

**ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

February 6, 2003

1:30 p.m.

MEMBERS PRESENT

Senator Con Bunde, Chair
Senator Ralph Seekins
Senator Bettye Davis
Senator Hollis French

MEMBERS ABSENT

Senator Alan Austerman

COMMITTEE CALENDAR

SENATE BILL NO. 20

"An Act extending the termination date of the Board of Marine Pilots; and providing for an effective date."

HEARD AND HELD

PREVIOUS ACTION

SB 20 - No previous action to record.

WITNESS REGISTER

Senator Therriault
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 20.

Senator Dyson
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Co-sponsor of SB 20.

Mr. Rick Urion, Director
Division of Occupational Licensing
Department of Labor & Workforce
Development

PO Box 21149
Juneau, AK 99802-1149

POSITION STATEMENT: Supported SB 20.

Ms. Kate Tesar
Alaska Yacht Services
Juneau AK

POSITION STATEMENT: Commented on yacht exemption issues.

Captain Robert Winter
Southeast Alaska Pilots Association
9370 View Dr.
Juneau AK 99801

POSITION STATEMENT: Supported SB 20 and commented on yacht exemption issues.

Mr. Joe Geldhof
United States Navy League, Juneau Chapter
229 4th Street
Juneau AK 99801

POSITION STATEMENT: Supported SB 20.

Captain Dale Collins, President
Southeast Alaska Pilots Association
4212 Tongass Hwy.
Ketchikan AK 99901

POSITION STATEMENT: Supported SB 20.

ACTION NARRATIVE

TAPE 03-3, SIDE A

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at 1:30 p.m. Present were Senators Davis, French, Seekins and Chair Bunde. Senator Austerman was excused. The first order of business was SB 20.

SB 20-EXTEND BOARD OF MARINE PILOTS

SENATOR THERRIAULT, sponsor of SB 20, said the Board of Marine Pilots underwent an audit review, from which the following recommendations were made:

1. The Board of Marine Pilots should ensure that regional pilot associations administer mandatory random drug testing programs in a manner consistent with established regulatory standards.
2. The Board of Marine Pilots should establish more informative and comprehensive reporting requirements so the marine pilot coordinator can confirm an

appropriate number of licensed pilots are consistently being subjected to random testing.

3. The Legislature should consider amending current statutes in order to extend mandatory drug and alcohol testing to pilot and organization trainees and apprentices.
4. The Board of Marine Pilots should seek statutory authority to allow the board the discretion to grant waivers of pilotage requirements to large pleasure craft. This is a complicated issue as there are homeland security issues and other issues that need to be dealt with.

SENATOR THERRIAULT said additional issues need to be discussed, but he would like to see those addressed in a different bill.

SENATOR DYSON, co-sponsor of SB 20, said that 90 percent of Alaska's freight is seaborne and the North Pacific is one of the more dangerous water bodies in the world that requires local knowledge to navigate.

The Coast Guard has homeland security responsibilities and their first line of defense is tracking vessels offshore that are approaching our shoreline and ports. They are developing a sophisticated system to require every vessel over 300 gross tons to have a transponder on it. The Coast Guard is also asking all vessels entering Alaskan waters to preregister with specific information.

The Coast Guard's next line of defense is to put a pilot on the boat at the three-mile limit or at some safe location. The Coast Guard counts on that pilot to be the first person to see if anything is wrong. This is a very key part of homeland security. Those pilots will follow protocols for alerting the appropriate authorities if they suspect a problem.

CHAIR BUNDE asked Senator Dyson if he was urging caution when granting an exemption for security reasons.

SENATOR DYSON said he has been a part of an ongoing discussion for the last year and a half on these issues, but the stakeholders are, at best, months away from agreeing on a final position.

CHAIR BUNDE asked if it is more reasonable, as far as enforcement goes, to discuss length limits instead of gross

tonnage because the average citizen would be better able to make that type of judgment.

SENATOR DYSON replied he didn't have a good answer because arguments could be made both ways.

1:45 p.m.

SENATOR FRENCH asked if all vessels have to pre-register and have transponders on board right now.

SENATOR DYSON advised that the Coast Guard is requiring all commercial foreign vessels to pre-register and they are considering extending the 96-hour requirement to actually pre-clearing a vessel before it leaves its port of origin. The vessels would be inspected before going to sea and the manifest certified. Hopefully the manifest wouldn't change while the vessel is at sea.

CHAIR BUNDE inserted that transponders are required of vessels over 300 gross tons.

SENATOR DYSON stated that a sophisticated system of tracking transponders has been developed here in Juneau.

SENATOR SEEKINS noted that that system tracks transponders, not necessarily the vessels. He pointed out that a terrorist could move a transponder easily and reminded members that, "It was an inflatable that took out the side of the USS Cole."

He asked if a timeline had been set for coming up with some suggestions.

SENATOR DYSON replied yes, but he didn't know what it is. He noted there are huge vulnerabilities, but a lot of companies have a very good track record and are relatively low-risk. The Coast Guard wants to find all the ones that are low-risk, so they can concentrate their attention on the ones they don't know about.

SENATOR SEEKINS said it looks like most people who want an exemption to the pilot rule are foreign flagged vessels that are owned by U.S. corporations.

2:50 p.m.

SENATOR THERRIAULT returned to the witness stand and said he would like to see these issues addressed in a bill separate from SB 20.

CHAIR BUNDE asked if he was aware of any great legislative opposition to introducing another bill.

SENATOR THERRIAULT replied that he thought there was some interest in [fostering] economic activity from yachts, but that is a complex issue. He maintained there is no question that the board is operating in a correct fashion and should be extended.

MR. RICK URION, Director, Division of Occupational Licensing, supported SB 20. He informed members that, "If it becomes something in addition to what it is now, we may well reserve the right to come back and talk about what the conditions are."

MS. KATE TESAR, Alaskan Yacht Servicing and Provisioning, a small local business, said this business caters to the large yachts that come into Southeast Alaska. Her client works in the industry and shipped out for two weeks so that's why she is appearing for her.

MS. TESAR said she has experience in this field having worked for 12 years for one of the defunct pilot groups and was involved in the major rewrite of the marine pilotage laws in 1991 and 1995. She has also worked as a consultant to cruise lines traveling in Alaska and had a business similar to the one she is representing in the early 1980s. She supports the extension of the Board of Marine Pilots and said it is operating better than it ever has in the past.

She added that she supports amending the statute to allow foreign flag vessels of over 300 tons to come into Alaska without a marine pilot on board. She explained that law was put into effect in 1995 and at that time a decision was made to exempt all U.S. pleasure craft of any size from pilotage "So right now, if it is a U.S. registered vessel, it can travel anywhere in the state without pilotage."

MS. TESAR said she would like to see Alaska use a system similar to the one that's been in effect in Washington state since 1977, which would allow these vessels to come into Alaska if they are less than 500 tons or 200 ft. She explained that British Columbia also has a waiver system in place and that Alaska is losing out to British Columbia regarding scheduling of those yachts in our waters.

She said a major rewrite of the Marine Pilotage Act took place in 1991 and some changes were made in 1995 when the sunset language came up. In 1999, the sunset came up again and an agreement was made between all parties that the language would remain as is with the only change being the one-line extension of the Board. People did not realize the growth that was going to take place in this industry. Prior to 1995, anyone on a pleasure craft of any size could come into the United States and Alaska without a marine pilot. In 1995 the decision was made to exempt by law all the U.S. flagged vessels. At that time the 300 gross ton limit on foreign flagged vessels was put into law.

CHAIR BUNDE asked the length of a vessel of 300 gross tons.

MS. TESAR replied that there is no correlation between tonnage, length and size. She explained the 300 gross ton statute was enacted because a vessel 700 to 900 ft. belonging to a major environmental group in the United States was cruising in Alaska during the summer doing research.

CHAIR BUNDE inserted, "The Rainbow Warrior."

MS. TESAR affirmed that and explained the concern was that a vessel that large was carrying passengers and a large amount of fuel in Alaskan waters without a pilot onboard. At that time, all U.S. craft of any size were exempted. She stated, "So, you can have two ships that are exactly the same size, same crews, both built in the United States, but for many reasons these large ships are flagged in other countries...."

CHAIR BUNDE asked if U.S. flagged vessels are allowed to have foreign crew.

MS. TESAR replied that U.S. flagged vessels have to adhere to the Jones Act, which is another reason offshore destinations are looked at. She stated, "I will say that 90 percent of ships of this class that are traveling around the world now are registered in Great Britain. They are known as the maritime chiefs and I know the majority of the ships' masters and captains are either British or of U.S. origin."

She said there is no reporting system in place to indicate who is coming to Alaska, when they are here or anything else. Coast Guard regulations are in place and require a 98-hour report and a new 24-hour report. If Alaska follows the Washington waiver system, there is a place on the application for this

information. Her client has no problem with the transponder issue. She stated her client is totally interested in the safety issues and there are already very stringent safety regulations that the multi-million dollar yachts have to adhere to regarding every aspect of operation, including insurance, which is a huge issue.

MS. TESAR said the legislative vehicle for this issue hasn't been decided yet, but her group feels that changes to the marine pilot statutes are [usually] in the bill that extends the board. However, they do not want to hold up the bill.

2:08 p.m.

SENATOR FRENCH asked if the Coast Guard is the agency that collects information on the boats that are coming to and from Alaska and whether they would know how many boats are being affected.

MS. TESAR replied it is her understanding that the Coast Guard collects that information 98 hours and 24 hours prior to a vessel entering U.S. waters, but she had not seen the form.

CHAIR BUNDE said he would appreciate her group coming to the committee next week with a united front.

MS. TESAR agreed and said the general parameters have been agreed upon and some of the specifics would be worked out.

CAPTAIN ROBERT WINTER, Southeast Alaska Marine Pilots Association, said he is a State of Alaska Marine Pilot and a retired Coast Guard officer. He has been going to sea for over 37 years and 25 of those have been in Southeast Alaska. The Alaska Marine Pilotage Act is the envy of many states and Alaska is on the cutting edge of marine training to ensure that pilots are at the top of their profession. He urged members to extend the board.

CAPTAIN WINTER said he is committed to working with the Legislature to help others who need changes to the Marine Pilotage Act, "...as long as those changes maintain the highest standards in pilotage, safety and environmental concerns."

CHAIR BUNDE said if the larger U.S. flagged vessels are allowed in Alaska waters without pilots, why would different laws apply to foreign flagged vessels or vice versa. He questioned whether U.S. flagged vessels need pilots when they go to foreign ports.

CAPTAIN WINTER replied that it's difficult when looking at both state and federal statutes to require a U.S. flagged vessel with a U.S. master and U.S. licensed crew that meets the Jones Act to have a pilot. He explained that large vessels must have a federal pilot; the ferries are considered to be "enrolled vessels"; and Alaska state pilots have federal pilotage qualifications.

CHAIR BUNDE asked if the general line of demarcation for requiring a pilot is 300 gross tons or more.

2:12 p.m.

CAPTAIN WINTER replied that is correct. He told members:

To give you a number on how big a 300 gross ton ship is - York Town Clipper, if you're familiar with it, is one of the cruise ships out here that is 250 ft., 99 gross tons. Her international tonnage is on the order of 3,000 gross tons. Because she's built to subchapter T of the Coast Guard regulations, or the CFR, all her accommodations open to a weather deck, so none of the cabin space counts as gross tonnage.... It's not an easy - they're built to be rule-beaters, to be able to carry as much as you can under 99 gross tons, because the requirements for safety, for everything is much less for T boats - which is under 99 gross tons. All the big catamarans you see around here are 99 gross tons and they carry 300 people.

He added that the American Pilots Association (APA) was getting information from the Lower 48 states on how they deal with yachts. He advised:

Virginia gives waivers, Florida gives waivers only for vessels that draw less than seven feet of water, Maryland gives waivers for only vessels less than 100 gross tons, Delaware was less than 100 gross tons, they just went up to 300 gross tons. So, every state kind of deals with it how they choose and I think depending upon the geography of the state might determine how you deal with it.

SENATOR FRENCH asked if other states maintain the same U.S. flag versus foreign flag distinction in their pilotage or labor process.

CAPTAIN WINTER replied they do as far as he knew, but advised Senator French "not to take that to the bank." He added the APA's legal counsel was going to have the report on all of the requirements in other states ready soon.

MR. JOE GELDHOF, United States Navy League, explained that Theodore Roosevelt and other individuals concerned about maritime security founded the league in 1902. Now the league is an advocacy group for the U.S. Navy, Marine Corps, the Coast Guard and the Merchant Marine. He said the league is asking for a warship exemption from pilotage and explained that the Chilean, Japanese and Taiwanese Navies work hard in the Gulf and when they come into Juneau or Skagway to relax, they wouldn't be faced with the pilotage fees. He pointed out:

In all likelihood there would be someone with an American or someone with piloting experience and I think the correct technical reading of our existing law, and this has been problematic in some few cases, particularly with the Canadian Navy, they are required to pay them and because they hadn't been budgeted it meant no liberty call or no visitation in Alaska coastal waters.

MR. GELDHOF said he was willing to work on finding the proper language. He summarized that basically the league does not want warships to get nickel and dimed on pilotage. However, he strongly supports having this issue dealt with in SB 20, "because it's going to pass...."

TAPE 03-3, SIDE B

CAPTAIN DALE COLLINS, President, Southeast Alaska Pilots Association (SAPA), said SAPA supports SB 20 and would work to resolve the yacht issue. He said, as it relates to the Pilotage Act, the State of Alaska is only empowered to regulate foreign flagged vessels under registry and U.S. flagged vessels that are sailing foreign. He said this is a key point, "If a vessel is U.S. flagged and sailing coastal under enrollment, you come under the jurisdiction of the U.S. Coast Guard. No state has been granted the right to regulate the movement of U.S. flagged vessels and coast-wise trade that are under enrollment."

CAPTAIN COLLINS said the Coast Guard would require such a vessel to have at least one trip in the area or it would have to have "a first class pilot on board" for that size vessel. He

continued, "So, even the United States does not let any 300 gross tons or more sail into our Alaska state water with a U.S. flag under enrollment and go through Wrangell Narrows if they haven't seen it at least once."

He thought that the exemption for foreign flagged vessels of less than 300 gross tons has been in statute since 1970. Another issue is why those vessels wouldn't want a pilot on board. It isn't an issue of economics as originally thought, but it comes down to an issue of privacy. Regarding warships from other countries, all U.S. warships are exempt from state pilotage but, "They all take pilots except in their home ports. The principles of good seamanship apply that you wouldn't want to necessarily sail into waters that you weren't intimately familiar with and try to navigate coastal waters."

He said he does not want to see anything attached to SB 20, because there are lots of issues and exceptions that will take time to consider.

CHAIR BUNDE said the committee would work on this issue and bring it up again next Thursday. He then adjourned the meeting at 2:28 p.m.