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COMMITTEE REPORT

SENATE

4/22/80

FURTHER: None

Date: April 24, 1980

Mr. President:

The Committee on COMMERCE has had SB 573 continuing the existence of the Board of Marine Pilots

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- [] do pass [] do not pass
[] do pass with attached amendments(s) [] same title
[] replace with CS for [] new title
and recommends
[] AND attaches a "Letter of Intent" [] New Fiscal Note
[] reports it back without individual recommendations
[] referred to the Committee

MEMBERS SIGNING DO PASS

Tim Kell
Tough Peterson
Curtis Fungulinski
Brad Bradley

MEMBERS HAVING OTHER RECOMMENDATIONS:

[Empty lines for other recommendations]

Brad Bradley
CHAIRMAN

BOARD OF MARINE PILOTS

MR. PRESIDENT, I MOVE THE ADOPTION OF SENATE BILL 573, WHICH IS IDENTICAL, AT THIS POINT, TO THE HOUSE BILL FOR THE SAME BOARD. WE HAVE WORKED JOINTLY TO TRY TO PREVENT AN UNNECESSARY AND OFTEN TIME-CONSUMING FREE CONFERENCE COMMITTEE.

(SEC. 08.62.020)

P. 1, Ls 16-18

why?

SECTION 1 IS CHANGED TO FORBID A BOARD MEMBER FROM SERVING MORE THAN TWO CONSECUTIVE TERMS, BUT DOES NOT LIMIT THE TOTAL NUMBER OF TERMS WHICH A PERSON MAY SERVE. THE COMMISSIONER OF THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT OR HIS DESIGNEE IS A MEMBER OF THE BOARD, AND THIS PROVISION DOES NOT APPLY TO HIM. THIS WAS DONE TO ALLOW MORE TURNOVER ON THE BOARD CREATING MORE DIVERSITY.

(SEC. 08.62.040(A)(3))

P. 1, Ls. 20-21

Why not define reason for manager being excluded.

SECTION 2 IS AMENDED TO STATE THAT THE BOARD MUST KEEP A REGISTER OF LICENSED PILOTS AND AGENTS, BUT IS NO LONGER REQUIRED TO KEEP A REGISTER OF VESSELS, OPERATORS, AND MANAGERS. "OPERATORS" IS AN UNDEFINABLE TERM IN SEA-GOING LANGUAGE. ANY VESSEL FROM ALL OVER THE WORLD CAN BE IN OUR WATERS AND THE COMPILING OF A LIST IS VIRTUALLY IMPOSSIBLE. LLOYDS OF LONDON COMPILED SUCH A LIST AND IT COMPRISED VOLUMES.

(SEC. 08.62.040(A)(4))

P. 1, Ls. 23-26

Don-07

SECTION 3 REQUIRES THE BOARD TO ADOPT REGULATIONS ESTABLISHING STANDARDS BY WHICH FEES MAY BE SET AND TO PAY FOR AUDITS IF AN AUDIT IS NEEDED TO COLLECT INFORMATION REQUIRED IN

ORDER TO APPLY THE STANDARDS IN THE ... NS,
THERE HAS BEEN A NEED FOR SUBSTANTIATING THE
SETTING OF THE FEES.

(Sec. 08.62.140)
P. 2, Ls. 1-3

SECTION 4 INCREASES THE FEES PROVIDED FOR
~~UNDER~~ EXISTING LAW. AN ADDITIONAL BIENNIAL
REGISTRATION FOR AGENTS IS ADDED. AGENTS HAVE
NOT BEEN REGISTERING AND BY ATTACHING A FEE
TO THE REGISTRATION IT IS BELIEVED THAT REGISTRA-
TION FOR AGENTS WOULD SEEM MORE IMPORTANT AND
HENCE MORE AGENTS WOULD REGISTER. REGISTRATION
TAKES ON MORE VALUE WHEN A FEE IS ATTACHED.

(Sec. 08.62.150(A))
P. 2, Ls. 4-5

SECTION 5. ^{→ appeal} UNDER CERTAIN SPECIFIED CONDITIONS
THE BOARD MAY IMPOSE A DISCIPLINARY SANCTION
ON A PERSON. SECTION 5 ADDS, AS A CONDITION
WHICH WOULD ALLOW THE BOARD TO DENY A LICENSE,
REVOKE A LICENSE, OR SUSPEND A LICENSE, THE
REVOCATION OF A FEDERAL PILOTS LICENSE HELD
BY A PERSON LICENSED OR SEEKING A LICENSE
UNDER THIS CHAPTER. IT IS FELT THAT ONE
LOOSING HIS FEDERAL LICENSE IS GROUNDS FOR
REVOCATION OF THE STATE LICENSE.

(Sec. 08.62.187)
P. 2, Ls. 7-9

SECTION 6 IS A NEW PROVISIONS REQUIRING A
PERSON TO HAVE HIS NAME ON THE REGISTER OF
AGENTS BEFORE HE MAY ACT AS THE AGENT OF A
VESSEL. THIS ENABLES GREATER CONTROL OF
AGENTS.

(SEC. 08.03.010(c))
P. 2, Ls. 10-11

SECTION 7 PROVIDES THE TERMINATION DATE FOR
THE BOARD OF MARINE PILOTS IS JUNE 30, 1983.

(SEC. 08.03.010(B)(8))
P. 2, L. 12

SECTION 8 REPEALS THE EXISTING TERMINATION DATE,
JUNE 30, 1980, FOR THE BOARD OF MARINE PILOTS.

P. 2, L. 13

SECTION 9 THE EFFECTIVE DATE OF THIS ACT IS
JUNE 30, 1980, THE DATE UPON WHICH THE BOARD
OF MARINE PILOTS IS SCHEDULED TO TERMINATE.

08.62.020

Sec. 08.62.020. APPOINTMENT AND TERM OF OFFICE. The governor shall appoint the pilot and agent or manager members of the board, subject to confirmation by a majority of the members of the legislature in joint session for terms of four years, or until their successors are appointed. The first members shall be initially appointed for one, two, three and four year terms. (sec 2 ch 106 SLA 1970)

08.62.040

Sec. 08.62.030. MEETINGS. The board shall hold a regular annual meeting. The board may hold special meetings at the call of the chairman with prior approval of the governor. (sec 2 ch 106 SLA 1970)

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

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

(2) consistent with the law, adopt regulations, subject to the Administrative Procedure Act (AS 44.62), establishing the qualifications of 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, vessels, operators, agents and manager;

(4) regulate pilotage fees; and

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

(b) The board may, by regulation, make any other provision for proper and safe pilotage upon the waters covered by this chapter and for the efficient administration of this chapter. (sec 2 ch 106 SLA 1970)

08.62.140

Sec. 08.62.140. FEES. The following fees shall be imposed under this chapter when applicable:

- (1) application fee..... \$ 10
 - (2) biennial license fee..... \$200
- (sec 2 ch 106 SLA 1970)

08.62.150

Sec. 08.62.150. DENIAL, REVOCATION OR SUSPENSION. (a) The board, after compliance with the Administrative Procedure Act (AS 44.62), may deny, revoke or suspend the license of a person who

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

(2) is habitually intoxicated;

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

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

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

(6) is guilty of misconduct during the course of his employment.

(b) A license denied, revoked or suspended under (a) of this section may not be granted or reinstated until

(1) the reason for the license denial, revocation or suspension has been remedied; and

(2) the period of suspension has been served and all fines imposed under this chapter have been paid. (sec 2 ch 106 SLA 1970)

THE BOARD OF MARINE PILOTS STATUTES

08.03.010.

Sec. 08.03.010. Termination, continuation and reestablishment of regulatory boards. (a) Boards listed in this subsection have a termination date of June 30, 1979:

- (1) Board of Chiropractic Examiners (AS 08.20.010);
- (2) Board of Dental Examiners (AS 08.36.010);
- (3) State Medical Board (AS 08.64.010);
- (4) Board of Nursing (AS 08.68.010);
- (5) Board of Dispensing Opticians (AS 08.71.010);
- (6) Board of Examiners in Optometry (AS 08.72.010);
- (7) Board of Pharmacy (AS 08.80.010);
- (8) Board of Veterinary Examiners (AS 08.98.010);
- (9) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);
- (10) Board of Nursing Home Administrators (AS 08.70.010);
- (11) Physical Therapy Board (AS 08.84.010).

(b) Boards listed in this subsection have a termination date of June 30, 1980:

- (1) Board of Public Accountancy (AS 08.04.010);
- (2) Board of Barber Examiners (AS 08.12.010);
- (3) Collection Agency Board (AS 08.24.011);
- (4) Board of Hairdressing and Beauty Culture Examiners (AS 08.28.010);
- (5) Board of Electrical Examiners (AS 08.40.010);
- (6) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011);
- (7) Guide Licensing and Control Board (AS 08.54.010);
- (8) Board of Marine Pilots (AS 08.62.010);
- (9) Real Estate Commission (AS 08.88.011);
- (10) Board of Welding Examiners (AS 08.99.010);
- (11) Board of Governors of the Alaska Bar Association (AS 08.08.040).

(c) Upon termination, each board listed in (a) and (b) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(d) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(e) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 2 ch 149 SLA 1977)

Sec. 08.01.100. LICENSE RENEWAL, LAPSE AND REINSTATEMENT. (a) All licenses shall be renewed biennially on the dates set by the department with the approval of the respective board.

(b) A registration, license permit or certificates requiring renewal to continue effective must be renewed on or before the date set by the department or it will lapse. A penalty of \$10 shall be charged in addition to all delinquent renewal fees for reinstatement of a registration, license, permit or certificate which remains lapsed for more than 60 days.

Sec. 08.01.105. PENALTY FOR IMPROPER PAYMENT. An applicant shall pay a penalty of \$10 each time a negotiable instrument is presented to the department in payment of an amount due and payment is subsequently refused by the named payor.

Sec. 08.01.110. DEFINITIONS. In this chapter

- (1) "board" includes the boards and commissions listed in sec. 10 of this chapter;
- (2) "department" means the Department of Commerce and Economic Development;
- (3) "commissioner" means the commissioner of commerce and economic development;
- (4) "license" means any license, certificate, permit, or registration or similar evidence of authority issued by one of the boards listed in sec. 10 of this chapter;
- (5) "licensee" means any person who holds a license;
- (6) "occupation" means any of the trades or professions for which licensure is required by one of the boards listed in sec. 10 of this chapter.

CHAPTER 62. MARINE PILOTS

Article

1. Board of Marine Pilots (secs 08.62.010 - 08.62.040)
2. Licensing (secs 08.62.080 - 08.62.150)
3. General Provisions (secs 08.62.160 - 08.62.200)

Revisor's note (1970) -
In ch. 106, SLA 1970, AS 08.62
was incorrectly designated AS
08.87.

ARTICLE 1. BOARD OF MARINE PILOTS

Section	Section
10. Creation and membership of board	30. Meetings
20. Appointment and term of office	40. Powers and duties

Sec. 08.62.010. CREATION AND MEMBERSHIP OF BOARD. There is created the Board of Marine Pilots. It consists of two pilots licensed under this chapter who have been actively engaged in piloting on vessels subject to this chapter, two agents or managers of vessels subject to this chapter, two public members in accordance with AS 08.01.025, and the commissioner or his designee. Not more than one pilot and one agent or manager

shall be from any one judicial district. All members of the board shall be residents of the state. (sec 2 ch 106 SLA 1970; am sec 8 ch 258 SLA 1976) (Eff. of amendment. The 1976 amendment inserted "two public members in accordance with AS 08.01.025" in the second sentence.)

Sec. 08.62.020. APPOINTMENT AND TERM OF OFFICE. The governor shall appoint the pilot and agent or manager members of the board, subject to confirmation by a majority of the members of the legislature in joint session for terms of four years, or until their successors are appointed. The first members shall be initially appointed for one, two, three and four year terms. (sec 2 ch 106 SLA 1970)

Sec. 08.62.030. MEETINGS. The board shall hold a regular annual meeting. The board may hold special meetings at the call of the chairman with prior approval of the governor. (sec 2 ch 106 SLA 1970)

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

- (1) provide for the maintenance of efficient and competent pilot service on all waters covered by this chapter to assure protection of shipping and the safety of human life and property;
- (2) consistent with the law, adopt regulations, subject to the Administrative Procedure Act (AS 44.62), establishing the qualifications of 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, vessels, operators, agents and manager;
- (4) regulate pilotage fees; and
- (5) make available, upon request, copies of this chapter and the regulations adopted under it.

(b) The board may, by regulation, make any other provision for proper and safe pilotage upon the waters covered by this chapter and for the efficient administration of this chapter. (sec 2 ch 106 SLA 1970)

ARTICLE 2. LICENSING

Section	Section
80. License requirement	120. Duration, renewal
90. Application	130. Lapsed license
100. Qualifications	140. Fees
110. Previous licensure	150. Denial, revocation or suspension

Sec. 08.62.080. LICENSE REQUIREMENT. No person may pilot a vessel subject to this chapter unless he is licensed under this chapter. (sec 2 ch 106 SLA 1970)

Sec. 08.62.090. APPLICATION. (a) A person who desires to be licensed under this chapter shall apply in writing to the department.

(b) The application shall provide the information and be made on a form proscribed by the board. (sec 2 ch 106 SLA 1970)

Sec. 08.62.100. QUALIFICATIONS. A person is entitled to a license under this chapter if he

(1) is of good moral character;
 (2) is a citizen of the United States;
 (3) passes the examination given by the board; and
 (4) qualifies under the regulations adopted under section 40(a)(2) and (b) of this chapter. (sec 2 ch 107 SLA 1970)

Sec. 08.62.110. PREVIOUS LICENSURE. A license that was issued under AS 30.10 is considered as having been issued under this chapter. (sec 2 ch 106 SLA 1970)

Sec. 08.62.120. DURATION, RENEWAL. A license issued under this chapter shall be renewed biennially on dates set by the department. A license issued under AS 30.10 lapses at the end of calendar year 1970. A license issued between May 7, 1970 and the end of 1970 shall be issued for a fee of \$100. A license shall be renewed without examination upon the payment of the biennial license fee. (sec 2 ch 106 SLA 1970)

Sec. 08.62.130. LAPSED LICENSE. A lapsed license may be reinstated without examination if it has not remained lapsed for more than two years. However, if the license is lapsed for less than two years and the board has reason to believe that the person applying for reinstatement of his license is incapable or incompetent to carry out the duties of a licensed marine pilot, the board may require the applicant to take and pass the examination given by the board. (sec 2 ch 106 SLA 1970; am sec 1 ch 22 SLA 1973)

Sec. 08.62.140. FEES. The following fees shall be imposed under this chapter when applicable:

- (1) application fee..... \$ 10
 (2) biennial license fee..... \$200

(sec 2 ch 106 SLA 1970)

Sec. 08.62.150. DENIAL, REVOCATION OR SUSPENSION. (a) The board, after compliance with the Administrative Procedure Act (AS 44.62), may deny, revoke or suspend the license of a person who

(1) is incompetent in the performance of his pilotage duties;
 (2) is habitually intoxicated;
 (3) illegally uses or sells narcotic or hallucinogenic drugs;
 (4) makes a false statement to obtain a license;
 (5) violates a provision of this chapter or a regulation adopted under it; or
 (6) is guilty of misconduct during the course of his employment.

(b) A license denied, revoked or suspended under (a) of this section may not be granted or reinstated until

(1) the reason for the license denial, revocation or suspension has been remedied; and
 (2) the period of suspension has been served and all fines imposed under this chapter have been paid. (sec 2 ch 106 SLA 1970)

ARTICLE 3. GENERAL PROVISIONS

Section	Section
160. Mandatory employment of licensed pilots	180. Exemptions
170. Pilot's lien for compensation	190. Penalty
	200. Definitions

Sec. 08.62.160. MANDATORY EMPLOYMENT OF LICENSED PILOTS. A vessel subject to this chapter navigating the inside coastal waters of Alaska as determined by regulations shall employ a pilot holding a valid license under this chapter. (sec 2 ch 106 SLA 1970)

Sec. 08.62.170. PILOT'S LIEN FOR COMPENSATION. Each vessel, its tackle, apparel and furniture and the owner of the vessel are jointly and severally liable for the compensation of a pilot employed on the vessel and the pilot has a lien on the vessel, her tackle, apparel and furniture for his compensation. (sec 2 ch 106 SLA 1970)

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

- (1) vessels under enrollment;
 (2) fishing vessels registered in the United States or in British Columbia, Canada;
 (3) motorboats as defined in sec. 1 of the Federal Motorboat Act of 1940 (54 Stat. 163; 46 U.S.C., sec. 526 et seq.);
 (4) vessels of United States registry of less than 300 gross tons and tow boats of United States registry and vessels owned by the State of Alaska, engaged exclusively

(A) on the rivers of Alaska; or

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

(5) vessels of Canada, including Canadian cruiseships, engaged in frequent trade between British Columbia and Alaska, if reciprocal exemptions are granted by Canada to vessels owned by the State of Alaska and those of United States registry; and
 (6) pleasure craft. (sec 2 ch 106 SLA 1970; am sec 1 ch 43 SLA 1972)

Effect of amendment-The "vessels in (4) and added 1972 amendment inserted "of "or" in (A). United States registry of less than 300 gross tons" after

Sec. 08.62.190. PENALTY. A master or owner of a vessel required by this chapter to employ a licensed pilot who fails to do so when a licensed pilot is available, unless the perils or hazards of the sea prevent the employment of a pilot, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than \$1,000 nor more than \$5,000. A person who violates any other provision of this chapter or a regulation adopted under it is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than \$500 nor more than \$1,000. (sec 1 ch 34 SLA 1979)

Sec. 08.62.200. DEFINITIONS. In this chapter

- (1) "board" means the Board of Marine Pilots;
- (2) "commissioner" means the commissioner of the Department of Commerce and Economic Development;
- (3) "department" means the Department of Commerce and Economic Development;
- (4) "vessel" means all vessels not exempt under 180 of this chapter. (sec 2 ch 106 SLA 1970; am sec 48 ch 218 SLA 1976)

Effect of amendment.-The 1976 amendment substituted "Department of Commerce and Economic Development"

for "Department of Commerce" in paragraphs (2) and (3).

THE BOARD OF MARINE PILOTS

STATUTES

08.62.020

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(4) regulate pilotage fees; and

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

(b) The board may, by regulation, make any other provision for proper and safe pilotage upon the waters covered by this chapter and for the efficient administration of this chapter. (sec 2 ch 106 SLA 1970)

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(b) Boards listed in this subsection have a termination date of June 30, 1980:

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- (9) Real Estate Commission (AS 08.88.011);
- (10) Board of Welding Examiners (AS 08.99.010);
- (11) Board of Governors of the Alaska Bar Association (AS 08.08.040).

(c) Upon termination, each board listed in (a) and (b) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(d) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(e) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 2 ch 149 SLA 1977)

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 28, 1980

~~SUBJECT: Section-by-section analysis of SB 573
dealing with the Board of Marine Pilots
(Work Order Number 8525)~~

~~TO: Senator Brad Bradley
Chairman, Senate Commerce Committee~~

~~FROM: Tamara Brandt Cook TBC
Legislative Counsel~~

You have requested a section-by-section analysis of Senate Bill 573 entitled: "An Act continuing the existence of the Board of Marine Pilots and amending the law relating to its powers and responsibilities, and providing for an effective date."

- (1) *(P.1, lines 16-18) Sec. 1, AS 08.67.020.*
~~Section 1.~~ This change forbids a board member from serving more than two consecutive terms, but does not limit the total number of terms which a person may serve. The commissioner of the Department of Commerce and Economic Development or his designee is a member of the board, and this provision does not apply to him. *This was done to allow more turnover on the board creating more diversity.*
- (2) *(P.1, lines 20-21) Sec. 2, AS 08.62.040(4)(3):*
~~Section 2.~~ The board must keep a register of licensed pilots and agents, but is no longer required to keep a register of vessels, operators, and managers. *Operators is an undefinable term in sea-going language. Any vessels from all over the world can be on our -*
- (3) *(P.1, lines 23-26) Sec. 3, AS 08.62.040(4)(3):*
~~Section 3.~~ Under existing law the board has the duty to regulate pilotage fees. This section requires the board to adopt regulations establishing standards by which fees may be set and to pay for audits if an audit is needed to collect information required in order to apply the standards in the regulations. *There has been a need for substantially the setting of fee fees.*
- (4) *(P.2, line 1-3)*
~~Section 4.~~ The fees provided for under existing law are increased. An additional biennial registration fee is added. *Agents have not been registering & by attaching a fee to the registration it is believed that registration for agents would seem more important & some more agents would register. Registration takes on more value when a fee is attached.*

Senator Brad Bradley

Page 2

April 28, 1980

(P 2, line 4-5) See 5, AS 08.62.150(a).

~~Section 5.~~ Under certain specified conditions the board may impose a disciplinary sanction on a person. This section adds, as a condition which would allow the board to deny a license, revoke a license, or suspend a license, the revocation of a federal pilots license held by a person licensed or seeking a license under this chapter.

It is felt that one losing his federal license is grounds for revocation of the state license.

(P 2, line 7-9) ~~Section 6.~~ This is a new provision requiring a person to have his name on the register of agents before he may act as the agent of a vessel. *AS 08.62.157. Enables greater control of agents.*

(P 2, line 10-11) ~~Section 7.~~ June 30, 1983 is the termination date for the Board of Marine Pilots. *AS 08.03.010(c)*

(P 2, line 12) ~~Section 8.~~ This section repeals the existing termination date, June 30, 1980, for the Board of Marine Pilots. *AS 08.03.010(b)(8)*

(P 2, line 13) ~~Section 9.~~ The effective date of this act is June 30, 1980, the date upon which the Board of Marine Pilots is scheduled to terminate.

If you have any further questions regarding this matter, please contact me.

TBC:ljb

ORDER TO APPLY THE STANDARDS IN THE REGULATIONS.
THERE HAS BEEN A NEED FOR SUBSTANTIATING THE
SETTING OF THE FEES.

(Sec. 08.62.140)
P. 2, Ls. 1-3

SECTION 4 INCREASES THE FEES PROVIDED FOR
UNDER EXISTING LAW. AN ADDITIONAL BIENNIAL
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THE BOARD MAY IMPOSE A DISCIPLINARY SANCTION
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REVOKE A LICENSE, OR SUSPEND A LICENSE, THE
REVOCATION OF A FEDERAL PILOTS LICENSE HELD
BY A PERSON LICENSED OR SEEKING A LICENSE
UNDER THIS CHAPTER. IT IS FELT THAT ONE
LOOSING HIS FEDERAL LICENSE IS GROUNDS FOR
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(Sec. 08.62.187)
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VESSEL. THIS ENABLES GREATER CONTROL OF
AGENTS.

BOARD OF MARINE PILOTS

MR. PRESIDENT, I MOVE THE ADOPTION OF SENATE BILL 573, WHICH IS IDENTICAL, AT THIS POINT, TO THE HOUSE BILL FOR THE SAME BOARD. WE HAVE WORKED JOINTLY TO TRY TO PREVENT AN UNNECESSARY AND OFTEN TIME-CONSUMING FREE CONFERENCE COMMITTEE.

(SEC. 08.62.020)

P. 1, Ls 16-18

why?

SECTION 1 IS CHANGED TO FORBID A BOARD MEMBER FROM SERVING MORE THAN TWO CONSECUTIVE TERMS, BUT DOES NOT LIMIT THE TOTAL NUMBER OF TERMS WHICH A PERSON MAY SERVE. THE COMMISSIONER OF THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT OR HIS DESIGNEE IS A MEMBER OF THE BOARD, AND THIS PROVISION DOES NOT APPLY TO HIM. THIS WAS DONE TO ALLOW MORE TURNOVER ON THE BOARD CREATING MORE DIVERSITY.

(SEC. 08.62.040(A)(3))

P. 1, Ls. 20-21

Why not define reason for manager being excluded.

SECTION 2 IS AMENDED TO STATE THAT THE BOARD MUST KEEP A REGISTER OF LICENSED PILOTS AND AGENTS, BUT IS NO LONGER REQUIRED TO KEEP A REGISTER OF VESSELS, OPERATORS, AND MANAGERS. "OPERATORS" IS AN UNDEFINABLE TERM IN SEA-GOING LANGUAGE. ANY VESSEL FROM ALL OVER THE WORLD CAN BE IN OUR WATERS AND THE COMPILING OF A LIST IS VIRTUALLY IMPOSSIBLE. LLOYDS OF LONDON COMPILED SUCH A LIST AND IT COMPRISED VOLUMES.

(SEC. 08.62.040(A)(4))

P. 1, Ls. 23-26

SECTION 3 REQUIRES THE BOARD TO ADOPT REGULATIONS ESTABLISHING STANDARDS BY WHICH FEES MAY BE SET AND TO PAY FOR AUDITS IF AN AUDIT IS NEEDED TO COLLECT INFORMATION REQUIRED IN

Introduced: 4/22/80
Referred: Commerce

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 SENATE BILL NO. 573

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Board of Marine
7 Pilots and amending the law relating to its powers and
8 responsibilities; and providing for an effective date."

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

10 * Section 1. AS 08.62.020 is amended to read:

11 Sec. 08.62.020. APPOINTMENT AND TERM OF OFFICE. The governor
12 shall appoint the pilot and agent or manager members of the board,
13 subject to confirmation by a majority of the members of the legislature
14 in joint session, for terms of four years, or until their successors are
15 appointed. The first members shall be initially appointed for one, two,
16 three and four year terms. No person, with the exception of the commis-
17 sioner or his designee, may be appointed to the board for more than two
18 consecutive terms.

19 * Sec. 2. AS 08.62.040(a)(3) is amended to read:

20 (3) keep a register of licensed pilots, and [VESSELS, OPERA-
21 TORS,] agents [, AND MANAGERS]

22 * Sec. 3. AS 08.62.040(a)(4) is repealed and re-enacted to read:

23 (4) adopt regulations under the Administrative Procedure Act
24 (AS 44.62) establishing standards by which pilotage fees may be estab-
25 lished, and pay for audits whenever an audit is necessary to collect
26 information needed to apply the standards in the regulations;

27 * Sec. 4. AS 08.62.140 is amended to read:

28 Sec. 08.62.140. FEES. The following fees shall be imposed under
29 this chapter when applicable:

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST Senate Bill 573 - An Act continuing the existence of the Board of Marine
Bill/Resolution No. ~~pilots and amending the law relating to its powers and responsibilities;~~
Title and providing for an effective date.
Requested by Commerce Committee Date 4/29/80

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, or Subprogram(s) Affected Regulation and Licensing of Professions
(Note: If more than one budget component is affected, separate line-item amounts and funding for each
component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No fiscal impact is associated with passage of this bill.

It is also felt that the audits necessary to collect information for the establishment of pilotage fees would not be very large and could be absorbed by the division.

IV. DATE 4/29/80

PREPARED BY Ann Griqas, Director

AGENCY Occupational Licensing

PHONE 465-2534

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

BILL ANALYSIS

ASSIGNMENT DATE _____

UNASSIGNED _____

DEPARTMENT Commerce & Economic Development	SPONSOR (PRINCIPAL) Commerce Committee	BILL NO. SB 573
DEPARTMENT POSITION Support		
DIVISION DIRECTOR <i>W. C. [Signature]</i> Occupational Licensing	DATE 4/29/80	Deputy COMMISSIONER Bertram L. Wagon
GOVERNOR'S OFFICE USE		
<input type="checkbox"/> POSITION NOTED	<input type="checkbox"/> POSITION APPROVED	<input type="checkbox"/> POSITION DISAPPROVED
BY:	DATE:	
SUMMARY		
(1) RELATED BILLS (SIMILAR OR CONFLICTING) HB 1025		
(2) a. ORGANIZATIONAL SUPPORT FOR BILL Unknown		(2) b. ORGANIZATIONAL OPPOSITION TO BILL Unknown
(3) PROGRAM EFFECTS OF BILL		
(4) FISCAL IMPACT: <input type="checkbox"/> NONE <input checked="" type="checkbox"/> FISCAL ANALYSIS ATTACHED		
(5) AMENDMENTS PROPOSED:		

(6) COMMENTS:

The Department of Commerce & Economic Development, Division of Occupational Licensing supports SB 573.

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Key to References

- (Y) - (yellow cover) - State of Alaska Sunset Review, 1979.
Prepared by the Division of Occupational Licensing
- (B) - (blue cover) - Division of Legislative Audit Performance Review
- (W) - (white cover) - Senate Commerce Committee Public Hearing Testimony, December 10, 1979

1. Examinations - Statutory elimination of the Coast Guard exam as a prerequisite to the State Exam. ~~Redundant.~~ *need both exams*

- (Y) - p 5, last paragraph; p 6, first paragraph
(B) - p 5, paragraph 4; p 7
(W) - p 2, paragraph 3; p 3, paragraph 1; p 4; p 5, paragraph 4

2. Increase the biennial license fee to \$300 (presently \$200) and the application fee to \$50 (presently \$10).

- (Y) - p 3; p 11, paragraphs 2 and 3
(B) - p 25
(W) - page 16; page 18

3. Repeal Sec. 08.62.040 (2)(4) which gives the board the power to regulate pilotage fees. I suggest that this power be given to an existing regulation body, such as the Alaska Transportation Commission, which already has a rate structure within it.

- (Y) - p 7, last paragraph; p 8
(B) - p 6; p 7, last paragraph; p 12
(W) - p 6 (Capt. Ed Murphy); p 28, paragraph 1; p 30

4. The Board of Marine Pilots should be continued for four more years.

- (Y) - p 1
(B) - p 7, paragraph 2
(W) - p 2, paragraph 3; p 6, paragraph 2

5. Repeal Sec. 08.62.110 (AS 30.10 was repealed in 1970) and the portion of Sec. 08.62.120 which states "A license issued under AS 30.10 lapses at the end of calendar year 1970."

- (Y) - p 11; p 13 (obsolete)

6. AS 08.62.040(a)(3) - repeal vessels in section.

- (a) The board shall:

(3) Keep a register of licensed pilots, [vessels], ~~operators, agents, and managers~~

Shippers
(Y) - This is a suggestion by OL and Elaine Garrett may wish to comment on this. Evidently there is no way OL is able to keep a register on all vessels. They are performing this function for the Board of Marine Pilots.

7. Members of the Board may be appointed to serve no ~~more~~ *more* than two full terms, *excluding the Commissioner.*

Consent

7. Section 08.62.150 should be amended to include failure to maintain qualifications for the original license as a basis for mandatory revocation, suspension, or refusal to re-issue a license.

8. In keeping with the Board's mandate to provide for the maintenance of efficient pilot service for Alaska, AS 08.62.040(4) should be amended to require that marine pilot associations have their records audited annually by a certified public accountant approved by the Board, a copy of such report shall be submitted promptly to the Board.

BOARD OF MARINE PILOTS

1. Section 08.62.040(4) should be amended to read:

The Board shall:

(4) regulate pilotage fees and consistent with the law, adopt regulations, subject to the Administrative Procedure Act (AS 44.62), justifying the setting of these fees.

Costs required by regulation to carry out this section will be paid for by the Board.

OR

The Board shall:

(4) regulate pilotage fees and develop specific regulations to substantiate these fees.

(a) the Board shall establish regulations for input by marine pilots, industry, and public in the setting of these fees.

2. AS 08.62.040 (a) (3) Repeal [vessels] [operators] and [managers] in section.

(a) The Board shall:

(3) Keep a register of licensed pilots and agents. Evidently, vessels with over 1600 gross tons of cargo, or those vessels which carry dangerous cargo (chemicals, etc.) must give 24-hour notice to the Coast Guard before their arrival to the Captain of the particular port. (Registry, etc.)

Operators and managers are not proper terms.

3. Agents who represent ships subject to the state pilotage Act shall pay a biennial registration fee of \$100.00.

The agents are not paying any registration fee at this time and by doing so they would be more likely to register. There is evidently a large number of agents who are not registered at this time and this suggestion could help alleviate this problem.

The pilots are required to pay a fee so the agents should also. This would also give the general fund more monies which might allow more than one meeting a year by the Board of Marine Pilots.

BOARD OF MARINE PILOTS

For the Committee's information see attached letter from the Department of Transportation, State of Washington, regarding the procedures in establishing their pilotage fees.



STATE OF
WASHINGTON

Dixy Lee Ray
Governor

DEPARTMENT OF TRANSPORTATION

Washington State Ferries, Seattle Ferry Terminal
Seattle, Washington 98104 206/464-7800

BOARD OF PILOTAGE COMMISSIONERS

October 23, 1979

Ms. Elaine Garrett
Department of Commerce & Economic
Development
Division of Occupational Licensing
Pouch D
Juneau, AK 99811

Dear Ms. Elaine Garrett:

This letter responds to your telephone inquiry as to how pilotage tariffs are set in Washington State.

The Board of Pilotage Commissioners is charged with the annual setting of pilotage fees (RCW 88.16.035(4)). A copy of the current pilotage act is attached. For many years it has been the practice that the pilots associations, and the Puget Sound Steamship Operators Association (their pilotage committee) will negotiate a level of fees to which both sides ultimately come to an agreement. With previous communication, as the negotiations progress, the Board will set a hearing date to hear testimony and ask questions of the two sides as to how the agreement was reached. Because of the agreement between the parties, the Board is usually inclined to adopt the rates as proposed. The rate hearings are therefore usually very short in duration and when completed the usual monthly meeting is commenced (the hearing is set on the day of the regular meeting).

Last year the Grays Harbor pilots received a 7% increase; the Puget Sound pilots received a rate increase of 8.3%, covering an 18 months period. Negotiations are commencing now for the next round.

As you can see the Board spends very little time in the actual tariff making process. We feel this is better handled by the parties directly involved, i.e., the ones providing the services and the ones paying the bills.

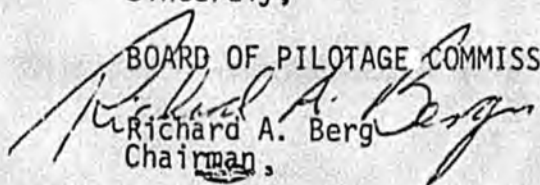
Copies of the two current tariffs are attached along with copies of minutes of the two hearings at which they were adopted.

We hope this information will be of assistance to you in your efforts to establish your next set of tariff changes. If any members of the Commission or your staff are interested, our Board meetings are held the second Thursday of each month. We would be delighted to have you attend so as to exchange matters of mutual interest and concern.

Please let us know if we can be of further assistance.

Sincerely,

BOARD OF PILOTAGE COMMISSIONERS


Richard A. Berg
Chairman

RAB: ht
enc.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K--STATE CAPITOL
JUNEAU 99811

September 5, 1975

H. Phillip Hubbard
Deputy Commissioner
Department of Commerce
Pouch D
Juneau, Alaska 99811

Re: Tariffs for licensed pilots on
enrolled ships (AS 08.62.040,
AS 03.62.180, 12 AAC 56.160(j))

Dear Deputy Commissioner Hubbard:

You have requested an opinion from the Attorney General whether or not the Board of Marine Pilots has statutory authority to regulate tariffs charged by licensed pilots employed on enrolled ships. It is the opinion of this department that the board does have such authority. The rationale for this conclusion is set out below.

The powers and duties of the board are set out in AS 08.62.040(a), which reads in part as follows:

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

#

(4) regulate pilotage fees;

This statute then gives the board authority to regulate services by licensed pilots on specified waterways to assure protection of shipping, the safety of human life and property, and to regulate tariffs charged by licensed pilots for their services.

Under AS 08.62.180(1), "vessels under enrollment" are explicitly excepted from the requirements of AS 08.62. However, the board has promulgated regulation 12 AAC 56.160(j) which reads as follows:

When a pilot licensed under AS 08.62 is employed on an enrolled ship, the same regulations [as for ships not excepted from the requirements of AS 08.62] apply.

It is generally held that an express exception in a statute "comprises the only limitation on the operation of the statute and no other exception will be implied." ^{1/} In the matter at hand, the fact that AS 08.62.180(1) provides an express exception for enrolled vessels does not require an implied exception from the board's tariff regulations for licensed pilots employed on those vessels.

The enrolled ship exception in AS 08.62.180(1) does not expressly extend to licensed pilots employed on such vessels. That is, the board is authorized and has the duty to establish qualifications of licensed pilots to provide for examination of pilots and their licensing, and to provide for efficient and competent pilot service, as well as, to regulate pilotage fees for licensed pilots regardless of whether the vessel in question is enrolled. One might at first view this result as indirect regulation of the enrolled vessels themselves, in violation of AS 08.62.180(1). However, owners of enrolled vessels are not required to take on licensed pilots while in Alaskan waters. These owners are free to go elsewhere for pilotage advice.

Therefore, it is the opinion of this department that the board is authorized under AS 08.62.040 to regulate tariffs charged by licensed pilots employed on enrolled ships. And so, 12 AAC 56.160(j) is a valid regulation pursuant to this authority.

Sincerely yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Wilson Condon
Deputy Attorney General

WC:chp

AMERICAN INSTITUTE OF MERCHANT SHIPPING

1625 K Street, N.W., Suite 1000, Washington, D.C. 20006

Telephone 202/753-6445

Telex: 89-424 AIMSHIP WSH

February 29, 1980

Honorable W. E. Bradley
Chairman, Senate Commerce Committee
State of Alaska
State Capitol
Pouch-V Mail Stop 3100
Juneau, Alaska 99811

Dear Senator Bradley:

At the January 30, 1980, Sunset Hearings on the Board of Marine Pilots held by the House Commerce Committee in Juneau, I presented testimony on behalf of the American Institute of Merchant Shipping (AIMS). During discussions following my prepared testimony, I was requested to categorize AIMS' recommendations into statutory and regulatory proposals. I am pleased to respond at this time to that request, and would also like to take this opportunity to offer further comment on other issues not fully explored during the hearing which may have a bearing on your deliberations.

With respect to categorizing AIMS' recommendations into statutory or regulatory proposals, I offer the following:

Licensing State Pilots

1. Continue to require Federal pilotage endorsements as a prerequisite to State pilotage.

No action is requested. This requirement is included under 12 AAC 56.030(2).

2. Eliminate those State license examination requirements which duplicate Federal pilotage examinations.

It is recommended that language be added to AS 08.52.040(2) permitting elimination of examination requirements

1 of 5

3. Seek active USCG liaison with the Board of Marine Pilots.

It is recommended that the Board of Marine Pilots be encouraged to solicit active liaison with the U. S. Coast Guard regarding establishment of appropriate guidelines for pilot qualification, examination, recertification and discipline. In this regard, we encourage the State to request such a U. S. Coast Guard representative to be stationed in, or be in close contact with, U. S. Coast Guard Headquarters in Washington. This will ensure uniformity of application nationwide.

Pilot Recertification

As indicated in AIMS' Testimony, recertification procedures are too vague to assure that the intent of the legislature is met. In addition, the USCG will, in the near future, issue new procedures for recertification of Federal pilots. AIMS proposes that a committee of interested parties, including the pilots, industry, USCG and Board of Members be established to identify and recommend statutory or regulatory changes to strengthen this most important area.

Pilot Discipline

1. Clarify the terms "incompetent" and "misconduct."

This subject should be included in the scope of the previously recommended Committee's work.

②. Suggest Alaska standards for revocation or suspension of State pilot licenses be established similar to USCG standards and procedures for revocation or suspension of Federal pilot licenses.

AIMS proposes Section 08.62.160 should be amended to include failure to maintain qualifications for the original license as a basis for mandatory revocation, suspension, or refusal to re-issue a license.

Regulation of Fees

1. Provide more detailed criteria for evaluating pilot-age rate changes.

Section 08.62.040(4) should be amended to require that

individual pilot compensation must be adequate, but not excessive, to assure that qualified personnel are attracted to the service, and that consideration must be given to difficulty of pilotage, length of time on the job, hours on standby, area standards of living, ratio of time off to time worked, benefits, necessary expenses, including pilot boat cost if required, and equitable distribution of these costs to the users of the pilotage service.

2. Require annual financial audit of pilot associations by state auditors with the audit available to the public.

In keeping with the Board's mandate to provide for the maintenance of efficient pilot service for Alaska, AS 08.62.040(4) should be amended to require that marine pilot associations have their records audited annually by a certified public accountant approved by the Board, a copy of such report shall be submitted promptly to the Board.

Board Composition

- ① Provide for tanker industry representation on the Board.

It is proposed that AS 08.62.101 be amended to specify that one industry member of the Board be a representative of the tanker industry. This member could make a significant contribution to the Board through the industry's resources and experience. In order to assure that a person of sufficient experience and knowledge is available for service to the Board, the State residency requirement for that representative should also be expanded to permit any U.S. citizen to qualify for appointment.

Regulation of Enrolled Vessels

- ① Eliminate those Sections of State Statute AS 08.62 added by passage of HB 510 in 1977 because they conflict with Federal law.

AS 08.62.185 should be repealed in its entirety for reasons already presented in AIMS' testimony.

In addition to clarifying AIMS' proposals to the Committee, I would like to discuss more fully two statements which were made by others during the Hearings which were inaccurate.

The first was that pilots assume responsibility for the safe navigation of the vessel when piloting. This statement is not consistent with the widely recognized master/pilot relationship which, by Federal and international law, holds the master fully and ultimately responsible for the safe navigation of the vessel at all times except when transiting the Panama Canal. The pilot, whether required by law or not, acts as an advisor to the master with respect to local conditions. Any orders which the pilot may give to the helmsman are given under the direct supervision of the master and with his approval. The master has the responsibility and authority to countermand any order given by the pilot, or to relieve the pilot if he believes the safety of the ship is being jeopardized.

A second statement was made that Federal, or employec, pilots are influenced by the vessel owner to "maintain schedule or move the vessel with unacceptable margins of safety," and therefore the State pilot "places a higher priority on the protection of life, property and the environment." This argument is obviously without merit when one considers the owner's investment in his ship, its cargo and crew and the social and financial consequences which would result from a vessel casualty. No one has more to lose than the U.S. ship owner when safety is not the paramount consideration in vessel operation.

Furthermore, it is not necessary for a Federal pilot to be an employee of the shipowner or operator. Independent Federal pilot services are available at many U.S. ports and provide both channel navigation and docking pilot services.

In closing, let me thank you again for the opportunity to express AIMS' views on this most important matter. I will be happy to try to provide you and other members of the Committee with any further information you may request.

Very truly yours,



Mark R. Johnson
Assistant to the Director
of Marine Affairs

/for/ Daniel J. Paul, Jr.

4 of 5

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 28, 1980

SUBJECT: Section-by-section analysis of SB 573
dealing with the Board of Marine Pilots
(Work Order Number 8525)

TO: Senator Brad Bradley
Chairman, Senate Commerce Committee

FROM: Tamara Brandt Cook *TBC*
Legislative Counsel

You have requested a section-by-section analysis of Senate Bill 573 entitled: "An Act continuing the existence of the Board of Marine Pilots and amending the law relating to its powers and responsibilities; and providing for an effective date."

Section 1. This change forbids a board member from serving more than two consecutive terms, but does not limit the total number of terms which a person may serve. The commissioner of the Department of Commerce and Economic Development or his designee is a member of the board, and this provision does not apply to him.

Section 2. The board must keep a register of licensed pilots and agents, but is no longer required to keep a register of vessels, operators, and managers.

Section 3. Under existing law the board has the duty to regulate pilotage fees. This section requires the board to adopt regulations establishing standards by which fees may be set and to pay for audits if an audit is needed to collect information required in order to apply the standards in the regulations.

Section 4. The fees provided for under existing law are increased. An additional biennial registration fee is added.

Senator Brad Bradley
Page 2
April 28, 1980

Section 5. Under certain specified conditions the board may impose a disciplinary sanction on a person. This section adds, as a condition which would allow the board to deny a license, revoke a license, or suspend a license, the revocation of a federal pilots license held by a person licensed or seeking a license under this chapter.

Section 6. This is a new provision requiring a person to have his name on the register of agents before he may act as the agent of a vessel.

Section 7. June 30, 1983 is the termination date for the Board of Marine Pilots.

Section 8. This section repeals the existing termination date, June 30, 1980, for the Board of Marine Pilots.

Section 9. The effective date of this act is June 30, 1980, the date upon which the Board of Marine Pilots is scheduled to terminate.

If you have any further questions regarding this matter, please contact me.

TBC:ljb



Official Business

Alaska State Legislature

Senate

Committee on Commerce

March 13, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

The Honorable Clem Tillion
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Your Senate Commerce Committee has had under consideration for "Sunset" review the Board of Marine Pilots pursuant to your referral under AS 44.66.050 and AS 08.03.010.


In accordance with the statutory requirements, a public hearing was held on the review of this board, members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board prepared by the Legislative Audit Division.

Guided, in part, by the report prepared by the Legislative Audit Division the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

The Committee feels it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that the Board of Marine Pilots be continued for another four years, that is, that the repealer with regard to the activities of the board be amended to read June 30, 1984.

A bill will be introduced by the Commerce Committee to implement the recommendations in this report.

Respectfully submitted,


Senator Brad Bradley
Chairman
Senate Commerce Committee

BB/bm

08.62.020

Sec. 08.62.020. APPOINTMENT AND TERM OF OFFICE. The governor shall appoint the pilot and agent or manager members of the board, subject to confirmation by a majority of the members of the legislature in joint session for terms of four years, or until their successors are appointed. The first members shall be initially appointed for one, two, three and four year terms. (sec 2 ch 106 SLA 1970)

Sec. 08.62.030. MEETINGS. The board shall hold a regular annual meeting. The board may hold special meetings at the call of the chairman with prior approval of the governor. (sec 2 ch 106 SLA 1970)

08.62.040

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

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

(2) consistent with the law, adopt regulations, subject to the Administrative Procedure Act (AS 44.62), establishing the qualifications of 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, vessels, operators, agents and manager;

(4) regulate pilotage fees; and

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

(b) The board may, by regulation, make any other provision for proper and safe pilotage upon the waters covered by this chapter and for the efficient administration of this chapter. (sec 2 ch 106 SLA 1970)

08.62.140

Sec. 08.62.140. FEES. The following fees shall be imposed under this chapter when applicable:

(1) application fee..... \$ 10

(2) biennial license fee..... \$200

(sec 2 ch 106 SLA 1970)

08.62.150

Sec. 08.62.150. DENIAL, REVOCATION OR SUSPENSION. (a) The board, after compliance with the Administrative Procedure Act (AS 44.62), may deny, revoke or suspend the license of a person who

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

(2) is habitually intoxicated;

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

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

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

(6) is guilty of misconduct during the course of his employment.

(b) A license denied, revoked or suspended under (a) of this section may not be granted or reinstated until

(1) the reason for the license denial, revocation or suspension has been remedied; and

(2) the period of suspension has been served and all fines imposed under this chapter have been paid. (sec 2 ch 106 SLA 1970)

THE BOARD OF MARINE PILOTS STATUTES

08.03.010.

Sec. 08.03.010. Termination, continuation and reestablishment of regulatory boards. (a) Boards listed in this subsection have a termination date of June 30, 1979:

- (1) Board of Chiropractic Examiners (AS 08.20.010);
- (2) Board of Dental Examiners (AS 08.36.010);
- (3) State Medical Board (AS 08.64.010);
- (4) Board of Nursing (AS 08.68.010);
- (5) Board of Dispensing Opticians (AS 08.71.010);
- (6) Board of Examiners in Optometry (AS 08.72.010);
- (7) Board of Pharmacy (AS 08.80.010);
- (8) Board of Veterinary Examiners (AS 08.98.010);
- (9) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);
- (10) Board of Nursing Home Administrators (AS 08.70.010);
- (11) Physical Therapy Board (AS 08.84.010).

(b) Boards listed in this subsection have a termination date of June 30, 1980:

- (1) Board of Public Accountancy (AS 08.04.010);
- (2) Board of Barber Examiners (AS 08.12.010);
- (3) Collection Agency Board (AS 08.24.011);
- (4) Board of Hairdressing and Beauty Culture Examiners (AS 08.28.010);
- (5) Board of Electrical Examiners (AS 08.40.010);
- (6) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011);
- (7) Guide Licensing and Control Board (AS 08.54.010);
- (8) Board of Marine Pilots (AS 08.62.010);
- (9) Real Estate Commission (AS 08.88.011);
- (10) Board of Welding Examiners (AS 08.99.010);
- (11) Board of Governors of the Alaska Bar Association (AS 08.08.040).

(c) Upon termination, each board listed in (a) and (b) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(d) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(e) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 2 ch 149 SLA 1977)

Sec. 08.01.100. LICENSE RENEWAL, LAPSE AND REINSTATEMENT.

(a) All licenses shall be renewed biennially on the dates set by the department with the approval of the respective board.

(b) A registration, license permit or certificates requiring renewal to continue effective must be renewed on or before the date set by the department or it will lapse. A penalty of \$10 shall be charged in addition to all delinquent renewal fees for reinstatement of a registration, license, permit or certificate which remains lapsed for more than 60 days.

Sec. 08.01.105. PENALTY FOR IMPROPER PAYMENT. An applicant shall pay a penalty of \$10 each time a negotiable instrument is presented to the department in payment of an amount due and payment is subsequently refused by the named payor.

Sec. 08.01.110. DEFINITIONS. In this chapter

(1) "board" includes the boards and commissions listed in sec. 10 of this chapter;

(2) "department" means the Department of Commerce and Economic Development;

(3) "commissioner" means the commissioner of commerce and economic development;

(4) "license" means any license, certificate, permit, or registration or similar evidence of authority issued by one of the boards listed in sec. 10 of this chapter;

(5) "licensee" means any person who holds a license;

(6) "occupation" means any of the trades or professions for which licensure is required by one of the boards listed in sec. 10 of this chapter.

CHAPTER 62. MARINE PILOTS

Article

1. Board of Marine Pilots (secs 08.62.010 - 08.62.040)
2. Licensing (secs 08.62.080 - 08.62.150)
3. General Provisions (secs 08.62.160 - 08.62.200)

Revisor's note (1970) -

In ch. 106, SLA 1970, AS 08.62 was incorrectly designated AS 08.87.

ARTICLE 1. BOARD OF MARINE PILOTS

Section	Section
10. Creation and membership of board	30. Meetings
20. Appointment and term of office	40. Powers and duties

Sec. 08.62.010. CREATION AND MEMBERSHIP OF BOARD. There is created the Board of Marine Pilots. It consists of two pilots licensed under this chapter who have been actively engaged in piloting on vessels subject to this chapter, two agents or managers of vessels subject to this chapter, two public members in accordance with AS 08.01.025, and the commissioner or his designee. Not more than one pilot and one agent or manager

shall be from any one judicial district. All members of the board shall be residents of the state. (sec 2 ch 106 SLA 1970; am sec 8 ch 258 SLA 1976) (Eff. of amendment. The 1976 amendment inserted "two public members in accordance with AS 08.01.025" in the second sentence.)

Sec. 08.62.020. APPOINTMENT AND TERM OF OFFICE. The governor shall appoint the pilot and agent or manager members of the board, subject to confirmation by a majority of the members of the legislature in joint session for terms of four years, or until their successors are appointed. The first members shall be initially appointed for one, two, three and four year terms. (sec 2 ch 106 SLA 1970)

Sec. 08.62.030. MEETINGS. The board shall hold a regular annual meeting. The board may hold special meetings at the call of the chairman with prior approval of the governor. (sec 2 ch 106 SLA 1970)

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

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

(2) consistent with the law, adopt regulations, subject to the Administrative Procedure Act (AS 44.62), establishing the qualifications of 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, vessels, operators, agents and manager;

(4) regulate pilotage fees; and

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

(b) The board may, by regulation, make any other provision for proper and safe pilotage upon the waters covered by this chapter and for the efficient administration of this chapter. (sec 2 ch 106 SLA 1970)

ARTICLE 2. LICENSING

Section	Section
80. License requirement	120. Duration, renewal
90. Application	130. Lapsed license
100. Qualifications	140. Fees
110. Previous licensure	150. Denial, revocation or suspension

Sec. 08.62.080. LICENSE REQUIREMENT. No person may pilot a vessel subject to this chapter unless he is licensed under this chapter. (sec 2 ch 106 SLA 1970)

Sec. 08.62.090. APPLICATION. (a) A person who desires to be licensed under this chapter shall apply in writing to the department.

(b) The application shall provide the information and be made on a form prescribed by the board. (sec 2 ch 106 SLA 1970)

Sec. 08.62.100. QUALIFICATIONS. A person is entitled to a license under this chapter if he

- (1) is of good moral character;
- (2) is a citizen of the United States;
- (3) passes the examination given by the board; and
- (4) qualifies under the regulations adopted under section 40(a)(2) and (b) of this chapter. (sec 2 ch 107 SLA 1970)

Sec. 08.62.110. PREVIOUS LICENSURE. A license that was issued under AS 30.10 is considered as having been issued under this chapter. (sec 2 ch 106 SLA 1970)

Sec. 08.62.120. DURATION, RENEWAL. A license issued under this chapter shall be renewed biennially on dates set by the department. A license issued under AS 30.10 lapses at the end of calendar year 1970. A license issued between May 7, 1970 and the end of 1970 shall be issued for a fee of \$100. A license shall be renewed without examination upon the payment of the biennial license fee. (sec 2 ch 106 SLA 1970)

Sec. 08.62.130. LAPSED LICENSE. A lapsed license may be reinstated without examination if it has not remained lapsed for more than two years. However, if the license is lapsed for less than two years and the board has reason to believe that the person applying for reinstatement of his license is incapable or incompetent to carry out the duties of a licensed marine pilot, the board may require the applicant to take and pass the examination given by the board. (sec 2 ch 106 SLA 1970; am sec 1 ch 22 SLA 1973)

Sec. 08.62.140. FEES. The following fees shall be imposed under this chapter when applicable:

- (1) application fee..... \$ 10
 - (2) biennial license fee..... \$200
- (sec 2 ch 106 SLA 1970)

Sec. 08.62.150. DENIAL, REVOCATION OR SUSPENSION. (a) The board, after compliance with the Administrative Procedure Act (AS 44.62), may deny, revoke or suspend the license of a person who

- (1) is incompetent in the performance of his pilotage duties;
- (2) is habitually intoxicated;
- (3) illegally uses or sells narcotic or hallucinogenic drugs;
- (4) makes a false statement to obtain a license;
- (5) violates a provision of this chapter or a regulation adopted under it; or
- (6) is guilty of misconduct during the course of his employment.

(b) A license denied, revoked or suspended under (a) of this section may not be granted or reinstated until

- (1) the reason for the license denial, revocation or suspension has been remedied; and
- (2) the period of suspension has been served and all fines imposed under this chapter have been paid. (sec 2 ch 106 SLA 1970)

ARTICLE 3. GENERAL PROVISIONS

Section	Section
160. Mandatory employment of licensed pilots	180. Exemptions
170. Pilot's lien for compensation	190. Penalty
	200. Definitions

Sec. 08.62.160. MANDATORY EMPLOYMENT OF LICENSED PILOTS. A vessel subject to this chapter navigating the inside coastal waters of Alaska as determined by regulations shall employ a pilot holding a valid license under this chapter. (sec 2 ch 106 SLA 1970)

Sec. 08.62.170. PILOT'S LIEN FOR COMPENSATION. Each vessel, its tackle, apparel and furniture and the owner of the vessel are jointly and severally liable for the compensation of a pilot employed on the vessel and the pilot has a lien on the vessel, her tackle, apparel and furniture for his compensation. (sec 2 ch 106 SLA 1970)

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

- (1) vessels under enrollment;
- (2) fishing vessels registered in the United States or in British Columbia, Canada;
- (3) motorboats as defined in sec. 1 of the Federal Motorboat Act of 1940 (54 Stat. 163; 46 U.S.C., sec. 526 et seq.);
- (4) vessels of United States registry of less than 300 gross tons and tow boats of United States registry and vessels owned by the State of Alaska, engaged exclusively
 - (A) on the rivers of Alaska; or
 - (B) in the coastwise trade on the west coast of the United States including Alaska, Hawaii, and British Columbia, Canada;

(5) vessels of Canada, including Canadian cruiseships, engaged in frequent trade between British Columbia and Alaska, if reciprocal exemptions are granted by Canada to vessels owned by the State of Alaska and those of United States registry; and

(6) pleasure craft. (sec 2 ch 106 SLA 1970; am sec 1 ch 43 SLA 1972)

Effect of amendment-The 1972 amendment inserted "of United States registry of less than 300 gross tons" after "vessels in (4) and added "or" in (A).

Sec. 08.62.190. PENALTY. A master or owner of a vessel required by this chapter to employ a licensed pilot who fails to do so when a licensed pilot is available, unless the perils or hazards of the sea prevent the employment of a pilot, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than \$1,000 nor more than \$5,000. A person who violates any other provision of this chapter or a regulation adopted under it is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than \$500 nor more than \$1,000. (sec 1 ch 34 SLA 1979)

Sec. 08.62.200. DEFINITIONS. In this chapter

08.62.200

ALASKA STATUTES

08.62.200

- (1) "board" means the Board of Marine Pilots;
- (2) "commissioner" means the commissioner of the Department of Commerce and Economic Development;
- (3) "department" means the Department of Commerce and Economic Development;
- (4) "vessel" means all vessels not exempt under 180 of this chapter. (sec 2 ch 106 SLA 1970; am sec 48 ch 218 SLA 1976)

Effect of amendment.-The 1976 amendment substituted "Department of Commerce and Economic Development"

for "Department of Commerce" in paragraphs (2) and (3).

STATE OF ALASKA

JAY S. HAMMOND

GOVERNOR



BOARD OF MARINE PILOTS

CENTRALIZED LICENSING STATUTE, AS 08.01.

MARINE PILOT STATUTE 08.62.010

MARINE PILOT REGULATIONS 12 AAC 56.010

Printed: September 1979

STATE OF ALASKA

JAY S. HAMMOND

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