

2. he is employed by a carrier of freight by water or a stevedore, either directly or indirectly through a subsidiary or parent corporation of, or a contractor with, either of them.

(b) A person will be considered a "hiring agent" whenever he, on behalf of a carrier or freight by water or a stevedore or on behalf of any other person, shall select any registrant for employment. The term "select any registrant for employ-

ment" shall include selection of a person for the commencement or continuation of employment as a registrant, or the denial or termination of employment as a registrant.

2.3 Prospective employer to submit application.

A license to act as a pier superintendent or hiring agent will be issued only upon a verified application submitted by the prospective employer.

2.4 Application to be accompanied by photograph and fingerprints.

For the purpose of assisting the commission to ascertain the character, integrity and identity of the prospective pier superintendent or hiring agent, each application shall be accompanied by a photograph and the authenticated fingerprints of the prospective licensee on an identification record form furnished by the commission.

2.5 Additional information to be furnished when required.

In addition to the information required by the application form, the commission may require the applicant or the prospective licensee or both to produce such further facts and evidence as may be necessary to determine whether or not the prospective licensee possesses the qualifications and meets the requirements necessary to obtain a license.

2.6 Licensing for more than one employer at single pier; employment by one employer at several piers.

No person will be licensed as a pier superintendent or hiring agent for more than one employer, except (a) at a single pier or waterfront terminal or (b) where the employers are licensed as stevedores pursuant to section 3.2(a)(2) of Part 3 hereof and are affiliated corporations with common officers and a common board of directors. A licensed pier superintendent or hiring agent may act for one employer at more than one pier or waterfront terminal, and a single application will be sufficient for this purpose.

Historical Note

Sec. amd. filed June 29, 1966. New sec. substituted.

2.7 Issuance and delivery of license.

Upon the approval of an application, the commission will issue and deliver a license to the pier superintendent or hiring agent by transmitting the license to the applicant (employer) who shall be authorized to deliver it to the licensee upon the commencement of his employment.

2.8 Identification to be carried by licensee; identification to be returned to commission when required.

Any card, badge or other means of official identification issued by the commission to any licensed pier superintendent or hiring agent shall be carried by the licensee on his person at all times when he is at work or at any pier or other waterfront terminal. Any such card, badge or other means of official identification shall be returned to the commission promptly upon request and when otherwise required by these regulations.

2.9 Participation by any person other than employer in identification or selection of pier superintendent, hiring agent or other person authorized to participate in hiring prohibited; employer prohibited from solicitation.

(a) No person except the employer shall participate in any way, directly, or indirectly, in the identification, selec-

tion or designation of a person for employment as a pier superintendent, hiring agent or other person designated pursuant to section 7.44, infra. No person shall use, or attempt or threaten to use, any force, violence or restraint; or inflict or attempt or threaten to inflict any injury, damage, harm or loss; or coerce, or attempt to coerce, by threat or discrimination, violence or economic reprisal; or in any other way practice intimidation upon or against any employer in order to induce or compel said employer to select for or retain in employment any person as a pier superintendent, hiring agent or other person designated pursuant to section 7.44, infra. No person shall prevent, attempt to prevent, or otherwise interfere with the free exercise of discretion by any employer in selecting for or retaining in employment any person as a pier superintendent, hiring agent or other person designated pursuant to section 7.44, infra. No person shall pay or give, or offer or agree to pay or give any valuable consideration to any person for the purpose of directly or indirectly influencing the discretion of any employer in selecting for or retaining in employment any person as a pier superintendent, hiring agent or other person designated pursuant to section 7.44, infra.

(b) No employer shall receive any benefit from any person for the purpose of directly or indirectly influencing the discretion of the employer in selecting for or retaining in employment any person as a pier superintendent, hiring agent or other person designated pursuant to section 7.44, infra.

2.10 Notification by employer of termination of licensee's employment and return of evidence of license.

Upon the termination of the employment of a licensee, without any understanding or arrangement for reemployment, or in the event of the failure of the applicant (employer) to employ the licensee within 30 days after issuance of the license, the applicant (employer) shall forthwith notify the commission of such termination of employment or failure to employ and return to the commission any license, badge or other evidence of issuance of a license in its possession.

2.11 Reports to be furnished by pier superintendents.

(a) Every pier superintendent shall immediately report to the commission any theft or attempted theft.

(b) At piers and other waterfront terminals where the carrier of freight by water performs any stevedore services on its own account, the pier superintendent having the overall supervision of such pier or terminal shall, within 10 days after the end of each calendar quarter-year, on forms furnished by the commission, file a report of all thefts and losses of waterborne freight occurring under suspicious circumstances and such other information as the commission may require.

(c) Every pier superintendent referred to in subdivision (b) of this section shall immediately supply the commission with a copy of the first report of accident concerning any longshoreman or checker who claims to have been injured (1) where the pier superintendent has reason to believe that the longshoreman or checker has made or may be making a false claim for compensation benefits or (2) where the longshoreman or checker does not work because of his claimed injuries for 14 days or more.

Historical Note

Sec. amd. filed Jan. 3, 1977 eff. Jan. 3, 1977.

Added (c).

2.12 Protection of cargo.

Every pier superintendent having over-all charge or supervision of the operations of the pier or other waterfront terminal who is employed by a carrier of freight by water having the responsibility of safeguarding waterborne freight shall cause all cargo on the pier or terminal to be so protected from theft or pilferage as may be reasonably necessary and appropriate for the particular cargo.

2.13 Authorization to make a criminal complaint.

Every pier superintendent having over-all charge or supervision of the operations of the pier or other waterfront terminal who is employed by a carrier of freight by water having the responsibility of safeguarding waterborne freight shall furnish the commission with the name of the person or persons in the employ of the carrier of freight by water authorized by the carrier to make a criminal complaint in connection with cargo stolen from the custody of the said carrier.

2.14 Record of checkers assigned to motor vehicles.

Every pier superintendent having over-all charge or supervision of the operation of the pier or other waterfront terminal who is employed by a carrier of freight by water having the responsibility of safeguarding waterborne freight shall cause to be recorded on the appropriate documents reflecting delivery or removal of cargo to or from the pier or terminal by motor vehicle, the full names of all checkers assigned to such vehicle.

PART 3

STEVEDORES

(Statutory authority: New York L.1953, ch.882, art. IV, § 7; New Jersey L.1953, ch.202)

Section

- 3.1 Stevedores required to be licensed
- 3.2 Persons required to be licensed as stevedores
- 3.3 Freight excluded from definition of waterborne freight
- 3.4 Application for stevedore license
- 3.5 Application—photograph, fingerprints
- 3.6 Additional information to be furnished when required
- 3.7 Issuance and display of license
- 3.8 Notification—contracts, changes in corporate structure

Section

- 3.9 Licensee to maintain books and records
- 3.10 Records of disbursements
- 3.11 Cargo theft and loss report; report of compensation claims
- 3.12 Protection of cargo
- 3.13 Authorization to make criminal complaint
- 3.14 Record of checkers assigned to motor vehicles

Section 3.1 Stevedores required to be licensed; employment of unlicensed stevedores prohibited.

No person shall act as a stevedore within the Port of New York District without having first obtained a license from the commission, and no person shall employ a stevedore to perform services as such within the Port of New York District unless the stevedore is so licensed.

3.2 Persons required to be licensed as stevedores; persons not required to be licensed as stevedores.

(a) A stevedore license is required by any person (other than an employee) who is engaged under a contract or other arrangement with a carrier of freight by water or a licensed stevedore or, with respect to subdivision (a)(2) and (a)(3) below only, any person within the meaning of that term contained in Part II, § 5-a (6)(c) of the Act (1969 amendments) (including a parent corporation or a subsidiary corporation of such carrier or licensed stevedore or "any person"):

1. in the movement of waterborne freight carried or consigned for carriage by such carrier on vessels of such carrier berthed at piers, on piers at which such vessels are berthed or at other waterfront terminals, or to provide clerking and checking services in connection therewith; or

2. to perform all or any part of labor or services incidental to the movement of waterborne freight on vessels berthed at piers, on piers or at other waterfront terminals (including marine terminals), including, but not limited to, cargo storage or warehousing, cargo repairing, marine carpentry, strapping, lashing, chocking, coopering, weighing, scaling, cargo inspection and sampling, maintenance, mechanical, container or equipment repair, crane maintenance and repair, tire repair, vehicle preparation, export packing, labeling, cleaning and maintenance services, horse and cattle fitting and grain ceiling; or

3. to perform labor or services involving, or incidental to, the movement of freight into or out of containers (which have been or which will be carried by a carrier of freight by water) on vessels berthed at piers, on piers or at other waterfront terminals.

4. a license issued under paragraph (2) or (3) of this section shall be restricted to the performance of the services contemplated by said paragraph.

(b) A stevedore license shall not be required:

1. by any person engaged exclusively in moving by means of floating mechanical equipment bulk cargo consisting of a single commodity loaded or carried without wrappers or containers and delivered by the carrier without transportation mark or count; or

2. by any person who is not principally engaged in the movement of waterborne freight and who on occasion moves waterborne freight for or on behalf of a carrier of freight by water or a stevedore, exclusively by means of mobile land-based cranes not affixed to a pier or terminal with capacity of at least 20 tons, or exclusively by means of floating mechanical equipment; or

3. by any person who furnishes such equipment as set forth in paragraph (2) above to move waterborne freight to a carrier of freight by water or stevedore by lease, rental or otherwise.

(c) A carrier of freight by water shall not require a stevedore license even though it may perform all or part of the services for which a stevedore license would be required when performed by any other person, provided that such services are performed on its own account, or on account of a parent corporation or a subsidiary corporation of such carrier, or as accommodation, not in the regular course of its business, at its own pier for another carrier of freight by water, or as part of its services for another carrier of freight by water for which it is a general agent.

3.3 Freight excluded from definition of waterborne freight.

For the purposes of article VI of the Act and Part 3 of these Regulations, waterborne freight shall not include freight loaded within the Port of New York District upon motor vessels not in excess of 115 foot length.

3.4 Application for stevedore license.

A license to act as a stevedore will be issued only upon a verified application submitted on a form furnished by the commission. Each application for a stevedore license shall be accompanied by a personal character information form furnished by the commission, completed and verified by the applicant, by each member of a partnership, and, if the applicant is a corporation, by each officer, each director and each natural person holding, directly or indirectly, five per cent or more of any class of capital stock. The commission may, upon examination, require such additional evidence and information as may be required to establish the character of the real parties in interest.

3.5 Application to be accompanied by photograph and fingerprints.

For the purpose of assisting the commission to ascertain the character, integrity and identity of an applicant for a stevedore license, each application shall be accompanied by a photograph and the authenticated fingerprints on a record identification form to be furnished by the commission, of an individual applicant, each member of a partnership, each officer and each director and each natural person holding, directly or indirectly, five per cent or more of any class of capital stock of a corporate applicant.

3.6 Additional information to be furnished when required.

In addition to the information required by the application form, the commission may require the applicant to produce such further facts and evidence as may be necessary to determine whether or not the applicant possesses the qualifications and meets the requirements necessary to obtain a license.

3.7 Issuance and display of license.

Upon the approval of an application, the commission will issue and deliver a stevedore license which shall indicate thereon the type of stevedoring service authorized to be performed and which shall be prominently displayed at the licensee's principal place of business within the Port of New York District. The commission will issue the following types of stevedore license:

(a) a license for the performance of general stevedoring service, including clerking and checking services;

(b) a license restricted to the performance of all or any part of cooperage, carpentry, maintenance or other related services incidental to the movement of waterborne freight including those enumerated in sections 3.2(a)(2) or (3).

3.8 Notification of stevedore contracts and changes in corporate management, ownership and capitalization.

Every licensed stevedore shall notify the commission forthwith, and in detail, of any of the following events:

(a) the making or execution of any term contract or arrangement for stevedoring services with a carrier of freight by water and of the termination or cancellation of such contract, but such notification shall not be required with respect to oral or written "spot" contracts or arrangements entered into with a carrier of freight by water or its agent for a single vessel operation; and

(b) any change in the officers, directors, and/or stockholders owning five per cent or more of the capital stock of any class or any change in the capitalization of the corporation.

3.9 Licensee to maintain books and records.

(a) Every licensed stevedore shall maintain a complete set of books and records containing: (1) a true and accurate account of the licensee's receipts and disbursements arising out of its activities within the Port of New York District and (2) records reflecting the names, waterfront numbers and the places of employment of employees, including but not limited to, pier location, vessel name, warehouse, shed or other location, and dates and times of employment.

(b) All books and records enumerated in (a) above shall be available during business hours for inspection by the commission and its duly designated representatives until the expiration of the fifth calendar year following the calendar year during which occurred the transaction or labor performed recorded therein.

3.10 Records of disbursements.

Every licensed stevedore shall comply with the following:

(a) Every disbursement for goods or services in the amount of \$100 or more shall show the account to be charged and shall be supported by a voucher or other paid receipt giving a description of the goods or services, the name of the payee, the amount and the date.

(b) Every disbursement for goods or services in an amount less than \$100 shall be supported by at least a signed petty cash slip or other written record describing the disbursement.

(c) Every disbursement in the amount of \$100 or more for travel shall be supported by a voucher or other paid receipt which shall state who did the travelling, the place travelled to, the date, and the amount disbursed.

(d) Every disbursement in the amount of \$100 or more for entertainment shall be supported by a voucher or other paid receipt which shall state who did the entertaining, the place and date of the entertainment, the names of the persons entertained and the amount disbursed.

(e) Every disbursement for travel or entertainment in an amount less than \$100 shall be supported at least by a signed petty cash slip or other written record describing the disbursement.

(f) Every disbursement in the amount of \$25 or more for a gift or gratuity shall be supported by a voucher or other written record which shall show the name of the person in authority who made or authorized the disbursement, the name of the person who received it, the amount, date, and the business or other purpose for the gift or gratuity.

3.11 Cargo theft and loss report; report of compensation claims.

(a) Every licensed stevedore shall, within 10 days after the end of each calendar quarter-year, on forms furnished by the commission, file a report for each pier or waterfront terminal at which it performs any stevedore services of all thefts and losses of waterborne freight occurring under suspicious circumstances and such other information as the commission may require.

(b) Every licensed stevedore shall immediately supply the commission with a copy of the first report of accident concerning any longshoreman or checker who claims to have been injured (1) where the stevedore has reason to believe that the longshoreman or checker has made or may be making a false claim for compensation benefits or (2) where the longshoreman or checker does not work because of his claimed injuries for 14 days or more.

Historical Note

Sec. amd. filed Jan. 3, 1977 eff. Jan. 3, 1977

Amended title and added (b).

3.12 Protection of cargo.

In the interest of the public safety, welfare, prosperity, health and peace, every licensed stevedore having the responsibility of safeguarding waterborne freight, shall cause all cargo on the pier or other waterfront terminal to be so protected from theft or pilferage as may be reasonably necessary and appropriate for the particular cargo.

3.13 Authorization to make criminal complaint.

Every licensed stevedore shall furnish the commission with the name of the person or persons in its employ authorized by it to make a criminal complaint in connection with cargo stolen from its custody.

3.14 Record of checkers assigned to motor vehicles.

Every licensed stevedore shall cause to be recorded on the appropriate documents reflecting delivery or removal of cargo to or from the pier or other waterfront terminal by motor vehicle, the full names of all checkers assigned to such vehicle.

PART 4

LONGSHOREMEN, CHECKERS AND TELECOMMUNICATIONS SYSTEM CONTROLLERS

(Statutory authority: New York L.1953, ch.882, art. IV, § 7; New Jersey L.1953, ch.202)

Section

- 4.1 Longshoremen, checkers, and telecommunications system controllers
- 4.2 Persons required to be registered as longshoremen
- 4.3 Checkers required to be registered
- 4.4 Longshoremen's Register; division into sections; designation
- 4.5 Telecommunications system controllers (TSC) required to be registered
- 4.6 Application for emergency use of persons not registered
- 4.7 Application for registration
- 4.8 Application to be accompanied by photograph and fingerprints
- 4.9 Additional information to be furnished when required
- 4.10 Identification to be carried by registrant; identification to be returned to commission when required
- 4.11 Baggage porter identification
- 4.12 Solicitation of tips prohibited
- 4.13 False compensation claims prohibited

Section 4.1 Longshoremen, checkers, and telecommunications system controllers required to be registered; employment of longshoremen, checkers, and telecommunications system controllers not registered prohibited.

No person shall act as a longshoreman or as a checker within the Port of New York District unless at the time he is included in the longshoremen's register as a longshoreman or checker, respectively, and no person shall employ another to work as a longshoreman or checker within the Port of New York District who is not so included in the longshoremen's register. No person shall act as a telecommunications system controller within the Port of New York District unless at the time he is registered by the commission as such, and no person shall employ another to work as a telecommunications system controller within the Port of New York District who is not so registered by the commission.