HOUSE BILL NO. 237

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES HUDSON, Phillips, Brice, Sitton, Sanders

Introduced: 3/19/93
Referred: Labor & Commerce, Transportation, State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

"An Act relating to marine pilot licensing and tariffs."

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

*** Section 1.** AS 08.62.040(a) is amended to read:

(a) The board shall

(1) provide for the maintenance of efficient and competent pilotage service on the inland and coastal water of and adjacent to the state to assure the protection of shipping, the safety of human life and property, and the protection of the marine environment;

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

(3) keep a register of licensed pilots, licensed deputy pilots, and agents;

(4) adopt regulations establishing

(A) pilotage regions in the state;

(B) the criteria for concurring in the amount of license, application, training, investigation, and audit fees proposed by the department under AS 08.01.065;

(C) the criteria for recognizing pilot organizations under AS 08.62.175;

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

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

(7) audit a pilot organization or an individual pilot as necessary to implement and enforce this chapter;

(8) review and approve training programs conducted by pilot organizations; the board shall cooperate with the Department of Environmental Conservation in the review and approval of training programs for pilots of tank vessels; [AND]

(9) establish and publish the dates of future license examinations**; and**

(10) establish by regulation

(A) the maximum number of pilots to be licensed in a region based on the number needed to assure the safety of human life and property, and the protection of the marine environment of the state; and

(B) if there are more qualified applicants for licensing than there are licenses available, the criteria for choosing which pilots should be awarded licenses.

* Sec. 2. AS 08.62.040(b) is amended to read:

(b) The board may, by regulation, make any other provision for proper and safe pilotage upon the inland and coastal water of and adjacent to the state and for the efficient administration of this chapter, including establishing

(1) different licensing criteria for a pilotage region if justified by regional differences in piloting;

(2) a mandatory random drug and alcohol testing program for pilots

licensed under this chapter;

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

(4) standards under which, **during a transition period when the board is changing the boundaries of a pilotage region,** a pilot may receive [A LICENSE OR] an endorsement to a license to pilot vessels in more than one pilotage region.

*** Sec. 3.** AS 08.62.040(d) is amended to read:

(d) Notwithstanding the exemption from AS 45.50.562 - 45.50.596 granted to pilot organizations under AS 45.50.572(a), the board may not adopt a regulation or take other action resulting in anti-competitive activities that, if the board were subject to AS 45.50.562 - 45.50.596, would violate AS 45.50.562 - 45.50.596. **However, the board shall adopt regulations and take other actions to restrict the number of licenses issued in a region as required by (a) of this section.**

*** Sec. 4.** AS 08.62.045(a) is amended to read:

(a) The **Alaska Public Utilities Commission** [BOARD] shall adopt by regulation **fixed** [MAXIMUM] tariffs that may be charged by pilots for the provision of specific pilotage services **in a pilotage region in the state**. The **commission** [BOARD] shall identify those expenses that are included in the tariff. **Expenses included in the tariff must be just and reasonable and in accordance with accepted maritime industry practices and standards.** In adopting [MAXIMUM] tariffs under this subsection, the **commission** [BOARD] shall take into consideration

(1) reasonable compensation for actual time aboard a vessel as a pilot, **including overtime,** and for time engaged in preparing to provide pilotage services; **comparisons are limited to the maritime market in the United States;**

(2) differential compensation for seasonal and weather conditions **and** [,] risks involved in providing pilotage service **in the state compared to the other maritime states** [, AND OVERTIME];

(3) **pilot expenses allowed for** dispatch **services** [EXPENSES], transportation expenses, and other associated costs directly related to the provision of pilotage services; **allowed pilot expenses may not include an allowance for the cost of political contributions, public relations, or lobbyist expenses;**

(4) reasonable overhead expenses that are necessary to provide year round pilotage services for the region; [AND]

(5) **the economic effect of the proposed tariff on the industry, the area, and the state;**

(6) the reasonable cost of equipment associated with the tariff; equipment considered in setting the tariff must be used and useful toward marine pilotage; and

(7) other expenses identified by the **commission** [BOARD].

* **Sec. 5.** AS 08.62.045(d) is amended to read:

(d) A pilot organization recognized by the board or a member of the pilot organization may not charge a tariff for the provision of pilotage services that **differs from** [EXCEEDS] the [MAXIMUM] tariff set by the **commission** [BOARD, THAT IS DIFFERENT FROM THE TARIFF ADOPTED BY THE PILOT ORGANIZATION, OR THAT HAS NOT TAKEN EFFECT UNDER (c) OF THIS SECTION].

* **Sec. 6.** AS 08.62.045 is amended by adding new subsections to read:

(e) A tariff adopted under this section is valid for three years and may not be amended except as provided in this subsection or in (g) of this section. The commission may reopen a tariff if the commission finds that the tariff is substantially unfair. Once each year, the commission shall by regulation adjust the tariffs for inflation, based on the consumer price index for the region. If a regional consumer price index is not available, the commission shall adjust the tariff using the state consumer price index and adjusting the state index by using an established differential study for the region.

(f) The commission shall by regulation impose and establish a method to determine annually the amount of a regulatory cost charge to cover the commission's costs of regulating tariffs under this section. The charge shall be in the form of a tariff fee assessed by region on each movement of a vessel subject to this chapter. The commission shall administer and the Department of Revenue shall collect and enforce the charge imposed under this subsection.

(g) If a pilot organization recognized by the board and a shipping company or the agent of a shipping company to whom pilotage services are provided agree on the

tariff for a particular region, they shall present the agreement to the commission for review. The commission shall hold a public hearing concerning the agreement and may approve it if it finds that approval of the agreement is in the public interest.

(h) The commission shall adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out its powers and duties under this section.

(i) In this section, "commission" means the Alaska Public Utilities Commission.

* Sec. 7. AS 08.62.080 is amended to read:

Sec. 08.62.080. LICENSE REQUIRED; RESTRICTIONS AND CONDITIONS. (a) A person may not pilot a vessel subject to this chapter unless the person **has a valid license issued** [IS LICENSED] under this chapter and is a member of a pilot organization recognized by the board.

(b) A pilot may not be licensed in more than one pilotage region at one time. **However, a pilot may hold endorsements issued by the board permitting the pilot to operate in more than one pilotage region at a time if, under (d) of this section, the board has declared an emergency or if, under AS 08.62.040(b), the board is changing the boundaries of a region** [, UNLESS THE BOARD DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE STATE TO LICENSE PILOTS FOR PARTS OF MORE THAN ONE PILOTAGE REGION].

(c) A license issued under this chapter must identify the specific waterways and ports [IN EACH PILOTAGE REGION] in which a licensee is authorized by the board to pilot vessels. The board shall authorize a licensee to pilot vessels in **specific waterways or ports** [A SPECIFIC WATERWAY OR PORT] in a pilotage region upon the licensee satisfying the training and other qualifying requirements required by the board to pilot vessels in that **region** [WATERWAY OR PORT].

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

(d) The board may adopt regulations designating that an emergency exists that requires the board to issue emergency endorsements to pilots not licensed in a particular region. After adopting regulations, the board may issue an emergency endorsement to a licensed pilot to permit the pilot to operate in a region in which the pilot is not licensed. The emergency endorsement must state the ports or waterways

1 covered by the endorsement and the period of time for which it is valid.

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

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

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

6 (2) is chemically impaired;

7 (3) illegally possesses, uses, or sells narcotic or hallucinogenic drugs;

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

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

11 (6) is guilty of misconduct during the course of employment;

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

14 (8) charges, collects, or receives an amount for pilotage services that
15 is <u>different from the</u> [IN EXCESS OF THE MAXIMUM] tariff established by the
16 <u>Alaska Public Utilities Commission under AS 08.62.045</u> [BOARD OR DIFFERENT
17 FROM THE TARIFF ADOPTED BY THE PILOT ORGANIZATION OF WHICH
18 THE PERSON IS A MEMBER].

19 * **Sec. 10.** AS 08.62.175 is amended by adding a new subsection to read:

20 (e) A pilot organization recognized by the board may enter into an agreement
21 with a shipping company or the agent of a shipping company to whom pilotage
22 services are provided for a proposed tariff for a particular region under
23 AS 08.62.045(g).

24 * **Sec. 11.** AS 42.05.141 is amended by adding a new subsection to read:

25 (d) The commission shall perform the duties assigned to it under
26 AS 08.62.045.

27 * **Sec. 12.** Section 35, ch. 89, SLA 1991, is amended to read:

28 Sec. 35. AS 08.62.045 is repealed June 30, <u>2000</u> [1994].

29 * **Sec. 13.** AS 08.62.045(b), 08.62.045(c), and 08.62.175(c)(3) are repealed.

30 * **Sec. 14.** AS 08.62.150(a)(8), 08.62.175(e); and AS 42.05.141(d) are repealed June 30,
31 2000.

1 * **Sec. 15.** Notwithstanding the amendments to AS 08.62.045 and 08.62.150(a) made by
2 this Act, tariffs for marine pilotage services in a region may continue to be charged under
3 AS 08.62.045 as it existed on the day before the effective date of this Act until the Alaska
4 Public Utilities Commission adopts regulations setting fixed tariffs for that region.