

CS FOR HOUSE BILL NO. 194 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/10/91
Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES C.DAVIS, G.Phillips, Hudson, Koponen, B.Davis, Taylor, Choquette, Baker, Sharp

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Board of Marine Pilots, marine pilots, and marine pilot
2 organizations; and providing for an effective date."

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

4 * Section 1. FINDINGS. The legislature finds that

5 (1) the first and paramount duty of marine pilots licensed by the state is to provide for
6 the public safety and the protection of the marine environment;

7 (2) marine pilots operating as independent contractors have provided and will continue
8 to provide essential service to the state;

9 (3) licensing and regulation of marine pilots have protected and will continue to protect
10 the public from the consequences of marine accidents;

11 (4) the compulsory use of licensed marine pilots to pilot certain vessels in inland and
12 coastal water of the state is necessary in order to prevent the loss of life and property and to protect the
13 marine environment;

14 (5) marine pilots must be highly trained and regulated to assure that only qualified

1 persons are responsible for navigating vessels in and adjacent to water of the state;
2 (6) the Board of Marine Pilots must have broad authority to regulate marine pilots,
3 including authority to establish marine pilotage regions, tariffs, and training and licensing criteria for
4 marine pilots;
5 (7) marine pilot organizations have provided, and will continue to provide, important
6 service to the public and to protect lives and property and the marine environment;
7 (8) marine pilot organizations should share in the responsibility for maintaining safe and
8 reliable marine pilotage systems established by the Board of Marine Pilots;
9 (9) it is in the best interest of the state to exercise its jurisdiction, to the maximum extent
10 possible, over the water of the state through the enactment of a marine pilot licensing law that requires
11 stringent licensing and performance standards for marine pilots.

12 * Sec. 2. AS 08.62.020 is amended to read:

13 Sec. 08.62.020. APPOINTMENT AND TERM OF OFFICE. The governor shall appoint
14 the pilot, [AND] agent or manager, and public members of the board, subject to confirmation
15 by a majority of the members of the legislature in joint session, for terms of four years [,] or
16 until their successors are appointed. A person, with the exception of the commissioner or the
17 commissioner's designee, may not be appointed to the board for more than two consecutive
18 terms.

19 * Sec. 3. AS 08.62.030 is amended to read:

20 Sec. 08.62.030. MEETINGS. The board shall hold up to four [A] regular meetings each
21 year [ANNUAL MEETING]. The board may hold special meetings at the call of the chair or
22 at the request of a majority of the members of the board [CHAIRMAN WITH PRIOR
23 APPROVAL OF THE GOVERNOR].

24 * Sec. 4. AS 08.62.040 is repealed and reenacted to read:

25 Sec. 08.62.040. POWERS AND DUTIES. (a) The board shall

26 (1) provide for

27 (A) the examination of applicants for marine pilot and deputy marine pilot
28 licenses; and

29 (B) issuance and renewal of marine pilot and deputy marine pilot licenses
30 for each pilotage region;

31 (2) place qualifications or limitations on marine pilot and deputy marine pilot

1 licenses based on the characteristics of a marine pilotage region in which the licensee will operate
2 and the experience and training of the licensee;

3 (3) recognize regional marine pilot organizations to promote, administer, and
4 manage an efficient, reliable, and safe pilotage system within marine pilotage regions;

5 (4) keep a register of licensed marine pilots, licensed deputy marine pilots, and
6 agents;

7 (5) establish pilotage tariffs for each marine pilotage region, and charges for
8 training, administration, and other purposes;

9 (6) establish a mandatory random drug and alcohol testing program for persons
10 licensed under this chapter;

11 (7) establish standards for training of marine pilots and deputy marine pilots and
12 review training programs conducted by regional marine pilot organizations or by individual
13 marine pilots and approve the training program if the board finds that the program is consistent
14 with standards established by the board;

15 (8) make available, upon request, copies of this chapter and the regulations
16 adopted under this chapter;

17 (9) review the articles, bylaws, and operating rules of regional marine pilot
18 organizations recognized by the board and approve the articles, bylaws, and rules, if the board
19 finds that they are consistent with this chapter, regulations adopted under this chapter, and other
20 applicable law;

21 (10) audit regional marine pilot organizations recognized by the board for
22 compliance with applicable law; and

23 (11) impose disciplinary sanctions under AS 08.01.075 on persons licensed under
24 this chapter;

25 (12) establish by regulation marine pilotage regions.

26 (b) The board may, by regulation, make other provisions for proper and safe pilotage
27 upon the waters covered by this chapter and for the efficient administration of this chapter.

28 (c) The board may, for good cause, require a person licensed under this chapter or an
29 applicant for a license issued under this chapter to submit to a physical or mental examination
30 to determine the person's fitness to perform the duties of a marine pilot.

31 * Sec. 5. AS 08.62 is amended by adding a new section to article 1 to read:

1 **Sec. 08.62.050. MARINE PILOT COORDINATOR.** The department may, after
2 consultation with the board, employ a marine pilot coordinator approved by the board to
3 administer and enforce this chapter. The coordinator may not be an active member of a regional
4 marine pilot organization in the state and may not serve as a marine pilot except as necessary to
5 perform the duties of marine pilot coordinator.

6 * **Sec. 6.** AS 08.62.080 is repealed and reenacted to read:

7 **Sec. 08.62.080. LICENSE REQUIREMENT.** (a) A person may not pilot a vessel
8 subject to this chapter unless the person is licensed under this chapter to pilot a vessel of that
9 type or size within that marine pilotage region.

10 (b) A person may not be licensed for more than one pilotage region at one time.

11 (c) Notwithstanding AS 08.01.100(a), marine pilot and deputy marine pilot licenses
12 expire on December 31 of each even-numbered year.

13 * **Sec. 7.** AS 08.62.090(a) is amended to read:

14 (a) A person who desires to be licensed under this chapter shall apply in writing to the
15 department. A person must apply to take an examination at least 45 days before the
16 scheduled date of an examination in order to take the examination on that date.

17 * **Sec. 8.** AS 08.62.090 is amended by adding a new subsection to read:

18 (c) The board shall establish and publish dates for future examinations.

19 * **Sec. 9.** AS 08.62 is amended by adding new sections to read:

20 **Sec. 08.62.093. QUALIFICATIONS FOR DEPUTY MARINE PILOT LICENSE.** (a)

21 The board shall issue a deputy marine pilot license for a marine pilotage region to a person who

22 (1) is a citizen of the United States;

23 (2) passes the written and oral examinations that may be required by the board;

24 (3) has completed training requirements established by the board; and

25 (4) satisfies (b) and (c) of this section.

26 (b) A person who applies for a deputy marine pilot license under this chapter shall
27 provide proof satisfactory to the board of the following experience:

28 (1) one year of sea service as a master on ocean or coastwise vessels while holding
29 a license as master of ocean steam or motor vessels of any gross tons;

30 (2) two years of sea service as a master on vessels or tug and tow of not less than
31 1,600 combined gross tons while holding a license as master of vessels of not less than 1,600

1 gross tons;

2 (3) two years of sea service as a chief officer on ocean or coastwise vessels of not
3 less than 1,600 gross tons while holding a license as master of ocean steam or motor vessels of
4 any gross tons;

5 (4) two years of sea service as commanding officer of United States commissioned
6 vessels of not less than 1,600 gross tons while holding a license as master of ocean steam or
7 motor vessels of any gross tons; or

8 (5) three years of experience as a member of a professional pilot's organization,
9 during which the person actively engaged in piloting while holding at least a license as a master
10 of freight or towing vessel of not more than 1,600 gross tons.

11 (c) A person who applies for a deputy marine pilot license under this section shall
12 possess an endorsement of first class pilotage on the person's United States Coast Guard license
13 without tonnage restrictions for the pilotage region for which the person seeks the deputy marine
14 pilot license.

15 (d) A person licensed as a deputy marine pilot under this section may, except as
16 otherwise provided by the board, pilot vessels of 20,000 gross tons or less in a marine pilotage
17 region for which the license is issued.

18 (e) In this section, "sea service" has the meaning given to the term by the United States
19 Coast Guard under 46 C.F.R. 10.

20 Sec. 08.62.097. TRAINING PROGRAMS FOR DEPUTY MARINE PILOT LICENSE.

21 (a) The board shall establish standards for training programs for a deputy marine pilot license.
22 The standards may include requirements for

23 (1) supervised familiarization and training trips on vessels subject to this chapter;
24 (2) supervised dockings, undockings, and tug assisted maneuvers;
25 (3) special training or experience necessary to qualify for a deputy marine pilot
26 license for a particular marine pilotage region;

27 (4) completion of the training program within a specified period;
28 (5) other training or experience that the board considers appropriate.

29 (b) A person who supervises the training of persons who are seeking a deputy marine
30 pilot license under this chapter shall

31 (1) hold a marine pilot license issued under AS 08.62.100;

1 (2) receive prior authorization from the board to supervise the training of those
2 persons;

3 (3) maintain a written log and evaluation on a form provided by the board of the
4 training and progress of the person being supervised.

5 * Sec. 10. AS 08.62.100 is repealed and reenacted to read:

6 Sec. 08.62.100. QUALIFICATIONS FOR A MARINE PILOT LICENSE. The board
7 shall issue a marine pilot license for a marine pilotage region to a person who

8 (1) is a citizen of the United States;

9 (2) passes written and oral examinations that may be required by the board;

10 (3) has three years experience as a deputy marine pilot licensed under this
11 chapter; and

12 (4) satisfies additional requirements as may be required by the board by
13 regulation.

14 * Sec. 11. AS 08.62.120 is repealed and reenacted to read:

15 Sec. 08.62.120. RENEWAL OF LICENSES. (a) In order to renew a marine pilot license,
16 a person who is licensed under AS 08.62.100 shall

17 (1) submit an application for renewal of the license on a form provided by the
18 board;

19 (2) submit proof of continued qualification under AS 08.62.100 to receive a
20 marine pilot license;

21 (3) provide evidence of satisfactory completion of a physical examination by a
22 licensed physician within 60 days before the date of renewal of the license;

23 (4) submit proof satisfactory to the board that the person

24 (A) has engaged in piloting vessels subject to this chapter in the marine
25 pilotage region for which the license is to be renewed during at least 60 days in the
26 licensing period immediately preceding the licensing period for which renewal is sought;
27 or

28 (B) completed the minimum number of familiarization trips required by the
29 board for renewal of a marine pilot license for a marine pilotage region for which the
30 license is to be renewed.

31 (b) The board shall establish criteria for the renewal of deputy marine pilot licenses.

1 * **Sec. 12.** AS 08.62.130 is repealed and reenacted to read:

2 **Sec. 08.62.130. LAPSED LICENSES.** (a) The board shall reinstate a lapsed marine
3 pilot license if the former licensee satisfies the requirements of AS 08.62.100 and completes
4 familiarization trips in the pilotage region for which the license is to be reissued that may be
5 required by the board and, if the license has been lapsed for a year or more, passes an
6 examination administered by the board.

7 (b) The board shall establish criteria for reinstatement of a lapsed deputy marine pilot
8 license.

9 * **Sec. 13.** AS 08.62.150(a) is amended to read:

10 (a) The board may impose a disciplinary sanction on a person licensed under this chapter
11 when the board finds that the person

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

13 (2) is [HABITUALLY] intoxicated during the performance of pilotage duties
14 due to alcohol;

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

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

17 (5) violates a provision of this chapter or a regulation adopted under this chapter
18 [IT];

19 (6) is guilty of misconduct during the course of employment; [OR]

20 (7) charges, collects, or receives an amount for marine pilot services that is
21 different from the tariff established by the board; or

22 (8) has suffered revocation of federal licensure as a pilot.

23 * **Sec. 14.** AS 08.62.160 is amended to read:

24 **Sec. 08.62.160. MANDATORY EMPLOYMENT OF LICENSED PILOTS.** A vessel
25 subject to this chapter navigating the inland and [INSIDE] coastal waters of Alaska as
26 determined by the board in regulation shall be under the conduct of [EMPLOY] a marine pilot
27 holding a valid license under this chapter unless the marine pilot is relieved for cause.

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

29 **Sec. 08.62.165. LIABILITY.** (a) A person who is licensed under this chapter is not
30 liable in excess of \$5,000 for damage or loss occurring as a consequence of the person's error,
31 fault, omission, or neglect in performing services for which a license is required under this

1 chapter. The limitation of liability under this subsection does not apply if the person's error,
2 fault, or omission is wilful or constitutes gross negligence or if the person's neglect constitutes
3 gross negligence.

4 (b) This section does not limit the liability of a vessel, its cargo, the owner of the vessel,
5 or the operator of the vessel for damage or loss caused by the vessel because the vessel was
6 piloted by a person licensed under this chapter or the damage or loss was a consequence of the
7 error, fault, omission, or neglect of a person licensed under this chapter while the person was
8 piloting the vessel.

9 (c) A regional organization of marine pilots recognized by the board under this chapter
10 is not liable for damage or loss arising from the error, fault, omission, or neglect of the
11 organization or a member of the organization who is licensed under this chapter that is, directly
12 or indirectly, related to the pilotage of a vessel. The limitation of liability of a regional
13 organization of marine pilots under this subsection does not apply if the organization's error,
14 fault, or omission is wilful or constitutes gross negligence or if the organization's neglect
15 constitutes gross negligence.

16 (d) A person licensed under this chapter is not liable, directly or indirectly or as a
17 member of a regional organization of marine pilots recognized by the board under this chapter,
18 for loss or damage arising from the error, fault, omission, or neglect of another marine pilot or
19 the regional organization of marine pilots relating to pilotage of a vessel.

20 (e) This section does not limit the liability of the owner or operator of a pilot boat for
21 loss or damage arising from the ownership or operation of a pilot boat or the transportation of
22 marine pilots to and from vessels.

23 * Sec. 16. AS 08.62.170 is repealed and reenacted to read:

24 Sec. 08.62.170. PILOT'S LIEN FOR COMPENSATION. Each vessel, the owner of the
25 vessel, and the master of the vessel are jointly and severally liable for the compensation of a
26 person licensed under this chapter who is employed as a marine pilot on the vessel. A person
27 licensed under this chapter has a lien on the vessel and the vessel's tackle, apparel, and furniture
28 for compensation for marine pilot services.

29 * Sec. 17. AS 08.62 is amended by adding a new section to read:

30 Sec. 08.62.175. REGIONAL ORGANIZATIONS OF MARINE PILOTS. (a) To the
31 extent permitted under federal and state law, persons licensed under this chapter may form

1 organizations of marine pilots within each marine pilotage region.

2 (b) The board may recognize organizations of marine pilots within each marine pilotage
3 region.

4 (c) An organization of marine pilots recognized by the board shall promote a safe and
5 reliable system of marine pilotage for the region in which the organization is recognized,
6 including dispatching and training of marine pilots and deputy marine pilots and other functions
7 that the organization may assume. The articles, bylaws, and rules of each organization of marine
8 pilots recognized by the board are subject to approval by the board on the basis of

9 (1) uniform and nondiscriminatory application of the articles, bylaws, and rules
10 to marine pilots and deputy marine pilots licensed under this chapter;

11 (2) compliance with applicable laws; and

12 (3) effectiveness in

13 (A) promoting an efficient, reliable, and professional marine pilotage
14 system in the region;

15 (B) maintaining a sufficient number of qualified pilots available for
16 dispatch to serve the needs of vessels visiting the region during each hour of the day and
17 each day of the year;

18 (C) maintaining a training program for marine pilots and deputy marine
19 pilots that is approved by the board.

20 * Sec. 18. AS 08.62.180 is amended to read:

21 Sec. 08.62.180. EXEMPTIONS. This chapter does not apply to

22 (1) vessels under enrollment, except as provided in AS 08.62.185;

23 (2) fishing vessels registered in the United States or in British Columbia, Canada;

24 (3) vessels propelled by machinery and not more than 65 feet in length over deck,
25 except tugboats and towboats propelled by steam;

26 (4) vessels of United States registry of less than 300 gross tons and tow boats of
27 United States registry and vessels owned by the State of Alaska, engaged exclusively

28 (A) on the rivers of Alaska, or

29 (B) in the coastwise trade on the west coast of the United States including
30 Alaska, Hawaii, and British Columbia, Canada;

31 (5) vessels of Canada, built in Canada and manned by Canadian citizens

1 including Canadian cruise ships, engaged in frequent trade between British Columbia and Alaska,
2 if reciprocal exemptions are granted by Canada to vessels owned by the State of Alaska and
3 those of United States registry; and

4 (6) pleasure craft.

5 * Sec. 19. AS 08.62.187 is amended to read:

6 Sec. 08.62.187. REGISTRATION OF AGENTS REQUIRED. A person may not act as
7 an agent of a vessel subject to this chapter unless the person's name appears on the register of
8 agents kept by the board under AS 08.62.040(a) [AS 08.62.040(a)(3)].

9 * Sec. 20. AS 08.62.190 is amended to read:

10 Sec. 08.62.190. PENALTY. (a) A master or owner of a vessel required by this chapter
11 to employ a licensed pilot who fails to do so when a licensed pilot is available, unless the perils
12 or hazards of the sea prevent the employment of a pilot, is guilty of a misdemeanor and, upon
13 conviction, is punishable by a fine of not less than \$5,000 [\$1,000] nor more than \$15,000 for
14 the first offense and not less than \$10,000 nor more than \$30,000 for each subsequent
15 offense [\$5,000].

16 (b) A person who violates any other provision of this chapter or a regulation adopted
17 under this chapter [IT] is guilty of a misdemeanor and, upon conviction, is punishable by a fine
18 of not less than \$1,000 [\$500] nor more than \$5,000 [\$1,000].

19 * Sec. 21. AS 08.62 is amended by adding a new section to read:

20 Sec. 08.62.201. SHORT TITLE. This chapter may be cited as the Alaska Marine Pilotage
21 Act.

22 * Sec. 22. AS 39.25.120(c) is amended by adding a new paragraph to read:

23 (21) marine pilot coordinator of the Board of Marine Pilots.

24 * Sec. 23. AS 45.50.572(a) is amended to read:

25 (a) AS 45.50.562 - 45.50.596 do not forbid the existence or operation of labor,
26 agricultural, [OR] horticultural, or licensed marine pilot organizations created for the purpose
27 of mutual help, and not conducted for profit, or forbid or restrain members of those organizations
28 from lawfully carrying out the legitimate objectives of them; nor are these organizations or
29 members illegal combinations or conspiracies in restraint of trade under the provisions of
30 AS 45.50.562 - 45.50.596.

31 * Sec. 24. TRANSITION; MARINE PILOT LICENSE. (a) Notwithstanding AS 08.62.080, as

1 amended by sec. 6 of this Act, and AS 08.62.100, as amended by sec. 10 of this Act, a person who holds
2 an unlimited marine pilot license on the effective date of sec. 10 of this Act or who receives an
3 unlimited marine pilot license under (c) of this section shall receive a marine pilot license, and shall be
4 eligible for renewal of the license under AS 08.62.120, as amended by sec. 11 of this Act, for each
5 marine pilotage region for which the person was licensed as a marine pilot without qualifying for the
6 license under AS 08.62.100, as amended by sec. 10 of this Act. A license issued under this subsection
7 is for all purposes a license issued under AS 08.62.100, as amended by sec. 10 of this Act.

8 (b) A limited marine pilot license of any category or channel pilot license issued under
9 AS 08.62.100 before the effective date of sec. 10 of this Act is valid for the period for which the license
10 was issued and may be renewed until December 31, 1994, without examination upon payment of the
11 marine pilot license fee. The terms and conditions attached to a limited marine pilot license or channel
12 pilot license on the effective date of sec. 10 of this Act remain in effect for the period for which the
13 license was issued and for subsequent renewals of the license until December 31, 1994.

14 (c) A person who has applied for or made a substantial effort toward qualifying for, as
15 determined by the Board of Marine Pilots, a marine pilot license under AS 08.62.100 before the effective
16 date of sec. 10 of this Act, may receive a marine pilot license under the requirements for licensure as
17 they existed before the effective date of sec. 10 of this Act and may renew the license until
18 December 31, 1994, without examination upon payment of the marine pilot license fee.

19 (d) A person who, after the effective date of sec. 10 of this Act, holds a marine pilot license
20 subject to (b) or (c) of this section shall receive credit for each year of service as a licensed marine pilot
21 in this state toward the three years of service as a deputy marine pilot required for a marine pilot license
22 under AS 08.62.100, as amended by sec. 10 of this Act.

23 (e) Except as provided in (a) and (d) of this section, a person may not hold a marine pilot license
24 after December 31, 1994, without satisfying the requirements of AS 08.62.100, as amended by sec. 10
25 of this Act.

26 (f) Notwithstanding AS 08.62.080, as amended by sec. 6 of this Act, until December 31, 1994,
27 a limited marine pilot license or channel pilot license issued under AS 08.62.100 before the effective
28 date of sec. 10 of this Act or under (c) of this section, and for subsequent renewals of the license,
29 entitles the licensee to pilot vessels in the marine pilotage regions in the state for which the licensee is
30 licensed on the effective date of sec. 10 of this Act.

31 * Sec. 25. AS 08.62.155 is repealed.

- 1 * **Sec. 26.** Sections 1 - 5, 13 - 23, and 25 of this Act take effect July 1, 1991.
- 2 * **Sec. 27.** Sections 6 - 12 and 24 of this Act take effect January 1, 1992.