

STATE OF NEW YORK

8917

IN SENATE

June 4, 2018

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to empowering the division of state police to patrol the port of New York waterfront and to dissolve the waterfront commission

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The executive law is amended by adding a new article 11-A
2 to read as follows:

3 ARTICLE 11-A

4 PORT OF NEW YORK WATERFRONT PATROL

5 Section 234-a. Definitions.

6 234-b. Exercise of authority.

7 234-c. Powers and duties.

8 234-d. Pier superintendents.

9 234-e. Stevedores.

10 234-f. Longshoremen.

11 234-g. Longshoremen lapse.

12 234-h. Longshoremen lapse requirements.

13 234-i. Qualified longshoremen register.

14 234-j. Longshoremen register application.

15 234-k. Port watchman license.

16 234-l. Denial, revocation, cancellation and suspension of
17 license and applications.

18 234-m. Hearings.

19 234-n. Employment information centers.

20 234-o. Telecommunications system.

21 234-p. Application denial for crime activity.

22 234-q. License revocation for certain activity.

23 234-r. Refusal to cooperate.

24 234-s. Suspension pending case outcome.

25 234-t. Cooperation with other entities.

26 234-u. Preservation of rights.

27 234-v. Leave, transfer and retirement.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 234-w. Budget.

2 234-x. Disbursement of budget.

3 234-y. Unlawful loading and unloading.

4 234-z. Prohibition of certain solicitation.

5 234-aa. Obstruction of investigation and civil actions.

6 234-bb. Failure to give testimony, false testimony.

7 234-cc. Dissolution of commission.

8 § 234-a. Definitions. As used in this article:

9 a. "Career offender" means a person whose behavior is pursued in an
10 occupational manner or context for the purpose of economic gain, utiliz-
11 ing methods that are deemed criminal violations against the laws of this
12 state.

13 b. "Career offender cartel" means a number of career offenders acting
14 in concert, and may include what is commonly referred to as an organized
15 crime group.

16 c. "Carrier" means a carrier as that term is defined in 49 U.S.C. §
17 13102.

18 d. "Carrier of freight by water" means any person who may be engaged
19 or who may hold himself or herself out as willing to be engaged, whether
20 as a common carrier, a contract carrier, or otherwise, except for
21 carriage of liquid cargoes in bulk in tank vessels designed for use
22 exclusively in that service or carriage by barge of bulk cargoes
23 consisting of only a single commodity loaded or carried without wrappers
24 or containers and delivered by the carrier without transportation mark
25 or count, in the carriage of freight by water between any point in the
26 port of New York district, as applicable only within the state of New
27 York, and a point outside that district.

28 e. "Checker" means a longshoreman who is employed to engage in direct
29 and immediate checking of waterborne freight or of the custodial
30 accounting therefor or in the recording or tabulation of the hours
31 worked at piers or other waterfront terminals by natural persons
32 employed by carriers of freight by water or stevedores.

33 f. "Commission" means the waterfront commission of New York harbor
34 established pursuant to chapter 882 of the laws of 1953, and chapter 202
35 of the laws of New Jersey of 1953.

36 g. "Common carrier" means a common carrier as that term is defined in
37 46 U.S.C. § 40102.

38 h. "Compact" means the compact entered into by the state of New York
39 pursuant to its agreement thereto under chapter 882 of the laws of 1953,
40 and chapter 202 of the laws of New Jersey of 1953, as amended and
41 supplemented.

42 i. "Consignee" means the person designated on a bill of lading as the
43 recipient of waterborne freight consigned for carriage by water.

44 j. "Container" means any receptacle, box, carton, or crate which is
45 specifically designed and constructed so that it may be repeatedly used
46 for the carriage of freight by a carrier of freight by water.

47 k. "Contract carrier" means a contract carrier as that term is defined
48 in 49 U.S.C. § 13102.

49 l. "Division" means the division of state police.

50 m. "Freight" means freight which has been or will be, carried by, or
51 consigned for carriage by a carrier of freight by water.

52 n. "Hiring agent" means any natural person who, on behalf of a carrier
53 of freight by water or a stevedore, shall select any longshoreman for
54 employment, and "hiring agent" includes any natural person, who on
55 behalf of any other person shall select any longshoreman for employment.

1 o. "Immunity" means that a person shall not be prosecuted or subjected
2 to any penalty or forfeiture for or on account of any transaction,
3 matter, or thing concerning which, pursuant to an order of the division,
4 the person gave answer or produced evidence, and that no answer given or
5 evidence produced shall be received against the person upon any criminal
6 proceeding.

7 p. "Labor organization" means and includes any organization which
8 exists and is constituted for the purpose in whole or in part of collec-
9 tive bargaining, or of dealing with employers concerning grievances,
10 terms and conditions of employment, or other mutual aid or protection,
11 but "labor organization" shall not include a federation or congress of
12 labor organizations organized on a national or international basis even
13 though one of its constituent labor organizations may represent persons
14 so registered or licensed.

15 q. "Longshoreman" means a natural person, other than a hiring agent,
16 who is employed for work at a pier or other waterfront terminal, either
17 by a carrier of freight by water or by a stevedore, to: (1) physically
18 move waterborne freight on vessels berthed at piers, on piers or at
19 other waterfront terminals; (2) engage in direct and immediate checking
20 of any such freight or of the custodial accounting therefor or in the
21 recording or tabulation of the hours worked at piers or other waterfront
22 terminals by natural persons employed by carriers of freight by water or
23 stevedores; (3) supervise directly and immediately others who are
24 employed as a longshoreman; (4) physically to perform labor or services
25 incidental to the movement of waterborne freight on vessels berthed at
26 piers, on piers or at other waterfront terminals; (5) physically move
27 waterborne freight to or from a barge, lighter, or railroad car for
28 transfer to or from a vessel of a carrier of freight by water which is,
29 shall be, or shall have been berthed at the same pier or other water-
30 front terminal; or (6) perform labor or services involving, or inci-
31 dental to, the movement of freight at a pier or other waterfront termi-
32 nal.

33 r. "Longshoremen's register" means the register of eligible longshore-
34 men compiled and maintained by the division pursuant to section two
35 hundred thirty-four-f of this article.

36 s. "Marine terminal" means an area which includes piers, which is used
37 primarily for the moving, warehousing, distributing, or packing of
38 waterborne freight or freight to or from piers and which is under common
39 ownership or control with the pier.

40 t. "Other waterfront terminal" means any warehouse, depot, or other
41 terminal, other than a pier, which is located within a marine terminal
42 in the port of New York district and which is used for waterborne
43 freight in whole or substantial part, and includes any warehouse, depot,
44 or other terminal, other than a pier, whether enclosed or open, which is
45 located in a marine terminal in the port of New York district, any part
46 of which is used by any person to perform labor or services involving,
47 or incidental to, the movement of waterborne freight or freight.

48 u. "Person" means not only a natural person but also any partnership,
49 joint venture, association, corporation, or any other legal entity but
50 shall not include the United States, any state or territory thereof, or
51 any department, division, board, authority, or authority of one or more
52 of the foregoing.

53 v. "Pier" means any wharf, pier, dock, or quay in regular use for the
54 movement of waterborne freight between vessel and shore.

55 w. "Pier superintendent" means any natural person other than a long-
56 shoreman who is employed for work at a pier or other waterfront terminal

1 by a carrier of freight by water or a stevedore and whose work at the
2 pier or other waterfront terminal includes the supervision, directly or
3 indirectly, of the work of longshoremen.

4 x. "Port of New York district" or "district" means the district
5 created by Article II of the compact dated April 30, 1921, between the
6 states of New York and New Jersey, authorized by chapter 154 of the laws
7 of New York of 1921 and chapter 151 of the laws of New Jersey of 1921.

8 y. "Port watchman" means any watchman, gateman, roundsman, detective,
9 guard, guardian, or protector of property employed by the operator of
10 any pier or other waterfront terminal or by a carrier of freight by
11 water to perform services in that capacity on any pier or other water-
12 front terminal.

13 z. "Select any longshoreman for employment" means select a person for
14 the commencement or continuation of employment as a longshoreman, or the
15 denial or termination of employment as a longshoreman.

16 aa. "State comptroller" and "comptroller" means the comptroller of the
17 state of New York.

18 bb. "Stevedore" means a contractor, not including an employee, engaged
19 for compensation pursuant to a contract or arrangement with a carrier of
20 freight by water, in moving waterborne freight carried or consigned for
21 carriage by the carrier on vessels of the carrier berthed at piers, on
22 piers at which the vessels are berthed or at other waterfront terminals.
23 "Stevedore" shall also include: (1) a contractor engaged for compen-
24 sation pursuant to a contract or arrangement with the United States, any
25 state or territory thereof, or any department, division, board, commis-
26 sion, or authority of one or more of the foregoing, in moving freight
27 carried or consigned for carriage between any point in the port of New
28 York district and a point outside that district on vessels of the public
29 agency berthed at piers, on piers at which their vessels are berthed or
30 at other waterfront terminals; (2) a contractor, engaged for compen-
31 sation pursuant to a contract or arrangement with any person to perform
32 labor or services incidental to the movement of waterborne freight on
33 vessels berthed at piers, on piers or at other waterfront terminals; or
34 (3) a contractor engaged for compensation pursuant to a contract or
35 arrangement with any other person to perform labor or services involv-
36 ing, or incidental to, the movement of freight into or out of contain-
37 ers, which have been or which will be carried by a carrier of freight by
38 water, on vessels berthed at piers, on piers or at other waterfront
39 terminals.

40 cc. "Terrorist group" means a group associated, affiliated, or funded
41 in whole or in part by a terrorist organization designated by the United
42 States Secretary of State in accordance with section 219 of the federal
43 Immigration and Nationality Act, as amended from time to time, or any
44 other organization which assists, funds, or engages in crimes or acts of
45 terrorism as defined in the laws of the United States, or of this state.

46 dd. "Transfer date" means the ninetieth day following the notification
47 by the governor pursuant to section two hundred thirty-four-b of this
48 article.

49 ee. "Waterborne freight" means freight carried by or consigned for
50 carriage by carriers of freight by water, and shall also include freight
51 described in the definition of "stevedore" and in the definition of
52 "other waterfront terminal." Provided, however, that at the point at
53 which the freight is released from a pier or marine terminal to the
54 possession of the consignee or the person designated by the consignee,
55 the freight shall no longer be considered waterborne freight if:

56 (1) the freight is not further transported by water; and

1 (2) services involving or incidental to the unloading, storage,
2 inspection, grading, repackaging, or processing of freight occur at a
3 location outside a pier or marine terminal.

4 ff. "Witness" means any person whose testimony is desired in any
5 investigation, interview, or other proceeding conducted by the division
6 under the authority granted pursuant to this article.

7 § 234-b. Exercise of authority. a. Until the transfer date established
8 pursuant to subdivision dd of section two hundred thirty-four-a of this
9 article shall have become operative, the division shall not exercise any
10 powers, rights, or duties conferred by this article or by any other law
11 in any way which will interfere with the powers, rights, and duties of
12 the commission. The division and the commission are directed to cooper-
13 ate with each other after the date of notification pursuant to this
14 section until the transfer date, and the commission shall make available
15 to the division all information concerning its property and assets,
16 contracts, operations, and finances within New York as the division may
17 require to provide for the efficient exercise by the division of all
18 powers, rights, and duties conferred upon the division by this act.

19 b. After the transfer date established pursuant to subdivision dd of
20 section two hundred thirty-four-a of this article:

21 (1) the division shall assume all of the powers, rights, assets, and
22 duties of the commission within this state, and those powers, rights,
23 assets, and duties shall then and thereafter be vested in and exercised
24 by the division;

25 (2) the officers having custody of the funds of the commission appli-
26 cable to this state shall deliver those funds into the custody of the
27 comptroller, the property and assets of the commission within this state
28 shall, without further act or deed, become the property and assets of
29 the division;

30 (3) any officers and employees of the commission seeking to be trans-
31 ferred to the division may apply to become employees of the division
32 until determined otherwise by the division. Nothing in this article
33 shall be construed to deprive any officers or employees of the commis-
34 sion of their rights, privileges, obligations, or status with respect to
35 any pension or retirement system. The commission employees shall retain
36 all of their rights and benefits under existing collective negotiation
37 agreements or contracts until such time as new or revised agreements or
38 contracts are agreed to. All existing employee representatives shall be
39 retained to act on behalf of those employees until such time as the
40 employees shall, pursuant to law, elect to change those representatives.
41 If an existing officer or employee becomes a member of an administered
42 retirement system of the state of New York, the officer or employee
43 shall receive the same amount of service credit in the retirement system
44 as the officer or employee previously had in the pension or retirement
45 system as an employee of the commission, provided that there is a trans-
46 fer of funds, or purchase, of the full cost of that credit from the
47 pension or retirement system of the commission to an administered
48 retirement system of the state of New York. Nothing in this article
49 shall affect the civil service status, if any, of those officers or
50 employees;

51 (4) all debts, liabilities, obligations, and contracts of the commis-
52 sion applicable only to this state, as determined by the officers having
53 custody of the funds of the commission, except to the extent specif-
54 ically provided for or established to the contrary in this article, are
55 imposed upon the division, and all creditors of the commission and
56 persons having claims against or contracts with the commission of any

1 kind or character may enforce those debts, claims, and contracts against
2 the division as successor to the commission in the same manner as they
3 might have done against the commission, and the rights and remedies of
4 those holders, creditors, and persons having claims against or contracts
5 with the commission shall not be limited or restricted in any manner by
6 this article;

7 (5) in continuing the functions, contracts, obligations, and duties of
8 the commission within this state, the division is authorized to act in
9 its own name as may be convenient or advisable under the circumstances
10 from time to time;

11 (6) any references to the commission in any other law or regulation
12 shall then and thereafter be deemed to refer and apply to the division;

13 (7) all rules and regulations of the commission shall continue in
14 effect as the rules and regulations of the division until amended,
15 supplemented, or rescinded by the division pursuant to the state admin-
16 istrative procedure act. Regulations of the commission inconsistent with
17 the provisions of this article or of regulations of the division shall
18 be deemed void;

19 (8) all operations of the commission within this state shall continue
20 as operations of the division until altered by the division as provided
21 or permitted pursuant to this article; and

22 (9) the powers vested in the division by this article shall be
23 construed as being in addition to, and not in diminution of, the powers
24 heretofore vested by law in the commission to the extent not otherwise
25 altered or provided for in this article.

26 c. A license, registration, or permit issued by the commission prior
27 to the date of notification pursuant to section two hundred
28 thirty-four-b of this article shall, subject to the terms of its issu-
29 ance, continue to be valid on and after the transfer date as a license,
30 registration, or permit issued by the division. An application for a
31 license, registration, or permit filed with the commission prior to and
32 pending on that notification date shall, as of and from the notification
33 date, be deemed to be filed with and pending before the division.

34 § 234-c. Powers and duties. In addition to the powers and duties else-
35 where prescribed in this article, the division shall have the power:

36 a. to determine the location, size, and suitability of accommodations
37 necessary and desirable for the establishment and maintenance of the
38 employment information centers provided in section two hundred thirty-
39 four-n of this article and for administrative offices for the division;

40 b. to administer and enforce the provisions of this article;

41 c. consistent with the provisions of the state administrative proce-
42 dure act, to adopt and enforce rules and regulations as the division may
43 deem necessary to effectuate the purposes of this article or to prevent
44 the circumvention or evasion thereof;

45 d. by its members and its properly designated officers, agents, and
46 employees, with respect to the implementation and enforcement of this
47 article, to administer oaths and issue subpoenas to compel the attend-
48 ance of witnesses and the giving of testimony and the production of
49 other evidence;

50 e. to have for its properly designated officers, agents and employees,
51 full and free access, ingress, and egress to and from all vessels,
52 piers, and other waterfront terminals or other places in the port of New
53 York district within this state, for the purposes of making inspection
54 or enforcing the provisions of this article and no person shall obstruct
55 or in any way interfere with any officer, employee, or agent of the
56 division in the making of an inspection, or in the enforcement of the

1 provisions of this article or in the performance of any other power or
2 duty under this article;

3 f. to recover possession of any suspended or revoked license issued
4 pursuant to sections two hundred thirty-four-f, two hundred
5 thirty-four-g, and two hundred thirty-four-k of this article within the
6 port of New York district in this state;

7 g. to make investigations and collect and compile information concern-
8 ing waterfront practices generally within the port of New York district
9 in this state and upon all matters relating to the accomplishment of the
10 objectives of this article;

11 h. to advise and consult with representatives of labor and industry
12 and with public officials and agencies concerned with the effectuation
13 of the purposes of this article upon all matters which the division may
14 desire, including but not limited to, the form and substance of rules
15 and regulations, the administration of the provisions of this article,
16 maintenance of the longshoremen's register, and issuance and revocation
17 of licenses;

18 i. to make annual and other reports to the governor and to the legis-
19 lature containing recommendations for the improvement of the conditions
20 of waterfront labor within the port of New York district in this state
21 and for the effectuation of the purposes of this article. The annual
22 reports shall state the division's findings and determinations as to
23 whether the public necessity still exists for: (1) the continued regis-
24 tration of longshoremen; (2) the continued licensing of any occupation
25 or employment required to be licensed hereunder; and (3) the continued
26 public operation of the employment information centers provided for in
27 section two hundred thirty-four-n of this article;

28 j. to cooperate with and receive from any department, division,
29 bureau, board, commission, authority, or agency of this state, or of any
30 county or municipality thereof, any assistance and data as will enable
31 the division to properly to carry out its powers and duties hereunder;
32 and to request a department, division, bureau, board, commission,
33 authority, or agency, with the consent thereof, to execute the divi-
34 sion's functions and powers, as the public interest may require;

35 k. to exercise the powers and duties of the division as provided in
36 this article to its officers, employees, and agents designated by the
37 division;

38 l. to issue temporary permits and permit temporary registrations under
39 such terms and conditions as the division may prescribe which shall be
40 valid for a period to be fixed by the division not in excess of six
41 months;

42 m. to require any applicant for a license or registration or any
43 prospective licensee to furnish facts and evidence as the division may
44 deem appropriate to enable it to ascertain whether the license or regis-
45 tration should be granted;

46 n. in any case in which the division has the power to revoke, cancel
47 or suspend any license, the division shall also have the power to impose
48 as an alternative to that revocation, cancellation, or suspension, a
49 penalty, which the licensee may elect to pay the division in lieu of the
50 revocation, cancellation, or suspension. The maximum penalty shall be
51 five thousand dollars for each separate offense. The division may, for
52 good cause shown, abate all or part of the penalty;

53 o. to designate any officer, agent, or employee of the division to be
54 an investigator who shall be vested with all the powers of a peace or
55 police officer of the state of New York;

1 p. to confer immunity, in the manner prescribed by section two hundred
2 thirty-four-r of this article;

3 q. to require any applicant or renewal applicant for registration as a
4 longshoreman, any applicant or renewal applicant for registration as a
5 checker, or any applicant or renewal applicant for registration as a
6 telecommunications system controller and any person who is sponsored for
7 a license as a pier superintendent or hiring agent, any person who is an
8 individual owner of an applicant or renewal applicant stevedore, or any
9 persons who are individual partners of an applicant or renewal applicant
10 stevedore, or any officers, directors, or stockholders owning five
11 percent or more of any of the stock of an applicant or renewal applicant
12 corporate stevedore or any applicant or renewal applicant for a license
13 as a port watchman or any other category of applicant or renewal appli-
14 cant for registration or licensing within the division's jurisdiction to
15 be fingerprinted by the division at the cost and expense of the appli-
16 cant or renewal applicant;

17 r. to exchange fingerprint data with and receive criminal history
18 record information from the Federal Bureau of Investigation and the
19 State Bureau of Identification for use in making the determinations
20 required by this section; and

21 s. notwithstanding any other provision of law, rule, or regulation to
22 the contrary, to require any applicant for employment or employee of the
23 division engaged in the implementation or enforcement of this article to
24 be fingerprinted at the cost and expense of the applicant or employee
25 and to exchange fingerprint data with and receive criminal history
26 record information from the Federal Bureau of Investigation and the
27 State Bureau of Identification for use in the hiring or retention of
28 those persons.

29 § 234-d. Pier superintendents. a. A person shall not act as a pier
30 superintendent or as a hiring agent within the port of New York district
31 in this state without first having obtained from the division a license
32 to act as a pier superintendent or hiring agent, as the case may be, and
33 a person shall not employ or engage another person to act as a pier
34 superintendent or hiring agent who is not so licensed.

35 b. A license to act as a pier superintendent or hiring agent shall be
36 issued only upon the written application, under oath, of the person
37 proposing to employ or engage another person to act as a pier super-
38 intendent or hiring agent, verified by the prospective licensee as to
39 the matters concerning the prospective licensee, and shall state the
40 following:

41 (1) The full name and business address of the applicant;

42 (2) The full name, residence, business address, if any, place and date
43 of birth, and social security number of the prospective licensee;

44 (3) The present and previous occupations of the prospective licensee,
45 including the places where the person was employed and the names of the
46 person's employers;

47 (4) Any further facts and evidence as may be required by the division
48 to ascertain the character, integrity, and identity of the prospective
49 licensee; and

50 (5) That if a license is issued to the prospective licensee, the
51 applicant will employ the licensee as pier superintendent or hiring
52 agent, as the case may be.

53 c. A license shall not be granted pursuant to this section:

54 (1) Unless the division shall be satisfied that the prospective licen-
55 see possesses good character and integrity;

1 (2) If the prospective licensee has, without subsequent pardon, been
2 convicted by a court of the United States, or any state or territory
3 thereof, of the commission of, or the attempt or conspiracy to commit,
4 treason, murder, manslaughter, or any of the following offenses: ille-
5 gally using, carrying, or possessing a pistol or other dangerous weapon;
6 making or possessing burglar's instruments; buying or receiving stolen
7 property; unlawful entry of a building; aiding an escape from prison;
8 unlawfully possessing, possessing with intent to distribute, sale, or
9 distribution of a controlled dangerous substance or a controlled danger-
10 ous substance analog; or a violation prescribed in subdivision g of this
11 section. Any prospective licensee ineligible for a license by reason of
12 any conviction under this paragraph may submit satisfactory evidence to
13 the division that the prospective licensee has for a period of not less
14 than five years, measured as hereinafter provided, and up to the time of
15 application, so acted as to warrant the grant of a license, in which
16 event the division may, in its discretion, issue an order removing that
17 ineligibility. The five-year period shall be measured either from the
18 date of payment of any fine imposed upon that person or the suspension
19 of sentence or from the date of the person's unrevoked release from
20 custody by parole, commutation, or termination of sentence; and

21 (3) If the prospective licensee knowingly or willfully advocates the
22 desirability of overthrowing or destroying the government of the United
23 States by force or violence or shall be a member of a group which advo-
24 cates that desirability, knowing the purposes of a group having that
25 advocacy.

26 d. When the application shall have been examined and further inquiry
27 and investigation made as the division shall deem proper and when the
28 division shall be satisfied therefrom that the prospective licensee
29 possesses the qualifications and requirements prescribed in this
30 section, the division shall issue and deliver to the prospective licen-
31 see a license to act as pier superintendent or hiring agent for the
32 applicant, as the case may be, and shall inform the applicant of this
33 action. The division may issue a temporary permit to any prospective
34 licensee for a license issued under this section pending final action on
35 an application made for that license. Any temporary permit shall be
36 valid for a period not in excess of thirty days.

37 e. A person shall not be licensed to act as a pier superintendent or
38 hiring agent for more than one employer, except at a single pier or
39 other waterfront terminal, but nothing in this article shall be
40 construed to limit in any way the number of pier superintendents or
41 hiring agents any employer may employ.

42 f. A license granted pursuant to this section shall continue through
43 the duration of the licensee's employment by the employer who shall have
44 applied for the license.

45 g. Any license issued pursuant to this section may be revoked or
46 suspended for a period as the division deems in the public interest or
47 the licensee thereunder may be reprimanded for any of the following
48 offenses:

49 (1) conviction of a crime or act by the licensee or other cause which
50 would require or permit the person's disqualification from receiving a
51 license upon original application;

52 (2) fraud, deceit, or misrepresentation in securing the license, or in
53 the conduct of the licensed activity;

54 (3) violation of any of the provisions of this article;

1 (4) unlawfully possessing, possessing with intent to distribute, sale,
2 or distribution of a controlled dangerous substance or a controlled
3 dangerous substance analog;

4 (5) employing, hiring, or procuring any person in violation of this
5 article or inducing or otherwise aiding or abetting any person to
6 violate the terms of this article;

7 (6) paying, giving, causing to be paid or given or offering to pay or
8 give to any person any valuable consideration to induce the other person
9 to violate any provision of this article or to induce any public offi-
10 cer, agent, or employee to fail to perform the person's duty hereunder;

11 (7) consorting with known criminals for an unlawful purpose;

12 (8) transfer or surrender of possession of the license to any person
13 either temporarily or permanently without satisfactory explanation;

14 (9) false impersonation of another licensee under this article;

15 (10) receipt or solicitation of anything of value from any person
16 other than the licensee's employer as consideration for the selection or
17 retention for employment of any longshoreman;

18 (11) coercion of a longshoreman by threat of discrimination or
19 violence or economic reprisal, to make purchases from or to utilize the
20 services of any person;

21 (12) lending any money to or borrowing any money from a longshoreman
22 for which there is a charge of interest or other consideration; or

23 (13) membership in a labor organization which represents longshoremen
24 or port watchmen; but nothing in this section shall be deemed to prohib-
25 it pier superintendents or hiring agents from being represented by a
26 labor organization or organizations which do not also represent long-
27 shoremen or port watchmen. The American Federation of Labor, the
28 Congress of Industrial Organizations and any other similar federation,
29 congress, or other organization of national or international occupa-
30 tional or industrial labor organizations shall not be considered an
31 organization which represents longshoremen or port watchmen within the
32 meaning of this section although one of the federated or constituent
33 labor organizations thereof may represent longshoremen or port watchmen.

34 § 234-e. Stevedores. a. A person shall not act as a stevedore within
35 the port of New York district in this state without having first
36 obtained a license from the division, and a person shall not employ a
37 stevedore to perform services as such within the port of New York
38 district unless the stevedore is so licensed.

39 b. Any person intending to act as a stevedore within the port of New
40 York district shall file in the office of the division a written appli-
41 cation for a license to engage in that occupation, duly signed, and
42 verified as follows:

43 (1) If the applicant is a natural person, the application shall be
44 signed and verified by that person and if the applicant is a partner-
45 ship, the application shall be signed and verified by each natural
46 person composing or intending to compose that partnership. The applica-
47 tion shall state the full name, age, residence, business address, if
48 any, present and previous occupations of each natural person so signing
49 the application, and any other facts and evidence as may be required by
50 the division to ascertain the character, integrity, and identity of each
51 natural person signing the application.

52 (2) If the applicant is a corporation, the application shall be signed
53 and verified by the president, secretary, and treasurer thereof, and
54 shall specify the name of the corporation, the date and place of its
55 incorporation, the location of its principal place of business, the
56 names and addresses of, and the amount of the stock held by stockholders

1 owning five percent or more of any of the stock thereof, and of all
2 officers, including all members of the board of directors. The require-
3 ments of subdivision a of this section as to a natural person who is a
4 member of a partnership, and the requirements as may be specified in
5 rules and regulations promulgated by the division pursuant to the state
6 administrative procedure act shall apply to each above-named officer or
7 stockholder and their successors in office or interest, as the case may
8 be. In the event of the death, resignation, or removal of any officer,
9 and in the event of any change in the list of stockholders who shall own
10 five percent or more of the stock of the corporation, the secretary of
11 the corporation shall forthwith give notice of that fact in writing to
12 the division, certified by the secretary.

13 c. A license shall not be granted:

14 (1) if any person whose signature or name appears in the application
15 is not the real party in interest, required by paragraph two of subdivi-
16 sion b of this section, to sign or to be identified in the application
17 or if the person so signing or named in the application is an undis-
18 closed agent or trustee for any real party in interest;

19 (2) unless the division shall be satisfied that the applicant and all
20 members, officers, and stockholders required by paragraph two of subdivi-
21 sion b of this section to sign or be identified in the application for
22 license possess good character and integrity;

23 (3) unless the applicant is either a natural person, partnership, or
24 corporation;

25 (4) unless the applicant shall be a party to a contract then in force
26 or which will take effect upon the issuance of a license, with a carrier
27 of freight by water for the loading and unloading by the applicant of
28 one or more vessels of such carrier at a pier within the port of New
29 York district;

30 (5) if the applicant or any member, officer, or stockholder required
31 by paragraph two of subdivision b of this section to sign or be identi-
32 fied in the application for license has, without subsequent pardon, been
33 convicted by a court of the United States or any state or territory
34 thereof of the commission of, or the attempt or conspiracy to commit,
35 treason, murder, manslaughter, or any of the offenses described in
36 subdivision f of this section. Any applicant ineligible for a license by
37 reason of any of those convictions may submit satisfactory evidence to
38 the division that the person whose conviction was the basis of ineligi-
39 bility has for a period of not less than five years, measured as herein-
40 after provided and up to the time of application, so acted as to warrant
41 the grant of that license, in which event the division may, in its
42 discretion issue an order removing that ineligibility. The aforesaid
43 period of five years shall be measured either from the date of payment
44 of any fine imposed upon that person or the suspension of sentence or
45 from the date of the person's unrevoked release from custody by parole,
46 commutation, or termination of sentence;

47 (6) if the applicant has paid, given, caused to have been paid or
48 given, or offered to pay or give to any officer or employee of any
49 carrier of freight by water any valuable consideration for an improper
50 or unlawful purpose or to induce that person to procure the employment
51 of the applicant by the carrier for the performance of stevedoring
52 services; or

53 (7) if the applicant has paid, given, caused to be paid or given, or
54 offered to pay or give to any officer or representative of a labor
55 organization any valuable consideration for an improper or unlawful
56 purpose or to induce the officer or representative to subordinate the

1 interests of the labor organization or its members in the management of
2 the affairs of the labor organization to the interests of the applicant.

3 d. When the application shall have been examined and further inquiry
4 and investigation made as the division shall deem proper and when the
5 division shall be satisfied therefrom that the applicant possesses the
6 qualifications and requirements prescribed in this section, the division
7 shall issue and deliver a license to that applicant. The division may
8 issue a temporary permit to any applicant for a license under the
9 provisions of this section pending final action on an application made
10 for a license. A temporary permit shall be valid for a period not in
11 excess of thirty days.

12 e. A stevedore's license shall be for a term of five years or fraction
13 of that five-year period, and shall expire on the first day of December.
14 In the event of the death of the licensee, if a natural person, or its
15 termination or dissolution by reason of the death of a partner, if a
16 partnership, or if the licensee shall cease to be a party to any
17 contract of the type prescribed by paragraph four of subdivision c of
18 this section the license shall terminate ninety days after that event or
19 upon its expiration date, whichever shall be sooner. A license may be
20 renewed by the division for successive five-year periods upon fulfilling
21 the same requirements as are established in this section for an original
22 application for a stevedore's license.

23 f. Any license issued pursuant to this section may be revoked or
24 suspended for a period as the division deems in the public interest or
25 the licensee thereunder may be reprimanded for any of the following
26 offenses on the part of the licensee or of any person required by this
27 section to sign or be identified in an original application for a
28 license:

29 (1) conviction of a crime or other cause which would permit or require
30 disqualification of the licensee from receiving a license upon original
31 application;

32 (2) fraud, deceit, or misrepresentation in securing the license or in
33 the conduct of the licensed activity;

34 (3) failure by the licensee to maintain a complete set of books and
35 records containing a true and accurate account of the licensee's
36 receipts and disbursements arising out of the licensee's activities
37 within the port of New York district in this state;

38 (4) failure to keep its books and records available during business
39 hours for inspection by the division and its duly designated represen-
40 tatives until the expiration of the fifth calendar year following the
41 calendar year during which occurred the transactions recorded therein;
42 or

43 (5) any other offense described in this section.

44 g. In addition to the grounds elsewhere established in this article
45 the division shall not grant an application for a license as stevedore
46 if the applicant has paid, given, caused to have been paid or given, or
47 offered to pay or give to any agent of any carrier of freight by water
48 any valuable consideration for an improper or unlawful purpose or, with-
49 out the knowledge and consent of the carrier, to induce the agent to
50 procure the employment of the applicant by the carrier or its agent for
51 the performance of stevedoring services.

52 § 234-f. Longshoremen. a. The division shall establish a
53 longshoremen's register in which shall be included all qualified long-
54 shoremen eligible, as hereinafter provided, for employment as longshore-
55 men in the port of New York district in this state. A person shall not
56 act as a longshoreman within the port of New York district in this state

1 unless at the time the person is included in the longshoremen's regis-
2 ter, and a person shall not employ another to work as a longshoreman
3 within the port of New York district in this state unless at the time
4 the other person is included in the longshoremen's register.

5 b. Any person applying for inclusion in the longshoremen's register
6 shall file at a place and in a manner as the division shall designate a
7 written statement, signed, and verified by the applicant, setting forth
8 the applicant's full name, residence address, social security number,
9 and any further facts and evidence as the division may prescribe to
10 establish the identity of that person and the person's criminal record,
11 if any.

12 c. The division may in its discretion deny application for inclusion
13 in the longshoremen's register by a person:

14 (1) who has been convicted by a court of the United States or any
15 state or territory thereof, without subsequent pardon, of treason,
16 murder, manslaughter, or of any of the offenses described in subdivision
17 g of section two hundred thirty-four-d of this article or of attempt or
18 conspiracy to commit any of those crimes;

19 (2) who knowingly or willingly advocates the desirability of over-
20 throwing or destroying the government of the United States by force or
21 violence or who shall be a member of a group which advocates that desir-
22 ability knowing the purposes of the group advocating that desirability;
23 or

24 (3) whose presence at the piers or other waterfront terminals in the
25 port of New York district in this state is found by the division, on the
26 basis of the facts and evidence before it, to constitute a danger to the
27 public peace or safety.

28 d. Unless the division shall determine to exclude the applicant from
29 the longshoremen's register for violation of the offenses described in
30 subdivision g of section two hundred thirty-four-d of this article it
31 shall include that person in the longshoremen's register. The division
32 may permit temporary registration of any applicant under the provisions
33 of this section pending final action on an application made for tempo-
34 rary registration. Any temporary registration shall be valid for a peri-
35 od not in excess of thirty days.

36 e. The division shall have power to reprimand any longshoreman regis-
37 tered under this section or to remove the person from the longshoremen's
38 register for a period of time as it deems in the public interest for any
39 of the following offenses:

40 (1) Conviction of a crime or other cause which would permit disquali-
41 fication of a person from inclusion in the longshoremen's register upon
42 original application;

43 (2) Fraud, deceit, or misrepresentation in securing inclusion in the
44 longshoremen's register;

45 (3) Transfer or surrender of possession to any person either temporar-
46 ily or permanently of any card or other means of identification issued
47 by the authority as evidence of inclusion in the longshoremen's regis-
48 ter, without satisfactory explanation;

49 (4) False impersonation of another longshoreman registered under this
50 section or of another person licensed pursuant to this article;

51 (5) Willful commission of or willful attempt to commit at or on a
52 waterfront terminal or adjacent highway any act of physical injury to
53 any other person or of willful damage to or misappropriation of any
54 other person's property, unless justified or excused by law; and

55 (6) Any other offense described in subdivision g of section two
56 hundred thirty-four-d of this article.

1 f. Whenever, as a result of amendments to this article or of a ruling
2 by the division, registration as a longshoreman is required for any
3 person to continue in employment, that person shall be registered as a
4 longshoreman; provided, however, that the person satisfies all the other
5 requirements of this article for registration as a longshoreman.

6 g. The division shall have the right to recover possession of any card
7 or other means of identification issued as evidence of inclusion in the
8 longshoremen's register in the event that the holder thereof has been
9 removed from the longshoremen's register.

10 h. Nothing contained in this article shall be construed to limit in
11 any way any labor rights reserved by this article.

12 § 234-g. Longshoremen lapse. a. The division shall, at regular inter-
13 vals, remove from the longshoremen's register any person who shall have
14 been registered for at least nine months and who shall have failed
15 during the preceding six calendar months either to have worked as a
16 longshoreman in the port of New York district in this state or to have
17 applied for employment as a longshoreman at an employment information
18 center established under section two hundred thirty-four-n of this arti-
19 cle for the minimum number of days as shall have been established by the
20 division pursuant to subdivision b of this section.

21 b. On or before the first day of June following the date on which this
22 article becomes operative, and on or before each succeeding first day of
23 June or December, the division shall, for the purposes of this article
24 establish for the six-month period beginning on each date a minimum
25 number of days and the distribution of the days during that period.

26 c. In establishing any minimum number of days or period, the division
27 shall consult with the collective bargaining representatives of steve-
28 dores and other employers of longshoremen in the port of New York
29 district and with labor organizations representing longshoremen in the
30 district.

31 d. A longshoreman who has been removed from the longshoremen's regis-
32 ter pursuant to subdivision e of section two hundred thirty-four-f of
33 this article may seek reinstatement upon fulfilling the same require-
34 ments as for initial inclusion in the longshoremen's register, but not
35 before the expiration of one year from the date of removal, except that
36 immediate reinstatement shall be made upon proper showing that the
37 registrant's failure to work or apply for work for the minimum number of
38 days, described in subdivision c of this section, was caused by the fact
39 that the registrant was engaged in the military service of the United
40 States or was incapacitated by ill health, physical injury, or other
41 good cause.

42 e. Notwithstanding any other provision of this article, the division
43 shall at any time have the power to register longshoremen on a temporary
44 basis to meet special or emergency needs.

45 § 234-h. Longshoremen lapse requirements. Notwithstanding any other
46 provisions of this article the division shall have the power to remove
47 from the longshoremen's register any person, including a person regis-
48 tered as longshoremen for less than nine months, who shall have failed
49 to have worked as a longshoreman in the port of New York district in
50 this state for a minimum number of days during a period of time as shall
51 have been established by the division. In administering this section,
52 the division, in its discretion, may count applications for employment
53 as a longshoreman at an employment information center established pursu-
54 ant to section two hundred thirty-four-n of this article as constituting
55 actual work as a longshoreman, provided, however, that the division
56 shall count as actual work the compensation received by any longshoreman

1 pursuant to the guaranteed wage provisions of any collective bargaining
2 agreement relating to longshoremen. Prior to the commencement of any
3 period of time established by the division pursuant to this section, the
4 division shall establish for that period the minimum number of days of
5 work required and the distribution of days during that period and shall
6 also determine whether or not application for employment as a longshore-
7 man shall be counted as constituting actual work as a longshoreman. The
8 division may classify longshoremen according to length of service as a
9 longshoreman and develop other criteria as may be reasonable and neces-
10 sary to carry out the provisions of this article. The division shall
11 have the power to vary the requirements of this section with respect to
12 their application to the various classifications of longshoremen. Noth-
13 ing in this section shall be construed to modify, limit, or restrict in
14 any way any of the rights protected by section two hundred thirty-four-u
15 of this article.

16 § 234-i. Qualified longshoremen register. a. The division shall estab-
17 lish within the longshoremen's register a list of all qualified long-
18 shoremen eligible, as hereinafter provided, for employment as checkers
19 in the port of New York district in this state. A person shall not act
20 as a checker within the port of New York district in this state unless
21 at the time the person is included in the longshoremen's register as a
22 checker, and a person shall not employ another to work as a checker
23 within the port of New York district in this state unless at the time
24 such other person is included in the longshoremen's register as a check-
25 er.

26 b. Any person applying for inclusion in the longshoremen's register as
27 a checker shall file at a place and in a manner as the division shall
28 designate a written statement, signed, and verified by the applicant,
29 setting forth the following:

30 (1) The full name, residence, place and date of birth, and social
31 security number of the applicant;

32 (2) The present and previous occupations of the applicant, including
33 the places where the applicant was employed and the names of the appli-
34 cant's employers; and

35 (3) Any further facts and evidence as may be required by the authority
36 to ascertain the character, integrity, and identity of the applicant.

37 c. A person shall not be included in the longshoremen's register as a
38 checker:

39 (1) unless the division shall be satisfied that the applicant
40 possesses good character and integrity;

41 (2) if the applicant has, without subsequent pardon, been convicted by
42 a court of the United States or any state or territory thereof, of the
43 authority of, or the attempt or conspiracy to commit treason, murder,
44 manslaughter, or any of the following offenses: illegally using, carry-
45 ing or possessing a pistol or other dangerous weapon; making or possess-
46 ing burglar's instruments; buying or receiving stolen property; unlawful
47 entry of a building; aiding an escape from prison; unlawfully possess-
48 ing, possessing with intent to distribute, sale or distribution of a
49 controlled dangerous substance or a controlled dangerous substance
50 analog; petty larceny, where the evidence shows the property was stolen
51 from a vessel, pier or other waterfront terminal; or a violation of this
52 article. An applicant ineligible for inclusion in the longshoremen's
53 register as a checker by reason of a conviction may submit satisfactory
54 evidence to the division that the applicant has for a period of not less
55 than five years, measured as hereinafter provided, and up to the time of
56 application, so acted as to warrant inclusion in the longshoremen's

1 register as a checker, in which event the division may, in its
2 discretion, issue an order removing the applicant's ineligibility. The
3 five-year period shall be measured either from the date of payment of
4 any fine imposed upon that person or the suspension of sentence or from
5 the date of the person's unrevoked release from custody by parole,
6 commutation, or termination of sentence; or

7 (3) if the applicant knowingly or willfully advocates the desirability
8 of overthrowing or destroying the government of the United States by
9 force or violence or shall be a member of a group which advocates that
10 desirability, knowing the purposes of the group advocating that desir-
11 ability.

12 d. When the application shall have been examined and further inquiry
13 and investigation made as the division shall deem proper and when the
14 division shall be satisfied therefrom that the applicant possesses the
15 qualifications and requirements prescribed by this section, the division
16 shall include the applicant in the longshoremen's register as a checker.
17 The division may permit temporary registration as a checker to any
18 applicant under this section pending final action on an application made
19 for temporary registration, under the terms and conditions as the divi-
20 sion may prescribe, which shall be valid for a period to be fixed by the
21 division, not in excess of six months.

22 e. The division shall have power to reprimand any checker registered
23 under this section or to remove the person from the longshoremen's
24 register as a checker for a period of time as the division deems in the
25 public interest for any of the following offenses:

26 (1) conviction of a crime or other cause which would permit disquali-
27 fication of the person from inclusion in the longshoremen's register as
28 a checker upon original application;

29 (2) fraud, deceit, or misrepresentation in securing inclusion in the
30 longshoremen's register as a checker or in the conduct of the registered
31 activity;

32 (3) violation of any of the provisions of this article;

33 (4) unlawfully possessing, possessing with intent to distribute, sale,
34 or distribution of a controlled dangerous substance or a controlled
35 dangerous substance analog;

36 (5) inducing or otherwise aiding or abetting any person to violate the
37 terms of this article;

38 (6) paying, giving, causing to be paid or given, or offering to pay or
39 give to any person any valuable consideration to induce the other person
40 to violate any provision of this article or to induce any public offi-
41 cer, agent, or employee to fail to perform the person's duty under this
42 article;

43 (7) consorting with known criminals for an unlawful purpose;

44 (8) transfer or surrender of possession to any person either temporar-
45 ily or permanently of any card or other means of identification issued
46 by the division as evidence of inclusion in the longshoremen's register
47 without satisfactory explanation; or

48 (9) false impersonation of another longshoreman or of another person
49 licensed under this article.

50 f. The division shall have the right to recover possession of any card
51 or other means of identification issued as evidence of inclusion in the
52 longshoremen's register as a checker in the event that the holder there-
53 of has been removed from the longshoremen's register as a checker.

54 g. Nothing contained in this section shall be construed to limit in
55 any way any rights of labor reserved by section two hundred
56 thirty-four-u this article.

1 § 234-j. Longshoremen register application. The division shall accept
2 applications for inclusion in the longshoremen's register upon:

3 a. the joint recommendation in writing of stevedores and other employ-
4 ers of longshoremen in the port of New York district in this state,
5 acting through their representative for the purposes of collective
6 bargaining with a labor organization representing the longshoremen in
7 the district, and that labor organization; or

8 b. the petition in writing of a stevedore or other employer of long-
9 shoremen in the port of New York district in this state which does not
10 have a representative for the purposes of collective bargaining with a
11 labor organization representing those longshoremen.

12 § 234-k. Port watchman license. a. A person shall not act as a port
13 watchman within the port of New York district in this state without
14 first having obtained a license from the division, and a person shall
15 not employ a port watchman who is not so licensed.

16 b. A license to act as a port watchman shall be issued only upon writ-
17 ten application, duly verified, which shall state the following:

18 (1) The full name, residence, business address, if any, place, and
19 date of birth, and social security number of the applicant;

20 (2) The present and previous occupations of the applicant, including
21 the places where the applicant was employed and the names of the appli-
22 cant's employers;

23 (3) The citizenship of the applicant and, if the person is a natural-
24 ized citizen of the United States, the court and date of naturalization;
25 and

26 (4) Any further facts and evidence as may be required by the division
27 to ascertain the character, integrity, and identity of the applicant.

28 c. A port watchman license shall not be granted:

29 (1) Unless the division shall be satisfied that the applicant
30 possesses good character and integrity;

31 (2) If the applicant has, without subsequent pardon, been convicted by
32 a court of the United States or of any state or territory thereof of the
33 authority of, or the attempt or conspiracy to commit, treason, murder,
34 manslaughter or any of the offenses described in subdivision g of
35 section two hundred thirty-four-d of this article;

36 (3) Unless the applicant shall meet reasonable standards of physical
37 and mental fitness for the discharge of a port watchman's duties as may
38 from time to time be established by the division;

39 (4) If the applicant shall be a member of any labor organization which
40 represents longshoremen or pier superintendents or hiring agents; but
41 nothing in this article shall be deemed to prohibit port watchmen from
42 being represented by a labor organization or organizations which do not
43 also represent longshoremen or pier superintendents or hiring agents.
44 The American Federation of Labor, the Congress of Industrial Organiza-
45 tions (AFL-CIO) and any other similar federation, congress, or other
46 organization of national or international occupational or industrial
47 labor organizations shall not be considered a labor organization which
48 represents longshoremen or pier superintendents or hiring agents within
49 the meaning of this section although one of the federated or constituent
50 labor organizations thereof may represent longshoremen or pier super-
51 intendents or hiring agents; or

52 (5) If the applicant knowingly or willfully advocates the desirability
53 of overthrowing or destroying the government of the United States by
54 force or violence or shall be a member of a group which advocates that
55 desirability, knowing the purposes of the group's advocacy.

1 d. When the application shall have been examined and further inquiry
2 and investigation made as the division shall deem proper and when the
3 authority shall be satisfied therefrom that the applicant possesses the
4 qualifications and requirements prescribed in this section and regu-
5 lations issued pursuant thereto, the division shall issue and deliver a
6 license to the applicant. The division may issue a temporary permit to
7 any applicant for a license under the provisions of this section pending
8 final action on an application made for that license. Any temporary
9 permit shall be valid for a period not in excess of thirty days.

10 e. A license granted pursuant to this section shall continue for a
11 term of three years. A license may be renewed by the division for
12 successive three-year periods upon fulfilling the same requirements
13 established in this section for an original application.

14 f. Notwithstanding any provision of this section, a license to act as
15 a port watchman shall continue indefinitely and need not be renewed,
16 provided that the licensee shall, as required by the division:

17 (1) Submit to a medical examination and meet the physical and mental
18 fitness standards as may be established by the division;

19 (2) Complete a refresher course of training; and

20 (3) Submit supplementary personal history information.

21 g. Any license issued pursuant to this section may be revoked or
22 suspended for a period as the division deems in the public interest or
23 the licensee thereunder may be reprimanded for any of the following
24 offenses:

25 (1) Conviction of a crime or other cause which would permit or require
26 the holder's disqualification from receiving a license upon original
27 application;

28 (2) Fraud, deceit, or misrepresentation in securing the license; and

29 (3) Any other offense described in subdivision g of section two
30 hundred thirty-four-d of this article.

31 h. The division shall, at regular intervals, cancel the license or
32 temporary permit of a port watchman who has failed during the preceding
33 twelve months to work as a port watchman in the port of New York
34 district in this state a minimum number of hours as established by the
35 division, except that the division shall immediately restore the license
36 or temporary permit upon a proper showing that the failure to so work
37 was caused by the fact that the licensee or permit holder was engaged in
38 the military service of the United States or was incapacitated by ill
39 health, physical injury, or other good cause.

40 i. Any port watchman ineligible for a license by reason pursuant to
41 this section may petition for and the division may issue an order remov-
42 ing the ineligibility. A petition for an order to remove an ineligibil-
43 ity may be made to the division before or after the hearing required by
44 section two hundred thirty-four-1 of this article.

45 § 234-1. Denial, revocation, cancellation and suspension of license
46 and applications. a. The division shall not deny any application for a
47 license or registration without giving the applicant or prospective
48 licensee reasonable prior notice and an opportunity to be heard at a
49 hearing conducted by the division.

50 b. Any application for a license or for inclusion in the
51 longshoremen's register, and any license issued or registration made,
52 may be denied, revoked, cancelled, or suspended as the case may be, only
53 in the manner prescribed in this section.

54 c. The division may on its own initiative or on complaint of any
55 person, including any public official or agency, institute proceedings
56 to revoke, cancel, or suspend any license or registration after a hear-

1 ing at which the licensee or registrant and any person making a
2 complaint shall be given an opportunity to be heard, provided that any
3 order of the division revoking, cancelling, or suspending any license or
4 registration shall not become effective until fifteen days subsequent to
5 the serving of notice thereof upon the licensee or registrant unless in
6 the opinion of the division the continuance of the license or registra-
7 tion for that period would be inimical to the public peace or safety.
8 The hearing shall be held in a manner and upon notice as may be
9 prescribed by the rules of the division, but the notice shall be of not
10 less than ten days and shall state the nature of the complaint.

11 d. Pending the determination of a hearing pursuant to this section,
12 the division may temporarily suspend a license or registration if, in
13 the opinion of the division, the continuance of the license or registra-
14 tion for that fifteen day period, pursuant to subdivision c of this
15 section, is inimical to the public peace or safety.

16 e. The division, or a member, officer, employee, or agent of the divi-
17 sion as may be designated by the division for such purpose, shall have
18 the power to issue subpoenas to compel the attendance of witnesses and
19 the giving of testimony or production of other evidence and to adminis-
20 ter oaths in connection with a hearing. It shall be the duty of the
21 division or of any member, officer, employee, or agent of the division
22 designated by the division for that purpose to issue subpoenas at the
23 request of and upon behalf of the licensee, registrant, or applicant.
24 The person conducting the hearing on behalf of the division shall not be
25 bound by common law or statutory rules of evidence or by technical or
26 formal rules of procedure in conducting the hearing.

27 f. Upon the conclusion of the hearing, the division shall take action
28 upon the findings and determination as the division deems proper and
29 shall execute an order carrying its findings into effect. The action in
30 the case of an application for a license or registration shall be the
31 granting or denial thereof. The action in the case of a licensee shall
32 be revocation of the license or suspension thereof for a fixed period or
33 reprimand or a dismissal of the charges. The action in the case of a
34 registered longshoreman shall be dismissal of the charges, reprimand, or
35 removal from the longshoremen's register for a fixed period or perma-
36 mently.

37 g. The action of the division, in denying any application for a
38 license or in refusing to include any person in the longshoremen's
39 register established pursuant to section two hundred thirty-four-f of
40 this article or in suspending or revoking a license or removing any
41 person from the longshoremen's register or in reprimanding a licensee,
42 or registrant, shall be subject to judicial review by a proceeding
43 instituted in this state at the instance of the applicant, licensee, or
44 registrant in the manner provided by state law for review of the final
45 decision or action of an administrative agency of the state; provided,
46 however, that notwithstanding any other provision of law, the court
47 shall have power to stay for not more than thirty days an order of the
48 division suspending or revoking a license or removing a longshoreman
49 from the longshoremen's register.

50 § 234-m. Hearings. a. At hearings conducted by the division, pursuant
51 to section two hundred thirty-four-l of this article applicants,
52 prospective licensees, licensees, and registrants shall have the right
53 to be accompanied and represented by counsel.

54 b. After the conclusion of a hearing but prior to the making of an
55 order by the division, a hearing may, upon petition and in the
56 discretion of the hearing officer, be reopened for the presentation of

1 additional evidence. A petition to reopen the hearing shall state in
2 detail the nature of the additional evidence, together with the reasons
3 for the failure to submit such evidence prior to the conclusion of the
4 hearing. The division may upon its own motion and upon reasonable notice
5 reopen a hearing for the presentation of additional evidence. Upon peti-
6 tion, after the making of an order of the division, rehearing may be
7 granted in the discretion of the division. A petition for rehearing
8 shall state in detail the grounds upon which the petition is based and
9 shall separately set forth each error of law and fact alleged to have
10 been made by the division in its determination, together with the facts
11 and arguments in support thereof. The petition shall be filed with the
12 division not later than thirty days after service of the division's
13 order, unless the division for good cause shown shall otherwise direct.
14 The division may upon its own motion grant a rehearing after the making
15 of an order.

16 § 234-n. Employment information centers. a. The division is hereby
17 designated on its own behalf or as agent of the state of New York, as
18 provided by the act of Congress of the United States entitled the
19 Wagner-Peyser Act, as amended, for the purpose of obtaining the benefits
20 of that act of Congress as are necessary or appropriate to the estab-
21 lishment and operation of employment information centers authorized by
22 this section.

23 b. The division shall have all powers necessary to take steps to
24 formulate plans and to execute projects related to the establishment and
25 operation of employment information centers, as may be necessary to
26 obtain any benefits for the operation of employment information centers
27 in accomplishing the purposes of this article.

28 c. Any officer or agency designated by this state, is authorized and
29 empowered, upon the request of the division and subject to its direc-
30 tion, to exercise the powers and duties conferred upon the division by
31 the provisions of this section.

32 d. The division shall establish and maintain one or more employment
33 information centers within the port of New York district in this state
34 at locations as the division may determine. A person shall not, directly
35 or indirectly, hire any person for work as a longshoreman or port watch-
36 man within the port of New York district in this state, except through
37 an employment information center as may be prescribed by the division. A
38 person shall not accept any employment as a longshoreman or port watch-
39 man within the port of New York district in this state, except through
40 an employment information center. At each employment information center,
41 the division shall keep and exhibit the longshoremen's register and any
42 other records the division shall determine to the end that longshoremen
43 and port watchmen shall have the maximum information as to available
44 employment at any time within the port of New York district in this
45 state and that employers shall have an adequate opportunity to fill
46 their requirements of registered longshoremen and port watchmen at all
47 times.

48 e. Every employer of longshoremen or port watchmen within the port of
49 New York district in this state shall furnish information as may be
50 required by the rules and regulations prescribed by the division with
51 regard to the name of each person hired as a longshoreman or port watch-
52 man, the time and place of hiring, the time, place, and hours of work,
53 and the compensation therefor.

54 § 234-o. Telecommunications system. a. The division may designate one
55 of the employment information centers it is authorized to establish and
56 maintain under section two hundred thirty-four-n of this article for the

1 implementation of a telecommunications hiring system through which long-
2 shoremen and checkers may be hired and accept employment without any
3 personal appearance at the center. The telecommunications hiring system
4 shall incorporate hiring and seniority agreements between the employers
5 of longshoremen and checkers and the labor organizations representing
6 longshoremen and checkers in the port of New York district in this
7 state, provided the agreements are not in conflict with the provisions
8 of this article.

9 b. The division shall permit employees of the management organizations
10 representing employers of longshoremen and checkers in the port of New
11 York district in this state, and of the labor organizations representing
12 longshoremen and checkers in the port of New York district in this
13 state, or of a joint board of these management and labor organizations,
14 to participate in the operation of the telecommunications hiring system,
15 if these employees are registered by the division as "telecommunications
16 system controllers", with respect to the registration of checkers. A
17 person shall not act as a "telecommunications system controller" unless
18 that person is registered. An application for registration and a regis-
19 tration made or issued may be denied, revoked, cancelled, or suspended,
20 as the case may be, only in the manner prescribed in section two hundred
21 thirty-four-i of this article. Participation in the operation of the
22 telecommunications hiring system shall be monitored by the division.

23 c. The records, documents, tapes, discs, and other data compiled,
24 collected or maintained by a management organization, a labor organiza-
25 tion, and a joint board of these management and labor organizations
26 pertaining to the telecommunications hiring system shall be available
27 for inspection, investigation, and duplication by the division.

28 § 234-p. Application denial for crime activity. In addition to the
29 grounds elsewhere established in this article the division may deny an
30 application for a license or registration for any of the following:

31 a. conviction by a court of the United States or any state or territo-
32 ry thereof of coercion;

33 b. conviction by a court described in subdivision a of this section,
34 after having been previously convicted by that court of any crime or of
35 the offenses hereinafter set forth, or any of the following offenses:
36 assault, malicious injury to property, malicious mischief, unlawful
37 taking of a motor vehicle, corruption of employees or possession of
38 illegal betting number slips;

39 c. fraud, deceit or misrepresentation in connection with any applica-
40 tion or petition submitted to, or any interview, hearing or proceeding
41 conducted by the division or commission;

42 d. violation of any provision of this article or commission of any
43 offense thereunder;

44 e. refusal on the part of any applicant, or prospective licensee, or
45 of any member, officer or stockholder required by section two hundred
46 thirty-four-e of this article to sign or be identified in an application
47 for a stevedore license, to answer any material question or produce any
48 material evidence in connection with the person's application or any
49 application made on the person's behalf for a license or registration
50 pursuant to section two hundred thirty-four-e of this article;

51 f. association with a person who has been identified by a federal,
52 state, or local law enforcement agency as a member or associate of an
53 organized crime group, a terrorist group, or a career offender cartel,
54 or who is a career offender, under circumstances where that association
55 creates a reasonable belief that the participation of the applicant in

1 any activity required to be licensed or registered under this article
2 would be inimical to the purposes of this article; or

3 g. conviction of a racketeering activity or knowing association with a
4 person who has been convicted of a racketeering activity by a court of
5 the United States, or any state or territory thereof under circumstances
6 where that association creates a reasonable belief that the partic-
7 ipation of the applicant in any activity required to be licensed or
8 registered under this article would be inimical to the purposes of this
9 article.

10 § 234-q. License revocation for certain activity. In addition to the
11 grounds elsewhere set forth in this article any license or registration
12 issued or made pursuant thereto may be revoked or suspended for a period
13 as the division deems in the public interest or the licensee or regis-
14 trant may be reprimanded, for:

15 a. conviction of any crime or offense in relation to illegal gambling,
16 bookmaking, or similar crimes or offenses if the crime or offense was
17 committed at or on a pier or other waterfront terminal or within five
18 hundred feet thereof;

19 b. willful authority of, or willful attempt to commit at or on a
20 waterfront terminal or adjacent highway, any act of physical injury to
21 any other person or of willful damage to or misappropriation of any
22 other person's property, unless justified or excused by law;

23 c. receipt or solicitation of anything of value from any person other
24 than a licensee's or registrant's employer as consideration for the
25 selection or retention for employment of a licensee or registrant;

26 d. coercion of a licensee or registrant by threat of discrimination or
27 violence or economic reprisal, to make purchases from or to utilize the
28 services of any person;

29 e. refusal to answer any material question or produce any evidence
30 lawfully required to be answered or produced at any investigation,
31 interview, hearing, or other proceeding conducted by the division pursu-
32 ant to section two hundred thirty-four-1 of this article or, if the
33 refusal is accompanied by a valid plea of privilege against self-incrim-
34 ination, refusal to obey an order to answer the question or produce any
35 evidence made by the division pursuant to section two hundred thirty-
36 four-1 of this article;

37 f. association with a person who has been identified by a federal,
38 state, or local law enforcement agency as a member or associate of an
39 organized crime group, a terrorist group, or a career offender cartel,
40 or who is a career offender, under circumstances where that association
41 creates a reasonable belief that the participation of the licensee or
42 registrant in any activity required to be licensed or registered under
43 this article would be inimical to the purposes of this article; or

44 g. conviction of a racketeering activity or knowing association with a
45 person who has been convicted of a racketeering activity by a court of
46 the United States, or any state, or territory thereof under circum-
47 stances where that association creates a reasonable belief that the
48 participation of the licensee or registrant in any activity required to
49 be licensed or registered by this article would be inimical to the
50 purposes of this article.

51 § 234-r. Refusal to cooperate. a. In any investigation, interview, or
52 other proceeding conducted under oath by the division or any duly
53 authorized officer, employee, or agent thereof, if a person refuses to
54 answer a question or produce evidence of any other kind on the ground
55 that the person may be incriminated thereby, and notwithstanding the
56 refusal, an order is made upon twenty-four hours' prior written notice

1 to the attorney general of the state of New York, and to the appropriate
2 district attorney or prosecutor having an official interest therein, by
3 the superintendent of the division or the superintendent's designee,
4 that the person answer the question or produce the evidence, the person
5 shall comply with the order. If the person complies with the order, and
6 if, but for this section, would have been privileged to withhold the
7 answer given or the evidence produced by the person, then immunity shall
8 be conferred upon the person, as provided for in this section. Immunity
9 shall not be conferred upon any person except in accordance with the
10 provisions of this section. If, after compliance with the provisions of
11 this section, a person is ordered to answer a question or produce
12 evidence of any other kind and complies with the order, and it is there-
13 after determined that the attorney general or appropriate district
14 attorney or prosecutor having an official interest therein was not noti-
15 fied, that failure or neglect shall not deprive that person of any immu-
16 nity otherwise properly conferred upon the person. But the person may
17 nevertheless be prosecuted or subjected to penalty or forfeiture for any
18 perjury or contempt committed in answering, or failing to answer, or in
19 producing or failing to produce evidence, in accordance with the order,
20 and any answer given or evidence produced shall be admissible against
21 the person upon any criminal proceeding concerning such perjury or
22 contempt.

23 b. If a person, in obedience to a subpoena directing the person to
24 attend and testify, is in this state or comes into this state from the
25 state of New York, the person shall not, while in this state pursuant to
26 such subpoena, be subject to arrest or the service of process, civil or
27 criminal, in connection with matters which arose before the person's
28 entrance into this state under the subpoena.

29 § 234-s. Suspension pending case outcome. a. The division may tempo-
30 rarily suspend a temporary permit or a permanent license or a temporary
31 or permanent registration issued pursuant to the provisions of this
32 article until further order of the division or final disposition of the
33 underlying case, only where the permittee, licensee, or registrant has
34 been indicted for, or otherwise charged with, a crime which is equiv-
35 alent to a crime of the third, second, or first degree in this state or
36 only where the permittee or licensee is a port watchman who is charged
37 by the division pursuant to section two hundred thirty-four-k of this
38 article with misappropriating any other person's property at or on a
39 pier or other waterfront terminal.

40 b. In the case of a permittee, licensee, or registrant who has been
41 indicted for, or otherwise charged with, a crime, the temporary suspen-
42 sion shall terminate immediately upon acquittal or upon dismissal of the
43 criminal charge. A person whose permit, license, or registration has
44 been temporarily suspended may, at any time, demand that the division
45 conduct a hearing as provided for in section two hundred thirty-four-l
46 of this article. Within sixty days of the demand, the division shall
47 commence the hearing and, within thirty days of receipt of the adminis-
48 trative law judge's report and recommendation, the division shall render
49 a final determination thereon; provided, however, that these time
50 requirements shall not apply for any period of delay caused or requested
51 by the permittee, licensee, or registrant. Upon failure of the division
52 to commence a hearing or render a determination within the time limits
53 prescribed herein, the temporary suspension of the permittee, licensee,
54 or registrant shall immediately terminate. Notwithstanding any other
55 provision of this subdivision, if a federal, state, or local law
56 enforcement agency or prosecutor's office shall request the suspension

1 or deferment of any hearing on the ground that the hearing would
2 obstruct or prejudice an investigation or prosecution, the division may
3 in its discretion, postpone or defer the hearing for a time certain or
4 indefinitely. Any action by the division to postpone a hearing shall be
5 subject to immediate judicial review as provided in this subdivision.

6 c. The division may, within its discretion, bar any permittee, licen-
7 see, or registrant who has been suspended pursuant to the provisions of
8 subdivision a of this section, from any employment by a licensed steve-
9 dore or a carrier of freight by water, if that individual has been
10 indicted or otherwise charged in any federal, state, or territorial
11 proceeding with any crime involving the possession with intent to
12 distribute, sale, or distribution of a controlled dangerous substance or
13 controlled dangerous substance analog, racketeering, or theft from a
14 pier or waterfront terminal.

15 § 234-t. Cooperation with other entities. The division is authorized
16 to cooperate with the commission, a similar authority, or other public
17 entity of the state of New York, to exchange information on any matter
18 pertinent to the purposes of this article and to enter into reciprocal
19 agreements for the accomplishment of those purposes, including, but not
20 limited to, the following objectives:

21 a. To provide for the reciprocal recognition of any license issued or
22 registration made by the commission;

23 b. To give reciprocal effect to any revocation, suspension, or reprim-
24 and with respect to any licensee, and any reprimand or removal from a
25 longshoremen's register;

26 c. To provide that any act or omission by a licensee or registrant in
27 either state which would be a basis for disciplinary action against the
28 licensee or registrant if it occurred in the state in which the license
29 was issued or the person registered shall be the basis for disciplinary
30 action in either state; and

31 d. To provide that longshoremen registered in either state, who
32 perform work or who apply for work at an employment information center
33 within the other state shall be deemed to have performed work or to have
34 applied for work in the state in which they are registered.

35 § 234-u. Preservation of rights. a. The provisions of this article are
36 not designed and shall not be construed to limit in any way any rights
37 granted or derived from any other statute or any rule of law for employ-
38 ees to organize in labor organizations, to bargain collectively and to
39 act in any other way individually, collectively, and through labor
40 organizations or other representatives of their own choosing. Without
41 limiting the generality of the foregoing, nothing contained in this
42 article shall be construed to limit in any way the right of employees to
43 strike.

44 b. The provisions of this article are not designed and shall not be
45 construed to limit in any way any rights of longshoremen, hiring agents,
46 pier superintendents, or port watchmen or their employers to bargain
47 collectively and agree upon any method for the selection of those
48 employees by way of seniority, experience, regular gangs, or otherwise;
49 provided, that those employees shall be licensed or registered hereunder
50 and longshoremen and port watchmen shall be hired only through the
51 employment information centers established by section two hundred thir-
52 ty-four-n of this article and that all other provisions of this article
53 be observed.

54 § 234-v. Leave, transfer and retirement. a. Any officer or employee in
55 the state, county, or municipal civil service in either state who shall
56 transfer to service with the division may be given one or more leaves of

1 absence without pay and may, before the expiration of the leave or
2 leaves of absence, and without further examination or qualification,
3 return to the person's former position or be certified by the appropri-
4 ate civil service agency for retransfer to a comparable position in the
5 state, county, or municipal civil service if a comparable position is
6 then available.

7 b. The division may, by agreement with any federal agency from which
8 any officer or employee may transfer to service with the division to
9 undertake any of the duties or responsibilities established pursuant to
10 this article make similar provision for the retransfer of the officer or
11 employee to that federal agency.

12 c. Notwithstanding the provisions of any other law, rule, or regu-
13 lation, any officer or employee in the state, county, or municipal
14 service in either state who shall transfer to service with the division
15 and who is a member of any existing state, county, or municipal pension
16 or retirement system in New York or New Jersey, shall continue to have
17 all rights, privileges, obligations, and status with respect to that
18 fund, system, or systems as if the person had continued in state, coun-
19 ty, or municipal office or employment, but during the period of service
20 as a member, officer, or employee of the division, all contributions to
21 any pension or retirement fund or system to be paid by the employer on
22 account of the member, officer, or employee, shall be paid by the comp-
23 troller. The division may, by agreement with the appropriate federal
24 agency, make similar provisions relating to continuance of retirement
25 system membership for any federal officer or employee so transferred.

26 § 234-w. Budget. a. The division shall annually adopt a budget of its
27 expenses for each year for the purposes of its duties and responsibil-
28 ities under this article. Each budget shall be submitted to the governor
29 and the budget shall be adjusted accordingly.

30 b. After taking into account funds as may be available to the division
31 from reserves, federal grants or otherwise, the balance of the divi-
32 sion's budgeted expenses for the performance of its functions and duties
33 under this article shall be assessed upon employers of persons regis-
34 tered or licensed pursuant to this article. Each employer shall pay to
35 the comptroller, for placement within the general fund, an assessment
36 computed upon the gross payroll payments made by that employer to long-
37 shoremen, pier superintendents, hiring agents, and port watchmen for
38 work or labor performed within the port of New York district in this
39 state, at a rate, not in excess of two percent, computed by the division
40 in the following manner: the division shall annually estimate the gross
41 payroll payments to be made by employers subject to assessment and shall
42 compute a rate thereon which will yield revenues sufficient to finance
43 the division's budget for the performance of those functions and duties
44 under this article for each year. That budget may include a reasonable
45 amount for a reserve, but the amount shall not exceed ten percent of the
46 total of all other items of expenditure contained therein. The reserve
47 shall be used for the stabilization of annual assessments, the payment
48 of operating deficits, and for the repayment of advances made by the
49 state, if any.

50 c. The amount required to balance the division's budgeted expenses for
51 the performance of its functions and duties under this article in excess
52 of the estimated yield of the maximum assessment, shall be certified by
53 the division, with the approval of the governor, in proportion to the
54 gross annual wage payments made to longshoremen for work within the port
55 of New York district in this state. The legislature shall annually
56 appropriate to the division the amount so certified.

1 d. The division may provide by regulation for the collection and
2 auditing of assessments. In addition to any other sanction provided by
3 law, the division may revoke or suspend any license held by any person
4 under this article or the person's privilege of employing persons regis-
5 tered or licensed hereunder, for non-payment of any assessment when due.

6 e. The assessment hereunder shall be in lieu of any other charge for
7 the issuance of licenses to stevedores, pier superintendents, hiring
8 agents, and port watchmen or for the registration of longshoremen or use
9 of an employment information center. The division shall establish
10 reasonable procedures for the consideration of protests by affected
11 employees concerning the estimates and computation of the rate of
12 assessment.

13 § 234-x. Disbursement of budget. a. (1) Every person subject to the
14 payment of any assessment under the provisions of section two hundred
15 thirty-four-w of this article shall file on or before the fifteenth day
16 of the first month of each calendar quarter-year a separate return,
17 together with the payment of the assessment due, for the preceding
18 calendar quarter-year during which any payroll payments were made to
19 longshoremen, pier superintendents, hiring agents, or port watchmen for
20 work performed by those employees within the port of New York district
21 in this state. Returns covering the amount of assessment payable shall
22 be filed with the division on forms to be furnished for that purpose and
23 shall contain data, information, or matter as the division may require
24 to be included therein. The division may grant a reasonable extension of
25 time for filing returns, or for the payment of assessment, whenever good
26 cause exists. Every return shall have annexed thereto a certification to
27 the effect that the statements contained therein are true.

28 (2) Every person subject to the payment of assessment hereunder shall
29 keep an accurate record of that person's employment of longshoremen,
30 pier superintendents, hiring agents, or port watchmen, which shall show
31 the amount of compensation paid and other information as the division
32 may require. Those records shall be preserved for a period of three
33 years and be open for inspection at reasonable times. The division may
34 consent to the destruction of the records at any time after that period
35 or may require that they be kept longer, but not in excess of six years.

36 (3) (a) The division shall audit and determine the amount of assess-
37 ment due from the return filed and such other information as is avail-
38 able to it. Whenever a deficiency in payment of the assessment is deter-
39 mined, the division shall give notice of the determination to the person
40 liable therefor. The determination shall finally and conclusively fix
41 the amount due, unless the person against whom the assessment is
42 assessed shall, within thirty days after the giving of notice of the
43 determination, apply in writing to the division for a hearing, or unless
44 the division on its own motion shall reduce the assessment. After the
45 hearing, the division shall give notice of its decision to the person
46 liable therefor. A determination of the division under this section
47 shall be subject to judicial review, if application for that review is
48 made within thirty days after the giving of notice of the decision. Any
49 determination under this section shall be made within five years from
50 the time the return was filed and if no return was filed, the determi-
51 nation may be made at any time.

52 (b) Any notice authorized or required under this section may be given
53 by mailing the notice to the person for whom it is intended at the last
54 address that the person shall have given to the division, or in the last
55 return filed with the division under this section, or, if a return has
56 not been filed, then to an address as may be obtainable. The mailing of

1 the notice shall be presumptive evidence of the receipt of it by the
2 person to whom the notice is addressed. Any period of time, which is
3 determined for the giving of notice shall commence to run from the date
4 of mailing of the notice.

5 (4) Whenever any person shall fail to pay, within the time limited
6 herein, any assessment which the person is required to pay to the divi-
7 sion under the provisions of this section, the division may enforce
8 payment of the assessment by civil action for the amount of the assess-
9 ment with interest and penalties.

10 (5) The employment by a nonresident of a longshoreman, or a licensed
11 pier superintendent, hiring agent, or port watchman in this state or the
12 designation by a nonresident of a longshoreman, pier superintendent,
13 hiring agent, or port watchman to perform work in this state shall be
14 deemed equivalent to an appointment by the nonresident of the secretary
15 of state to be the nonresident's true and lawful attorney upon whom may
16 be served the process in any action or proceeding against the nonresi-
17 dent growing out of any liability for assessments, penalties, or inter-
18 est, and a consent that any process against the nonresident which is
19 served shall be of the same legal force and validity as if served
20 personally within the state and within the territorial jurisdiction of
21 the court from which the process issues. Service of process within the
22 state shall be made by either:

23 (a) personally delivering to and leaving with the secretary of state
24 duplicate copies thereof at the office of the department of state, in
25 which event the secretary of state shall forthwith send by registered
26 mail one of the copies to the person at the last address designated by
27 the person to the division for any purpose under this section or in the
28 last return filed by the person under this section with the division or
29 as shown on the records of the division, or if no return has been filed,
30 at the person's last known office address within or outside of the
31 state; or

32 (b) personally delivering to and leaving with the secretary of state a
33 copy thereof at the office of the department of state and by delivering
34 a copy thereof to the person, personally outside of the state. Proof of
35 personal service outside of the state shall be filed with the clerk of
36 the court in which the process is pending within thirty days after that
37 service and the service shall be deemed complete ten days after proof
38 thereof is filed.

39 (6) Whenever the division shall determine that any monies received as
40 assessments were paid in error, it may cause the same to be refunded,
41 provided an application therefor is filed with the division within two
42 years from the time the erroneous payment was made.

43 (7) In addition to any other powers authorized hereunder, the division
44 shall have power to make reasonable rules and regulations, pursuant to
45 the provisions of the state administrative procedure act to effectuate
46 the purposes of this section.

47 (8) Any person who shall willfully fail to pay any assessment due
48 hereunder shall be assessed interest at a rate of one percent per month
49 on the amount due and unpaid and penalties of five percent of the amount
50 due for each thirty days or part thereof that the assessment remains
51 unpaid. The division may, for good cause shown, abate all or part of
52 that penalty.

53 (9) Any person who shall willfully furnish false or fraudulent infor-
54 mation or shall willfully fail to furnish pertinent information, as
55 required, with respect to the amount of assessment due, shall be guilty
56 of a disorderly conduct offense.

1 (10) All funds of the division received as payment of any assessment
2 or penalty under this section shall be deposited with the comptroller.
3 The comptroller may require that all deposits be secured by obligations
4 of the United States or of the state of New York of a market value equal
5 at all times to the amount of the deposits, and all banks and trust
6 companies are authorized to give security for the deposits.

7 (11) The accounts, books, and records of the division related to the
8 purposes established pursuant to this article including its receipts,
9 disbursements, contracts, leases, investments, and any other matters
10 relating to its financial standing shall be examined and audited annual-
11 ly by independent auditors to be retained for such purpose by the divi-
12 sion.

13 b. The division shall reimburse the comptroller for any funds advanced
14 to the division exclusive of sums appropriated pursuant to section two
15 hundred thirty-four-w of this article.

16 § 234-y. Unlawful loading and unloading. It shall be unlawful for any
17 person to load or unload waterborne freight onto or from vehicles other
18 than railroad cars at piers or at other waterfront terminals within the
19 port of New York district, for a fee or other compensation, other than
20 the following persons and their employees:

21 a. carriers of freight by water, but only at piers at which their
22 vessels are berthed;

23 b. other carriers of freight, including but not limited to, railroads
24 and truckers, but only in connection with freight transported or to be
25 transported by those other carriers;

26 c. operators of piers or other waterfront terminals, including rail-
27 roads, truck terminal operators, warehousemen and other persons, but
28 only at piers or other waterfront terminals operated by them;

29 d. shippers or consignees of freight, but only in connection with
30 freight shipped by the shipper or consigned to the consignee; and

31 e. stevedores licensed under section two hundred thirty-four-e of this
32 article whether or not waterborne freight has been or is to be trans-
33 ported by a carrier of freight by water with which the stevedore shall
34 have a contract of the type prescribed by paragraph four of subdivision
35 c of section two hundred thirty-four-e of this article.

36 Nothing contained in this section shall be deemed to permit any load-
37 ing or unloading of any waterborne freight at any place by any person by
38 means of any independent contractor, or any other agent other than an
39 employee, unless the independent contractor is a person permitted by
40 section two hundred thirty-four-e of this article to load or unload
41 freight at a place in the person's own right.

42 § 234-z. Prohibition of certain solicitation. a. A person shall not
43 solicit, collect, or receive any dues, assessments, levies, fines, or
44 contributions, or other charges within the state of New York for or on
45 behalf of any labor organization, which represents employees registered
46 or licensed pursuant to the provisions of this article in their capaci-
47 ties as registered or licensed employees or which derives its charter
48 from a labor organization representing one hundred or more of its regis-
49 tered or licensed employees, if any officer, agent, or employee of the
50 labor organization for which dues, assessments, levies, fines, or
51 contributions, or other charges are solicited, collected, or received,
52 or of a welfare fund or trust administered partially or entirely by the
53 labor organization or by trustees or other persons designated by the
54 labor organization, has been convicted by a court of the United States,
55 or any state or territory thereof, of treason, murder, manslaughter, or
56 any felony, crime involving moral turpitude, or any crime or offense

1 enumerated in subdivision g of section two hundred thirty-four-d of this
2 article unless that person has been subsequently pardoned therefor by
3 the governor or other appropriate authority of the state in which the
4 conviction was had or has received a certificate of good conduct or
5 other relief from disabilities arising from the fact of conviction from
6 a parole board or similar authority.

7 b. Any person who shall violate this section shall be guilty of a
8 disorderly conduct violation.

9 c. Any person who shall violate, aid and abet the violation, or
10 conspire or attempt to violate this section shall be guilty of a disor-
11 derly conduct violation.

12 d. If upon application to the division by an employee who has been
13 convicted of a crime or offense specified in subdivision a of this
14 section, the authority, in its discretion, determines in an order that
15 it would not be contrary to the purposes and objectives of this article
16 for that employee to work in a particular employment for a labor organ-
17 ization, welfare fund, or trust, the provisions of subdivisions a and b
18 of this section shall not apply to the particular employment of the
19 employee with respect to that conviction or convictions as are specified
20 in the division's order. This subdivision is applicable only to those
21 employees, who for wages or salary, perform manual, mechanical, or phys-
22 ical work of a routine or clerical nature at the premises of the labor
23 organization, welfare fund, or trust by which they are employed.

24 e. A person who has been convicted of a crime or offense specified in
25 subdivision a of this section shall not directly or indirectly serve as
26 an officer, agent, or employee of a labor organization, welfare fund, or
27 trust, unless the person has been subsequently pardoned for that crime
28 or offense by the governor or other appropriate authority of the state
29 in which the conviction was had or has received a certificate of good
30 conduct or other relief from disabilities arising from the fact of
31 conviction from a parole board or similar authority or has received an
32 order of exception from the division. A person, including a labor organ-
33 ization, welfare fund, or trust, shall not knowingly permit any other
34 person to assume or hold any office, agency, or employment in violation
35 of this section.

36 f. The division may maintain a civil action against any person, labor
37 organization, welfare fund, or trust, or officers thereof to compel
38 compliance with this section, or to prevent any violations, the aiding
39 and abetting thereof, or any attempt or conspiracy to violate this
40 section, either by mandamus, injunction, or action or proceeding in lieu
41 of prerogative writ and upon a proper showing a temporary restraining
42 order or other appropriate temporary order shall be granted ex parte and
43 without bond pending final hearing and determination. Nothing in this
44 subdivision shall be construed to modify, limit, or restrict in any way
45 the provisions of subdivision a of this section.

46 § 234-aa. Obstruction of investigation and civil actions. a. Any
47 person who, having been duly sworn or affirmed as a witness in any
48 investigation, interview, hearing or other proceeding conducted by the
49 division pursuant to section two hundred thirty-four-m of this article
50 shall willfully give false testimony shall be guilty of a disorderly
51 conduct offense.

52 b. The division may maintain a civil action on behalf of the state
53 against any person who violates or attempts or conspires to violate this
54 article or who fails, omits, or neglects to obey, observe, or comply
55 with any order or direction of the division, to recover a judgment for a
56 money penalty not exceeding five hundred dollars for each and every

1 offense. Every violation of any provision of this article or any divi-
2 sion order or direction, shall be a separate and distinct offense, and,
3 in case of a continuing violation, every day's continuance shall be and
4 be deemed to be a separate and distinct offense. Any civil action may be
5 compromised or discontinued on application of the division upon the
6 terms as the court may approve and a judgment may be rendered for an
7 amount less than the amount demanded in the complaint as justice may
8 require.

9 c. The division may maintain a civil action against any person to
10 compel compliance with any of the provisions of this article or to
11 prevent violations, attempts, or conspiracies to violate any provisions
12 of this article or interference, attempts, or conspiracies to interfere
13 with or impede the enforcement of any provisions of this article or the
14 exercise or performance of any power or duty thereunder, either by
15 mandamus, injunction, or action or proceeding in lieu of prerogative
16 writ.

17 d. Any person who shall violate any of the provisions of this article
18 for which no other penalty is prescribed, shall be guilty of a disorder-
19 ly conduct offense.

20 e. Any person who shall, without a satisfactory explanation, loiter
21 upon any vessel, dock, wharf, pier, bulkhead, terminal, warehouse, or
22 other waterfront facility or within five hundred feet thereof in that
23 portion of the port of New York district in this state, shall be guilty
24 of a disorderly conduct offense.

25 f. Any person who, without justification or excuse in law, directly or
26 indirectly, intimidates or inflicts any injury, damage, harm, loss, or
27 economic reprisal upon any person licensed or registered by the divi-
28 sion, or any other person, or attempts, conspires, or threatens so to
29 do, in order to interfere with, impede, or influence the licensed or
30 registered person in the performance or discharge of the licensed or
31 registered person's duties or obligations shall be punishable as
32 provided in this section.

33 § 234-bb. Failure to give testimony, false testimony. a. The failure
34 of any witness, when duly subpoenaed to attend, give testimony, or
35 produce other evidence in connection with any matter arising under the
36 provisions of this article whether or not at a hearing, shall be punish-
37 able by a court in the same manner as that failure is punishable by the
38 court in a case therein pending.

39 b. Any person who, having been sworn or affirmed as a witness in any
40 hearing pursuant to subdivision a of this section, shall willfully give
41 false testimony or who shall willfully make or file any false or fraudu-
42 lent report or statement required by this article to be made or filed
43 under oath, shall be guilty of a disorderly conduct offense.

44 c. Any person who violates or attempts or conspires to violate any
45 other provision of this article shall be punishable as provided by
46 section two hundred thirty-four-z of this article.

47 d. Any person who interferes with or impedes the orderly registration
48 of longshoremen pursuant to this article or who conspires to or attempts
49 to interfere with or impede such registration shall be punishable as
50 provided by section two hundred thirty-four-z of this article.

51 e. Any person who, directly or indirectly, inflicts or threatens to
52 inflict any injury, damage, harm, or loss or in any other manner prac-
53 tices intimidation upon or against any person in order to induce or
54 compel such person or any other person to refrain from registering
55 pursuant to section two hundred thirty-four-f of this article shall be

1 punishable as may be provided by section two hundred thirty-four-z of
2 this article.

3 f. In any prosecution under this section, it shall be sufficient to
4 prove only a single act, or a single holding out or attempt, prohibited
5 by law, without having to prove a general course of conduct, in order to
6 prove a violation.

7 § 234-cc. Dissolution of commission. As of the transfer date, the
8 waterfront commission compact, entered into by the state of New York
9 pursuant to its agreement thereto under chapter 882 of the laws of 1953,
10 and chapter 202 of the laws of New Jersey of 1953, as amended and
11 supplemented, the airport commission compact, entered into by the state
12 of New York pursuant to its agreement thereto under chapter 951 of the
13 laws of 1970 and chapter 58 of the laws of New Jersey of 1970, and the
14 commission, are dissolved.

15 § 2. This act shall take effect upon the enactment into law by the
16 state of New Jersey of legislation having an identical effect with this
17 act, but if the state of New Jersey shall have already enacted such
18 legislation, this act shall take effect immediately; provided that the
19 governor shall notify the legislative bill drafting commission upon the
20 occurrence of the enactment of the legislation provided for in section
21 one of this act in order that the commission may maintain an accurate
22 and timely effective data base of the official text of the laws of the
23 state of New York in furtherance of effectuating the provisions of
24 section 44 of the legislative law and section 70-b of the public offi-
25 cers law.