

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 employment" 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, selection 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) 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).

Sec. amd. filed March 13, 2013 eff. March 13, 2013.

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
- 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 24 hours of discovery, in a manner set forth and/or on forms furnished by the commission, file a report for each pier or other waterfront terminal at which it performs any stevedore services of all

thefts and losses of waterborne freight and company owned, or leased, equipment or supplies 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).

Sec. amd. filed March 13, 2013 eff. March 13, 2013.

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.

4.2 Persons required to be registered as longshoremen; persons not required to be registered as longshoremen.

(a) Inclusion in the longshoremen's register as a longshoreman is required for any person:

1. who is employed to handle waterborne freight by a carrier of freight by water or by a stevedore at a pier or other waterfront terminal, including, without being limited to, gang foremen, dock gang foremen, headers, gangwaymen, winchmen, dockmen, holdmen, terminal labor operators of mechanical equipment, sorters and baggage porters, or

2. who is employed by a carrier of freight by water or by a stevedore, physically to perform 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 within the meaning of the Act), including, without being limited to, cargo storagemen and warehousemen, cargo repairmen, marine carpenters, container loaders and strippers, lashers, chockers, coopers, weighers, sealers, cargo inspectors and samplers, trailer interchange inspectors, maintenance, mechanical, container or equipment repairmen, crane maintenance men and repairmen, tire repairmen, vehicle preparers, export packers, labelers, cleaning and maintenance personnel, horse and cattle fitters and grain ceilers, or

3. who is indirectly employed by a carrier of freight by water or by a stevedore, through a subsidiary or parent corporation of, or a contractor with, either of them, physically to perform the labor or services described in paragraph (2) above, or

4. who is employed by any person for work at a pier or other waterfront terminal physically to move waterborne freight to or from a barge, lighter or railroad car for transfer to or from a vessel of a carrier of freight by water which is, shall be, or shall have been berthed at the same pier or other waterfront terminal, or

5. who is employed by any person, other than by a carrier of freight by water or by a stevedore, to perform labor or services involving or incidental to the movement of freight at a location in a marine terminal within the meaning of the Act.

(b) inclusion in the longshoremen's register as a longshoreman is not required for:

1. jobs limited to the handling of liquid cargoes in bulk in tanks (such as, but not limited to, fuel oils, petroleum or orange juice), or carriage by barge of bulk cargoes consisting of a single commodity (such as, but not limited to, cement, gravel, coal, grain or ore) loaded or carried without wrappers or containers or limited to the handling of cargoes transported from one point to another point within the Port of New York District, or

2. any person who is regularly engaged in the performance of labor or services not covered by subdivision (a) of

this section and who is only incidentally engaged in the performance of labor or services covered by said subdivision (a) where permission therefor has been previously obtained from the commission, or

3. persons who are regularly employed to perform labor or services not covered by subdivision (a) of this section and who are assigned by such employer to the performance of labor or services covered by said subdivision (a) only to meet special or emergency needs for the protection of the public health or safety where approval therefore has been previously obtained from the commission.

Decisions

1. Validity

Waterfront Commission regulation 4.1, subd. (b), par. (3) (cf. 21 NYCRR 4.2[b][3]), authorizing use of nonregistered personnel to move waterborne freight where a special or emergency need to protect public health or safety exists, is a reasonable and valid exercise of discretionary rule making power granted by the Waterfront Commission Act and is not inconsistent with either the intent or provisions thereof. *Connolly v. O'Malley*, 17 A.D.2d 411 (1962), revg. 32 Misc.2d 282 (1961).

4.3 Checkers required to be registered.

Inclusion in the longshoremen's register as a checker is required for any longshoreman, including, but not limited to, a timekeeper, checker or clerk, who is employed to engage in direct and immediate checking of waterborne freight or of the custodial accounting therefor or in the recording or tabulation of the hours worked at piers or other waterfront terminals by natural persons employed by carriers of freight by water or stevedores.

4.4 Longshoremen's Register; division into sections; designation and sponsorship of "1969 Amendment" longshoremen.

(a) A longshoremen's register shall be maintained in the offices of the commission. Copies shall be kept and exhibited at each commission employment information center.

(b) The register shall be divided as follows:

(1) A "deep-sea" register which shall include all persons registered by the commission as longshoremen and checkers except those persons registered as longshoremen pursuant to the 1969 amendments to the Act (NY Laws 1969, ch. 953; NJ Laws 1969, ch. 128).

(2) An "A" or "1969 amendment" register which shall include all persons registered by the commission as longshoremen pursuant to the 1969 amendments to the Act (NY Laws 1969, ch. 953; NJ Laws 1969, ch. 128).

(c) No application shall be accepted from any person seeking inclusion in the deep-sea register unless the commission at such time has determined to accept such applications.

(d) No application shall be accepted from any person seeking inclusion in the "A" register unless that person is sponsored for employment by a stevedore or by any person,

within the meaning of those terms contained in the 1969 amendments to the Act (NY Laws 1969, ch. 953; NJ Laws 1969, ch. 128). The sponsoring employer shall submit a letter setting forth the name and address of the person, and the labor service(s) to be performed, and shall certify that the selection of the person so sponsored was made in a fair and non-discriminatory basis in accordance with the requirements of the laws of the United States and the States of New York and New Jersey dealing with equal employment opportunities.

Historical Note

Sec. amd. filed September 13, 2013 eff. September 13, 2013.

4.5 Telecommunications system controllers (TSC) required to be registered.

Registration as a telecommunications system controller is required of any person employed by the association representing employers of longshoremen and checkers and of the labor organization representing longshoremen and checkers in the Port of New York District, or a joint board of such association and labor organization, who participates in the operation of the telecommunications hiring system (THS). An applicant for registration as a telecommunications system controller must be sponsored by the association representing employers of longshoremen and checkers and the labor organization representing longshoremen and checkers in the Port of New York District, or by a joint board of such association and labor organization. Registration as a telecommunications system controller shall terminate upon the registrant's cessation of employment.

4.6 Application for emergency use of persons not registered.

An application for approval under paragraph (3) of subdivision (b) of section 4.2 shall be made to the commission by an employer in writing, who shall certify as follows:

- (a) that an emergency exists involving the protection of the public health or safety, setting forth the facts and details of such emergency for each ship;
- (b) that only regular employees of his company will be used for this purpose;
- (c) that no one will be used who has been denied registration or whose registration has been previously revoked by the commission, or is under present suspension;
- (d) that no one will be used who, to the best knowledge of the employer, has a criminal record;
- (e) that the employer will maintain accurate records of the names of persons so used and their time and place of assignment;
- (f) that such records will be available for inspection by commission personnel at the direction of the executive director in the event such records become necessary for an

investigation conducted by the commission or other law enforcement agency;

- (g) That anyone so used by the employer will be removed immediately at the request of the executive director.

4.7 Application for registration.

An application for registration as a longshoreman, checker or telecommunications system controller shall be made on forms furnished by the commission and may be filed at the main administrative offices of the commission or at a designated employment information center.

4.8 Application to be accompanied by photograph and fingerprints.

For the purpose of assisting the commission to ascertain the identity and criminal record, if any, of the applicant, each application shall be accompanied by a photograph and the authenticated fingerprints of the applicant on an identification record form furnished by the commission.

4.9 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 establish the identity of such person and to determine whether registration should be granted.

4.10 Identification to be carried by registrant; identification to be returned to commission when required.

Any card, badge or other means of official identification issued by the commission to any registrant shall be carried by the registrant on his person at all times when he is at work or at any pier or 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.

4.11 Baggage porter identification.

Every longshoreman who works as a baggage porter for passengers embarking or disembarking on a vessel carrying more than 12 passengers shall wear while he is so working, so as to be clearly visible, such identification as shall be approved by the commission. The hiring agent or pier superintendent responsible for the assignment of longshoremen to baggage work shall cause such identification to be distributed to and collected from such longshoremen daily and shall cause a written record to be kept with respect to the distribution and collection of such identification on forms furnished or approved by the commission. Such written records shall be retained by the hiring agent or pier superintendent for a period of four months and shall be available for inspection by the commission.

4.12 Solicitation of tips prohibited.

No person registered by the commission shall solicit, request, require, demand or exact any tip or gratuity or any-

thing of value for any work performed by himself or by any other registered person in his capacity as such registered person, including, but not limited to, the handling of baggage and the loading and unloading of trucks.

4.13 False compensation claims prohibited.

No person registered by the commission shall make a false statement for the purpose of obtaining any benefit or payment under any state's workers' compensation law or under the Federal Longshoremen and Harbor Workers Compensation Act. Any violation of this section shall be deemed by the commission, in the case of a checker, to constitute an act which is inconsistent with the possession of good character and integrity under section 5-n of the Waterfront Commission Act, and, in the case of a longshoreman, to constitute the longshoreman a danger to the public peace or safety under article VIII of the Act.

Historical Note

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

PART 5

PORT WATCHMEN

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

GENERAL PROVISIONS

Section

- 5.0 Mission
- 5.1 Port watchman defined
- 5.2 Requirement for license
- 5.3 Application for license
- 5.4 Duration of license
- 5.5 Medical examination
- 5.6 Physical fitness standards
- 5.7 Waiver of physical fitness standards
- 5.8 Exemption from medical examination
- 5.9 Cancellation of license or temporary permits for failure to work
- 5.10 Training and fitness standards
- 5.11 Expiration of license at age 70
- 5.12 Licenses and other official identification
- 5.13 Security officer's and supervisory security officer's uniform
- 5.14 Information to be furnished by employers
- 5.15 Records to be maintained by security officers and supervisory security officers
- 5.16 Security officer's and supervisory security officer's log
- 5.17 Gate vehicle books and identification check
- 5.18 Reports to be furnished by port watchmen
- 5.19 Standards of conduct
- 5.20 Interfering with the duties of port watchmen

HIRING OF SECURITY OFFICERS AND SUPERVISORY SECURITY OFFICERS

- 5.21 Construction
- 5.22 Definitions
- 5.23 Employers subject to regulation
- 5.24 Establishment of security officer lists
- 5.25 Additions to security officer lists
- 5.26 Rejection of lists, replacements and additions
- 5.27 Removal from lists
- 5.28 Corrections and restoration to lists
- 5.29 Reporting employment opportunities
- 5.30 Ordering from lists
- 5.31 Filing employment reports
- 5.32 Employment of casual security officers
- 5.33 Extension of employment for casual security officers
- 5.34 Emergency hiring

PRIORITIES

- 5.35 Construction of priorities
- 5.36 Ordering from regular security officer lists
- 5.37 Ordering from extra security officers lists
- 5.38 Selection of casual security officers
- 5.39 Additions to regular security officer lists
- 5.40 Additions to extra security officer lists
- 5.41 Ordering by special agreement

GENERAL PROVISIONS

Section 5.0 Mission.

(a) The port watchman is assigned to a company's facilities to protect all property within the limits of the facility and to protect the lives of employees and others on the property. This includes:

- (1) Providing building and premises security to the employer's property.
- (2) Enforcing company policies and procedures.
- (3) Making vehicular and foot patrols and performing security checks.
- (4) Providing effective gate and exit control to insure compliance with any instituted badge control or pass control system.
- (5) Regulating and directing traffic as necessary and as permitted by local laws.
- (6) Preventing theft, arson, sabotage.
- (7) Responding to alarm signals.
- (8) To observe and report fire and safety hazards.
- (9) Promoting safety to prevent accidents.
- (10) Furthering goodwill and public relations.
- (11) Submitting routine and special reports to supervisors as well as shift logs and records.
- (12) Enforcing rules and policies that have been established for the protection of the facility and personnel.

(b) The port watchman is not a police officer, nor does he/she have any police powers of arrest. The port watchman's rights and powers are no more and no less than those of any U.S. citizen. The port watchman is subject to civil suit for false arrest or imprisonment under any circumstances if the Security Officer detains someone illegally. The port watchman's duty is to prevent rather than to apprehend. The port watchman is under a duty to notify law enforcement authorities of any criminal conduct they become aware of or observe.

Historical Note

Sec. added July 15, 2004 filed July 15, 2004 eff. July 15, 2004.

5.1 Port watchman defined.

(a) A **port watchman** shall mean any person employed directly or indirectly, by contract or other arrangement, by the operator of a pier or other waterfront terminal, or by a carrier of freight by water, to perform services as a guardian or protector of property on any pier or other waterfront terminal.

Port watchman shall be classified and designated as follows (any referenced to port watchman in these regulations is deemed to include all three classifications and designations set forth below):

(1) **Security officer.** A watchman, roundsman, gateman, guard, security officer, inland security officer, or any person performing similar services. For purposes of this Part, an **Inland Security Officer** is a guardian or protector of property at any warehouse, depot or other terminal, other than a pier, whether enclosed or open, which is located in a marine terminal in the port of New York district and any part of which is used by any person to perform labor or services involving, or incidental to, the movement of waterborne freight or freight. Inland Security Officer shall also include, individuals employed as canine handlers at any pier, warehouse, depot or other terminal, whether enclosed or open, at which passengers embark or disembark from vessels and/or at which baggage is handled or sorted, this includes, but is not limited to, those terminals currently located in the port of New York district which are designated as passenger ship terminals. Individuals licensed as inland security officers are limited to employment by their sponsoring employer.

(2) **Supervisory security officer.** A security officer, supervisor, dispatcher or any other person, a substantial part of whose services, performed at piers or other waterfront terminals, includes the supervision, selection or assignment of security officers engaged in the protection of property on any pier or other waterfront terminal.

(3) **Management security officer.** An officer, manager, supervisor, dispatcher or any other person, whose services performed at piers or other waterfront terminals is to supervise, select or assign security officers or supervisory security officers engaged in the protection of property on any pier or other waterfront terminal and/or an individual who performs the duties of a Facilities Security Officer (FSO) in accordance with the requirements of the Maritime Transportation Security Act of 2002 and related United States Coast Guard regulations. A management security officer shall not be a member of a labor organization which represents longshoremen, checkers, or port watchmen; however, this shall not be deemed to prohibit management security officers from being represented by a labor organization which does not also represent longshoremen, checkers, or port watchmen. Individuals licensed as management security officers are limited to employment by the sponsoring employer.

(b) Persons employed exclusively as protectors or guardians of persons (as distinguished from property) or exclusively in the protection or guarding of ships or vessels not included in the definition of carrier of freight by water, or cargo not included in the definition of waterborne freight, or for work on a pier or waterfront terminal not used for waterborne freight, shall not be deemed to be a **port watchman** and shall not be required to obtain a license from the commission.

Historical Note

Sec. amds. filed Oct. 17, 1966.

Sec. amds. filed July 2, 1993 eff. July 2, 1993.

Sec. amds. filed July 15, 2004 eff. July 15, 2004. Amended (a) (1) (2), Added (a)(3), Amended (b).

Sec. amds. filed April 14, 2006, eff. April 14, 2006. Amended (a)(1).

5.2 Requirement for license.

No person shall act as a security officer, supervisory security officer, or management security officer within the Port of New York District without first having obtained a license or temporary permit from the commission. No person shall employ a security officer, supervisory security officer or management security officer who has not obtained such license or temporary permit.

Historical Note

Sec. amds filed July 15, 2004 eff. July 15, 2004.

5.3 Application for license.

(a) An application for a license to act as a security officer, a supervisory security officer, or a management security officer shall be made under oath on a form approved and furnished by the commission and shall include:

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

(2) The present and previous occupations of the applicant, including the places where the applicant was employed and the names of the employers;

(3) The citizenship of the applicant and, if the applicant is a naturalized citizen of the United States, the certificate of naturalization, including the court and date of naturalization;

(4) A photographic license to drive or other photographic identification issued by a Federal, State or County Agency, or a valid passport;

(5) If the applicant is a non-citizen of the United States, valid proof from the federal government of authorization to work in the United States;

(6) Two photographs (2" x 2");