

CS FOR SENATE BILL NO. 218 (TRANSPORTATION)**IN THE LEGISLATURE OF THE STATE OF ALASKA****SEVENTEENTH LEGISLATURE - FIRST SESSION****BY THE SENATE TRANSPORTATION COMMITTEE****Offered: 5/10/91****Referred: Labor and Commerce****Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE****A BILL****FOR AN ACT ENTITLED**

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

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1. POLICY, FINDINGS, AND INTENT.** (a) It is the policy of the state to prevent the
6 loss of lives and property, and to protect the marine environment of the state by requiring compulsory
7 pilotage in certain water of and adjacent to the state.

8 (b) The legislature finds that

9 (1) in order to assure the protection of lives and property and the marine environment
10 of the state, licensed marine pilots having extensive local knowledge are required to pilot certain vessels
11 in certain water of and adjacent to the state;

12 (2) it is necessary to give the Board of Marine Pilots broad statutory authority, including
13 the authority to establish pilotage regions and tariffs and the authority to establish criteria for the training
14 and licensing of marine pilots;

1 (3) marine pilots operating independently of the shipping industry have provided and will
2 continue to provide essential services to the people of the state;

3 (4) marine pilots further the public interest by providing safe pilotage in the water of the
4 state;

5 (5) in the past, pilot organizations have provided, and in the future will continue to
6 provide, important services on behalf of marine pilots; these pilot organizations have furthered the policy
7 of protecting lives and property and the marine environment in the water of the state.

8 (c) It is the intent of the legislature that the Board of Marine Pilots work with

9 (1) marine pilots to ensure that safe pilotage is maintained in the state;

10 (2) pilot organizations in a cooperative effort to enhance the policy of protecting lives
11 and property and the marine environment in the water of the state.

12 * Sec. 2. AS 08.03.010(c)(12) is amended to read:

13 (12) Board of Marine Pilots (AS 08.62.010) -- June 30, 1995 [1991];

14 * Sec. 3. AS 08.62.020 is repealed and reenacted to read:

15 Sec. 08.62.020. APPOINTMENT AND TERM OF OFFICE. The governor shall appoint
16 the members of the board under AS 08.01.020.

17 * Sec. 4. AS 08.62.030 is amended to read:

18 Sec. 08.62.030. MEETINGS. The board shall hold at least three regularly scheduled
19 meetings each year [A REGULAR ANNUAL MEETING]. The board may hold special
20 meetings at the call of the chair or at the request of a majority of the members of the board
21 [CHAIRMAN WITH PRIOR APPROVAL OF THE GOVERNOR].

22 * Sec. 5. AS 08.62.040 is amended to read:

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

24 (1) provide for the maintenance of efficient and competent pilotage [PILOT]
25 service on all water [WATERS] covered by this chapter to assure the protection of shipping,
26 [AND] the safety of human life and property, and the protection of the marine environment;

27 (2) consistent with the law, adopt regulations, subject to the Administrative
28 Procedure Act (AS 44.62), establishing the qualifications of and required training for pilots and
29 providing for the examination of pilots and the issuance of original or renewal pilot licenses to
30 qualified persons;

31 (3) keep a register of licensed pilots [,] and agents;

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(4) adopt regulations establishing

(A) pilotage regions in the state;

(B) the criteria related to a training and investigation fee to be remitted to the board;

(C) the criteria by which pilotage tariffs are established; and

(D) pilotage tariffs for each pilotage region [UNDER THE ADMINISTRATIVE PROCEDURE ACT (AS 44.62) ESTABLISHING STANDARDS BY WHICH PILOTAGE FEES MAY BE ESTABLISHED, AND PAY FOR AUDITS WHENEVER AN AUDIT IS NECESSARY TO COLLECT INFORMATION NEEDED TO APPLY THE STANDARDS IN THE REGULATIONS];

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

(6) review and approve the bylaws and the operating rules of pilot organizations;

(7) audit a pilot organization or an individual pilot as considered necessary by the board; and

(8) review and approve training programs conducted by pilot organizations [IT].

(b) The board may, by regulation, make any other provision for proper and safe pilotage upon the water [WATERS] covered by this chapter and for the efficient administration of this chapter, including establishing

(1) different licensing criteria in pilotage regions if justified by regional differences in piloting;

(2) a mandatory random drug and alcohol testing program for pilots licensed under this chapter; and

(3) criteria for trainee selection and for training programs conducted by pilot organizations.

* Sec. 6. AS 08.62.040 is amended by adding a new subsection to read:

(c) For good cause, the board may require a pilot licensed under this chapter to submit to a physical or mental examination to determine the pilot's fitness to perform the duties of a pilot.

1 * **Sec. 7.** AS 08.62 is amended by adding a new section to article 1 to read:

2 **Sec. 08.62.050. MARINE PILOT COORDINATOR.** The department, with the approval
3 of the board, is authorized to hire a marine pilot coordinator who is qualified to administer and
4 enforce the provisions of this chapter. The coordinator may not be an active member of a pilot
5 organization in the state and may not work as a pilot while employed as the coordinator, except
6 to the extent required by official duties. The coordinator is in the partially exempt service under
7 AS 39.25.120.

8 * **Sec. 8.** AS 08.62.080 is amended by adding new subsections to read:

9 (b) A pilot may not be licensed in more than one pilotage region at one time, unless the
10 board determines that it is in the best interests of the state to license pilots for parts of more than
11 one pilotage region.

12 (c) The board shall establish dates for license examinations and shall provide public
13 notice of the dates for license examinations.

14 * **Sec. 9.** AS 08.62.090 is amended by adding a new subsection to read:

15 (c) In order to be eligible to take the next scheduled examination, a person shall file the
16 application with the board at least 60 days before the date of the examination.

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

18 **Sec. 08.62.100. QUALIFICATIONS FOR LICENSE.** (a) The board shall issue a pilot
19 license to a person if the person is a citizen of the United States, passes the examinations given
20 by the board, qualifies under regulations adopted by the board, and meets the qualifications in
21 (b) - (d) of this section.

22 (b) In addition to the qualifications in (a) of this section, an applicant may not receive
23 a license under this section unless the applicant provides documentation to the board of the
24 following service:

25 (1) one year of service as a master of ocean or coastwise vessels while holding
26 a license as the master of ocean steam or motor vessels of any gross tons;

27 (2) two years of service as a master of freight on a towing vessel while holding
28 a license as the master of freight and towing vessels of not less than 1,600 gross tons;

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

1 (4) two years of service as commanding officer of United States government
2 vessels of not less than 1,600 gross tons while holding a license as the master of ocean steam
3 or motor vessels of any gross tons; or

4 (5) three years of experience as a member of an organized professional pilots
5 association during which the candidate was actively engaged in piloting while holding a
6 minimum license as a master of freight or towing vessels of not more than 1,600 gross tons.

7 (c) An applicant for a license under this section shall possess an endorsement of first
8 class pilotage on the applicant's United States Coast Guard license with no tonnage restrictions
9 for the pilotage region for which the applicant seeks to be licensed.

10 (d) The board may impose other entry level qualifications for a license for a particular
11 pilotage region.

12 (e) In this section, "years of service" is determined in a manner consistent with the
13 regulatory standards of the United States Coast Guard relating to years of service.

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

15 Sec. 08.62.120. RENEWAL. (a) Licenses issued under this chapter expire on
16 December 31 of each even-numbered year. In addition to complying with the requirements of
17 AS 08.01.100, in order to renew a license a pilot shall

18 (1) submit a renewal application on a form provided by the board;

19 (2) meet the minimum qualifications set out in AS 08.62.100 and the regulations
20 adopted by the board under AS 08.62.100;

21 (3) on a form approved by the board, provide evidence of a satisfactory physical
22 examination by a licensed physician within 60 days before the date of renewal; and

23 (4) comply with (b) of this section.

24 (b) A licensed pilot who has not piloted in the region for which the pilot is licensed for
25 at least 60 days during the two years before applying for renewal may not have the license
26 renewed until the pilot completes the number of familiarization trips required by the board in the
27 pilotage region for which the license will be renewed.

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

29 Sec. 08.62.130. LAPSED LICENSE. The board shall reinstate a lapsed license if, in
30 addition to complying with the requirements of AS 08.01.100(a) - (c) and AS 08.62.120, the pilot
31 takes and passes a written and oral examination if the license has been lapsed one year or more.

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

2 (a) The board shall [MAY] impose a disciplinary sanction on a person licensed under
3 this chapter when the board finds that the person

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

5 (2) is chemically impaired [HABITUALLY INTOXICATED];

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

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

8 (5) violates a provision of this chapter or a regulation adopted under it;

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

10 (7) has had the person's United States Coast Guard pilot license conditioned,
11 suspended, or revoked; or

12 (8) charges, collects, or receives an amount for pilotage services that is
13 different from the pilotage tariff established by the board [SUFFERED REVOCATION OF
14 FEDERAL LICENSURE AS A PILOT].

15 * **Sec. 14.** AS 08.62.155 is repealed and reenacted to read:

16 Sec. 08.62.155. DISCIPLINARY SANCTIONS. The board may take disciplinary action
17 under AS 08.01.075.

18 * **Sec. 15.** AS 08.62.160 is amended to read:

19 Sec. 08.62.160. MANDATORY EMPLOYMENT OF LICENSED PILOTS. A vessel
20 subject to this chapter navigating certain water of or adjacent to the state [THE INSIDE
21 COASTAL WATERS OF ALASKA] as determined by the board in regulation shall employ a
22 pilot holding a valid license under this chapter. A vessel in the mandatory pilotage water of
23 the state shall be under the direction and control of a pilot licensed under this chapter
24 during movement of the vessel, unless the pilot is removed by the master for cause.

25 * **Sec. 16.** AS 08.62 is amended by adding a new section to read:

26 Sec. 08.62.165. LIMITATION OF LIABILITY. (a) A pilot licensed under this chapter
27 is not liable for damages in excess of \$5,000 per incident for damages or loss occurring as a
28 result of the error, omission, fault, or neglect of the pilot in performing pilotage services, except
29 that the limitation does not apply in a case where the pilot is either grossly negligent or guilty
30 of wilful misconduct.

31 (b) Nothing in this section exempts a vessel, a vessel's cargo, or the owner or operator

1 of a vessel or cargo from liability for damage or loss caused by the vessel, the vessel's cargo,
2 or the owner or operator of the vessel or cargo to the vessel, the vessel's cargo, another person,
3 or other property on the ground that

4 (1) the vessel was piloted by a pilot licensed under this chapter; or

5 (2) the damage or loss occurred as a result of the error, omission, fault, or neglect
6 of a pilot licensed under this chapter.

7 (c) An organization of pilots is not liable for claims arising from acts or omissions of a
8 pilot or organization of pilots that relate, directly or indirectly, to pilotage of a vessel. A pilot
9 is not liable, directly or as a member of an organization of pilots, for claims arising from acts
10 or omissions of another pilot or organization of pilots that relate, directly or indirectly, to pilotage
11 of a vessel. This subsection does not apply to acts or omissions relating to the ownership or
12 operation of pilot boats or the transportation of pilots to and from a vessel to be piloted.

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

14 Sec. 08.62.175. PILOT ORGANIZATIONS. Marine pilots may organize themselves into
15 organizations, to the extent that the organizations are permitted under state and federal law.

16 * Sec. 18. AS 08.62.190 is amended to read:

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

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

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

27 Sec. 08.62.990. SHORT TITLE. This chapter may be cited as the Alaska Marine
28 Pilotage Act.

29 * Sec. 20. AS 39.25.120(c) is amended by adding a new paragraph to read:

30 (22) marine pilot coordinator of the Board of Marine Pilots.

31 * Sec. 21. AS 45.50.572(a) is amended to read:

1 (a) AS 45.50.562 - 45.50.596 do not forbid the existence or operation of labor,
2 agricultural, [OR] horticultural, or marine pilot organizations created for the purpose of mutual
3 help, and not conducted for profit, or forbid or restrain members of those organizations from
4 lawfully carrying out the legitimate objectives of them; nor are these organizations or members
5 illegal combinations or conspiracies in restraint of trade under the provisions of AS 45.50.562 -
6 45.50.596.

7 * Sec. 22. TRANSITION; MARINE PILOT LICENSE. (a) A marine pilot license issued under
8 AS 08.62.100 before the effective date of this Act shall be valid for the period for which the license was
9 issued and may be renewed until December 31, 1994, without examination upon payment of the marine
10 pilot license fee.

11 (b) A person may not hold a marine pilot license after December 31, 1994, without satisfying
12 the requirements of AS 08.62.100, as amended by sec. 10 of this Act.

13 (c) Notwithstanding AS 08.62.080(b), added by sec. 8 of this Act, a marine pilot license issued
14 under AS 08.62.100 before the effective date of this Act, and for subsequent renewals of the license,
15 entitles the licensee to pilot vessels in any marine pilotage region in the state until December 31, 1994.

16 (d) Notwithstanding (a) - (c) of this section, a person licensed under this chapter who applies
17 for a change, amendment, or an endorsement for the person's license must qualify for the change,
18 amendment, or endorsement under AS 08.62 as amended by this Act and implementing regulations
19 adopted by the Board of Marine Pilots.

20 * Sec. 23. INVESTIGATION OF MARINE ACCIDENTS. The marine pilot coordinator of the Board
21 of Marine Pilots shall cooperate with federal and state agencies responsible for regulation of marine
22 pilots and the investigation of marine accidents to develop guidelines for, and a system of timely,
23 thorough, and fair investigations of, marine accidents involving death or injury to a person or damage
24 to property. The marine pilot coordinator shall submit a report on the guidelines and system developed
25 to investigate marine accidents and on recommendations for legislation necessary to provide for the
26 investigation of marine accidents to the legislature on the first legislative day of the Second Regular
27 Session of the Seventeenth Alaska State legislature.

28 * Sec. 24. This Act takes effect immediately under AS 01.10.070(c).