## ASSEMBLY, No. 3091 STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 15, 2006

Sponsored by: Assemblyman JOHN S. WISNIEWSKI District 19 (Middlesex)

## SYNOPSIS

Concerns fair business practices at intermodal marine terminals.

## **CURRENT VERSION OF TEXT**

As introduced.



## A3091 WISNIEWSKI

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1 AN ACT concerning fair business practices at intermodal marine 2 terminals and supplementing Title 39 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. As used in this act: 8 "Closed" means that an intermodal marine terminal is not open 9 to release or accept intermodal equipment. 10 "Equipment interchange rights" means the rights of an intermodal motor carrier or driver contained in the Uniform 11 12 Intermodal Interchange and Facilities Access Agreement. "Free time" means the time period before demurrage charges are 13 14 to be applied. 15 "Intermodal equipment" means an intermodal freight container, a 16 chassis or trailer designed to carry an intermodal freight container, or a combination of both. 17 18 "Intermodal marine terminal" means a marine terminal or facility 19 located in New Jersey that engages in discharging or receiving 20 intermodal equipment owned, operated, or controlled by an intermodal equipment provider. 21 "Per diem," "detention," or "demurrage" means a charge 22 23 imposed by an equipment provider or marine terminal operator for 24 late return or pickup of an empty or loaded intermodal container or 25 chassis. "Written or electronic notification" means any communication 26 27 by postal letter, facsimile, electronic mail, or other electronic means of notification. 28 29 30 2. An intermodal equipment provider or an intermodal marine 31 terminal operator shall not subject an intermodal motor carrier to 32 unilateral termination, suspension, or restriction of the motor 33 carrier's equipment interchange rights or to the imposition of per 34 diem, detention, or demurrage charges because of the following 35 circumstances: 36 a. the truck gate at the intermodal marine terminal is closed for 37 any reason during posted working hours, on a weekend or holiday, during a period of labor disruption, or due to an act of God; 38 39 b. the motor carrier has been directed to return the intermodal equipment to a location different from the location at which the 40 41 equipment was picked up by the motor carrier without 48 hours 42 written or electronic notification; 43 c. a loaded intermodal container is not available for pickup 44 when the motor carrier arrives at the intermodal marine terminal; or the motor carrier is turned away because the intermodal 45 d. marine terminal is too congested to accept the intermodal 46 equipment. 47

1 3. An intermodal equipment provider shall not unilaterally 2 terminate, suspend, or restrict the equipment interchange rights of a 3 motor carrier or driver for: a. using the dispute resolution process contained in the Uniform 4 5 Intermodal Interchange and Facilities Access Agreement to contest a charge, fee, or fine, including a charge for maintenance and 6 7 repairs imposed by the intermodal marine terminal; nonpayment of a charge, fee, or fine while it is being 8 b. 9 contested through the dispute resolution process contained in the 10 Uniform Intermodal Interchange and Facilities Access Agreement 11 and for a reasonable period following the completion of the process; c. late payment of an undisputed invoice from the intermodal 12 marine terminal, unless the payment is more than 60 days late; or 13 14 d. nonpayment of parking tickets issued by the marine terminal, 15 unless the tickets remain unpaid more than 60 days after the driver 16 or motor carrier has received them. 17 18 4. An intermodal equipment provider shall not: a. charge back, deduct, or offset per diem charges, maintenance 19 20 and repair charge, or peak hour pricing charges from a motor 21 carrier's freight bill; 22 b. fail, for any reason not specified in the governing port tariff, 23 to collect demurrage when due and payable and consistent with this 24 act; or 25 c. willfully attempt to circumvent any provisions of this act. 26 27 5. A parking ticket shall not be issued to a driver or motor carrier for a parking violation if the driver's assigned parking place 28 29 was occupied and the terminal administrator or personnel were 30 unable to immediately provide a place for the driver to park, or if 31 the driver was instructed by marine terminal personnel or security 32 to park the equipment in a different place. 33 34 6. An intermodal motor carrier shall not be liable for any portion 35 of demurrage when an intermodal container is not picked up during free time. 36 37 7. This act shall take effect immediately. 38 39 40 **STATEMENT** 41 42 43 This bill provides for fair treatment of motor carriers and their 44 drivers at intermodal marine terminals in New Jersey by regulating certain business practices of intermodal equipment providers and 45 46 marine terminal operators. 47 The bill prohibits an intermodal equipment provider or an 48 intermodal marine terminal operator from subjecting an intermodal

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motor carrier to unilateral termination, suspension, or restriction of
the motor carrier's equipment interchange rights or to the
imposition of per diem, detention, or demurrage charges because of
certain circumstances.

5 The bill also prohibits an intermodal equipment provider from 6 charging back, deducting, or offsetting per diem charges, 7 maintenance and repair charges, or peak hour pricing charges from 8 a motor carrier's freight bill; from failing to collect dumurrage 9 charges when due; and from willfully attempting to circumvent the 10 provisions of the bill.

Finally, the bill prohibits the issuance of parking tickets to drivers in certain circumstances and provides that a motor carrier shall not be liable for any portion of demurrage when an intermodal container is not picked up during the time period before demurrage

15 charges are to be applied.