

SENATE, No. 1053

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Establishes waterfront wage standards.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT establishing waterfront prevailing wage standards and
2 supplementing chapter 11 of Title 34 of the Revised Statutes.

3

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

6

7 1. For the purposes of this act:

8 "Applicable waterfront prevailing wage rates" means the wage
9 rates paid by virtue of collective bargaining agreements with
10 waterfront employers employing the largest numbers of
11 longshoremen, including collective bargaining agreements which
12 apply to longshoremen working in waterfront facilities throughout
13 the State, provided that if a collective bargaining agreement
14 applying to a smaller locality or waterfront facility stipulates wage
15 levels higher than the levels stipulated by collective bargaining
16 agreements with State-wide application, the higher rates shall be the
17 applicable waterfront prevailing wage rates for that locality or
18 facility. Contributions by a waterfront employer for benefits made
19 pursuant to a collective bargaining agreement shall be considered an
20 integral part of the wage paid by the waterfront employer for the
21 purpose of determining the applicable waterfront prevailing wage
22 rates for purpose of this act.

23 "Carrier of freight by water" shall mean any person engaged, or
24 who may hold himself out as willing to be engaged, whether as a
25 common carrier, as a contract carrier, or otherwise, in the carriage
26 of freight by water, except for carriage of liquid cargoes in bulk in
27 tank vessels designed for use exclusively in such service, and
28 except for carriage by barge of bulk cargoes consisting of only a
29 single commodity loaded or carried without wrappers or containers
30 and delivered by the carrier without transportation mark or count.

31 "Classification" of longshoremen means categories of
32 longshoremen, including: the kind of cargo they handle, such as
33 break-bulk terminal cargo, break-bulk vessel cargo, or containers;
34 job categories, such as laborers, equipment operators, checkers,
35 crane operators, or mechanics; and duration of employment.

36 "Commissioner" means the Commissioner of Labor and
37 Workforce Development or his duly authorized representatives.

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

41 "Department" means the Department of Labor and Workforce
42 Development of the State of New Jersey.

43 "Financial assistance" means any loan, loan guarantee, grant,
44 incentive, tax exemption or other financial assistance that is
45 approved, funded, authorized, or administered by a public body, or
46 otherwise provided by the public body.

47 "Hiring agent" means an individual, who on behalf of any other
48 person selects longshoremen for employment.

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1 "Locality" means any political subdivision of the State,
2 combination of the same or parts thereof, or any geographical area
3 or areas classified, designated and fixed by the commissioner from
4 time to time, provided that in determining the "locality," the
5 commissioner shall be guided by the boundary lines of political
6 subdivisions or parts thereof, or by a consideration of the areas with
7 respect to which it has been the practice of waterfront employers of
8 classifications of longshoremen to engage in collective bargaining
9 with the representatives of those classifications of longshoremen.

10 "Longshoreman" means an individual, other than a hiring agent,
11 who is employed for work at a waterfront facility to:

12 (a) move waterborne freight on a vessel berthed at waterfront
13 facilities, or to or from a barge, lighter or railroad car for transfer to
14 or from the vessel;

15 (b) engage in direct and immediate checking of the freight or its
16 custodial accounting or in the recording or tabulation of the hours
17 worked at waterfront facilities by longshoremen;

18 (c) directly and immediately supervise longshoremen; or

19 (d) perform any other labor or services incidental to the
20 movement of waterborne freight on vessels berthed at waterfront
21 facilities, including, but not limited to, cargo repairmen, coopers,
22 general maintenance workers, mechanical and miscellaneous
23 workers, horse and cattle fitters, grain ceilers, port watchmen, and
24 marine carpenters.

25 "Marine terminal" means an area located in the State which
26 includes piers, and is used primarily for the moving, warehousing,
27 distributing or packing of waterborne freight or freight to or from
28 those piers, and which, inclusive of such piers, is under common
29 ownership or control.

30 "Person" means an individual or any partnership, joint venture,
31 association, corporation or any other legal entity other than a
32 governmental entity.

33 "Pier" includes any wharf, pier, dock or quay.

34 "Port watchman" includes any watchman, gateman, groundsman,
35 detective, guard, guardian or protector of property employed by the
36 operator of any pier or other waterfront terminal or by a carrier of
37 freight by water to perform services in such capacity on any pier or
38 other waterfront terminal.

39 "Public body" means the State of New Jersey, any of its political
40 subdivisions, and any authority, instrumentality, or agency of the
41 State of New Jersey or of any of its political subdivisions.

42 "Public waterfront facility" means a waterfront facility located in
43 the State which:

44 (a) is owned, operated or administered by a public body;

45 (b) receives financial assistance that is approved, funded,
46 authorized, or administered by a public body, or otherwise provided
47 by the public body; or

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1 (c) is owned, operated or administered by a waterfront employer
2 who receives financial assistance that is approved, funded,
3 authorized, or administered by a public body, or otherwise provided
4 by the public body.

5 "Stevedore" means an employer of longshoremen who is a
6 contractor or subcontractor, but not an employee, engaged for
7 compensation pursuant to a contract or arrangement with a carrier
8 of waterborne freight or operator of a waterfront facility, to move
9 waterborne freight carried or consigned for carriage by the carrier
10 on, onto, or from vessels of the carrier berthed at waterfront
11 facilities, including:

12 (a) a contractor engaged for compensation pursuant to a contract
13 or arrangement with a public entity, the United States, or any other
14 state or territory thereof, to move freight carried or consigned for
15 carriage between any point in a waterfront facility and a point
16 outside of the waterfront facility on vessels berthed at the
17 waterfront facility, or

18 (b) a contractor engaged for compensation pursuant to a contract
19 or arrangement with any person to perform labor or services
20 incidental to the movement of waterborne freight on, onto, or from
21 vessels berthed at waterfront facilities, including, but not limited to,
22 cargo storage, cargo repairing, coopering, general maintenance,
23 mechanical and miscellaneous work, horse and cattle fitting, grain
24 ceiling, and marine carpentry, or

25 (c) a contractor engaged for compensation pursuant to a contract
26 or arrangement with any other person to perform labor or services
27 involving, or incidental to, the movement of freight into or out of
28 containers, which have been or which will be carried by a carrier of
29 freight by water, on vessels berthed at waterfront facilities.

30 "Waterborne freight" shall mean freight carried by or consigned
31 for carriage by carriers of freight by water, including ships' stores,
32 baggage and mail carried by or consigned for carriage by carriers of
33 freight by water.

34 "Waterfront employer" means an operator of a waterfront
35 facility, stevedore, or carrier of freight by water who employs
36 longshoremen at a waterfront facility.

37 "Waterfront facility" means any marine terminal or pier, or any
38 other waterfront terminal located in the State.

39 "Waterfront terminal" includes any warehouse, depot or other
40 terminal located in the State, whether enclosed or open, any part of
41 which is used by any person to perform labor or services involving,
42 or incidental to, the movement of waterborne freight or freight.

43

44 2. Any waterfront employer who employs longshoremen at a
45 waterfront facility, including, but not limited to, a public waterfront
46 facility, shall pay each longshoreman a rate of wages not less than
47 the applicable waterfront prevailing wage rate. Every waterfront
48 employer employing longshoremen at waterfront facilities shall

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1 keep an accurate record showing the name, classification, and
2 hourly rate of wages actually paid to each longshoreman employed
3 by the employer in connection with waterfront facilities. The
4 records shall be preserved for two years from the date of payment,
5 and shall be open at all reasonable hours to the inspection of the
6 commissioner, of any public body which owns, administers or
7 provides financial assistance to the waterfront facility where the
8 longshoremen are employed, and of any labor organization
9 representing longshoremen working at that waterfront facility or
10 other waterfront facilities in the State.

11

12 3. The commissioner shall determine, establish and make
13 public the waterfront prevailing wage rates for each waterfront
14 facility and for each classification of longshoremen working at the
15 facility. The prevailing wage shall be determined and computed in
16 accordance with rules and regulations issued by the commissioner
17 as he determines necessary to carry out the provisions of this act.
18 The wage determination may be challenged within 30 days of
19 issuance but only as to the accuracy of the wage information used.
20 Such challenges shall be made by filing a written notice with the
21 commissioner specifying the inaccurate wage information. All
22 determinations of the waterfront prevailing wage rates made
23 pursuant to this section shall be announced by the commissioner,
24 prominently displayed on a webpage maintained by the department,
25 and provided by mail to any public body, any representative of
26 longshoremen, any waterfront employer, or any representative of
27 any group of waterfront employers, who makes a written request to
28 the commissioner to be provided the mailed notifications.

29

30 4. The commissioner shall have the authority to:

31 a. investigate and ascertain the wages of longshoremen
32 employed in any waterfront facility in the State;

33 b. enter and inspect the place of business or employment of any
34 waterfront employer employing longshoremen at any waterfront
35 facility in the State, for the purpose of examining and inspecting
36 any or all books, registers, payrolls, and other records of the
37 waterfront employer that in any way relate to or have a bearing
38 upon the question of wages, hours, and other conditions of
39 employment of the longshoremen; copy any of those books,
40 registers, payrolls, and other records as he or his authorized
41 representative may deem necessary or appropriate; obtain proof of,
42 and question, any longshoreman's identity to determine whether the
43 longshoreman's identity is accurately and truthfully included or
44 reported in any books, registers, payrolls, and other records of the
45 waterfront employer that in any way relate to or have a bearing
46 upon the question of wages, hours, and other conditions of
47 employment in the waterfront facility; and question the

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1 longshoremen for the purpose of ascertaining whether the
2 provisions of this act have been and are being complied with;

3 c. obtain from the waterfront employers full and correct
4 statements in writing, including sworn statements, regarding wages,
5 hours, names, addresses, and such other information pertaining to
6 the waterfront employer's longshoremen and their employment as
7 the commissioner, or his authorized representative deems necessary
8 or appropriate; and

9 d. require any waterfront employer to file, within 10 days of
10 receipt of a request, any records enumerated in subsections b. and c.
11 of this section, sworn to as to their validity and accuracy. In the
12 case of a public waterfront facility in which a public body has an
13 agreement to make payments to a waterfront employer, if the
14 waterfront employer fails to provide the requested records within 10
15 days, the commissioner may direct within 15 days the fiscal or
16 financial officer charged with the custody and disbursements of the
17 funds of the public body immediately to withhold from payment to
18 the waterfront employer up to 25 percent of the amount, not to
19 exceed \$100,000, to be paid to the waterfront employer under the
20 terms of the agreement. The amount withheld shall be immediately
21 released upon receipt by the public body of a notice from the
22 commissioner indicating that the request for records has been
23 satisfied.

24
25 5. Waterfront employers employing longshoremen at
26 waterfront facilities shall post the waterfront prevailing wage rates
27 for each classification involved as determined by the commissioner,
28 including the effective date of any changes thereof, in prominent
29 and easily accessible places at the site of the work or at such place
30 or places as are used by them to pay longshoremen their wages.

31
32 6. Any longshoreman or representative of longshoremen may
33 file with the commissioner a written complaint that the amount of
34 wages paid for work performed by the longshoreman at a waterfront
35 facility is less than the applicable waterfront prevailing wage rate
36 for that work, or a written complaint the longshoreman has suffered
37 a discharge or other discrimination in violation of section 11 of this
38 act, but the complaint may not be filed later than two years after the
39 alleged underpayment or discrimination occurs.

40
41 7. a. Any waterfront employer who willfully hinders or delays
42 the commissioner in the performance of his duties in the
43 enforcement of this act, or who fails to make, keep, and preserve
44 any records as required under the provisions of this act, or falsifies
45 any such record, or refuses to make any such record accessible to
46 the commissioner upon demand, or refuses to furnish a sworn
47 statement of such record or any other information required for the
48 proper enforcement of this act to the commissioner upon demand,

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1 or pays or agrees to pay wages at a rate less than the rate applicable
2 under this act, or, during the time that the waterfront employer is
3 included on the debarment list established by the commissioner
4 pursuant to section 9 of this act, employs longshoremen at a
5 waterfront facility, or who discriminates against a longshoreman in
6 violation of section 11 of this act, or otherwise violates any
7 provision of this act or of any regulation or order issued under this
8 act, shall have violated the provisions of this act and be guilty of a
9 disorderly persons offense and shall, upon conviction therefor, be
10 fined not less than \$1,000 nor more than \$2,500 or be imprisoned
11 for not less than 10 nor more than 90 days, or by both such fine and
12 imprisonment. Each week, in which there is a day in which the
13 waterfront employer employs longshoremen while on the debarment
14 list or in which a longshoreman is paid less than the rate applicable
15 under this act and each longshoreman so paid, shall constitute a
16 separate offense. Such fines shall be in addition to the payment of
17 any wage deficiencies.

18 b. As an alternative to, or in addition to, any other sanctions
19 provided by law for violations of any provision of this act, when the
20 commissioner finds that an waterfront employer has violated that
21 act, the commissioner is authorized to assess and collect
22 administrative penalties, up to a maximum of \$2,500 for a first
23 violation and up to a maximum of \$5,000 for each subsequent
24 violation, specified in a schedule of penalties to be promulgated as a
25 rule or regulation by the commissioner in accordance with the
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.). When determining the amount of the penalty imposed
28 because of a violation, the commissioner shall consider factors
29 which include the history of previous violations by the waterfront
30 employer, the seriousness of the violation, the good faith of the
31 waterfront employer and the size of the waterfront employer's
32 business. No administrative penalty shall be levied pursuant to this
33 section unless the commissioner provides the alleged violator with
34 notification of the violation and of the amount of the penalty by
35 certified mail and an opportunity to request a hearing before the
36 commissioner or his designee within 15 days following the receipt
37 of the notice. If a hearing is requested, the commissioner shall
38 issue a final order upon such hearing and a finding that a violation
39 has occurred. If no hearing is requested, the notice shall become a
40 final order upon expiration of the 15-day period. Payment of the
41 penalty is due when a final order is issued or when the notice
42 becomes a final order. Any penalty imposed pursuant to this section
43 may be recovered with costs in a summary proceeding commenced
44 by the commissioner pursuant to the "Penalty Enforcement Law of
45 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Any sum collected as
46 a fine or penalty pursuant to this section shall be applied toward
47 enforcement and administration costs of the Division of Workplace
48 Standards in the Department of Labor.

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1 c. When the commissioner finds that the waterfront employer
2 has violated provisions of this act, the commissioner may refer the
3 matter to the Attorney General or his designee for investigation and
4 prosecution. Nothing in this subsection shall be deemed to limit the
5 authority of the Attorney General to investigate and prosecute
6 violations of the New Jersey Code of Criminal Justice, nor to limit
7 the commissioner's ability to refer any matter for criminal
8 investigation or prosecution.

9
10 8. As an alternative to, or in addition to, any other sanctions
11 provided by law for violation of this act, the commissioner is
12 authorized to supervise the payment of amounts due to
13 longshoremen under this act, and the waterfront employer may be
14 required to make these payments to the commissioner to be held in
15 a special account in trust for the longshoremen, and paid on order of
16 the commissioner directly to the longshoreman or longshoremen
17 affected. The waterfront employer shall also pay the commissioner
18 an administrative fee equal to not less than 10 percent or more than
19 25 percent of any payment made to the commissioner pursuant to
20 this section. The amount of the administrative fee shall be specified
21 in a schedule of fees to be promulgated by rule or regulation of the
22 commissioner in accordance with the "Administrative Procedure
23 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The fee shall be
24 applied toward enforcement and administration costs of the
25 Division of Workplace Standards in the Department of Labor.

26
27 9. If the commissioner determines that a waterfront employer
28 has repeatedly failed to pay the waterfront prevailing wage, the
29 commissioner shall add the name of the waterfront employer to a
30 debarment list established and maintained by the commissioner of
31 waterfront employers determined to have failed to pay the
32 waterfront prevailing wage. The debarment list and each updating
33 of the list shall be prominently displayed on a website maintained
34 by the department and provided to any public body, any
35 representative of longshoremen, any waterfront employer, or any
36 representative of any group of waterfront employers who makes a
37 written request to the commissioner to be notified of the debarment
38 list and any updating of the list. Any waterfront employer placed
39 on the debarment list pursuant to this section shall remain on the list
40 until three years have elapsed from the date of listing. If the
41 waterfront employer denies that a failure to pay the waterfront
42 prevailing wage has occurred, the employer shall have the right to
43 apply to the commissioner for a hearing which must be afforded and
44 a decision rendered within 48 hours of the request for a hearing. If
45 the commissioner rules against the waterfront employer, the
46 waterfront employer shall have the right to apply for injunctive
47 relief in the Superior Court against the listing by the commissioner.

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1 It shall be a violation of this act for any waterfront employer to
2 employ longshoremen at a waterfront facility, whether or not the
3 facility is a public waterfront facility, during the time that the
4 waterfront employer is included on the debarment list established
5 by the commissioner pursuant to this section.

6
7 10. No public body shall approve, fund, authorize, or administer,
8 or otherwise provide financial assistance to a waterfront facility, by
9 means of any new or renewed agreement to do so, without first
10 ascertaining that no waterfront employer employing longshoreman
11 at the facility is on the current debarment list of names of
12 waterfront employers who have failed to pay waterfront prevailing
13 wages required by this act. No contract shall be awarded by a
14 public body to any listed waterfront employer or to any other
15 waterfront employer in which the listed waterfront employer has an
16 interest.

17 For purposes of this section, "interest" means an interest,
18 affiliation, relationship or connection of a waterfront employer
19 listed pursuant to section 9 of this act in or with another waterfront
20 employer employing, or seeking to employ, longshoremen at a
21 waterfront facility, whether having the interest is as an owner,
22 partner, officer, manager, employee, agent, consultant or
23 representative. The listed waterfront employer shall be regarded as
24 having an interest in another waterfront employer if the listed
25 waterfront employer enters into a contract or agreement with the
26 other waterfront employer for services performed or to be
27 performed, for services that have been or will be assigned or
28 subletted, or for the sale, rental or lease of vehicles, tools,
29 equipment or supplies during the period from the initiation of the
30 proceedings under section 9 of this act against the waterfront
31 employer until three years have elapsed from the date that the
32 waterfront employer was listed by the commissioner under section 9
33 of this act. The term "interest" shall not include shares held in a
34 publicly traded corporation if the shares were not received as
35 compensation after the initiation of proceedings under section 9 of
36 this act.

37 A rebuttable presumption that a waterfront employer listed by
38 the commissioner under section 9 of this act has an interest in
39 another waterfront employer may arise if the two share any of the
40 following capacities or characteristics: occupy the same premises,
41 have the same telephone number or fax number, have the same
42 email address or internet website, employ substantially the same
43 administrative employees, utilize the same tools and equipment, or
44 employ or engage the services of any listed person or persons
45 involved in the direction or control of the other.

46 If the rebuttable presumption that a listed waterfront employer
47 has an interest in another waterfront employer results in a
48 determination to include of the other waterfront employer in the

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1 debarment list, the other waterfront employer may request a hearing
2 to challenge the determination, to be conducted in accordance with
3 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
4 seq.).

5
6 11. Any waterfront employer who discharges or in any other
7 manner discriminates against any longshoreman because the
8 longshoreman has made any complaint to his waterfront employer,
9 to a representative of the longshoreman, a public body, or the
10 commissioner that he has not been paid wages in accordance with
11 the provisions of this act, or because the longshoreman has caused
12 to be instituted or is about to cause to be instituted any proceeding
13 under or related to this act, or because the longshoreman has
14 testified or is about to testify in any such proceeding, or because the
15 longshoreman has requested information from the waterfront
16 employer relevant to such a proceeding, shall be in violation of this
17 act, shall be guilty of a disorderly persons offense, and shall, upon
18 conviction therefor, be fined not less than \$1,000 nor more than
19 \$2,500. Such fines shall be in addition to the payment of any wage
20 deficiencies.

21
22 12. If any longshoreman is paid by an waterfront employer less
23 than the waterfront prevailing wage to which the longshoreman is
24 entitled under the provisions of this act, or suffers discharge or
25 other discrimination in violation of section 11 of this act, that
26 longshoreman may recover in a civil action the full amount of such
27 waterfront prevailing wage less any amount actually paid to the
28 longshoremen by the waterfront employer together with costs and
29 reasonable attorney's fees as allowed by the court, and in the case of
30 discharge or other discrimination, reinstatement to employment
31 with payment of any wages lost because of the discharge or
32 discrimination. An agreement between longshoremen and a
33 waterfront employer to pay less than the prevailing wage shall not
34 be a defense to the action. Any longshoreman shall be entitled to
35 maintain such action for and on behalf of himself or other
36 longshoremen similarly situated, and the longshoreman or
37 longshoremen may designate an agent or representative to maintain
38 such action for and on behalf of all longshoremen similarly situated.
39 At the request of any longshoreman paid less than the waterfront
40 prevailing wage to which such longshoreman was entitled under the
41 provisions of this act, the commissioner may take an assignment of
42 the wage claim in trust for the assigning longshoreman and may
43 bring any legal action necessary to collect the claim, and the
44 waterfront employer shall be required to pay the costs and such
45 reasonable attorney's fees as may be allowed by the court.

46
47 13. Nothing in this act shall be deemed to interfere with,
48 impede, or in any way diminish the right of longshoremen to

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1 bargain collectively through representatives of their own choosing
2 in order to establish wages in excess of any applicable minimum
3 under this act.

4

5 14. The commissioner is authorized and empowered to
6 prescribe, adopt, promulgate, rescind and enforce rules and
7 regulations as may be required for the administration and
8 enforcement of the provisions of this act.

9

10 15. The provisions of this act shall be deemed to be severable
11 and if any section, subsection, paragraph, sentence or other part of
12 this act is declared to be unconstitutional or preempted by federal
13 law, or the applicability thereof to any person or facility is held
14 invalid, the remainder of this act shall not thereby be deemed to be
15 unconstitutional, preempted or invalid.

16

17 16. This act shall take effect on the 180th day following
18 enactment, but the commissioner shall take any anticipatory action
19 in advance as shall be necessary for the implementation of this act.

20

21

22

STATEMENT

23

24 This bill establishes waterfront prevailing wage rates for
25 longshoremen employed at waterfront facilities located in the State.

26 The bill directs the Commissioner of Labor and Workforce
27 Development to determine, establish and make public the
28 waterfront prevailing wage rates for each waterfront facility and for
29 each classification of longshoremen working at the facility.

30 The bill defines the “applicable waterfront prevailing wage
31 rates” as the wage rates paid by virtue of collective bargaining
32 agreements with employers employing the largest numbers of
33 longshoremen, including agreements which apply to longshoremen
34 working in waterfront facilities throughout the State, provided that
35 if an agreement applying to a smaller locality or waterfront facility
36 stipulates wage levels higher than the levels stipulated by
37 agreements with State-wide application, the higher rates shall be the
38 applicable waterfront prevailing wage rates for that locality or
39 facility. Contributions by a waterfront employer for benefits made
40 pursuant to a collective bargaining agreement are defined by the bill
41 to be an integral part of the wage rate for the purpose of
42 determining applicable waterfront prevailing wage rates.

43 The bill sets requirements for waterfront employers of
44 longshoremen to keep wage records and make them available to the
45 commissioner and other specified parties, and to notify the
46 longshoremen they employ of their rights under the bill.

47 The bill authorizes the commissioner to inspect records and
48 worksites, accept complaints and use various measures to penalize

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1 waterfront employers for violations of the bill's requirements,
2 including criminal and administrative penalties, administering the
3 collection of unpaid wages, and placing a waterfront employer for
4 three years on a list of waterfront employers barred for employing
5 longshoremen in any waterfront facility.

6 The bill prohibits a waterfront employer from employing
7 longshoremen at any waterfront facility during the time that the
8 waterfront employer is included on the debarment list, and prohibits
9 any governmental entity from entering into a contract with a
10 debarred waterfront employer, or providing financial assistance to a
11 public waterfront facility, without first ascertaining that no debarred
12 waterfront employer is employing longshoreman at the facility.

13 The bill also provides penalties against waterfront employers for
14 discharge or other discrimination against employees for exercising
15 their rights under the bill.

16 Finally, the bills permits a longshoreman paid less than the
17 waterfront prevailing wage rate, or suffering retaliatory discharge or
18 discrimination, to obtain in a civil action any wages due together
19 with costs and attorney's fees, and, in a case of retaliation,
20 reinstatement and payment of lost wages.