

CS FOR HOUSE BILL NO. 237(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/8/93

Referred: Transportation, State Affairs, Finance

Sponsor(s): REPRESENTATIVES HUDSON, Phillips, Brice, Sitton, Sanders

A BILL

FOR AN ACT ENTITLED

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

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

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

4 (a) **The board shall**

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

9 (2) **consistent with the law, adopt regulations, subject to the**
10 **Administrative Procedure Act (AS 44.62), establishing the qualifications of and**
11 **required training for pilots, [AND] providing for independent, impartial, and**
12 **unbiased [THE] examination of pilots and applicants for pilot licenses, and**
13 **providing for the issuance of original or renewal pilot licenses to qualified persons;**

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

- 1 (4) adopt regulations establishing
2 (A) pilotage regions in the state;
3 (B) the criteria for concurring in the amount of license,
4 application, training, investigation, and audit fees proposed by the department
5 under AS 08.01.065;
6 (C) the criteria for recognizing pilot organizations under
7 AS 08.62.175;
8 (5) make available, upon request, copies of this chapter and the
9 regulations adopted under this chapter;
10 (6) review and approve the articles, bylaws, and rules of pilot
11 organizations;
12 (7) audit a pilot organization or an individual pilot as necessary to
13 implement and enforce this chapter;
14 (8) review and approve training programs conducted by pilot
15 organizations; the board shall cooperate with the Department of Environmental
16 Conservation in the review and approval of training programs for pilots of tank
17 vessels; [AND]
18 (9) establish and publish the dates of future license examinations; and
19 (10) establish by regulation the criteria that will be used by the
20 board to issue pilot licenses in a region where the number of qualified applicants
21 for licensing, when added to the number of pilots already licensed for the region,
22 exceeds the number of pilots determined to be needed for that region under
23 AS 08.62.047.

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

- 25 (b) The board may, by regulation, make any other provision for proper and
26 safe pilotage upon the inland and coastal water of and adjacent to the state and for the
27 efficient administration of this chapter, including establishing
28 (1) different licensing criteria for a pilotage region if justified by
29 regional differences in piloting;
30 (2) a mandatory random drug and alcohol testing program for pilots
31 licensed under this chapter;

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

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

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

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

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

14 (a) The Alaska Public Utilities Commission [BOARD] shall establish fixed
15 [ADOPT BY REGULATION MAXIMUM] tariffs that must [MAY] be charged by
16 pilots for the provision of specific pilotage services in a pilotage region in the state.
17 The commission [BOARD] shall identify allowable [THOSE] expenses that are to be
18 recovered by [INCLUDED IN] the tariff. Expenses must be just and reasonable.
19 In adopting [MAXIMUM] tariffs under this subsection, the commission [BOARD]
20 shall consider [TAKE INTO CONSIDERATION]

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

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

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

31 (4) reasonable overhead expenses that are necessary to provide year

1 round pilotage services for the region; [AND]

2 (5) the economic effect of the proposed tariff on the industry, the
3 area, and the state:

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

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

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

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

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

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

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

28 (g) If a pilot organization recognized by the board and a shipping company or
29 the agent of a shipping company to whom pilotage services are provided agree on the
30 tariff for a particular region, they shall present the agreement to the commission for
31 review. The commission shall hold a public hearing concerning the agreement and

1 may approve it if it finds that approval of the agreement is in the public interest.

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

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

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

7 Sec. 08.62.047. REGIONAL MAXIMUMS FOR PILOTS. The Alaska Public
8 Utilities Commission shall establish by regulation the maximum number of pilots that
9 may be licensed by the board in each pilotage region based on the number needed to
10 ensure the safety of human life and property, facilitate the efficient movement of
11 commerce, and ensure the protection of the marine environment of the state.

12 * Sec. 8. AS 08.62.080 is amended to read:

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

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

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

30 * Sec. 9. AS 08.62.080 is amended by adding a new subsection to read:

31 (d) The board may adopt regulations designating that an emergency exists that

1 requires the board to issue emergency endorsements to pilots not licensed in a
2 particular region. After adopting regulations, the board may issue an emergency
3 endorsement to a licensed pilot to permit the pilot to operate in a region in which the
4 pilot is not licensed. The emergency endorsement must state the ports or waterways
5 covered by the endorsement and the period of time for which it is valid.

6 * Sec. 10. AS 08.62.150(a) is amended to read:

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

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

10 (2) is chemically impaired;

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

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

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

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

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

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

23 * Sec. 11. AS 08.62.175 is amended by adding a new subsection to read:

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

28 * Sec. 12. AS 42.05.141 is amended by adding a new subsection to read:

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

31 * Sec. 13. Section 35, ch. 89, SLA 1991, is amended to read:

- 1 **Sec. 35. AS 08.62.045 is repealed June 30, 2000 [1994].**
- 2 *** Sec. 14. AS 08.62.045(b), 08.62.045(c), and 08.62.175(c)(3) are repealed.**
- 3 *** Sec. 15. AS 08.62.150(a)(8), 08.62.175(e); and AS 42.05.141(d) are repealed June 30,**
- 4 **2000.**
- 5 *** Sec. 16. Notwithstanding the amendments to AS 08.62.045 and 08.62.150(a) made by**
- 6 **this Act, tariffs for marine pilotage services in a region may continue to be charged under**
- 7 **AS 08.62.045 as it existed on the day before the effective date of this Act until the Alaska**
- 8 **Public Utilities Commission adopts regulations setting fixed tariffs for that region.**