

[First Reprint]

SENATE, No. 1053

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

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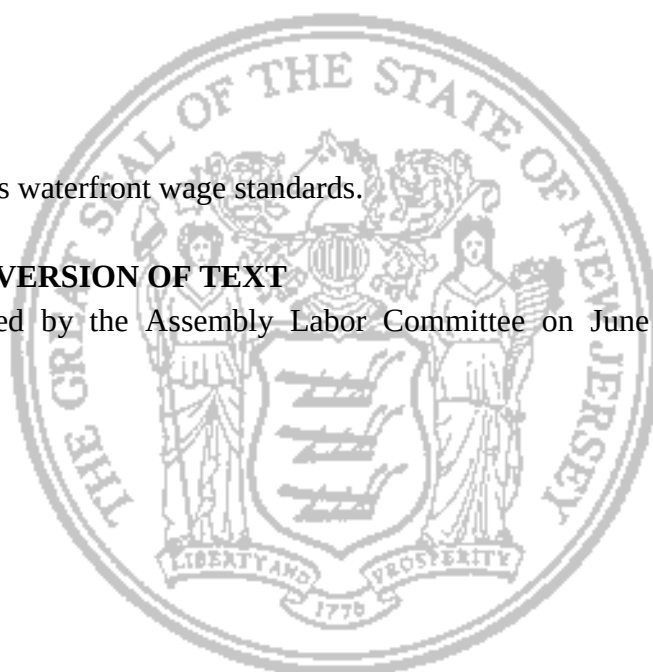
Assemblywomen Sumter and Tucker

SYNOPSIS

Establishes waterfront wage standards.

CURRENT VERSION OF TEXT

As reported by the Assembly Labor Committee on June 9, 2021, with amendments.



(Sponsorship Updated As Of: 12/20/2021)

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 ¹‘the multiemployer’ collective bargaining
10 agreements with waterfront employers ¹**‘[employing the largest**
11 **numbers of longshoremen, including collective bargaining agreements**
12 **which apply to longshoremen working in waterfront facilities**
13 **throughout the State] in the Port of New York District’**¹, provided that
14 if a collective bargaining agreement applying to a smaller locality or
15 ¹‘single’ waterfront facility stipulates wage ¹**‘[levels higher than] rates**
16 **different from’**¹ the levels stipulated by ¹‘the multiemployer’ collective
17 bargaining agreements with ¹**‘[State-wide application, the higher]**
18 **waterfront employers in the Port of New York district, those different’**¹
19 rates shall be the applicable waterfront prevailing wage rates for that
20 locality or facility. Contributions by a waterfront employer for
21 benefits made pursuant to a collective bargaining agreement shall be
22 considered an integral part of the wage paid by the waterfront
23 employer for the purpose of determining the applicable waterfront
24 prevailing wage rates for purpose of this act.

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

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

38 “Commissioner” means the Commissioner of Labor and
39 Workforce Development or his duly authorized representatives.

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

43 “Department” means the Department of Labor and Workforce
44 Development of the State of New Jersey.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALA committee amendments adopted June 9, 2021.

1 ¹"Division" means the Division of Wage and Hour Compliance in
2 the Department of Labor and Workforce Development.¹

3 "Financial assistance" means any loan, loan guarantee, grant,
4 incentive, tax exemption or other financial assistance that is approved,
5 funded, authorized, or administered by a public body, or otherwise
6 provided by the public body.

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

9 "Locality" means any political subdivision of the State,
10 combination of the same or parts thereof, or any geographical area or
11 areas classified, designated and fixed by the commissioner from time
12 to time, provided that in determining the "locality," the commissioner
13 shall be guided by the boundary lines of political subdivisions or parts
14 thereof, or by a consideration of the areas with respect to which it has
15 been the practice of waterfront employers of classifications of
16 longshoremen to engage in collective bargaining with the
17 representatives of those classifications of longshoremen.

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

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

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

26 (c) directly and immediately supervise longshoremen; or

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

32 "Marine terminal" means an area located in the State which
33 includes piers, and is used primarily for the moving, warehousing,
34 distributing or packing of waterborne freight or freight to or from
35 those piers, and which, inclusive of such piers, is under common
36 ownership or control.

37 "Person" means an individual or any partnership, joint venture,
38 association, corporation or any other legal entity other than a
39 governmental entity.

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

41 "Port watchman" includes any watchman, gateman, groundsman,
42 detective, guard, guardian or protector of property employed by the
43 operator of any pier or other waterfront terminal or by a carrier of
44 freight by water to perform services in such capacity on any pier or
45 other waterfront terminal.

46 "Public body" means the State of New Jersey, any of its political
47 subdivisions, and any authority, instrumentality, or agency of the State
48 of New Jersey or of any of its political subdivisions.

1 “Public waterfront facility” means a waterfront facility located in
2 the State which:

- 3 (a) is owned, operated or administered by a public body;
4 (b) receives financial assistance that is approved, funded,
5 authorized, or administered by a public body, or otherwise provided by
6 the public body; or
7 (c) is owned, operated or administered by a waterfront employer
8 who receives financial assistance that is approved, funded, authorized,
9 or administered by a public body, or otherwise provided by the public
10 body.

11 "Stevedore" means an employer of longshoremen who is a
12 contractor or subcontractor, but not an employee, engaged for
13 compensation pursuant to a contract or arrangement with a carrier of
14 waterborne freight or operator of a waterfront facility, to move
15 waterborne freight carried or consigned for carriage by the carrier on,
16 onto, or from vessels of the carrier berthed at waterfront facilities,
17 including:

18 (a) a contractor engaged for compensation pursuant to a contract
19 or arrangement with a public entity, the United States, or any other
20 state or territory thereof, to move freight carried or consigned for
21 carriage between any point in a waterfront facility and a point outside
22 of the waterfront facility on vessels berthed at the waterfront facility,
23 or

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

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

36 "Waterborne freight" shall mean freight carried by or consigned for
37 carriage by carriers of freight by water, including ships' stores,
38 baggage and mail carried by or consigned for carriage by carriers of
39 freight by water.

40 “Waterfront employer” means an operator of a waterfront facility,
41 stevedore, or carrier of freight by water who employs longshoremen at
42 a waterfront facility.

43 “Waterfront facility” means any marine terminal or pier, or any
44 other waterfront terminal located in the State.

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

2. Any waterfront employer who employs longshoremen at a waterfront facility¹], including, but not limited to, a public waterfront facility,¹ shall pay each longshoreman a rate of wages not less than the applicable waterfront prevailing wage rate. Every waterfront employer employing longshoremen at waterfront facilities shall keep an accurate record showing the name, classification, and hourly rate of wages actually paid to each longshoreman employed by the employer in connection with waterfront facilities. The records shall be preserved for two years from the date of payment, and shall be open at all reasonable hours to the inspection of the commissioner, of any public body which owns, administers or provides financial assistance to the waterfront facility where the longshoremen are employed, and of any labor organization representing longshoremen working at that waterfront facility or other waterfront facilities in the State.

3. The commissioner shall determine, establish and make public the waterfront prevailing wage rates for each waterfront facility and for each classification of longshoremen working at the facility. ¹["The prevailing wage shall be determined and computed in accordance with rules and regulations issued by the commissioner as he determines necessary to carry out the provisions of this act. The wage determination may be challenged within 30 days of issuance but only as to the accuracy of the wage information used. Such challenges shall be made by filing a written notice with the commissioner specifying the inaccurate wage information."¹ All determinations of the waterfront prevailing wage rates made pursuant to this section shall be announced by the commissioner¹["¹ and¹ prominently displayed on a webpage maintained by the department¹[" and provided by mail to any public body, any representative of longshoremen, any waterfront employer, or any representative of any group of waterfront employers, who makes a written request to the commissioner to be provided the mailed notifications"]¹.

4. The commissioner shall have the authority to:

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

b. enter and inspect the place of business or employment of any waterfront employer employing longshoremen at any waterfront facility in the State, ¹["for the purpose of examining and inspecting any or all books, registers, payrolls, and other records of the waterfront employer that in any way relate to or have a bearing upon the question of wages, hours, and other conditions of employment of the longshoremen; copy"] and question those employees and investigate any facts, conditions or matters which the commissioner deems appropriate to determine whether any person has violated any provision of this act or rule or regulation adopted pursuant to this act or which may aid in the enforcement of the provisions of this act;

1 c. administer oaths and examine witnesses under oath, issue
2 subpoenas, compel the attendance of witnesses and the production of
3 papers, books, accounts, records, payrolls, documents, and testimony,
4 and take depositions and affidavits in any proceeding before the
5 commissioner;

6 d. Copy¹ any '[of those]' books, registers, payrolls, and other
7 records as '[he or his authorized representative may deem]' the
8 commissioner deems¹ necessary or appropriate; obtain proof of, and
9 question, any longshoreman's identity to determine whether the
10 longshoreman's identity is accurately and truthfully included or
11 reported in any books, registers, payrolls, and other records of the
12 waterfront employer '[that in any way relate to or have a bearing upon
13 the question of wages, hours, and other conditions of employment in
14 the waterfront facility;]' and question the longshoremen for the
15 purpose of ascertaining whether the provisions of this act have been
16 and are being complied with;

17 '[c.] e.'¹ obtain from the waterfront employers full and correct
18 statements in writing, including sworn statements, regarding wages,
19 hours, names, addresses, and such other information pertaining to the
20 waterfront employer's longshoremen and their employment as the
21 commissioner¹, or his authorized representative¹ deems necessary
22 or appropriate; and

23 '[d.] f.'¹ require any waterfront employer to file, within 10 days of
24 receipt of a request, any records enumerated in '[subsections b. and c.
25 of]' this section, sworn to as to their validity and accuracy. In the
26 case of a public waterfront facility in which a public body has an
27 agreement to make payments to a waterfront employer, if the
28 waterfront employer fails to provide the requested records within 10
29 days, the commissioner may direct within 15 days the fiscal or
30 financial officer charged with the custody and disbursements of the
31 funds of the public body immediately to withhold from payment to the
32 waterfront employer up to 25 percent of the amount, not to exceed
33 \$100,000, to be paid to the waterfront employer under the terms of the
34 agreement. The amount withheld shall be immediately released upon
35 receipt by the public body of a notice from the commissioner
36 indicating that the request for records has been satisfied.

37 'If a person fails to comply with any subpoena lawfully issued, or
38 on the refusal of any witness to testify to any matter regarding which
39 he may be lawfully interrogated, it shall be the duty of the Superior
40 Court, on application by the commissioner, to compel obedience by
41 proceedings for contempt, as in the case of disobedience of the
42 requirements of a subpoena issued from the court or a refusal to testify
43 in the court.'¹

44
45 5. Waterfront employers employing longshoremen at
46 waterfront facilities shall post the waterfront prevailing wage rates
47 for each classification involved as determined by the commissioner,

1 including the effective date of any changes thereof, in prominent
2 and easily accessible places at the site of the work or at such place
3 or places as are used by them to pay longshoremen their wages.

4
5 6. Any longshoreman or representative of longshoremen may
6 file with the commissioner a written complaint that the amount of
7 wages paid for work performed by the longshoreman at a waterfront
8 facility is less than the applicable waterfront prevailing wage rate
9 for that work, or a written complaint the longshoreman has suffered
10 a discharge or other discrimination in violation of section 11 of this
11 act, but the complaint may not be filed later than two years after the
12 alleged underpayment or discrimination occurs.

13
14 7. a. Any waterfront employer who willfully hinders or delays
15 the commissioner in the performance of his duties in the enforcement
16 of this act, or who fails to make, keep, and preserve any records as
17 required under the provisions of this act, or falsifies any such record,
18 or refuses to make any such record accessible to the commissioner
19 upon demand, or refuses to furnish a sworn statement of such record or
20 any other information required for the proper enforcement of this act
21 to the commissioner upon demand, or pays or agrees to pay wages at a
22 rate less than the rate applicable under this act, or, during the time that
23 the waterfront employer is included on the debarment list established
24 by the commissioner pursuant to section 9 of this act, employs
25 longshoremen at a waterfront facility, or who discriminates against a
26 longshoreman in violation of section 11 of this act, or otherwise
27 violates any provision of this act or of any regulation or order issued
28 under this act, shall have violated the provisions of this act and be
29 guilty of a disorderly persons offense and shall, upon conviction
30 therefor, be fined not less than \$1,000 nor more than \$2,500 or be
31 imprisoned for not less than 10 nor more than 90 days, or by both such
32 fine and imprisonment. Each week, in which there is a day in which
33 the waterfront employer employs longshoremen while on the
34 debarment list or in which a longshoreman is paid less than the rate
35 applicable under this act and each longshoreman so paid, shall
36 constitute a separate offense. Such fines shall be in addition to the
37 payment of any wage deficiencies.

38 b. As an alternative to, or in addition to, any other sanctions
39 provided by law for violations of any provision of this act, when the
40 commissioner finds that an waterfront employer has violated that act,
41 the commissioner is authorized to assess and collect administrative
42 penalties, up to a maximum of \$2,500 for a first violation and up to a
43 maximum of \$5,000 for each subsequent violation, specified in a
44 schedule of penalties to be promulgated as a rule or regulation by the
45 commissioner in accordance with the "Administrative Procedure Act,"
46 P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the amount
47 of the penalty imposed because of a violation, the commissioner shall
48 consider factors which include the history of previous violations by the

1 waterfront employer, the seriousness of the violation, the good faith of
2 the waterfront employer and the size of the waterfront employer's
3 business. No administrative penalty shall be levied pursuant to this
4 section unless the commissioner provides the alleged violator with
5 notification of the violation and of the amount of the penalty by
6 certified mail and an opportunity to request a hearing before the
7 commissioner or his designee within 15 days following the receipt of
8 the notice. If a hearing is requested, the commissioner shall issue a
9 final order upon such hearing and a finding that a violation has
10 occurred. If no hearing is requested, the notice shall become a final
11 order upon expiration of the 15-day period. Payment of the penalty is
12 due when a final order is issued or when the notice becomes a final
13 order. Any penalty imposed pursuant to this section may be recovered
14 with costs in a summary proceeding commenced by the commissioner
15 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274
16 (C.2A:58-10 et seq.). Any sum collected as a fine or penalty pursuant
17 to this section shall be applied toward enforcement and administration
18 costs of the ¹Division of Workplace Standards in the Department of
19 Labor ¹division¹.

20 c. When the commissioner finds that the waterfront employer has
21 violated provisions of this act, the commissioner may refer the matter
22 to the Attorney General or his designee for ¹criminal¹ investigation
23 and prosecution. Nothing in this subsection shall be deemed to limit
24 the authority of the Attorney General to investigate and prosecute
25 violations of the New Jersey Code of Criminal Justice, nor to limit the
26 commissioner's ability to refer any matter for criminal investigation or
27 prosecution.

28
29 8. As an alternative to, or in addition to, any other sanctions
30 provided by law for violation of this act, the commissioner is
31 authorized to supervise the payment of amounts due to
32 longshoremen under this act, and the waterfront employer may be
33 required to make these payments to the commissioner to be held in
34 a special account in trust for the longshoremen, and paid on order of
35 the commissioner directly to the longshoreman or longshoremen
36 affected. The waterfront employer shall also pay the commissioner
37 an administrative fee equal to not less than 10 percent or more than
38 25 percent of any payment made to the commissioner pursuant to
39 this section. The amount of the administrative fee shall be specified
40 in a schedule of fees to be promulgated by rule or regulation of the
41 commissioner in accordance with the "Administrative Procedure
42 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The fee shall be
43 applied toward enforcement and administration costs of the
44 Division of Workplace Standards in the Department of Labor.

1 9. If the commissioner determines that a waterfront employer has
2 ¹~~["repeatedly"]~~ on more than one occasion¹ failed to pay the waterfront
3 prevailing wage, the commissioner shall add the name of the
4 waterfront employer to a debarment list established and maintained by
5 the commissioner of waterfront employers determined to have failed to
6 pay the waterfront prevailing wage. The debarment list and each
7 updating of the list shall be prominently displayed on a website
8 maintained by the department ¹~~["and provided to any public body, any~~
9 representative of longshoremen, any waterfront employer, or any
10 representative of any group of waterfront employers who makes a
11 written request to the commissioner to be notified of the debarment list
12 and any updating of the list"]¹. Any waterfront employer placed on the
13 debarment list pursuant to this section shall remain on the list until
14 three years have elapsed from the date of listing. If the waterfront
15 employer denies that a failure to pay the waterfront prevailing wage
16 has occurred, the employer ¹~~["shall have the right to apply to the~~
17 commissioner for a hearing which must be afforded and a decision
18 rendered within 48 hours of the request for a hearing. If the
19 commissioner rules against the waterfront employer, the waterfront
20 employer shall have the right to apply for injunctive relief in the
21 Superior Court against the listing by the commissioner] may request a
22 hearing, which shall be conducted in accordance with the
23 "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et
24 seq.)¹.

25 It shall be a violation of this act for any waterfront employer to
26 employ longshoremen at a waterfront facility, whether or not the
27 facility is a public waterfront facility, during the time that the
28 waterfront employer is included on the debarment list established by
29 the commissioner pursuant to this section.
30

31 10. No public body shall approve, fund, authorize, or administer,
32 or otherwise provide financial assistance to a waterfront facility, by
33 means of any new or renewed agreement to do so, without first
34 ascertaining that no waterfront employer employing longshoreman
35 at the facility is on the current debarment list of names of
36 waterfront employers who have failed to pay waterfront prevailing
37 wages required by this act. No contract shall be awarded by a
38 public body to any listed waterfront employer or to any other
39 waterfront employer in which the listed waterfront employer has an
40 interest.

41 For purposes of this section, "interest" means an interest,
42 affiliation, relationship or connection of a waterfront employer
43 listed pursuant to section 9 of this act in or with another waterfront
44 employer employing, or seeking to employ, longshoremen at a
45 waterfront facility, whether having the interest is as an owner,
46 partner, officer, manager, employee, agent, consultant or
47 representative. The listed waterfront employer shall be regarded as

1 having an interest in another waterfront employer if the listed
2 waterfront employer enters into a contract or agreement with the
3 other waterfront employer for services performed or to be
4 performed, for services that have been or will be assigned or
5 subletted, or for the sale, rental or lease of vehicles, tools,
6 equipment or supplies during the period from the initiation of the
7 proceedings under section 9 of this act against the waterfront
8 employer until three years have elapsed from the date that the
9 waterfront employer was listed by the commissioner under section 9
10 of this act. The term "interest" shall not include shares held in a
11 publicly traded corporation if the shares were not received as
12 compensation after the initiation of proceedings under section 9 of
13 this act.

14 A rebuttable presumption that a waterfront employer listed by
15 the commissioner under section 9 of this act has an interest in
16 another waterfront employer may arise if the two share any of the
17 following capacities or characteristics: occupy the same premises,
18 have the same telephone number or fax number, have the same
19 email address or internet website, employ substantially the same
20 administrative employees, utilize the same tools and equipment, or
21 employ or engage the services of any listed person or persons
22 involved in the direction or control of the other.

23 If the rebuttable presumption that a listed waterfront employer
24 has an interest in another waterfront employer results in a
25 determination to include of the other waterfront employer in the
26 debarment list, the other waterfront employer may request a hearing
27 to challenge the determination, to be conducted in accordance with
28 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.).

30

31 11. Any waterfront employer who discharges or in any other
32 manner discriminates against any longshoreman because the
33 longshoreman has made any complaint to his waterfront employer,
34 to a representative of the longshoreman, a public body, or the
35 commissioner that he has not been paid wages in accordance with
36 the provisions of this act, or because the longshoreman has caused
37 to be instituted or is about to cause to be instituted any proceeding
38 under or related to this act, or because the longshoreman has
39 testified or is about to testify in any such proceeding, or because the
40 longshoreman has requested information from the waterfront
41 employer relevant to such a proceeding, shall be in violation of this
42 act, shall be guilty of a disorderly persons offense, and shall, upon
43 conviction therefor, be fined not less than \$1,000 nor more than
44 \$2,500. Such fines shall be in addition to the payment of any wage
45 deficiencies.

46

47 12. If any longshoreman is paid by an waterfront employer less
48 than the waterfront prevailing wage to which the longshoreman is

1 entitled under the provisions of this act, or suffers discharge or
2 other discrimination in violation of section 11 of this act, that
3 longshoreman may recover in a civil action the full amount of such
4 waterfront prevailing wage less any amount actually paid to the
5 longshoremen by the waterfront employer together with costs and
6 reasonable attorney's fees as allowed by the court, and in the case of
7 discharge or other discrimination, reinstatement to employment
8 with payment of any wages lost because of the discharge or
9 discrimination. An agreement between longshoremen and a
10 waterfront employer to pay less than the prevailing wage shall not
11 be a defense to the action. Any longshoreman shall be entitled to
12 maintain such action for and on behalf of himself or other
13 longshoremen similarly situated, and the longshoreman or
14 longshoremen may designate an agent or representative to maintain
15 such action for and on behalf of all longshoremen similarly situated.
16 At the request of any longshoreman paid less than the waterfront
17 prevailing wage to which such longshoreman was entitled under the
18 provisions of this act, the commissioner may take an assignment of
19 the wage claim in trust for the assigning longshoreman and may
20 bring any legal action necessary to collect the claim, and the
21 waterfront employer shall be required to pay the costs and such
22 reasonable attorney's fees as may be allowed by the court.

23
24 13. Nothing in this act shall be deemed to interfere with, impede,
25 or in any way diminish the right of longshoremen to bargain
26 collectively through representatives of their own choosing in order to
27 establish ¹["wages in excess of any applicable minimum under"] wage
28 rates that are different than wage rates set by¹ this act.

29
30 ¹14. Except for waterfront employers located in the Port of New
31 York district, no waterfront employer shall be permitted to operate in
32 New Jersey, unless it is registered with the department as a waterfront
33 employer on a form, which may be an electronic form provided by the
34 commissioner. The form shall require the following information:

35 a. The name, principal business address and telephone number of
36 the waterfront employer;

37 b. Whether the waterfront employer is a corporation, partnership,
38 sole proprietorship, or other form of business entity;

39 c. If the waterfront employer's principal business address is not
40 within the State, the name and address of the waterfront employer's
41 custodian of records and agent for service of process in this State;

42 d. The name and address of each person with a financial interest
43 in the waterfront employer and the percentage interest, except that if
44 the waterfront employer is a publicly-traded corporation, the
45 waterfront employer shall supply the names and addresses of the
46 corporation's officers;

47 e. The waterfront employer's tax identification number and
48 unemployment insurance registration number;

1 f. A certification form provided by the commissioner, with
2 documentation satisfactory to the commissioner, that the waterfront
3 employer has all valid and effective licenses, registrations or
4 certificates required by State law, including registrations or
5 certifications required to do business in the State of New Jersey; and

6 g. Other relevant and appropriate information as determined by
7 the commissioner.

8 At the time of registration, and subsequently upon request, the
9 waterfront employer shall submit to the commissioner documentation
10 demonstrating that the waterfront employer has workers'
11 compensation insurance coverage for all workers as required by law.¹

12
13 ¹15. The waterfront employer shall pay an initial annual non-
14 refundable registration fee of \$300 to the commissioner. The non-
15 refundable registration fee for the second annual registration shall be
16 \$300. Upon successful completion of two consecutive years of
17 registration, a waterfront employer may elect to register for a two-year
18 period and pay a non-refundable registration fee of \$500.¹

19
20 ¹16. A contractor who is operating on the effective date of this act
21 shall submit the registration application form and fee to the
22 Commissioner within 30 days of the effective date of this act.¹

23
24 ¹17. Registration fees collected pursuant to this act shall be
25 applied toward the enforcement and administration costs of the
26 division.¹

27
28 ¹18. Upon receipt of the fee, form and documentation required by
29 sections 14 and 15 of this act, the commissioner shall issue a
30 certificate of registration to the waterfront employer. A registration
31 certificate shall be valid for one calendar year from the date of
32 registration. Registrations shall be renewed not less than 30 days prior
33 to the expiration date of the immediately preceding registration.¹

34
35 ¹19. Each waterfront employer shall, as a condition to receipt of
36 any financial assistance from a public body, submit to the public body
37 the waterfront employer's certificate of registration and the certificates
38 of registration for all known subcontractors who are waterfront
39 employers. Applications for registration shall not be acceptable as a
40 substitute for a certificate of registration for the purposes of
41 compliance with this section.¹

42
43 ¹20. a. The commissioner is authorized, as an alternative to or in
44 addition to any other sanctions or remedies provided by this act, to
45 take the actions indicated in subsection b. of this section if a waterfront
46 employer:

1 (1) Willfully hinders or delays the commissioner in the
2 performance of his duties under this act;

3 (2) Fails to make, keep and preserve any records required under
4 the provisions of this act;

5 (3) Falsifies any required record, or refuses to make it accessible to
6 the commissioner upon demand;

7 (4) Refuses to furnish a sworn statement of any records or other
8 information required for the enforcement of this act to the
9 commissioner on demand;

10 (5) Pays or agrees to pay wages at a rate less than the rate
11 prescribed under this act; or

12 (6) Otherwise violates any provision of this act.

13 b. The commissioner may, after providing the waterfront
14 employer with notice of the alleged violation and an opportunity to
15 request a hearing before the commissioner or his designee:

16 (1) Deny renewal, revoke or suspend the registration of a
17 waterfront employer for a period of not more than five years; or

18 (2) Require a waterfront employer, as a condition of initial or
19 continued registration, to provide a surety bond payable to the State.
20 The surety bond shall be for the benefit of workers damaged by any
21 failure of a waterfront employer to pay wages or benefits pursuant to
22 or otherwise comply with the provisions of this act. The surety bond
23 shall be in the amount and form that the Commissioner deems
24 necessary for the protection of the waterfront employer's workers, but
25 shall not exceed \$10,000 per worker. The surety bond shall be issued
26 by surety that meets the requirements of N.J.S.2A:44-143.

27 c. The commissioner is authorized and empowered to prescribe,
28 adopt, promulgate, rescind and enforce rules and regulations as may be
29 required for the administration and enforcement of the provisions of
30 this act.¹

31
32 ¹**[14.] 21.**¹ The commissioner is authorized and empowered to
33 prescribe, adopt, promulgate, rescind and enforce rules and
34 regulations as may be required for the administration and
35 enforcement of the provisions of this act.

36
37 ¹**[15.] 22.**¹ The provisions of this act shall be deemed to be
38 severable and if any section, subsection, paragraph, sentence or
39 other part of this act is declared to be unconstitutional or preempted
40 by federal law, or the applicability thereof to any person or facility
41 is held invalid, the remainder of this act shall not thereby be
42 deemed to be unconstitutional, preempted or invalid.

43
44 ¹**[16.] 23.**¹ This act shall take effect on the 180th day following
45 enactment, but the commissioner shall take any anticipatory action
46 in advance as shall be necessary for the implementation of this act.