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Referred: Commerce and
Resources

1 IN THE SENATE

BY CROFT, POLAND AND KERTTULA

2 SENATE BILL NO. 405

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska State Port Commission,
7 prescribing its organization, powers and duties; and
8 providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 30 is amended by adding a new chapter to read:

11 CHAPTER 20. PORTS, HARBORS AND NAVIGABLE WATERWAYS.

12 ARTICLE 1. DECLARATION OF POLICY.

13 Sec. 30.20.010. LEGISLATIVE DECLARATION OF POLICY AND PURPOSE.

14 The legislature finds and declares that because waterborne commerce
15 to and from the state continues to increase a need has developed to
16 expand and improve existing port facilities and to locate, plan and
17 construct new ports and harbors on a sound engineering and financial
18 basis. Therefore, the state should prepare a comprehensive master or
19 general plan for port facilities development and, at the same time,
20 provide for the effective, uniform regulation of marine traffic and
21 commercial activity in the ports, harbors and navigable waterways of
22 the state. A system of port, harbor and waterways regulations is
23 required to complement existing federal law and regulations, to encour-
24 age commerce, to ensure the safety of marine traffic, to promote
25 efficient port operation and management, to protect both public and
26 private property along, and to safeguard the public interest in, the
27 navigable coastal, inside coastal and other public waterways of the
28 state.

29 ARTICLE 2. ALASKA STATE PORT COMMISSION.

1 Sec. 30.20.020. COMMISSION CREATED. There is in the Department
2 of Commerce the Alaska State Port Commission to formulate, and maintain
3 current, a master or general plan for the development of ports, harbors
4 and port facilities in the state, to supervise and regulate waterborne
5 commerce and other marine activity in the navigable coastal, inside
6 coastal, and other public waterways, and in the ports and harbors of the
7 state, in a manner that complements federal law and regulation.

8 Sec. 30.20.030. COMPOSITION, APPOINTMENT OF COMMISSION; TERM OF
9 OFFICE. (a) The Alaska State Port Commission consists of five members
10 appointed by the governor for four-year, staggered terms and confirmed
11 by a majority of the members of the legislature in joint session.

12 (b) Commissioners may be appointed to successive terms. A com-
13 missioner, upon the expiration of his term, shall continue to hold office
14 until his successor is appointed and qualifies.

15 Sec. 30.20.040. VACANCIES; REMOVAL. (a) Vacancies in commission
16 membership shall be filled in the same manner as original appointment.
17 An appointee to fill a vacancy shall hold office for the balance of the
18 term for which his predecessor on the commission was appointed. A
19 vacancy in commission membership does not impair the authority of a
20 quorum of the commissioners to exercise all the powers and duties of the
21 commission.

22 (b) The governor may remove a commissioner from office for cause,
23 by and with the consent of a majority of the members of the legislature
24 in joint session.

25 Sec. 30.20.050. QUALIFICATIONS OF COMMISSIONERS. In making his
26 appointments to the commission, the governor should consider ensuring
27 that at least three of the commission members have, or combine, a pro-
28 fessional or educational background as follows:

29 (1) law: a graduate of an accredited law school, or an

1 attorney admitted to practice law in the state, preferably having experi-
2 ence in maritime or admiralty law;

3 (2) engineering: a graduate of an accredited college or
4 university with a major or a degree in transportation or civil engi-
5 neering, and previous experience in harbor and waterway planning,
6 construction or improvements;

7 (3) business, economics or planning: a graduate of an
8 accredited college or university with a major or a degree in business,
9 finance or accounting, or if not otherwise represented on the commis-
10 sion, transportation planning or engineering economics;

11 (4) a master mariner with a valid license issued under the
12 authority of the United States, or a marine pilot licensed by the state
13 under AS 08.62;

14 (5) a person with professional experience as a port adminis-
15 trator.

16 Sec. 30.20.060. OFFICERS. The chairman and vice-chairman shall be
17 elected from among the members of the commission for a one-year term,
18 and no member of the commission may serve as chairman for more than two
19 consecutive one-year terms.

20 Sec. 30.20.070. MEETINGS, RULES, QUORUM, VOTES REQUIRED. The
21 commission shall prescribe its own rules of procedure. It shall meet at
22 least once a month at a time and place determined by the chairman, and
23 at other times and places as the chairman, or a majority of the commis-
24 sion members, consider necessary. A quorum is a majority of the members
25 of the commission. The votes of the commission members shall be re-
26 corded, and effective action requires the affirmative vote of a majority
27 of the commission members. No commission member may, with respect to a
28 matter before the commission, vote for or on behalf of, or in any way
29 exercise the vote of, another member of the commission.

1 Sec. 30.20.080. EXECUTIVE OFFICER; COMMISSION PERSONNEL. (a) The
2 commission may appoint an executive officer or director who has at least
3 five years of experience in waterborne commerce, in marine transporta-
4 tion, marine traffic regulation or management, port or harbor management
5 or an allied field. The executive officer or director may not be one of
6 the members of the commission.

7 (b) The executive officer or director is a member of the exempt
8 service under AS 39.25.110. The executive officer serves at the pleasure
9 of the commission, and he receives compensation fixed by the commission.
10 Other employees of the commission, other than legal counsel, are in the
11 classified service under AS 39.25.

12 (c) The commission may, as it considers necessary to carry out its
13 powers and duties under this chapter, authorize the executive officer
14 to employ, or contract for the services of, port administrators, engi-
15 neers, experts, consultants, agents and assistants and other staff
16 essential to the powers and duties of the commission. Subject to the
17 approval of the commission, the executive officer shall fix the compen-
18 sation of the commission staff. The commission shall make the maximum
19 possible use of employees, experts and consultants in the Departments of
20 Commerce, Public Safety, Public Works and Environmental Conservation,
21 and in the other departments or agencies of the state government, as
22 well as in related municipal departments or agencies.

23 Sec. 30.20.090. LEGAL COUNSEL. (a) The attorney general is legal
24 counsel for the commission. He shall advise the commission in legal
25 matters arising in the discharge of its duties and represent the commis-
26 sion in actions to which it is a party. If, in the opinion of the
27 commission, the public interest is not adequately represented by counsel
28 in a proceeding, the attorney general, upon request of the commission,
29 shall represent the public interest.

1 (b) The commission may employ temporary legal counsel from time
2 to time in matters in which the commission is involved.

3 Sec. 30.20.100. COMPENSATION OF COMMISSIONERS; PER DIEM AND TRAVEL
4 EXPENSES. Members of the commission are in the exempt service under
5 AS 39.25.110 and shall receive \$100 a day for each day or portion of a
6 day spent in actual meeting or on authorized official business incident
7 to their duties, and they are entitled to per diem and travel allowances
8 as provided by law for other boards and commissions. If a member of
9 the commission is a full-time officer or employee of the state, he may
10 not receive the \$100 a day compensation.

11 Sec. 30.20.110. RESTRICTIONS ON COMMISSIONERS AND EMPLOYEES. No
12 commission member or employee may have an official or professional con-
13 nection or relation with, or hold stock or securities in, or have any
14 other pecuniary or property interest in, a corporation, company or
15 association engaged in waterborne commerce, or in the construction,
16 operation or management of ports, harbors or port facilities, subject
17 to regulation under this chapter. No commission member or employee may
18 act upon a matter in which his relationship with any person creates a
19 conflict of interest.

20 ARTICLE 3. SCOPE OF AUTHORITY; POWERS AND DUTIES.

21 Sec. 30.20.120. APPLICATION OF CHAPTER. The provisions of this
22 chapter and other related, applicable laws of the state, and regulations
23 implementing them, govern the operation and management of any port or
24 harbor, or port facility in, and the operation of any vessel in the
25 waters of, the state, except as otherwise provided by this chapter.

26 Sec. 30.20.130. COMMISSION'S GEOGRAPHIC JURISDICTION. The commis-
27 sion has jurisdiction, supervision and control of all ports, deepwater
28 ports, harbors, navigable coastal, inside coastal, and other public
29 waterways of the state, including tidal, tidewater and submerged

1 tidelands, except those transferred to a municipality or other person,
2 within the boundaries of the state. However, the commission's juris-
3 diction, supervision and control does not extend to areas which are
4 under the exclusive control of

- 5 (1) the United States; or
6 (2) a municipality, except as provided in sec. 290 of this
7 chapter.

8 Sec. 30.20.140. POWERS. (a) The commission may, in the name of
9 the state,

- 10 (1) sue and be sued;
11 (2) acquire and own real and personal property;
12 (3) enter into contracts;
13 (4) issue subpoenas, administer oaths, hold hearings and
14 conduct investigations;
15 (5) accept grants or loans from, and contract with, agencies
16 or departments of the federal government, the state, or its political
17 subdivisions, to comply with the provisions of federal and state programs,
18 policies, procedures, directives or regulations;
19 (6) authorize the disbursement of money.

20 (b) Collection and deposit of fees, service charges, civil penal-
21 ties, or income from any source shall be in accordance with AS 37.05
22 and 37.10. Contracts for the purchase, sale or transfer of any interest
23 in real property may be executed only after approval of the department
24 of law.

25 ARTICLE 4. PORTS, HARBORS AND PORT FACILITIES.

26 Sec. 30.20.150. COMPREHENSIVE MASTER OR GENERAL PLAN. (a) After
27 conducting public hearings throughout the state, the commission shall
28 prepare, adopt, publish and maintain a comprehensive master or general
29 plan for the development of ports, harbors and port facilities in the

1 state.

2 (b) The commission shall review and make recommendations to the
3 commissioner of public works concerning applications for state port
4 facilities grants under AS 30.15 to determine if the proposed port
5 facilities development project conforms to the master or general plan
6 adopted under (a) of this section.

7 (c) The commission shall cooperate with and assist any state
8 coastal zone management planning agency in the development of a trans-
9 portation element as a component of a coastal zone plan insofar as it
10 affects the planning and development of port, harbor and port facilities
11 adjacent to the navigable coastal and inside coastal waters of the state
12 subject to the jurisdiction of the commission under this chapter.

13 Sec. 30.20.160. REGULATION OF PORTS AND HARBORS; MARINE TRAFFIC;
14 TERMINAL AND TRANSPORTATION FACILITIES. (a) The commission shall regu-
15 late the manner in which ports, harbors and port terminal or other
16 transportation facilities are operated in order to insure the safety
17 and accommodation of the public. The commission shall promulgate
18 regulations to implement this section which shall be compatible with
19 federal statutes or regulations issued by a federal department or agency.

20 (b) The regulations promulgated under (a) of this section shall
21 include, but are not limited to, procedures for the maneuvering, berthing
22 and mooring of vessels and other marine traffic in a port or harbor,
23 the handling of all freight or cargo, including but not limited to
24 the transfer of explosives, oil, petroleum products and their by-products,
25 and other hazardous substances.

26 Sec. 30.20.170. PORT FACILITIES, TERMINAL, TRANSPORTATION FACILI-
27 TIES OPERATION; PERMIT REQUIRED. (a) All lessees, owners or occupants
28 of property in the state who wish to construct or operate a port,
29 harbor or port facility, including but not limited to a freight or

1 cargo terminal or other transportation facility in any port or harbor
2 of this state, shall apply to the commission for a permit. Application
3 for a permit shall be made in accordance with regulations promulgated
4 by the commission and shall be accompanied by a plan for the proposed
5 construction or operation which meets the standards provided in the
6 comprehensive master or general plan for port facilities development
7 prepared, adopted and published under sec. 150 of this chapter.

8 (b) The commission shall review the proposed plan of construction
9 and operation to determine whether it is in keeping with the objectives
10 of the comprehensive master or general plan adopted under sec. 150 of
11 this chapter. If the commission concludes, following investigation and
12 hearing, that significant conflicts exist between the proposed port
13 facility development and the master or general plan, a permit may not
14 be issued. The commission may recommend modifications in the proposed
15 construction or operation to meet the standards prescribed by the
16 commission in the master or general plan.

17 (c) The commission may issue port facility, terminal and trans-
18 portation permits on those terms and conditions, and for the duration,
19 it considers appropriate for the safe and efficient use of the port or
20 harbor and to ensure that adequate port, terminal and transportation
21 facilities will be continuously provided in the port or harbor. No
22 construction or operation may be begun or carried on without a permit
23 issued by the commission.

24 (d) It shall be a condition of each permit granted by the commis-
25 sion under this section that the port facilities to be constructed or
26 operated, or the services to be supplied in connection with the facility
27 or terminal operation, shall be made available to all carriers on equal
28 terms, at equal rates, and without discrimination of any kind.

29 (e) Every permit, lease, deed or conveyance of right, title or

1 interest executed by the commission with respect to land within the
2 commission's jurisdiction shall incorporate by reference or otherwise,
3 and shall be subject to, the restrictions contained in this chapter.

4 Sec. 30.20.180. INVESTIGATION OF PERMIT HOLDER; SUSPENSION;
5 CANCELLATION. The commission may inquire into the manner in which obli-
6 gations under permits issued by it are carried out, and into the rate
7 schedules and practices of the permit holders to determine whether the
8 provisions of the permits are being complied with. The commission shall
9 have access to books and records, and to the terminal and transportation
10 facilities that may be necessary to enable it to make this determina-
11 tion. Should the commission at any time find that a permit holder is
12 not complying with the terms of its permit, it may suspend or cancel
13 the permit upon notice and hearing, in accordance with the procedure it
14 prescribes by regulation.

15 Sec. 30.20.190. FIXING RATES, CHARGES, CLASSIFICATIONS FOR USE
16 OF PORT TERMINAL OR TRANSPORTATION FACILITIES. The commission shall
17 fix the rates, fees, charges and classifications to be charged for the
18 use of facilities, goods or services provided by the state in those
19 port facilities it owns or operates. These rates, fees, charges and
20 classifications shall be just and reasonable, and shall be published
21 before and following a hearing in the manner required by law, or as
22 prescribed by the commission by regulation, and shall be final unless
23 appealed in the manner prescribed under the Administrative Procedure
24 Act (AS 44.62).

25 Sec. 30.20.200. STATE PORT FACILITIES. The commission may acquire,
26 construct, purchase or lease and operate and maintain port facilities
27 subject to the provisions of this chapter. Where practicable, the com-
28 mission shall construct, operate and maintain these state port facili-
29 ties in conjunction with state ferry terminal facilities operated and

1 maintained under AS 19.60.

2 Sec. 30.20.210. DEEPWATER PORT FACILITIES. The commission is the
3 exclusive state agency to make application to the appropriate federal
4 department or agency for a license to own, construct and operate a deep-
5 water port facility under the Deepwater Port Act of 1974 (P.L. 93-627)
6 and other applicable federal laws and regulations. Notwithstanding any
7 contrary provisions of law or sec. 290 of this chapter or any municipal
8 ordinance or charter, no municipality or any other person may apply for
9 a license to own, construct or operate a deepwater port facility, and
10 any existing ordinance or charter adopted by the governing body of a
11 municipality or by the voters of a municipality, respectively, that
12 relates to deepwater port facilities is superseded and the future enact-
13 ment of ordinances or charters that provide otherwise is prohibited.

14 Sec. 30.20.220. FOREIGN TRADE ZONES. The commission may apply to
15 the United States for permission to establish, operate and maintain
16 foreign trade zones in any port or harbor in the state.

17 ARTICLE 5. NAVIGATION; PILOT RULES
18 AND WATERWAY MARKING SYSTEM.

19 Sec. 30.20.230. PILOT RULES, OTHER MARINE TRAFFIC REGULATIONS.

20 (a) The commission shall establish, promulgate and maintain a compre-
21 hensive uniform system of pilot rules or other marine traffic regulations
22 that may be required for the operation of vessels in the waters of the
23 state that are not in conflict with the pilot rules or other marine
24 traffic regulations contained in the federal navigation laws or regula-
25 tions promulgated by the United States Coast Guard.

26 (b) The commission shall consult and cooperate with the United
27 States Coast Guard in the establishment, promulgation, maintenance,
28 administration and enforcement of the pilot rules and other marine
29 traffic regulations promulgated under this section.

1 Sec. 30.20.240. PILOT RULES, MARINE TRAFFIC REGULATIONS: OIL
2 TANKERS. (a) Because of the danger of spills, the legislature finds
3 and declares that the marine transportation of oil and other petroleum
4 products and their by-products by tankers or other carriers so engaged
5 in the coastal waters and inside coastal waters of the state creates
6 a great potential hazard to important natural resources of the state
7 and to jobs and incomes dependent on these resources. The legislature
8 also recognizes that the state's coastal and inside coastal waters are
9 a relatively confined saltwater environment with irregular shorelines
10 and therefore there is a greater than usual likelihood of long-term
11 damage from any large oil discharge. Certain areas of the state's
12 coastal and inside coastal waters have limited space for maneuvering
13 a large oil tanker or other carrier engaged in the marine transportation
14 of oil and other refined petroleum products or their by-products.
15 These waters also contain many natural obstacles and phenomena as well
16 as a high density of commercial and pleasure boat traffic. Thus, it
17 is important that large oil tankers or other carriers be piloted by
18 highly skilled persons who are familiar with local waters and that
19 these tankers and other carriers have sufficient capability for rapid
20 maneuvering responses. It is the purpose of this section to decrease
21 the likelihood of oil discharges in the coastal and inside coastal
22 waters of the state and its shorelines by requiring all oil tankers and
23 other carriers engaged in the marine transportation of oil and other
24 petroleum products or their by-products above a certain size to employ
25 a marine pilot licensed by the state and, if lacking certain safety
26 and maneuvering capability requirements, to be escorted by a tug or tugs
27 while navigating in the coastal and inside coastal waters of the state.
28 (b) An oil tanker or other carrier engaged in the marine trans-
29 portation of oil or other petroleum products or their by-products,

1 whether enrolled or registered, of 40,000 deadweight tons or more, shall
2 take aboard a marine pilot licensed by the state under AS 08.62 and
3 certified under AS 08.62.125 while navigating the coastal or inside
4 coastal waters of the state, except when in ballast, and shall be liable
5 for and pay pilotage rates established under AS 08.62.040(a)(4).

6 (c) An oil tanker or other carrier engaged in the marine trans-
7 portation of oil or other petroleum products or their by-products,
8 whether enrolled or registered, of 40,000 deadweight tons or more, which
9 lacks the standard safety features prescribed in (d) of this section,
10 must have a tug or tugs with an aggregate shaft horsepower equivalent to
11 five per cent of the deadweight tons of that tanker or other carrier
12 while navigating those portions of the coastal or inside coastal waters
13 of the state prescribed by the commission by regulation. However, if a
14 tanker or other carrier is in ballast, no tug or tugs are required.

15 (d) The standard safety features required under (c) of this
16 section are:

17 (1) shaft horsepower in the ratio of one horsepower to each
18 two and one-half deadweight tons;

19 (2) lateral bow thrusters;

20 (3) double bottoms under the cargo-carrying length or com-
21 partments of the vessel;

22 (4) segregated ballast;

23 (5) midship warning lights;

24 (6) double boilers or an auxiliary power source;

25 (7) docking-collision avoidance systems;

26 (8) two radars in working order and operating; and

27 (9) other navigational position location systems as may be
28 prescribed from time to time by the commission.

29 (e) In promulgating regulations for the pilotage of oil tankers or

1 other carriers engaged in the marine transportation of oil, petroleum
2 products or their by-products, the commission may prescribe the maximum
3 and minimum speed for these vessels and the weather conditions under
4 which the movement of these vessels may be prohibited.

5 Sec. 30.20.250. UNIFORM NAVIGATIONAL MARKINGS. The commission
6 shall promulgate regulations for the uniform navigational marking of the
7 waters of the state through the placement of aids to navigation and
8 regulatory markers. The regulations shall establish a marking system
9 compatible with the system of aids to navigation prescribed by the
10 United States Coast Guard. No person or municipality may mark or
11 obstruct the waters of this state in any manner that will endanger the
12 operation of watercraft or conflict with the marking system prescribed
13 by the commission.

14 Sec. 30.20.260. VIOLATION OF PILOT RULES, MARINE TRAFFIC REGULA-
15 TIONS OR INTERFERENCE WITH AIDS TO NAVIGATION, REGULATORY MARKERS. (a)
16 It is unlawful for a person to operate a vessel on the waters of this
17 state in a manner other than that prescribed or permitted by the pilot
18 rules or marine traffic regulations or by regulatory markers.

19 (b) No person may moor or fasten a vessel to or wilfully damage,
20 tamper with, remove, obstruct, or interfere with an aid to navigation
21 or regulatory marker established under this chapter.

22 ARTICLE 6. PORT ADMINISTRATION.

23 Sec. 30.20.270. SELECTION OF PORT ADMINISTRATOR. (a) Where there
24 is no municipal port administrator or other port officer or employee,
25 the commission may

26 (1) appoint or employ a port administrator and the other
27 employees essential to carry out the functions of the ports and harbors
28 of this state, subject to regulations promulgated by the commission; or

29 (2) designate a municipal officer or employee as the port

1 administrator.

2 (b) If the commission designates a port administrator under (a)(2)
3 of this section, the commission, or its executive officer, shall consult
4 with the governing body of the municipality regarding the port adminis-
5 trator's designation, appointment, discipline, dismissal, position
6 classification and pay plan and other matters relative to port adminis-
7 tration that are subject to the direction of the port administrator or
8 are under the jurisdiction of the municipality.

9 Sec. 30.20.280. PORT ADMINISTRATOR; POWERS AND DUTIES. The chief
10 administrator of a port shall be a port director, port superintendent,
11 port captain, harbormaster, or shall be designated by the commission by
12 some other title appropriate to his duties under this chapter. The port
13 administrator shall exercise those powers and perform those duties
14 assigned by the commission and shall perform those duties imposed by
15 state or federal law or regulation upon port directors, harbormasters,
16 or other port administrators. The port administrator shall employ
17 persons necessary to carry out port functions and, subject to the approv-
18 al of the executive officer of the commission, shall establish position
19 classifications, pay plans and provide for the employment, suspension,
20 discipline or dismissal of port employees.

21 ARTICLE 7. APPLICATION OF CHAPTER;

22 MUNICIPAL ORDINANCES, REGULATIONS.

23 Sec. 30.20.290. MUNICIPAL ORDINANCES, REGULATIONS. To ensure the
24 maintenance of a uniform system of port, harbor and marine traffic
25 regulations in the state, the commission's jurisdiction and authority
26 extends to a port, harbor or port facility operated by a municipality.
27 Nothing in this chapter may be construed to prevent a municipality from
28 adopting any ordinance or regulation relating to the operation of, or
29 marine traffic in, ports, harbors or port facilities. However, a muni-

1 ciproal ordinance or regulation may not conflict with the provisions of
2 this chapter, or the implementing regulations promulgated by the com-
3 mission. If a conflict occurs between a provision of this chapter, or a
4 regulation, permit, order, decision or other determination of the com-
5 mission and a charter, ordinance, regulation, permit, franchise, order,
6 decision or other determination of a municipality, the provisions of
7 this chapter, or a regulation, permit, order, decision or other deter-
8 mination of the commission supersedes that of the municipality.

9 ARTICLE 8. ENFORCEMENT.

10 Sec. 30.20.300. AUTHORITY TO ENTER, STOP AND BOARD. Members of
11 the commission, or its designated employees, every peace officer and
12 municipal port officer or designated employee, shall enforce the pro-
13 visions of this chapter and the implementing regulations and may stop
14 and board a vessel or enter a port, harbor or the premises of any port
15 facility subject to this chapter to inspect or determine compliance
16 with this chapter and the implementing regulations. Commission members,
17 or designated employees, peace officers or municipal port officers and
18 designated employees may issue a summons for appearance before the
19 commission, in a court or before a magistrate for all violations of this
20 chapter, or the implementing regulations. Commission vessels shall be
21 marked to identify them as enforcement vessels.

22 Sec. 30.20.310. VESSELS REQUIRED TO COOPERATE, STOP AND LIE TO.
23 Every vessel subject to this chapter, if underway and lawfully ordered
24 to stop, upon being hailed by a peace officer, or person designated to
25 enforce the provisions of this chapter, or the implementing regulations,
26 shall stop immediately and lie to or shall permit the peace officer or
27 other designated person to come aboard.

28 Sec. 30.20.320. HARBOR POLICE. (a) On recommendation of the
29 commission, and subject to the approval of the governor, the commis-

1 sioner of public safety may create a division of harbor police, or a
2 harbor police enforcement unit in the division of state troopers, in
3 the Department of Public Safety to enforce the provisions of this
4 chapter and the implementing regulations.

5 (b) Municipalities may employ harbor policemen.

6 (c) Harbor police have the powers of a peace officer.

7 (d) Every harbor policeman who is on duty for the purpose of
8 enforcing the provisions of this chapter, the implementing regulations,
9 or comparable municipal ordinances or regulations, shall wear a full,
10 distinctive uniform to identify him as a harbor policeman. If he uses a
11 vessel, the vessel shall be painted a distinctive color and appropri-
12 ately marked. The commission shall prescribe the uniform standards for
13 harbor policemen and the distinctive colors to identify a harbor police
14 vessel.

15 Sec. 30.20.330. ENFORCEMENT OFFICERS. Every peace officer, and
16 every person designated by the commission to enforce the provisions of
17 this chapter, or the implementing regulations, may

18 (1) arrest on view for a violation of this chapter, or the
19 implementing regulations;

20 (2) execute all warrants and search warrants for violations
21 of this chapter, and the implementing regulations;

22 (3) serve subpoenas issued for the examination, investiga-
23 tion, and trial of all offenses in violation of this chapter, or
24 implementing regulations;

25 (4) board vessels in use to examine documents, safety
26 equipment and search without warrant a vessel which is not at its
27 regular mooring or berth, when he believes that this chapter, or the
28 implementing regulations relating to marine traffic or port operation
29 and management has been violated;

1 (5) detain the vessel and arrest the operator of a stolen
2 vessel or one that is in violation of this chapter, or the implementing
3 regulations;

4 (6) enter upon any land or water in the performance of his
5 duty;

6 (7) demand and secure proper assistance in case of emergency.

7 ARTICLE 9. PENALTIES.

8 Sec. 30.20.340. INJUNCTIVE RELIEF. A person may be enjoined by
9 the superior court from committing a violation of a provision of this
10 chapter, or the implementing regulations.

11 Sec. 30.20.350. CIVIL PENALTIES. (a) In addition to all other
12 penalties, sanctions and remedies provided by law, every person subject
13 to the provisions of this chapter, and the implementing regulations,
14 as well as their officers, managers, agents or employees, that either
15 violates, procures, aids or abets the violation of any provision of this
16 chapter, or of the implementing regulations, an order issued under them,
17 is subject to a maximum penalty of \$10,000 for each violation.

18 (b) No penalty may be assessed unless the commission first issues
19 an order to show cause why the penalty should not be levied. The order
20 shall describe the violation with reasonable particularity and designate
21 the maximum penalty which may be assessed for the violation. The order
22 shall be served on the alleged violator named in the order. The order
23 shall state a time and place for the hearing.

24 (c) After a hearing the commission shall enter its findings of
25 fact and final order which shall state when the penalties, if any, are
26 payable. A final order of the commission is appealable under the
27 Administrative Procedure Act (AS 44.62).

28 Sec. 30.20.360. ACTIONS TO RECOVER PENALTIES. (a) Actions to
29 recover penalties under this chapter shall be brought by the attorney

1 general in a court of competent jurisdiction.

2 (b) All penalties recovered under the provisions of this chapter
3 shall be paid to the commission and deposited by it in the general
4 fund. However, damages and penalties recovered under this chapter for
5 violations occurring within the territorial limits of a municipal port,
6 harbor or port facility shall be divided equally between the municipal-
7 ity and the state; the state portion shall be paid to the commission
8 and deposited by it in the general fund.

9 Sec. 30.20.370. CRIMINAL SANCTIONS. (a) A person convicted of
10 reckless or negligent operation of a vessel or of operating a vessel
11 while under the influence of intoxicating liquor, narcotic, depressant,
12 stimulant or hallucinogenic drugs is punishable under (b) of this
13 section and, in addition to the other penalties provided by this
14 chapter, or other provisions of law,

15 (1) may be prohibited by the court having jurisdiction of
16 the violation from operating a vessel on the waters of this state for a
17 period of not more than three years; and

18 (2) if he holds a valid marine pilot's license under
19 AS 08.62, may have that license suspended for a period of not more than
20 three years, or revoked, by the court or by the commission.

21 (b) A person who violates sec. 260 or 310 of this chapter, or (a)
22 of this section, upon conviction for the first offense, is guilty of a
23 misdemeanor and is punishable by a fine of at least \$100 but not more
24 than \$500, or by imprisonment for a period of not more than six months,
25 or by both. Upon conviction for a second offense, a person is guilty of
26 a misdemeanor and is punishable by a fine of at least \$500 but not more
27 than \$1,000, or by imprisonment for a period of not more than one year,
28 or by both. Upon conviction of a third and any subsequent offense, a
29 person is guilty of a felony and is punishable by a fine of at least

1 \$1,000 but not more than \$5,000, or by imprisonment for a period of not
2 more than three years, or by both.

3 Sec. 30.20.380. EACH VIOLATION A SEPARATE OFFENSE. Each violation
4 of a provision of this chapter, an implementing regulation, or an order
5 issued under them, is a separate and distinct offense and, in case of
6 a continuing violation, each day the violation continues constitutes a
7 separate offense.

8 Sec. 30.20.390. PENALTIES CUMULATIVE. (a) All penalties imposed
9 under this chapter are cumulative.

10 (b) An action to recover a civil penalty is not a bar to an
11 enforcement proceeding to require compliance, or to any other remedy
12 or sanction provided by this chapter.

13 Sec. 30.20.400. JOINDER OF ACTIONS. Under the applicable court
14 rules, appeals from orders of the commission, and actions for recovery
15 of penalties may be joined. The court may in the interests of justice
16 separate the actions.

17 Sec. 30.20.410. PRIVATE CAUSE OF ACTION. (a) A person subjected
18 to an unlawful rate, price, service, or practice, in violation of this
19 chapter, may sue in a state court of appropriate jurisdiction for
20 damages resulting from the unlawful rate, price, service, or practice.

21 (b) If the violation described in (a) of this section resulted in
22 the overcharge of rate or price, the person paying the unlawful rate
23 or price is entitled to recover as damages at least triple the amount
24 of the overcharge.

25 (c) A person recovering damages under this section is entitled
26 to a reasonable attorney fee, fixed by the court, to be taxed and col-
27 lected as costs of the suit.

28 ARTICLE 10. GENERAL, MISCELLANEOUS PROVISIONS.

29 Sec. 30.20.420. EXPENSES OF INVESTIGATION OR HEARING. After com-

1 pletion of a hearing or investigation held under this chapter, the
2 commission shall allocate the costs of the hearing or investigation
3 among the parties, including the commission, as is just under the cir-
4 cumstances. The costs allocated may include the costs of any time
5 devoted to the investigation or hearing by hired consultants, whether
6 or not the consultants appear as witnesses or participants. The
7 commission shall provide an opportunity for any person objecting to an
8 allocation to be heard before the allocation becomes final.

9 Sec. 30.20.430. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. (a)
10 The administrative adjudication procedures of the Administrative
11 Procedure Act (AS 44.62) do not apply to the adjudicatory, licensing,
12 permit granting or rate fixing proceedings of the commission. However,

13 (1) final administrative determinations or orders by the
14 commission are subject to judicial review under that Act;

15 (2) commission hearings shall be held only after at least
16 10 days public notice, unless it is an emergency hearing, and they shall
17 be held at a place most convenient for those interested in the subject
18 of the hearing;

19 (3) a commissioner who has not heard the testimony or argu-
20 ment may not participate in making a decision of the commission.

21 (b) The Administrative Procedure Act applies to regulations
22 promulgated by the commission.

23 Sec. 30.20.440. COMPREHENSIVE SAFETY AND EDUCATIONAL PROGRAM. The
24 commission may inaugurate a comprehensive vessel or port safety and
25 educational program, and seek the cooperation of vessel operators,
26 owners, port administrators and employees, the departments and agencies
27 of the state, other states and the federal government. The commission
28 may issue certificates to persons who complete courses in vessel or port
29 safety education.

1 Sec. 30.20.450. ANNUAL REPORT. The commission shall prepare and
2 publish an annual report reviewing its work and submit it to the gover-
3 nor and the legislature not later than the first day each regular ses-
4 sion of the legislature convenes. The report may include recommen-
5 dations for the enactment of appropriate legislation.

6 Sec. 30.20.460. DEFINITIONS. In this chapter, unless the context
7 requires otherwise,

8 (1) "aids to navigation" means buoys, beacons or other fixed
9 objects in the water which are used to mark obstructions to navigation
10 or to direct navigation through safe channels;

11 (2) "commission" means the Alaska State Port Commission;

12 (3) "commissioners" means members of the Alaska State Port
13 Commission;

14 (4) "deepwater port" means a fixed or floating man-made
15 structure other than a vessel, or a group of these structures, located
16 off the coast of the United States beyond the territorial waters of the
17 state and which are used or intended for use as a port or terminal for
18 the transfer, loading or unloading and further handling of oil, petro-
19 leum products or their by-products for transportation to any state, and
20 commonly known as "superports" or "monobuoys"; the term includes all
21 associated components and equipment, including pipelines, pumping
22 stations, service platforms, mooring buoys and similar appurtenances to
23 the extent they are located seaward of the high water mark;

24 (5) "department" means the Department of Commerce;

25 (6) "municipality" means a home rule or general law borough
26 or city including but not limited to a unified municipality organized
27 under AS 29.68;

28 (7) "operate" means to navigate or otherwise use a vessel;

29 (8) "operator" means the person who operates or has charge of

1 the navigation or use of a vessel;

2 (9) "owner" means a person, other than a lien holder, having
3 the property in or title to a vessel; the term includes a person en-
4 titled to the use or possession of a vessel subject to an interest of
5 another person reserved or created by agreement and securing payment or
6 performance of an obligation, but the term excludes a lessee under a
7 lease not intended as security;

8 (10) "port facilities" means docks, landings, dolphins,
9 wharves, bulkheads, seawalls, landfills, breakwaters or jetties,
10 administration buildings, warehouses or other storage facilities for
11 the handling and processing of freight or cargo, staging areas, transfer
12 spans and aprons, lifting equipment and similar structures together
13 with the necessary equipment and transfer, transportation or terminal
14 facilities, or any combination of these, required to accommodate
15 waterborne commerce and shipping, including but not limited to combined
16 port and ferry terminal facilities;

17 (11) "regulatory markers" means an anchored or fixed marker
18 in or on the water or sign on the shore or on the bridge over the
19 water or at any port or harbor facilities other than aids to navigation
20 and includes but is not limited to bathing markers, speed zone markers,
21 information markers, danger zone markers, vessel keep out markers, and
22 mooring buoys;

23 (12) "vessel" means every description of watercraft or other
24 artificial contrivance, other than a seaplane on the water, used or
25 capable of being used as a means of transportation on or through the
26 water;

27 (13) "waters of the state" means the navigable waters within
28 the territorial limits of this state, and the marginal sea adjacent to
29 this state, and as defined in AS 44.03.

1 Sec. 30.20.470. SHORT TITLE. This chapter may be cited as the
2 Alaska Ports, Harbors and Navigable Waterways Act.

3 * Sec. 2. AS 30 is amended by adding a new chapter to read:

4 CHAPTER 30. ABANDONED AND DERELICT VESSELS.

5 ARTICLE 1. ABANDONED VESSELS.

6 Sec. 30.30.010. ABANDONMENT OF VESSEL UNLAWFUL. (a) A person may
7 not store or leave a vessel in a wrecked, junked or substantially
8 dismantled condition or abandoned upon any public waters, or at a port
9 or harbor, of the state, without the consent of the agency having juris-
10 diction of the waters, port or harbor, or docked at any private property
11 without the consent of the owner of the property.

12 (b) The commission, its executive officer, or a peace officer, may
13 remove a derelict vessel from public waters in any instance when the
14 vessel obstructs or threatens to obstruct navigation, contributes to air
15 or water pollution, or in any other way constitutes a danger or poten-
16 tial danger to the environment.

17 (c) This section may not be construed to contravene any applicable
18 federal law or regulation.

19 (d) A person who violates this section, upon conviction, is guilty
20 of a misdemeanor and is punishable by a fine of not more than \$500, or
21 by imprisonment for a period of not more than six months, or by both.

22 Sec. 30.30.020. DISPOSITION OF CERTAIN ABANDONED VESSELS. A
23 vessel which has been left unattended for a continuous period of more
24 than 30 days and is in the waters of the state or on public property, or
25 is on private property without authorization of the owner or occupant of
26 the property, is an abandoned vessel and may be taken into custody by
27 the commission or a peace officer and disposed of by the commission
28 under this chapter.

29 Sec. 30.30.030. LIMITATION ON APPLICABILITY. Wherever outside of

1 an organized municipality in the state it is, or has become, the custom,
2 common or accepted practice to anchor, moor or otherwise leave a vessel
3 in a port or harbor, or in the public waters, of the state in such a
4 manner that it does not threaten, obstruct or otherwise interfere with
5 navigation, or to store or otherwise leave a vessel without permission
6 on public or private property, unattended for a period of more than 30
7 days, where climatic conditions make use of the vessel impractical, or
8 applicable provisions of law preclude use of the vessel during that
9 period of time, the unattended anchoring, mooring, storing or leaving of
10 the vessel does not constitute abandonment of the vessel as that term is
11 used in secs. 10 - 20 of this chapter.

12 Sec. 30.30.040. NOTICE TO OWNER. On taking custody of an aban-
13 doned vessel, a written notice immediately shall be posted on the
14 vessel and a duplicate of that notice sent by registered or certified
15 mail, with a return receipt, to the registered owner of the vessel at
16 his last known address and to all lienholders shown on the records of a
17 state or federal agency. The notice shall contain a brief description
18 of the vessel, the location of custody, and the intended disposition of
19 the vessel if not repossessed within 20 days after the mailing of the
20 notice. A notice need not be sent to the purported owner or any other
21 person whose interest in the vessel is not recorded with a state depart-
22 ment or federal agency.

23 Sec. 30.30.050. PUBLIC AUCTION. If the vessel is not repossessed
24 within 20 days after the mailing of the notice, the vessel shall be
25 disposed of by public auction, through oral tenders, or by sealed bids,
26 after public advertisement has been made once in a newspaper of general
27 circulation. However, the public auction may not be held less than five
28 days after the publication of the advertisement. If no bid is received,
29 the vessel may be sold by negotiation, disposed of as junk, donated to

1 any governmental agency, or destroyed.

2 Sec. 30.30.060. POSSESSION BY INTERESTED PARTY. A person having
3 an interest in an abandoned vessel may take possession of it before the
4 date of the public auction upon payment to the commission of all port or
5 harbor use fees, towing, handling, storage, appraisal, advertising and
6 any other expenses incurred by the commission in connection with the
7 vessel. If the person taking possession of the vessel is not the
8 registered owner, he shall, before taking possession of the vessel, pay
9 the expenses incurred by the commission and post adequate security which
10 may not exceed the appraised value of the vessel. The security, if not
11 forfeited, shall be returned to him one year after receipt.

12 Sec. 30.30.070. WHEN PUBLIC AUCTION NOT REQUIRED. Public auction
13 is not required when the appraised value of an abandoned vessel, as
14 determined by an independent appraiser is less than \$100. The appraiser
15 must have at least one year of experience in the sale, purchase or
16 appraisal of vessels. Upon that determination and after public adver-
17 tisement has been made once in a newspaper of general circulation, the
18 commission may sell the vessel by negotiation, dispose of it as junk or
19 donate the vessel to a governmental agency, or destroy it.

20 Sec. 30.30.080. EFFECT OF SALE. The transfer of interest by sale
21 under secs. 50 - 70 of this chapter shall be evidenced by a bill of sale
22 from the commission, considered a transfer by operation of law, and
23 governed by applicable provisions of law.

24 ARTICLE 2. DERELICT VESSELS.

25 Sec. 30.30.090. DERELICT VESSEL. A vessel that has been left
26 unattended for a continuous period of more than 24 hours is a derelict
27 if

28 (1) the vessel is sunk or in immediate danger of sinking, is
29 obstructing a waterway, or is endangering life or property; or

1 (2) the vessel has been moored or otherwise left in the
2 waters of the state or on public property contrary to law, or regula-
3 tions promulgated by the commission, or the vessel has been left on
4 private property without authorization of the owner or occupant of the
5 property and if

6 (A) the vessel's certificate of number or marine docu-
7 ment has expired and the registered owner no longer resides at the
8 address listed in the vessel registration or marine document records
9 of a state department or the United States Coast Guard;

10 (B) the last registered owner of record disclaims
11 ownership and the current owner's name or address cannot be deter-
12 mined;

13 (C) the vessel identification numbers and other means of
14 identification have been obliterated or removed in a manner that
15 nullifies or precludes efforts to locate or identify the owner; or

16 (D) the vessel registration records of a state depart-
17 ment and the marine document records of the United States Coast
18 Guard contain no record that the vessel ever has been registered or
19 documented and the owner's name or address cannot be determined.

20 Sec. 30.30.100. DISPOSITION OF DERELICT VESSEL. (a) The com-
21 mission may take or cause a derelict vessel to be taken into custody
22 immediately. Upon taking custody of a derelict vessel the commission
23 shall concurrently

24 (1) publish a notice of intended disposition once in a news-
25 paper of general circulation;

26 (2) when possible, post a notice of intended disposition on
27 the vessel; and

28 (3) serve a duplicate of the notice of intended disposition
29 by certified mail, with a return receipt, on

1 (A) the registered owner of the vessel, if known, at his
2 last known address or the address on record with a state department
3 or the United States Coast Guard; and

4 (B) all lienholders who have filed a financing statement
5 indexed in the name of the registered owner, or who are shown on
6 the records of a state department or the United States Coast Guard.

7 (b) If the vessel is not repossessed within 20 days after the
8 publication or mailing of the notice, whichever occurs later, the vessel
9 may be disposed of by negotiated sale except that, when two or more
10 prospective purchasers indicate an interest in purchasing the vessel,
11 the vessel will be sold at public auction to the highest bidder, in the
12 same manner prescribed under sec. 50 of this chapter.

13 (c) If no prospective purchaser indicates a desire to purchase the
14 vessel, the vessel may be disposed of as junk, donated to any govern-
15 mental agency, or destroyed.

16 ARTICLE 3. VESSELS ABANDONED ON BUSINESS

17 PREMISES OF PERSONS ENGAGED IN REPAIR BUSINESS.

18 Sec. 30.30.110. DISPOSITION OF VESSELS BY PERSONS IN VESSEL REPAIR
19 BUSINESS. When a person abandons a vessel on the premises of a vessel
20 repair business, the owner of the business or his authorized represen-
21 tative may sell or dispose of the vessel under secs. 110 - 150 of this
22 chapter.

23 Sec. 30.30.120. WHEN VESSEL ABANDONED. A vessel is abandoned on
24 the premises of a vessel repair business when all of the following
25 conditions have been satisfied:

26 (1) the service requested or required by a person whose
27 vessel is towed or brought to a vessel repair business, including but
28 not limited to towing and rendering estimates of the cost of repairs,
29 has been performed;

1 (2) no authorization is given to perform any further service
2 with respect to the vessel, but the vessel is left on the repair busi-
3 ness premises;

4 (3) the owner of the repair business or his authorized
5 representative has given notice by registered or certified mail, with a
6 return receipt, to the registered owner of the vessel at the address on
7 record at the vessel repair business and the address on record in a
8 state department or the United States Coast Guard, and to any person
9 with a recorded interest in the vessel stating that, if the vessel is
10 not repossessed within 30 days after the mailing of the notice, it will
11 be sold or disposed of; the notice also shall contain a description of
12 the vessel and its location, and it need not be sent to an owner or a
13 person with an unrecorded interest in the vessel whose name or address
14 cannot be determined; and

15 (4) the vessel is not repossessed within the 30-day period
16 specified in (3) of this section.

17 Sec. 30.30.130. SALE OR DISPOSITION OF VESSEL. When a vessel is
18 abandoned, the owner of the vessel repair business, or his authorized
19 representative, after one public advertisement in a newspaper of general
20 circulation in the state, may negotiate a sale of the vessel or dispose
21 of it. However, the vessel may not be sold or disposed of within less
22 than five days after publication of the advertisement.

23 Sec. 30.30.140. DISPOSITION OF PROCEEDS. The authorized seller of
24 the abandoned vessel is entitled to the proceeds of the sale to the
25 extent that compensation is due him for services rendered with respect
26 to the vessel, including reasonable and customary charges for towing,
27 handling, storage, and the cost of notices and advertising required by
28 sec. 130 of this chapter. A lienholder shall receive priority of pay-
29 ment from the balance of the proceeds to the extent of his lien. Any

1 remaining balance shall be forwarded to the registered owner of the
2 vessel, if he can be found. If he cannot be found, the balance shall be
3 deposited with the commissioner of administration and shall be paid out
4 to the registered owner of the vessel, if a proper claim is filed for it
5 within one year from the execution of the sale agreement. If no claim
6 is made within that year, the money shall escheat to the state.

7 Sec. 30.30.150. EFFECT OF TRANSFER OF TITLE. The transfer of
8 title and interest by sale under sec. 140 of this chapter is a transfer
9 by operation of law. However, a bill of sale executed by an authorized
10 seller is satisfactory evidence authorizing the transfer of the title or
11 interest.

12 ARTICLE 4. MISCELLANEOUS.

13 Sec. 30.30.160. REGULATIONS. The commission shall promulgate
14 regulations under the Administrative Procedure Act (AS 44.62) to carry
15 out the provisions of this chapter.

16 Sec. 30.30.170. DEFINITIONS. In this chapter

17 (1) "commission" means the Alaska State Port Commission;

18 (2) "vessel" means every description of watercraft or other
19 artificial contrivance, other than a seaplane on the water, used or
20 capable of being used as a means of transportation on or through the
21 water;

22 (3) "waters of this state" means the navigable waters within
23 the territorial limits of the state, and the marginal sea adjacent to
24 the state, as defined in AS 44.03.

25 Sec. 30.30.180. SHORT TITLE. This chapter may be cited as the
26 Abandoned and Derelict Vessels Act.

27 * Sec. 3. AS 01.10.060(6) is amended to read:

28 (6) "peace officer" means any officer of the state troopers
29 including harbor police, members of the police force of any incorporated

1 city or borough, United States marshals and their deputies, and other
2 officers whose duty it is to enforce and preserve the public peace;

3 * Sec. 4. AS 08.62.010 is repealed and re-enacted to read:

4 Sec. 08.62.010. PORT COMMISSION CONSTITUTES BOARD OF MARINE
5 PILOTS. The Alaska State Port Commission created under AS 30.20.020
6 shall act as the Board of Marine Pilots, and on the effective date of
7 this Act succeeds to all of the powers and duties of the board.

8 * Sec. 5. AS 08.62.020 - 08.62.030 are repealed.

9 * Sec. 6. AS 08.62.040 is amended to read:

10 Sec. 08.62.040. POWERS AND DUTIES. (a) The commission [BOARD]
11 shall

12 (1) provide for the maintenance of efficient and competent
13 pilot service on all waters covered by this chapter to assure protection
14 of shipping and the safety of human life and property;

15 (2) consistent with the law, adopt regulations, subject to
16 the Administrative Procedure Act (AS 44.62), establishing the qualifi-
17 cations of pilots and providing for the examination of pilots and the
18 issuance of original or renewal pilot licenses to qualified persons;

19 (3) keep a register of licensed pilots, vessels, operators,
20 agents, and managers;

21 [(4) REGULATE PILOTAGE FEES;]

22 (5) make available, upon request, copies of this chapter and
23 the regulations adopted under it.

24 (b) The commission shall [BOARD MAY], by regulation under AS 30.-
25 20.230 - 30.20.240, make any other provision for proper and safe
26 pilotage upon the waters covered by this chapter and for the efficient
27 administration of this chapter.

28 * Sec. 7. AS 08.62.090(b) is amended to read:

29 (b) The application shall provide the information and be made on

1 a form prescribed by the commission [BOARD].

2 * Sec. 8. AS 08.62.100(3) is amended to read:

3 (3) passes the examination prepared by marine pilots licensed
4 under this chapter, approved and given by the commission [BOARD]; and

5 * Sec. 9. AS 08.62.120 is amended to read:

6 Sec. 08.62.120. DURATION, RENEWAL. A license issued under this
7 chapter shall be renewed biennially on dates set by the department.
8 Except as provided in sec. 125 of this chapter, a [A LICENSE ISSUED
9 UNDER AS 30.10 LAPSES AT THE END OF CALENDAR YEAR 1970. A LICENSE
10 ISSUED BETWEEN MAY 7, 1970 AND THE END OF 1970 SHALL BE ISSUED FOR A FEE
11 OF \$100. A] license shall be renewed without examination upon the
12 payment of the biennial license fee.

13 * Sec. 10. AS 08.62 is amended by adding a new section to read:

14 Sec. 08.62.125. CERTIFICATION FOR PILOTS OF VESSELS ENGAGED IN THE
15 MARINE TRANSPORTATION OF OIL, PETROLEUM PRODUCTS OR THEIR BY-PRODUCTS.
16 All marine pilots licensed under this chapter shall satisfactorily
17 complete a school or course of systematic training in the piloting and
18 handling of vessels engaged in the marine transportation of oil, petro-
19 leum products or their by-products of 40,000 deadweight tons or more
20 that is acceptable to the commission. The commission shall expressly
21 certify a marine pilot as having met the requirements of this section.
22 After December 31, 1976, no license may be issued, renewed or reinstated
23 under sec. 100, 120 or 130 of this chapter, respectively, unless the
24 person making application has demonstrated to the satisfaction of the
25 commission that he has met the requirements of this section.

26 * Sec. 11. AS 08.62.130 is amended to read:

27 Sec. 08.62.130. LAPSED LICENSE. A lapsed license may be rein-
28 stated without examination if it has not remained lapsed for more than
29 two years. However, if the license is lapsed for less than two years

1 and the commission [BOARD] has reason to believe that the person apply-
2 ing for reinstatement of his license is incapable or incompetent to
3 carry out the duties of a licensed marine pilot, the commission [BOARD]
4 may require the applicant to take and pass the examination given by the
5 commission [BOARD].

6 * Sec. 12. AS 08.62.150(a) is amended to read:

7 (a) The commission [BOARD], after compliance with the Adminis-
8 trative Procedure Act (AS 44.62), may deny, revoke or suspend the
9 license of a person who

10 (1) is incompetent in the performance of his pilotage duties;

11 (2) is habitually intoxicated;

12 (3) illegally uses or sells narcotic or hallucinogenic drugs;

13 (4) makes a false statement to obtain a license;

14 (5) violates a provision of this chapter or a regulation

15 adopted under it; [OR]

16 (6) is guilty of misconduct during the course of his employ-
17 ment; or

18 (7) fails to complete satisfactorily the requirements pre-
19 scribed by sec. 125 of this chapter.

20 * Sec. 13. AS 08.62.200(1) - (2) are repealed.

21 * Sec. 14. AS 08.62.200 is amended by adding a new paragraph to read:

22 (5) "commission" means the Alaska State Port Commission.

23 * Sec. 15. AS 08.62 is amended by adding a new section to read:

24 Sec. 08.62.210. SHORT TITLE. This chapter may be cited as the
25 Alaska Pilotage Act.

26 * Sec. 16. AS 30.15.020 is amended by adding a new subsection to read:

27 (c) No grant may be awarded under this chapter until the appli-
28 cation is reviewed and a permit granted for the port facilities develop-
29 ment project by the Alaska State Port Commission under AS 30.20.150 -

1 30.20.170. The commission shall determine if the proposed port facili-
2 ties development project conforms to the comprehensive master or general
3 plan for port facilities development adopted by the commission.

4 * Sec. 17. AS 39.25.110 is amended by adding a new paragraph to read:

5 (16) the members and executive officer of the Alaska State
6 Port Commission.

7 * Sec. 18. AS 39.50.200(9) is amended by adding a new paragraph to read:

8 (JJ) Alaska State Port Commission (AS 30.20.020).

9 * Sec. 19. (a) Not later than the convening of the 10th Legislature,
10 Second Session, the Alaska State Port Commission, created by AS 30.20.020 as
11 enacted by sec. 1 of this Act, shall study and present its findings and
12 recommendations to the governor and the legislature concerning the following:

13 (1) all existing ports, harbors and port facilities, whether state
14 or municipally owned or operated, or whether operated under private conces-
15 sions or publicly granted franchises, and shall survey and inventory them;

16 (2) the establishment of major port and marine transportation
17 facilities and terminals in or near urban areas with satellite facilities in
18 rural areas; and the need for and licensing of offshore, deepwater port
19 facilities under the Deepwater Port Act of 1974 (P.L. 93-627);

20 (3) the engineering practicality and economic feasibility of
21 integrating existing state port facilities, including state ferry terminals,
22 with projected port facilities projects and ferry terminals at appropriate
23 locations;

24 (4) the methods of financing port, harbor and port facilities
25 development, including but not limited to revenue and general obligation
26 bonds, federal grants and loans, and the availability of other methods of
27 private and public financing;

28 (5) the feasibility of establishing a state vessel registration
29 system under the Federal Boat Safety Act of 1971 (P.L. 92-75) in place of the

1 present system of vessel registration administered by the United States Coast
2 Guard and the Department of Fish and Game;

3 (6) the feasibility of requiring similar pilot and tug assistance
4 to that prescribed in AS 30.20.240 for vessels carrying other potentially
5 hazardous cargos and materials.

6 (b) The commission shall visit and conduct public hearings at the
7 coastal and inside coastal port cities of the state.

8 * Sec. 20. If at any time legislation is enacted creating a Department of
9 Transportation, including but not limited to the consolidation within that
10 department of the existing Department of Highways and the divisions of marine
11 transportation, waters and harbors, and aviation of the Department of Public
12 Works, then the Alaska State Port Commission, its members, officers and
13 employees, its property and its port, harbor and waterways enforcement duties
14 and responsibilities shall be transferred from the Department of Commerce to
15 the Department of Transportation.

16 * Sec. 21. This Act takes effect July 1, 1976.
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