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The Basis of Marine Pilotage Requirements and Regulations in Alaska

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The State of Alaska requires almost all foreign vessels and vessels over a certain size to take on a marine pilot when they enter or travel in State waters. The purpose under state statute is to “assure the protection of shipping, safety of human life and property and protection of the marine environment” by providing pilots who specialize in operating these vessels and who have extensive knowledge of local conditions and maritime practices.

The requirement of marine pilots is a common historical and current practice all over the world. Each jurisdiction (state or nation) sets out its own rules for qualifications and compensation of pilots. In Alaska, these rules are governed by statutes adopted by the legislature and by regulations set by the Board of Marine Pilots. This paper describes the statutory history which led to the current statutes which mandate marine pilotage in Alaskan waters but which also maintain a primarily private sector approach to the commercial relations between the parties.

1. The Basic Structure

Alaska Marine Pilot requirements are contained in Alaska Statute 08.62.110-990. This law requires vessels to employ pilots and requires pilots to provide those services without interruption, in order to keep commerce moving. The statute establishes a Board of Marine Pilots that implements regulations on qualifications, licensing and training, pilotage waters, rate setting procedures and disciplinary actions.

The Board also licenses regional Pilot Associations to provide for the dispatching, billing and other administrative activities related to providing pilots. In Alaska there are 3 recognized regions: Southeast, Southcentral and Western/Northern Alaska. A pilot must be proficient at all ports in their region.

An important and consequential function of the Board is to set the location of the pilot station, the point at which the pilot is taken on board the vessel upon entry and disembarks the vessel upon departure. For instance in the 1980's, the pilot station for Valdez tankers was set by the board to be inland waters where there were still many hazards to navigation. The Exxon Valdez oil spill occurred because the pilot disembarked the vessel at the pilot station and the ship was turned over to an irresponsible ship captain. The pilot station was then changed to offshore open waters and there have been no incidents since.

The Board is authorized by statute for a set number of years (typically 5 or 6 years) at which point the Board will sunset. This is to allow for a review by Legislative Budget and Audit staff (currently being conducted), in which they report on the operations of the Board and make recommendations for changes if any in the statute or regulations. The Legislature then considers reauthorizing the Board. This will be considered during the 2013 Legislative session.

2. The Historic Compromise That Was Reached

About ten years ago, the statutory reauthorization of the marine pilot board was bogged down in a dispute over the makeup of the Board, compensation rates to pilots, and providing for competition in marine pilotage.

The legislature was in a quandary. They appreciated the pilots and what they do for Alaska, and at the same time, they also appreciated the industry and wanted them to operate without interruption in an efficient manner. And they wanted a primarily private sector approach to resolving the issues.

The issues under contention were:

How to structure the board to have the benefit of knowledge of pilots and vessel agents (shipping company representatives), yet be balanced and ultimately to make decisions in the public interests of Alaskans as a whole.

How to structure rate setting since it was mandatory to hire pilots but at the same time they are required to provide the service without interruption (essentially a no strike clause). A traditional labor-management scenario would not work. This situation could lead to endless negotiations or disruptions of commerce. Both pilots and vessel agents agreed that they did not want a government board setting commercial rates.

How to provide competition in pilotage services to ensure reasonable rates.

The Senate President Intervenes.....

There wasn't much progress being made on resolving these issues and the Board was headed for a total sunset and shutdown. Senator President Drue Pearce stepped in and brought the pilots and vessel agents into her office announcing: "You are going to stay here in my office with my staff, and do not come out until you have reached an agreement." Here is the compromise that was reached to resolve the issues stated above and which are included in the current statute:

a. The Board would be composed of two pilots, two vessel agents, two public members and the Commissioner of Commerce or his designee (typically a Deputy Commissioner). If there were a deadlock between pilots and vessel agents on an issue, it would ultimately be decided by the public members and the Commissioner's representative.

- b. The law would allow for competing pilot associations to be set up within a region to provide for competition in fees. (Competing groups were actually created in Southeast Alaska for a period of time, but were ultimately reunited for reasons of efficiency.)
- c. For rate setting, pilots would publish a tariff for their pilotage services. If the vessel owners believed that the tariff was too high, they could appeal to the Board based on criteria stated in the statute. If the tariff was overturned, the pilots would have to post a new tariff. In practice, this has led to voluntary negotiated agreements for tariffs in almost all circumstances, in some cases, multi year agreements which give the shipping industry the stability they need for their operations.

3. Pilot Qualifications, Licensing and Training

The qualifications for obtaining a license as a Marine Pilot are substantial and they are specified in the statute and further defined in Board regulations. To even initiate pilot training, applicants must have many certified hours of experience sailing on vessels of various sizes.

They then go through several years of apprentice training, beginning as observers, then proceeding to do supervised sailings and dockings, finally moving on to solo sailings. And this must be done for every port in the region where pilots are expected to know local wind and current regimes, location of underwater communications and electric lines and hazards to navigation, approaches to each dock and local operations of other vessels in the area. Most pilots hold degrees from maritime universities. A typical time line for obtaining a marine pilots license is ____years.

Random drug tests are administered to pilots on a regular basis. Discipline is extreme for infractions or for showing an inability to safely pilot vessels, up to and including loss of the Pilot's license.

The costs for licensing, investigations, Board operations and the Marine Pilot Coordinator are all paid for by annual licensing fees paid by the Pilots.

Conclusion

The Board of Marine Pilots is up for reauthorization in the 2013 Legislative session. We hope all Legislators will consider the history of the current statute in making decisions on this matter and give the maritime industry the stability it needs to operate for the next several years by passing this reauthorization.