

2648

2015-2016 Regular Sessions

I N S E N A T E

January 27, 2015

Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the waterfront commission act, in relation to cargo facility charges by the Port Authority of New York and New Jersey

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 1 of chapter 882 of the laws of 1953, constituting  
2 the waterfront commission act is amended by adding a new article VII-A  
3 to read as follows:

4 ARTICLE VII-A  
5 CARGO FACILITY CHARGES

6 1. AS USED IN THIS ARTICLE:

7 (A) "BILL OF LADING" MEANS A DOCUMENT EVIDENCING THE RECEIPT OF GOODS  
8 FOR SHIPMENT ISSUED BY A PERSON ENGAGED IN THE BUSINESS OF TRANSPORTING  
9 OR FORWARDING GOODS.

10 (B) "CARGO FACILITY CHARGE" MEANS ANY FEE APPLICABLE TO CARGO AND  
11 CARGO CONTAINERS DISCHARGED FROM, OR LOADED ONTO, VESSELS AT ANY MARINE  
12 FACILITY OWNED OR OPERATED BY THE PORT AUTHORITY.

13 (C) "CARRIER" MEANS A CARRIER AS THAT TERM IS DEFINED IN 49 U.S.C. S.  
14 13102.

15 (D) "CONTAINER" MEANS ANY RECEPTACLE, BOX, CARTON, OR CRATE WHICH IS  
16 SPECIFICALLY DESIGNED AND CONSTRUCTED SO THAT IT MAY BE REPEATEDLY USED  
17 FOR THE CARRIAGE OF FREIGHT BY AN OCEAN COMMON CARRIER.

18 (E) "MARINE TERMINAL OPERATOR" MEANS ANY PERSON, CORPORATION, PARTNER-  
19 SHIP, OR ANY BUSINESS ORGANIZATION WHICH SHALL OPERATE AND MAINTAIN ANY  
20 OF THE MARINE TERMINALS ESTABLISHED, ACQUIRED, CONSTRUCTED, REHABILI-  
21 TATED, OR IMPROVED BY THE PORT AUTHORITY BY MEANS OF AND THROUGH LEASING

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 AGREEMENTS ENTERED INTO BY ANY SUCH PERSON, CORPORATION, PARTNERSHIP, OR  
2 ANY BUSINESS ORGANIZATION WITH THE PORT AUTHORITY.

3 (F) "OCEAN COMMON CARRIER" MEANS AN OCEAN COMMON CARRIER AS THAT TERM  
4 IS DEFINED IN 46 U.S.C. S.40102.

5 (G) "RAIL CARRIER" MEANS A RAIL CARRIER AS THAT TERM IS DEFINED IN 49  
6 U.S.C. S. 10102.

7 (H) "TARIFF" MEANS A MARINE TERMINAL OPERATOR SCHEDULE AS THAT TERM IS  
8 DEFINED IN 46 C.F.R. 525.2.

9 (I) "USER" MEANS:

10 (1) ANY PERSON, COMPANY, OR OTHER ENTITY THAT IS NAMED AS THE SHIPPER  
11 OR CONSIGNEE ON THE OCEAN COMMON CARRIER BILL OF LADING ISSUED FOR  
12 EXPORT OR IMPORT CARGO, OR ANY PERSON OWNING OR ENTITLED TO THE  
13 POSSESSION, OR HAVING A PAST OR FUTURE INTEREST IN, THE EXPORT OR IMPORT  
14 CARGO;

15 (2) IN THE CASE OF NEGOTIABLE BILLS OF LADING, ANY OTHER PERSON,  
16 COMPANY, OR OTHER ENTITY THAT IS A BONA FIDE HOLDER OF THE BILL OF  
17 LADING OR WHO IS ENTITLED TO RECEIVE DELIVERY OF EXPORT CARGO OR IMPORT  
18 CARGO; OR

19 (3) ANY OTHER BAILOR OF EXPORT OR IMPORT CARGO.

20 2. NOTWITHSTANDING ANY LAW, RULE, REGULATION, OR EXISTING TARIFF TO  
21 THE CONTRARY, THE PORT AUTHORITY SHALL NOT ASSESS A USER, OCEAN COMMON  
22 CARRIER, MARINE TERMINAL OPERATOR, CARRIER, OR RAIL CARRIER A CARGO  
23 FACILITY CHARGE ON IMPORT AND EXPORT CARGO LEAVING ANY MARINE FACILITY  
24 OWNED OR OPERATED BY THE PORT AUTHORITY, EXCEPT THAT THE PORT AUTHORITY  
25 MAY ASSESS A USER, OCEAN COMMON CARRIER, MARINE TERMINAL OPERATOR,  
26 CARRIER, OR RAIL CARRIER A CARGO FACILITY CHARGE UPON WRITTEN MUTUAL  
27 AGREEMENT BETWEEN THE USER, OCEAN COMMON CARRIER, MARINE TERMINAL OPERA-  
28 TOR, CARRIER, OR RAIL CARRIER AND THE PORT AUTHORITY.

29 S 2. This act shall take effect upon the enactment into law by the  
30 state of New Jersey of legislation having an identical effect with this  
31 act, but if the state of New Jersey shall have already enacted such  
32 legislation, then it shall take effect immediately; and provided that  
33 the waterfront commission shall notify the legislative bill drafting  
34 commission upon the occurrence of the enactment of the legislation  
35 provided for in section one of this act in order that the commission may  
36 maintain an accurate and timely effective data base of the official text  
37 of laws of the state of New York in furtherance of effecting the  
38 provisions of section 44 of the legislative law and section 70-b of the  
39 public officers law.