

[First Reprint]

ASSEMBLY, No. 4931

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED NOVEMBER 21, 2022

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SYNOPSIS

Establishes crimes of theft of motor vehicle and receiving stolen motor vehicle as separate statutory provisions; provides extended sentences for certain persistent offenders.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on December 5, 2022, with amendments.

(Sponsorship Updated As Of: 6/20/2023)

1 AN ACT concerning theft of and receiving a stolen motor vehicle,
2 supplementing Title 2C of the New Jersey Statutes, and
3 amending various parts of the statutory law.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) Theft of a motor vehicle. a. A person
9 commits the crime of theft of a motor vehicle if the person unlawfully
10 takes, or exercises unlawful control over, another person's motor
11 vehicle with the purpose to deprive that person of the motor vehicle.

12 b. Theft of a motor vehicle constitutes a crime of the second
13 degree if the value of the motor vehicle involved is \$75,000 or more
14 or if the theft involved more than one motor vehicle, otherwise it is
15 a crime of the third degree.

16 c. The value of the motor vehicle involved in the theft shall be
17 determined by the trier of fact. The amount shall include, but not
18 be limited to, the amount of any State tax avoided, evaded, or
19 otherwise unpaid, or improperly retained or disposed of. Amounts
20 involved in thefts of motor vehicles committed pursuant to one
21 scheme or course of conduct, whether from the same person or
22 several persons, may be aggregated in determining the grade of the
23 offense.

24
25 2. (New section) a. Receiving a stolen motor vehicle. A
26 person is guilty of receiving a stolen motor vehicle if the person
27 knowingly receives or brings into this State a motor vehicle that is
28 the property of another knowing that it has been stolen, or believing
29 that it is probably stolen. Receiving a stolen motor vehicle is a
30 crime of the second degree if the value of the motor vehicle is
31 \$75,000 or more, otherwise it is a crime of the third degree.

32 b. It is an affirmative defense that the property was received
33 with the purpose to restore it to the owner.

34 c. Permissive inference. The requisite knowledge or belief
35 may be inferred in the case of a person who:

36 (1) is found in possession or control of two or more motor
37 vehicles stolen on two or more separate occasions; or

38 (2) has received a stolen motor vehicle in another transaction
39 within the year preceding the transaction charged; or

40 (3) being a person in the business of buying or selling motor
41 vehicles, acquires the motor vehicle without having ascertained by
42 reasonable inquiry that the person from whom it was obtained had a
43 legal right to possess and dispose of it; or

44 (4) is found in possession of a motor vehicle without proper
45 documentation or other evidence of right to possession.

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 ALP committee amendments adopted December 5, 2022.

1 For the purposes of this section, “receiving” means acquiring
2 possession, control or title, or lending on the security of the motor
3 vehicle.

4
5 3. (New section) Persistent stolen motor vehicle offender
6 sentencing.

7 a. Upon request of the prosecutor, a person ¹who has been
8 convicted of a crime pursuant to section 1 or 2 of P.L. ,
9 c. (C.) (pending before the Legislature as this bill) or
10 carjacking pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2)¹
11 shall be sentenced to an extended term of imprisonment pursuant to
12 N.J.S.2C:43-7 if the person ¹**[is]** has previously been¹ convicted
13 on two or more prior and separate occasions, regardless of the
14 dates of the convictions,¹ of a crime pursuant to section 1 or 2 of
15 P.L. , c. (C.) (pending before the Legislature as this bill),
16 carjacking pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2),
17 theft or unlawful taking of a motor vehicle, receiving stolen
18 property where the property involved is a motor vehicle,¹ or ¹a
19 crime¹ under any statute of the United States, this State, or any
20 other state for a crime that is substantially equivalent to any of the
21 crimes enumerated in this subsection ¹**[,** committed on two or more
22 prior and separate occasions regardless of the dates of the
23 convictions¹].

24 b. The provisions of this section shall not apply unless the prior
25 ¹**[conviction is]** convictions are¹ for ¹**[a crime]** crimes¹ committed
26 on a separate occasion and the crime for which the defendant is
27 being sentenced was committed either:

28 (1) within 10 years of the date of the defendant’s last release
29 from confinement for the commission of any crime; or

30 (2) within 10 years of the date of the commission of the most
31 recent of the crimes ¹enumerated in subsection a. of this section¹ for
32 which the defendant has a prior conviction.

33 c. The court shall not impose a sentence of imprisonment
34 pursuant to this section, unless the ground therefor has been
35 established at a hearing after the conviction of the defendant and on
36 written notice to the defendant of the ground proposed. The
37 defendant shall have the right to hear and controvert the evidence
38 against him and to offer evidence upon the issue. Prior convictions
39 shall be defined and proven in accordance with N.J.S.2C:44-4.

40
41 4. N.J.S.2C:20-2 is amended to read as follows:

42 2C:20-2. a. Consolidation of Theft and Computer Criminal
43 Activity Offenses. Conduct denominated theft or computer
44 criminal activity in this chapter constitutes a single offense, but
45 each episode or transaction may be the subject of a separate
46 prosecution and conviction. A charge of theft or computer criminal
47 activity may be supported by evidence that it was committed in any
48 manner that would be theft or computer criminal activity under this

- 1 chapter, notwithstanding the specification of a different manner in
2 the indictment or accusation, subject only to the power of the court
3 to ensure fair trial by granting a bill of particulars, discovery, a
4 continuance, or other appropriate relief where the conduct of the
5 defense would be prejudiced by lack of fair notice or by surprise.
- 6 b. Grading of theft offenses.
- 7 (1) Theft constitutes a crime of the second degree if:
- 8 (a) The amount involved is \$75,000 or more;
- 9 (b) The property is taken by extortion;
- 10 (c) The property stolen is a controlled dangerous substance or
11 controlled substance analog as defined in N.J.S.2C:35-2 and the
12 quantity is in excess of one kilogram;
- 13 (d) The property stolen is a person's benefits under federal or
14 State law, or from any other source, which the Department of
15 Human Services or an agency acting on its behalf has budgeted for
16 the person's health care and the amount involved is \$75,000 or
17 more;
- 18 (e) The property stolen is human remains or any part thereof;
19 except that, if the human remains are stolen by deception or
20 falsification of a document by which a gift of all or part of a human
21 body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the
22 theft constitutes a crime of the first degree; or
- 23 (f) It is in breach of an obligation by a person in his capacity as
24 a fiduciary and the amount involved is \$50,000 or more.
- 25 (2) Theft constitutes a crime of the third degree if:
- 26 (a) The amount involved exceeds \$500 but is less than \$75,000;
- 27 (b) The property stolen is a firearm, **[motor vehicle,]** vessel,
28 boat, horse, domestic companion animal or airplane;
- 29 (c) The property stolen is a controlled dangerous substance or
30 controlled substance analog as defined in N.J.S.2C:35-2 and the
31 amount involved is less than \$75,000 or is undetermined and the
32 quantity is one kilogram or less;
- 33 (d) It is from the person of the victim;
- 34 (e) It is in breach of an obligation by a person in his capacity as
35 a fiduciary and the amount involved is less than \$50,000;
- 36 (f) It is by threat not amounting to extortion;
- 37 (g) It is of a public record, writing or instrument kept, filed or
38 deposited according to law with or in the keeping of any public
39 office or public servant;
- 40 (h) The property stolen is a person's benefits under federal or
41 State law, or from any other source, which the Department of
42 Human Services or an agency acting on its behalf has budgeted for
43 the person's health care and the amount involved is less than
44 \$75,000;
- 45 (i) The property stolen is any real or personal property related
46 to, necessary for, or derived from research, regardless of value,
47 including, but not limited to, any sample, specimens and
48 components thereof, research subject, including any warm-blooded
49 or cold-blooded animals being used for research or intended for use

1 in research, supplies, records, data or test results, prototypes or
2 equipment, as well as any proprietary information or other type of
3 information related to research;

4 (j) The property stolen is a New Jersey Prescription Blank as
5 referred to in R.S.45:14-14;

6 (k) The property stolen consists of an access device or a defaced
7 access device;

8 (l) The property stolen consists of anhydrous ammonia and the
9 actor intends it to be used to manufacture methamphetamine; or

10 (m) The property stolen consists of a package delivered to a
11 residential property by a cargo carrier and the amount involved is
12 less than \$75,000 or is undetermined.

13 (3) Theft constitutes a crime of the fourth degree if the amount
14 involved is at least \$200 but does not exceed \$500.

15 (4) Theft constitutes a disorderly persons offense if:

16 (a) The amount involved was less than \$200; or

17 (b) The property stolen is an electronic vehicle identification
18 system transponder.

19 The amount involved in a theft or computer criminal activity
20 shall be determined by the trier of fact. The amount shall include,
21 but shall not be limited to, the amount of any State tax avoided,
22 evaded or otherwise unpaid, improperly retained or disposed of.
23 Amounts involved in thefts, thefts of motor vehicles, or computer
24 criminal activities committed pursuant to one scheme or course of
25 conduct, whether from the same person or several persons, may be
26 aggregated in determining the grade of the offense.

27 c. Claim of right. It is an affirmative defense to prosecution
28 for theft that the actor:

29 (1) Was unaware that the property or service was that of
30 another;

31 (2) Acted under an honest claim of right to the property or
32 service involved or that he had a right to acquire or dispose of it as
33 he did; or

34 (3) Took property exposed for sale, intending to purchase and
35 pay for it promptly, or reasonably believing that the owner, if
36 present, would have consented.

37 d. Theft from spouse. It is no defense that theft or computer
38 criminal activity was from or committed against the actor's spouse,
39 except that misappropriation of household and personal effects, or
40 other property normally accessible to both spouses, is theft or
41 computer criminal activity only if it occurs after the parties have
42 ceased living together.

43 (cf: P.L.2021, c.448, s.1)

44

45 5. N.J.S.2C:20-7 is amended to read as follows:

46 2C:20-7. Receiving Stolen Property.

47 a. Receiving. A person is guilty of theft if he knowingly
48 receives or brings into this State movable property, other than a
49 motor vehicle, of another knowing that it has been stolen, or

1 believing that it is probably stolen. It is an affirmative defense that
2 the property was received with purpose to restore it to the owner.
3 "Receiving" means acquiring possession, control or title, or lending
4 on the security of the property.

5 b. **【Presumption of knowledge.】** Permissive inference. The
6 requisite knowledge or belief **【is presumed】** may be inferred in the
7 case of a person who:

8 (1) Is found in possession or control of two or more items of
9 property stolen on two or more separate occasions; or

10 (2) Has received stolen property in another transaction within
11 the year preceding the transaction charged; or

12 (3) Being a person in the business of buying or selling property
13 of the sort received, acquires the property without having
14 ascertained by reasonable inquiry that the person from whom he
15 obtained it had a legal right to possess and dispose of it; or

16 (4) Is found in possession of two or more defaced access
17 devices; or

18 (5) Is found in possession of property of a cargo carrier without
19 proper documentation or other evidence of right to possession.

20 (cf: P.L.2013, c.58, s.3)

21

22 6. Section 3 of P.L.1989, c.331 (C.34:8-44) is amended to read
23 as follows:

24 3. In addition to any other procedure, condition or information
25 required by this act:

26 a. Every applicant shall file a disclosure statement with the
27 chief stating whether or not the applicant has been convicted of any
28 crime, which for the purposes of this act shall mean a violation of
29 any of the following provisions of the "New Jersey Code of
30 Criminal Justice," Title 2C of the New Jersey Statutes as amended
31 and supplemented, or the equivalent under the laws of any other
32 jurisdiction:

33 (1) Any crime of the first degree;

34 (2) Any crime which is a second or third degree crime and is a
35 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
36 or

37 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-
38 2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
39 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of
40 2C:17-2, 2C:18-2, 2C:20-1, 2C:20-2, 2C:20-4, 2C:20-5, 2C:20-7,
41 section 1 or 2 of P.L. _____, c. _____ (C. _____) (pending before the
42 Legislature as this bill), 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-
43 6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27
44 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-
45 3, 2C:35-5, 2C:35-10, or 2C:37-1 through 2C:37-4.

46 b. Each disclosure statement may be reviewed and used by the
47 director as grounds for denying licensure or registration, except that
48 in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1

1 et seq.) apply, the director shall comply with the requirements of
2 that act.

3 c. An applicant who is denied licensure or registration pursuant
4 to this section shall, upon a written request transmitted to the
5 director within 30 calendar days of the denial, be afforded an
6 opportunity for a hearing in the manner provided for contested
7 cases pursuant to the "Administrative Procedure Act," P.L.1968,
8 c.410 (C.52:14B-1 et seq.).

9 d. An applicant shall have the continuing duty to provide any
10 assistance or information requested by the director, and to cooperate
11 in any inquiry, investigation, or hearing conducted by the director.

12 e. If any of the information required to be included in the
13 disclosure statement changes, or if any additional information
14 should be added after the filing of the statement, the applicant shall
15 provide that information to the chief, in writing, within 30 calendar
16 days of the change or addition.

17 (cf: P.L.1989, c.331, s.3)

18

19 7. Section 9 of P.L.1939, c.369 (C.45:19-16) is amended to
20 read as follows:

21 9. No holder of any unexpired license issued pursuant to this
22 act shall knowingly employ in connection with his or its business in
23 any capacity whatsoever, any person who has been convicted of a
24 high misdemeanor or any of the following misdemeanors, or
25 offenses, and who has not subsequent to such conviction received
26 executive pardon therefor removing any civil disabilities incurred
27 thereby, to wit:

28 (a) illegally using, carrying or possessing a pistol or other
29 dangerous weapon;

30 (b) making or possessing burglar's instruments;

31 (c) buying or receiving stolen property or a stolen motor
32 vehicle;

33 (d) unlawful entry of a building;

34 (e) aiding escape from prison;

35 (f) unlawfully possessing or distributing habit-forming narcotic
36 drugs;

37 (g) any person whose private detective or investigator's license
38 was revoked or application for such license was denied by the
39 superintendent or by the authorities of any other State or territory
40 because of conviction of any of the crimes or offenses specified in
41 this section. Should the holder of an unexpired license falsely state
42 or represent that a person is or has been in his employ, such false
43 statement or misrepresentation shall be sufficient cause for the
44 revocation of such license.

45 No person shall be employed by any holder of a license until he
46 shall have executed and furnished to such license holder a verified
47 statement, to be known as "employee's statement," setting forth:

48 (a) His full name, age, residence address, and place of and date
49 of birth.

1 (b) The country of which he is a citizen.

2 (c) The business or occupation engaged in for the five years
3 immediately preceding the date of the filing of the statement,
4 setting forth the place or places where such business or occupation
5 was engaged in, and the name or names of employers, if any.

6 (d) That he has not been convicted of a high misdemeanor or of
7 any offense involving moral turpitude or of any of the
8 misdemeanors or offenses described in this section.

9 (e) Such further information as the superintendent may by rule
10 require to show the good character, competency, and integrity of the
11 person executing the statement.

12 The employee shall submit to the Superintendent of State Police
13 the employee's name, address, fingerprints and written consent for a
14 criminal history background check to be performed. The
15 superintendent is hereby authorized to exchange fingerprint data
16 with and receive criminal history record information from the State
17 Bureau of Identification in the Division of State Police and the
18 Federal Bureau of Investigation consistent with applicable State and
19 federal laws, rules and regulations. The applicant shall bear the
20 cost for the criminal history background check, including all costs
21 of administering and processing the check. If the superintendent
22 finds that such person has been convicted of a first, second or third
23 degree crime, or any other offense specified in this section, he shall
24 immediately notify the holder of such license and shall also refer
25 the matter to the prosecutor of the pleas of the county in which the
26 employee resides. The superintendent may also from time to time
27 cause such fingerprints to be checked against the fingerprints filed
28 with the State bureau of identification or of other official fingerprint
29 files within or without this State, and if he finds that such person
30 has been convicted of a high misdemeanor or any other offense
31 specified in this section he shall immediately notify the holder of
32 such license and shall also refer the matter to the prosecutor of the
33 pleas of the county in which the employee resides. The
34 superintendent shall at all times be given access to and may from
35 time to time examine the fingerprints retained by the holder of a
36 license as provided in this section.

37 If any holder of a license shall file with the superintendent the
38 fingerprints of a person other than the person so employed, he shall
39 be guilty of a misdemeanor.

40 (cf: P.L.2003, c.199, s.30)

41

42 8. Section 11 of P.L.1971, c.317 (52:4B-11) is amended to read
43 as follows:

44 11. The Victims of Crime Compensation Office may order the
45 payment of compensation in accordance with the provisions of
46 P.L.1971, c.317 (C.52:4B-1 et seq.) for personal injury or death
47 which resulted from:

- 1 a. an attempt to prevent the commission of crime or to arrest a
2 suspected criminal or in aiding or attempting to aid a police officer
3 to do so; or
4 b. the commission or attempt to commit any of the following
5 offenses:
6 (1) aggravated assault;
7 (2) (Deleted by amendment, P.L.1995, c.135).
8 (3) threats to do bodily harm;
9 (4) lewd, indecent, or obscene acts;
10 (5) indecent acts with children;
11 (6) kidnapping;
12 (7) murder;
13 (8) manslaughter;
14 (9) aggravated sexual assault, sexual assault, aggravated
15 criminal sexual contact, criminal sexual contact;
16 (10) any other crime involving violence including domestic
17 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
18 section 3 of P.L.1991, c.261 (C.2C:25-19);
19 (11) burglary;
20 (12) tampering with a cosmetic, drug or food product;
21 (13) a violation of human trafficking, section 1 of P.L.2005, c.77
22 (C.2C:13-8); or
23 c. the commission of a violation of R.S.39:4-50, section 5 of
24 P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236
25 (C.12:7-34.19), or section 3 of P.L.1952, c.157 (C.12:7-46); or
26 d. theft of an automobile pursuant to N.J.S.2C:20-2 or section 1
27 or 2 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this
28 bill), eluding a law enforcement officer pursuant to subsection b. of
29 N.J.S.2C:29-2 or unlawful taking of a motor vehicle pursuant to
30 subsection b., c., or d. of N.J.S.2C:20-10 where injuries to the
31 victim occur in the course of operating an automobile in furtherance
32 of the offense; or
33 e. the commission of a violation of N.J.S.2C:16-1, bias
34 intimidation; or
35 f. simple assault pursuant to N.J.S.2C:12-1 or disorderly
36 conduct pursuant to N.J.S.2C:33-2; or
37 g. a motor vehicle accident resulting in injury or death where
38 the driver of the vehicle left the scene of the accident in violation of
39 R.S.39:4-129.
40 (cf: P.L.2019, c.380, s.7)
41
42 9. Section 6 of P.L.2017, c.324 (C.53:2-11) is amended to read
43 as follows:
44 6. a. A person shall not act as a pier superintendent or as a hiring
45 agent within the port of New York district in this State without first
46 having obtained from the division a license to act as a pier
47 superintendent or hiring agent, as the case may be, and a person
48 shall not employ or engage another person to act as a pier
49 superintendent or hiring agent who is not so licensed.

1 b. A license to act as a pier superintendent or hiring agent shall
2 be issued only upon the written application, under oath, of the
3 person proposing to employ or engage another person to act as a
4 pier superintendent or hiring agent, verified by the prospective
5 licensee as to the matters concerning the prospective licensee, and
6 shall state the following:

- 7 (1) The full name and business address of the applicant;
8 (2) The full name, residence, business address, if any, place and
9 date of birth, and social security number of the prospective licensee;
10 (3) The present and previous occupations of the prospective
11 licensee, including the places where the person was employed and
12 the names of the person's employers;
13 (4) Any further facts and evidence as may be required by the
14 division to ascertain the character, integrity, and identity of the
15 prospective licensee; and
16 (5) That if a license is issued to the prospective licensee, the
17 applicant will employ the licensee as pier superintendent or hiring
18 agent, as the case may be.

19 c. A license shall not be granted pursuant to this section:

- 20 (1) Unless the division shall be satisfied that the prospective
21 licensee possesses good character and integrity;
22 (2) If the prospective licensee has, without subsequent pardon,
23 been convicted by a court of the United States, or any State or
24 territory thereof, of the commission of, or the attempt or conspiracy
25 to commit, treason, murder, manslaughter, or any of the following
26 offenses: illegally using, carrying, or possessing a pistol or other
27 dangerous weapon; making or possessing burglar's instruments;
28 buying or receiving stolen property or a stolen motor vehicle;
29 unlawful entry of a building; aiding an escape from prison;
30 unlawfully possessing, possessing with intent to distribute, sale, or
31 distribution of a controlled dangerous substance or a controlled
32 dangerous substance analog; or a violation prescribed in subsection
33 g. of this section. Any prospective licensee ineligible for a license
34 by reason of any conviction under this paragraph may submit
35 satisfactory evidence to the division that the prospective licensee
36 has for a period of not less than five years, measured as hereinafter
37 provided, and up to the time of application, so acted as to warrant
38 the grant of a license, in which event the division may, in its
39 discretion, issue an order removing that ineligibility. The five-year
40 period shall be measured either from the date of payment of any
41 fine imposed upon that person or the suspension of sentence or from
42 the date of the person's unrevoked release from custody by parole,
43 commutation, or termination of sentence; and
44 (3) If the prospective licensee knowingly or willfully advocates
45 the desirability of overthrowing or destroying the government of the
46 United States by force or violence or shall be a member of a group
47 which advocates that desirability, knowing the purposes of a group
48 having that advocacy.

1 d. When the application shall have been examined and further
2 inquiry and investigation made as the division shall deem proper
3 and when the division shall be satisfied therefrom that the
4 prospective licensee possesses the qualifications and requirements
5 prescribed in this section, the division shall issue and deliver to the
6 prospective licensee a license to act as pier superintendent or hiring
7 agent for the applicant, as the case may be, and shall inform the
8 applicant of this action. The division may issue a temporary permit
9 to any prospective licensee for a license issued under this section
10 pending final action on an application made for that license. Any
11 temporary permit shall be valid for a period not in excess of 30
12 days.

13 e. A person shall not be licensed to act as a pier superintendent
14 or hiring agent for more than one employer, except at a single pier
15 or other waterfront terminal, but nothing in P.L.2017, c.324
16 (C.32:23-229 et al.) shall be construed to limit in any way the
17 number of pier superintendents or hiring agents any employer may
18 employ.

19 f. A license granted pursuant to this section shall continue
20 through the duration of the licensee's employment by the employer
21 who shall have applied for the license.

22 g. Any license issued pursuant to this section may be revoked
23 or suspended for a period as the division deems in the public
24 interest or the licensee thereunder may be reprimanded for any of
25 the following offenses:

26 (1) Conviction of a crime or act by the licensee or other cause
27 which would require or permit the person's disqualification from
28 receiving a license upon original application;

29 (2) Fraud, deceit, or misrepresentation in securing the license, or
30 in the conduct of the licensed activity;

31 (3) Violation of any of the provisions of P.L.2017, c.324
32 (C.32:23-229 et al.);

33 (4) Unlawfully possessing, possessing with intent to distribute,
34 sale, or distribution of a controlled dangerous substance or a
35 controlled dangerous substance analog;

36 (5) Employing, hiring, or procuring any person in violation of
37 P.L.2017, c.324 (C.32:23-229 et al.) or inducing or otherwise aiding
38 or abetting any person to violate the terms of P.L.2017, c.324
39 (C.32:23-229 et al.);

40 (6) Paying, giving, causing to be paid or given or offering to pay
41 or give to any person any valuable consideration to induce the other
42 person to violate any provision of P.L.2017, c.324 (C.32:23-229 et
43 al.) or to induce any public officer, agent, or employee to fail to
44 perform the person's duty hereunder;

45 (7) Consorting with known criminals for an unlawful purpose;

46 (8) Transfer or surrender of possession of the license to any
47 person either temporarily or permanently without satisfactory
48 explanation;

1 (9) False impersonation of another licensee under P.L.2017,
2 c.324 (C.32:23-229 et al.);

3 (10) Receipt or solicitation of anything of value from any person
4 other than the licensee's employer as consideration for the selection
5 or retention for employment of any longshoreman;

6 (11) Coercion of a longshoreman by threat of discrimination or
7 violence or economic reprisal, to make purchases from or to utilize
8 the services of any person;

9 (12) Lending any money to or borrowing any money from a
10 longshoreman for which there is a charge of interest or other
11 consideration; or

12 (13) Membership in a labor organization which represents
13 longshoremen or port watchmen; but nothing in this section shall be
14 deemed to prohibit pier superintendents or hiring agents from being
15 represented by a labor organization or organizations which do not
16 also represent longshoremen or port watchmen. The American
17 Federation of Labor, the Congress of Industrial Organizations and
18 any other similar federation, congress, or other organization of
19 national or international occupational or industrial labor
20 organizations shall not be considered an organization which
21 represents longshoremen or port watchmen within the meaning of
22 this section although one of the federated or constituent labor
23 organizations thereof may represent longshoremen or port
24 watchmen.

25 (cf: P.L.2017, c.324, s.6)

26

27 10. Section 11 of P.L.2017, c.324 (C.53:2-16) is amended to
28 read as follows:

29 11. a. The division shall establish within the longshoremen's
30 register a list of all qualified longshoremen eligible, as hereinafter
31 provided, for employment as checkers in the port of New York
32 district in this State. A person shall not act as a checker within the
33 port of New York district in this State unless at the time the person
34 is included in the longshoremen's register as a checker, and a person
35 shall not employ another to work as a checker within the port of
36 New York district in this State unless at the time such other person
37 is included in the longshoremen's register as a checker.

38 b. Any person applying for inclusion in the longshoremen's
39 register as a checker shall file at a place and in a manner as the
40 division shall designate a written statement, signed, and verified by
41 the applicant, setting forth the following:

42 (1) The full name, residence, place and date of birth, and social
43 security number of the applicant;

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

47 (3) Any further facts and evidence as may be required by the
48 authority to ascertain the character, integrity, and identity of the
49 applicant.

- 1 c. A person shall not be included in the longshoremen's register
2 as a checker:
- 3 (1) Unless the division shall be satisfied that the applicant
4 possesses good character and integrity;
- 5 (2) If the applicant has, without subsequent pardon, been
6 convicted by a court of the United States or any State or territory
7 thereof, of the authority of, or the attempt or conspiracy to commit
8 treason, murder, manslaughter, or any of the following offenses:
9 illegally using, carrying or possessing a pistol or other dangerous
10 weapon; making or possessing burglar's instruments; buying or
11 receiving stolen property or a stolen motor vehicle; unlawful entry
12 of a building; aiding an escape from prison; unlawfully possessing,
13 possessing with intent to distribute, sale or distribution of a
14 controlled dangerous substance or a controlled dangerous substance
15 analog; petty larceny, where the evidence shows the property was
16 stolen from a vessel, pier or other waterfront terminal; or a violation
17 of P.L.2017, c.324 (C.32:23-229 et al.). An applicant ineligible for
18 inclusion in the longshoremen's register as a checker by reason of a
19 conviction may submit satisfactory evidence to the division that the
20 applicant has for a period of not less than five years, measured as
21 hereinafter provided, and up to the time of application, so acted as
22 to warrant inclusion in the longshoremen's register as a checker, in
23 which event the division may, in its discretion, issue an order
24 removing the applicant's ineligibility. The five-year period shall be
25 measured either from the date of payment of any fine imposed upon
26 that person or the suspension of sentence or from the date of the
27 person's unrevoked release from custody by parole, commutation, or
28 termination of sentence; or
- 29 (3) If the applicant knowingly or willfully advocates the
30 desirability of overthrowing or destroying the government of the
31 United States by force or violence or shall be a member of a group
32 which advocates that desirability, knowing the purposes of the
33 group advocating that desirability.
- 34 d. When the application shall have been examined and further
35 inquiry and investigation made as the division shall deem proper
36 and when the division shall be satisfied therefrom that the applicant
37 possesses the qualifications and requirements prescribed by this
38 section, the division shall include the applicant in the
39 longshoremen's register as a checker. The division may permit
40 temporary registration as a checker to any applicant under this
41 section pending final action on an application made for temporary
42 registration, under the terms and conditions as the division may
43 prescribe, which shall be valid for a period to be fixed by the
44 division, not in excess of six months.
- 45 e. The division shall have power to reprimand any checker
46 registered under this section or to remove the person from the
47 longshoremen's register as a checker for a period of time as the
48 division deems in the public interest for any of the following
49 offenses:

- 1 (1) Conviction of a crime or other cause which would permit
- 2 disqualification of the person from inclusion in the longshoremen's
- 3 register as a checker upon original application;
- 4 (2) Fraud, deceit, or misrepresentation in securing inclusion in
- 5 the longshoremen's register as a checker or in the conduct of the
- 6 registered activity;
- 7 (3) Violation of any of the provisions of P.L.2017, c.324
- 8 (C.32:23-229 et al.);
- 9 (4) Unlawfully possessing, possessing with intent to distribute,
- 10 sale, or distribution of a controlled dangerous substance or a
- 11 controlled dangerous substance analog;
- 12 (5) Inducing or otherwise aiding or abetting any person to
- 13 violate the terms of P.L.2017, c.324 (C.32:23-229 et al.);
- 14 (6) Paying, giving, causing to be paid or given, or offering to
- 15 pay or give to any person any valuable consideration to induce the
- 16 other person to violate any provision of P.L.2017, c.324 (C.32:23-
- 17 229 et al.) or to induce any public officer, agent, or employee to fail
- 18 to perform the person's duty under P.L.2017, c.324 (C.32:23-229 et
- 19 al.);
- 20 (7) Consorting with known criminals for an unlawful purpose;
- 21 (8) Transfer or surrender of possession to any person either
- 22 temporarily or permanently of any card or other means of
- 23 identification issued by the division as evidence of inclusion in the
- 24 longshoremen's register without satisfactory explanation; or
- 25 (9) False impersonation of another longshoreman or of another
- 26 person licensed under P.L.2017, c.324 (C.32:23-229 et al.).
- 27 f. The division shall have the right to recover possession of
- 28 any card or other means of identification issued as evidence of
- 29 inclusion in the longshoremen's register as a checker in the event
- 30 that the holder thereof has been removed from the longshoremen's
- 31 register as a checker.
- 32 g. Nothing contained in this section shall be construed to limit
- 33 in any way any rights of labor reserved by section 23 of P.L.2017,
- 34 c.324 (C.53:2-28).
- 35 (cf: P.L.2017, c.324, s.11)
- 36
- 37 11. Section 6 of P.L.2004, c.16 (C.56:8-141) is amended to read
- 38 as follows:
- 39 6. In addition to any other procedure, condition or information
- 40 required by this act:
- 41 a. Every applicant shall file a disclosure statement with the
- 42 director stating whether the applicant has been convicted of any
- 43 crime, which for the purposes of this act shall mean a violation of
- 44 any of the following provisions of the "New Jersey Code of
- 45 Criminal Justice," Title 2C of the New Jersey Statutes, or the
- 46 equivalent under the laws of any other jurisdiction:
- 47 (1) Any crime of the first degree;

- 1 (2) Any crime which is a second or third degree crime and is a
2 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
3 or
- 4 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-
5 2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
6 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of
7 2C:17-2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, section 1 or 2
8 of P.L. , c. (C.) (pending before the Legislature as this
9 bill), 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-
10 12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C
11 of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5,
12 2C:35-10, 2C:37-1 through 2C:37-4.
- 13 b. The director may refuse to issue or may suspend or revoke
14 any registration issued by him upon proof that the applicant or
15 holder of the registration:
- 16 (1) Has obtained a registration through fraud, deception or
17 misrepresentation;
- 18 (2) Has engaged in the use or employment of dishonesty, fraud,
19 deception, misrepresentation, false promise or false pretense;
- 20 (3) Has engaged in gross negligence, gross malpractice or gross
21 incompetence;
- 22 (4) Has engaged in repeated acts of negligence, malpractice or
23 incompetence;
- 24 (5) Has engaged in professional or occupational misconduct as
25 may be determined by the director;
- 26 (6) Has been convicted of any crime involving moral turpitude
27 or any crime relating adversely to the activity regulated by this act.
28 For the purpose of this subsection a plea of guilty, non vult, nolo
29 contendere or any other such disposition of alleged criminal activity
30 shall be deemed a conviction;
- 31 (7) Has had his authority to engage in the activity regulated by
32 the director revoked or suspended by any other state, agency or
33 authority for reasons consistent with this section;
- 34 (8) Has violated or failed to comply with the provisions of any
35 act or regulation administered by the director;
- 36 (9) Is incapable, for medical or any other good cause, of
37 discharging the functions of a licensee in a manner consistent with
38 the public's health, safety and welfare.
- 39 c. An applicant whose registration is denied, suspended, or
40 revoked pursuant to this section shall, upon a written request
41 transmitted to the director within 30 calendar days of that action, be
42 afforded an opportunity for a hearing in a manner provided for
43 contested cases pursuant to the "Administrative Procedure Act,"
44 P.L.1968, c.410 (C.52:14B-1 et seq.).
- 45 d. An applicant shall have the continuing duty to provide any
46 assistance or information requested by the director, and to cooperate
47 in any inquiry, investigation, or hearing conducted by the director.
- 48 e. If any of the information required to be included in the
49 disclosure statement changes, or if additional information should be

1 added after the filing of the statement, the applicant shall provide
2 that information to the director, in writing, within 30 calendar days
3 of the change or addition.

4 f. Notwithstanding the provisions of paragraph (6) of
5 subsection b. of this section, no individual shall be disqualified
6 from registration or shall have registration revoked on the basis of
7 any conviction disclosed if the individual has affirmatively
8 demonstrated to the director clear and convincing evidence of the
9 individual's rehabilitation. In determining whether an individual
10 has affirmatively demonstrated rehabilitation, the following factors
11 shall be considered:

12 (1) The nature and responsibility of the position which the
13 convicted individual would hold;

14 (2) The nature and seriousness of the offense;

15 (3) The circumstances under which the offense occurred;

16 (4) The date of the offense;

17 (5) The age of the individual when the offense was committed;

18 (6) Whether the offense was an isolated or repeated incident;

19 (7) Any social conditions which may have contributed to the
20 offense; and

21 (8) Any evidence of rehabilitation, including good conduct in
22 prison or in the community, counseling or psychiatric treatment
23 received, acquisition of additional academic or vocational
24 schooling, successful participation in correctional work-release
25 programs, or the recommendation of persons who have had the
26 individual under their supervision.

27 (cf: P.L.2004, c.16, s.6)

28

29 12. This act shall take effect immediately.