § 4, post. See, also, subd. 4, above.] Notwithstanding any other provision of this act, the commission may include in the longshoremen's register under such terms and conditions as the commission may prescribe:

(a) a person issued registration on a temporary basis to meet special or emergency needs who is still so registered by the commission;

(b) a person defined as a longshoreman in subdivision six of section five-a of this act who is employed by a stevedore defined in paragraph (b) or (c) of subdivision one of said section five-a and whose employment is not subject to the guaranteed annual income provisions of any collective bargaining agreement relating to longshoremen;

(c) no more than twenty persons issued registration limited to acting as scalmen pursuant to the provisions of chapter 953 of the laws of 1969 and chapter 64 of the laws of 1982 who are still so registered by the commission and who are no longer employed as scalmen on the effective date of this subdivision;

(d) a person issued registration on a temporary basis as a checker to meet special or emergency needs who applied for such registration prior to January 15, 1986 and who is still so registered by the commission;

(e) a person issued registration on a temporary basis as a checker to meet special or emergency needs in accordance with a waterfront commission resolution of September 4, 1996 and who is still so registered by the commission;

(f) a person issued registration on a temporary basis as a container equipment operator to meet special or emergency needs in accordance with a

waterfront commission resolution of September 4, 1996 and who is still so registered by the commission; and

(g) a person issued registration on a temporary basis as a longshoreman to meet special or emergency needs in accordance with a waterfront commission resolution of September 4, 1996 and who is still so registered by the commission.

(As amended L.1982, c. 64, §§ 1, 2; L.1987, c. 529, § 1; L.1987, c. 742, § 1; L.1988, c. 157, § 1; L.1997, c. 322, § 1.)

**Historical and Statutory Notes**

**1997 Legislation**

L.1997, c. 322, §§ 2 to 4 provide:

"§ 2. If any part or provision of this act or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare that they would have entered into this act or the remainder thereof had the invalidity of such provisions or application thereof been apparent.

"§ 3. This act constitutes an agreement between the states of New York and New Jersey, supplementary to the waterfront commission compact and amendatory thereof, and shall be liberally construed to effectuate the purposes of said compact and the powers vested in the waterfront commission hereby shall be construed to be in aid of and supplemental to and not in limitation of or in derogation of any of the powers heretofore conferred upon or delegated to the waterfront commission.

"§ 4. This act shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, but if the state of New Jersey shall have already enacted such legislation, then it shall take effect immediately; and further provided that the waterfront commission shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section one of this act in order that the commission may maintain an accurate and timely effective data base of the official text of laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law."

**1988 Amendment.** Subd. 4, par. (d). L.1988, c. 157, § 1, redesignated former par. (c), added by L.1987, c. 742, § 1, as (d).

**1987 Amendments.** Subd. 4, par. (c), set out second. L.1987, c. 742, § 1, added par. (c).

Subd. 4, par. (c), set out first. L.1987, c. 529, § 1, added par. (c).

**1982 Amendment.** Section heading. L.1982, c. 64, § 1, added "; exceptions".

Subd. 4. L.1982, c. 64, § 2, added subd. 4.

**Effective Date of Amendment by L.1988, c. 157.** Section 4 of L.1988, c. 157, provided: "This act [amending this section and enacting provisions set out as notes under this section] shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, but if the state of New Jersey shall have already enacted such legislation, then it shall take effect immediately [June 27, 1988]; and further provided that the waterfront commission shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section one of this act [amending this section] in order that the commission may maintain an accurate and timely effective data base of the official text of laws of the state of New York in furtherance of effecting the provisions of section forty-four of the legislative law and section seventy-b of the public officers law."

**Effective Date of 1987 Amendments—L.1987, c. 742.** Section 4 of L.1987, c. 742, provided: "This act [amending this section] shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, but if the state of New Jersey shall have already enacted such legislation, then it shall take effect immediately."

—L.1987, c. 529. Section 4 of L.1987, c. 529, provided: "This act [amending this section] shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, but if the state of New Jersey shall have already enacted such legislation, then it shall take effect immediately [July 30, 1987]; and further provided that the waterfront commission shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section one of this act in order that the commission may maintain an accurate and timely effective data base of the official text of laws of the state of New York in furtherance of effecting the provisions of section forty-four of the legislative law and section seventy-b of the public officers law."

**Effective Date of 1982 Amendment.** Section 5 of L.1982, c. 64, provided: "This act [amending section heading and adding subd. 4 of this section shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, but if the state of New Jersey shall have already enacted such legislation, then it shall take effect immediately."

L.1982, c. 64, was approved Apr. 12, 1982. The state of New Jersey enacted legislation similar to L.1982, c. 64 by New Jersey Laws 1982, c. 33, § 1. See N.J.S.A. 32:23-114, approved May 14, 1982.

**Separability of Provisions—L.1988, c. 157.** Section 2 of L.1988, c. 157, provided: "If any part or provision of this act [amending this section and enacting provisions set out as notes under this section] or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare that they would have entered into this act or the remainder thereof had the invalidity of such provisions or application thereof been apparent."

—L.1987, c. 742. Section 2 of L.1987, c. 742, provided: "If any part or provision of this act [amending this section] or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare that they would have entered into this act or the remainder thereof had the invalidity of such provisions or application thereof been apparent."

ment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare that they would have entered into this act or the remainder thereof had the invalidity of such provisions or application thereof been apparent."

—L.1987, c. 529. Section 2 of L.1987, c. 529, provided: "If any part or provision of this act [amending this section] or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare that they would have entered into this act or the remainder thereof had the invalidity of such provisions or application thereof been apparent."

—L.1982, c. 64. Sections 3 and 4 of L.1982, c. 64, provided:

"§ 3. If any part or provision of this act [amending this section] or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare that they would have entered into this act or the remainder thereof had the invalidity of such provision or application thereof been apparent."

"§ 4. This act [L.1982, c. 64] constitutes an agreement between the states of New York and New Jersey, supplementary to the waterfront commission compact and amendatory thereof, and shall be liberally construed to effectuate the purposes of said compact and the powers vested in the waterfront commission hereby shall be construed to be in aid of and supplemental to and not in limitation of or in derogation of any of the powers heretofore conferred upon or delegated to the waterfront commission."

**Enactment of New Jersey Legislation.** New Jersey enacted legislation having an identical effect with L.1988, c. 157, § 1 and L.1987, c. 742, § 1. See New Jersey L.1988, c. 22, § 1, approved May 12, 1988.

**Construction of Amendment by L.1988, c. 157.** Section 3 of L.1988, c. 157, provided: "This act [amending this section and enacting provisions set out as notes under this section] constitutes an agreement between the states of New York and New Jersey, supplementary to the waterfront commission compact and amendatory thereof, and shall be liberally construed to effectuate the purposes of said compact and the powers vested in the waterfront commission hereby shall be construed to be in aid of and supplemental to and not in limitation of or in derogation of any of the powers heretofore conferred upon or delegated to the waterfront commission."

**Construction of 1987 Amendments—L.1987, c. 742.** Section 3 of L.1987, c. 742, provided: "This act [amending this section] constitutes an agreement between the states of New

York and New Jersey, supplementary to the waterfront commission compact and amendatory thereof, and shall be liberally construed to effectuate the purposes of said compact and the powers vested in the waterfront commission hereby shall be construed to be in aid of and supplemental to and not in limitation of or in derogation of any of the powers heretofore conferred upon or delegated to the waterfront commission."

—L.1987, c. 529. Section 3 of L.1987, c. 529, provided: "This act [amending this section] constitutes an agreement between the states of New York and New Jersey, supplementary to the waterfront commission compact and amendatory thereof, and shall be liberally construed to effectuate the purposes of said compact and the powers vested in the waterfront commission hereby shall be construed to be in aid of and supplemental to and not in limitation of or in derogation of any of the powers heretofore conferred upon or delegated to the waterfront commission."

**Legislative Histories**

L.1987, c. 529: For memorandum of the Waterfront Commission of New York Harbor, see McKinney's 1987 Session Laws of New York, p. 2503.

**Notes of Decisions**

**2. Judicial determination**

In order to prevent closed register provision of bistate waterfront commission compact [N.J.S.A. 32:23-114; N.Y.McK.Unconsol.Laws § 9920] from restricting, modifying or limiting collectively bargained hiring rights, construction which did not preclude registration of otherwise eligible members of newly affected

union was required, particularly where provision was being applied 15 years after fact to union whose members had no notice of register's closing because at time of closing commission had not decided to assert jurisdiction over union's members. *Waterfront Com'n of New York Harbor v. Sea Land Service, Inc.*, C.A.3 (N.J.)1985, 764 F.2d 961.

**§ 9921. Temporary suspension of licenses and registrations**

1. The commission may temporarily suspend a license or registration pursuant to the provisions of section four of article XI of this act<sup>1</sup> only where the licensee or registrant has been indicted for, or otherwise charged with, a crime which is equivalent to a felony in the state of New York or to a high misdemeanor in the state of New Jersey or only where the licensee or registrant is a port watchman who is charged by the commission pursuant to article XI of this act<sup>2</sup> with misappropriating any other person's property at or on a pier or other waterfront terminal. The provisions of this paragraph shall not be applicable to the temporary suspension of a temporary permit or temporary registration issued by the commission.

2. In the case of a licensee or registrant who has been indicted for, or otherwise charged with, a crime, the temporary suspension shall terminate immediately upon acquittal or upon dismissal of the criminal charge. A person whose license or registration has been temporarily suspended may, at any time, demand that the commission conduct a hearing as provided for in

article XI of this act. Within sixty days of such demand, the commission shall commence the hearing and, within thirty days of the conclusion of testimony and other evidence in such hearing, the commission shall render a final determination thereon; provided, however, that these time requirements, shall not apply for any period of delay caused or requested by the licensee or applicant. Upon failure of the commission to commence a hearing or render a determination within the time limits prescribed herein, the temporary suspension of the licensee or registrant shall immediately terminate.

(L.1953, c. 882, § 5-q, added L.1975, c. 826, § 1.)

<sup>1</sup> Probably refers to section 9848.

<sup>2</sup> Sections 9845 to 9851.

**Historical and Statutory Notes**

**Effective Date of L.1975, c. 826.** See note under section 9937.

**Separability and Construction of L.1975, c. 826.** Laws 1975, c. 826, §§ 2 and 3, provided:

"§ 2. If any part or provision of this act [adding this section] or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare that they would

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

"§ 3. This act [adding this section] constitutes an agreement between the states of New York and New Jersey, supplementary to the waterfront commission compact and amendatory thereof, and shall be liberally construed to effectuate the purposes of said compact and the powers vested in the waterfront commission hereby shall be construed to be in aid of and supplemental to and not in limitation of or in derogation of any of the powers heretofore conferred upon or delegated to the waterfront commission."

**Library References**

Licenses  $\Rightarrow$  38.  
C.J.S. Licenses §§ 43, 44.

**§ 9922. Continuance of port watchmen's licenses**

Notwithstanding any provision of section five of article X of the compact, a license to act as a port watchman shall continue and need not be renewed, provided the licensee shall, as required by the commission:

1. Submit to a medical examination and meet the physical and mental fitness standards established by the commission pursuant to section three of article X;
2. Complete a refresher course of training; and
3. Submit supplementary personal history information.

(L.1953, c. 882, § 5-r, added L.1982, c. 10, § 1.)

**Historical and Statutory Notes**

**Effective Date.** Section 4 of L.1982, c. 10, provided: "This act [adding this section and section 9923] shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, but if the state of New Jersey shall have already

enacted such legislation, then it shall take effect immediately [Mar. 2, 1982]."

**Separability and Construction of L.1982, c. 10.** See sections 2 and 3 of L.1982, c. 10, set out as a note under section 9923.

**Legislative Histories**

**L.1982, c. 10:** For memorandum of the Waterfront Commission of New York Harbor, see McKinney's 1982 Session Laws of New York, p. 2423.

**§ 9923. Regularization of port watchmen's employment**

The commission shall, at regular intervals, cancel the license or temporary permit of a port watchman who shall have failed during the preceding twelve months to have worked as a port watchman in the port of New York district a minimum number of hours as shall have been established by the commission, except that immediate restoration of such license or temporary permit shall be made upon proper showing that the failure to so work was caused by the fact that the licensee or permittee was engaged in the military service of the United States or was incapacitated by ill health, physical injury or other good cause.

(L.1953, c. 882, § 5-s, added L.1982, c. 10, § 1.)

**Historical and Statutory Notes**

**Effective Date.** See section 4 of L.1982, c. 10, set out as a note under section 9922.

**Separability and Construction of L.1982, c. 10.** Sections 2 and 3 of L.1982, c. 10, provided:

"§ 2. If any part or provision of this act [adding this section and section 9922] or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare

that they would have entered into this act or the remainder thereof had the invalidity of such provision or application thereof been apparent.

"§ 3. This act [adding this section and section 9922] constitutes an agreement between the states of New York and New Jersey, supplementary to the waterfront commission compact and amendatory all acts thereof, and shall be liberally construed to effectuate the purposes of said compact and the powers vested in the waterfront and airport commission hereby shall be construed to be in aid of and supplemental to and not in limitation of or in derogation of any of the powers heretofore conferred upon or delegated to the waterfront commission.

**Legislative Histories**

**L.1982, c. 10:** For memorandum of the Waterfront Commission of New York Harbors, see McKinney's 1982 Session Laws of New York, p. 2423.

**§ 9924. Duration of stevedore's license [Text effective prior to amendment by L.1997, c. 320, § 1. See, also, § 9924, post.]**

A stevedore's license granted pursuant to article six of this act shall be for a term of three years or fraction of such three year period, and shall expire on the first day of December. In the event of the death of the licensee, if a natural person, or its termination or dissolution by reason of a death of a partner, if a partnership, or if the licensee shall cease to be a party to any contract of the type required by subdivision (d) of section three of article six of this act, the license shall terminate ninety days after such event or upon its expiration date, whichever shall be sooner. A license may be renewed by the commission for successive three year periods upon fulfilling the same requirements as are set forth in article six of this act for an original application for a stevedore's license.

(L.1953, c. 882, § 5-t, added L.1986, c. 457, § 1.)