

Licensing
Provision of
Ak. Marine
Pilot Act

STATE OF ALASKA

MAY 8 1992

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

P.O. BOX 110806
JUNEAU, ALASKA 99811-0806
PHONE: (907) 465-2534

ALASKA BOARD OF MARINE PILOTS TELECONFERENCE AGENDA MAY 15, 1992 1:00 p.m.

On May 15, 1992 the Board of Marine Pilots will meet by teleconference to ratify their earlier decision of approving the Bylaws and Articles of the ALASKA COASTWISE PILOTS' ASSOCIATION, ALASKA MARINE PILOTS & DISPATCHING SERVICE, SOUTHEASTERN ALASKA PILOTS' ASSOCIATION, and SOUTHWEST ALASKA PILOTS ASSOCIATION. This teleconference is required because the regulations that govern pilot associations, Article 4 Recognition of Pilot Organizations (12 AAC 56.300 Standards for Recognition, 12 AAC 56.310 Qualifications for Recognition, and 12 AAC 56.320 Suspension or Revocation of Recognition), become effective May 13, 1992. While the board has already reviewed these bylaws and articles at the April 14-16, 1992 meeting and tentatively approved the bylaws and articles of each of the associations, their ultimate approval must be accomplished after the governing regulations are effective.

FRIDAY, May 15, 1992

MEETING OF THE BOARD BY TELECONFERENCE

	<u>TIME</u>	<u>TOPIC</u>	<u>LEAD PERSON</u>
1.	1:00 p.m.	Call to Order/Roll Call	Chairman
2.		Public Comment	Chairman
3.		Ratify the board's earlier decision to approve the Bylaws and Articles of ACP. AMP, SEAPA, and SWAPA.	Chairman
4.		Adjourn	Chairman

Note: Members of the public that desire to participate contact the Marine Pilot Coordinator at (907) 465 2548 prior to May 15, 1992.

Alaska State Legislature

3111 C Street, Suite 150
Anchorage, Alaska 99503
(907) 561-2038



During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4993

Senator Drue Pearce
District G

May 7, 1992

Alaska Board of Marine Pilots
P.O. Box D
Juneau, AK 99811-0800

ATTENTION: Capt. Karl Luck
Marine Pilot Coordinator

Re: Alaska Marine Pilotage Act
Transition Provisions

Dear Members of the Board:

It has come to our attention that a question has arisen about the transition provisions of the Alaska Maritime Pilotage Act and the effect of the Act on persons who currently hold marine pilot licenses issued prior to the effective date of the 1991 amendments to the Act. As chair and members of the Senate Labor and Commerce Committee in 1991, we are writing to the Board (with a copy to the Department of Commerce and Economic Development and the Attorney General's office) to clarify the intent of the legislature on this matter.

As we understand it, Assistant Attorney General Gary Amendola has advised the Board that licenses issued under the former statutory regime will expire on December 31, 1992, pursuant to 12 AAC 56.080, and that the holders of such licenses will not be issued new licenses unless they qualify under either AS 08.62.093 (deputy marine pilot license) or AS 08.62.100 (marine pilot license). That was not the intent of the legislature.

It was the intent of the legislature to ensure that all persons holding licenses issued under the former statutory regime would be "grandfathered" by allowing them to make a transition to the new statutory scheme. AS 08.62.100(b) was added to the Act to achieve this very objective. That subsection reads:

(b) Notwithstanding (a) of this section, a person who holds a marine pilot license of any type on the day before

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the effective date of this section shall, subject to continued eligibility for the license under this chapter and regulations adopted under this chapter, receive a renewable marine pilot license of the same type and subject to the same qualifications and endorsements as that which the person held on the day before the effective date of this section. A person who receives a license under this subsection may change the type of marine pilot license and the qualifications and endorsements attached to the license in accordance with regulations adopted by the board.

The legislative history of this subsection is set out in the minutes of a meeting of the Senate Labor and Commerce Committee on May 19, 1991, at which SCS CSHB 194 was discussed. We are sending a copy of those minutes to you for your reference.

At that meeting, the committee discussed the problem of providing a transition for the holders of licenses issued under the old regime. Senator Halford proposed the amendment that added the language now found at AS 08.62.100(b). A review of the minutes of that meeting makes it clear that the committee intended the amendment to ensure that people did not lose their licenses as a result of the new legislation.

Accompanying this letter is a copy of a memorandum dated April 29, 1992, from legislative counsel George Utermohle to Rep. Cheri Davis addressing this issue. Mr. Utermohle points out, starting with the second paragraph of his memo:

AS 08.62.100(b) provides that a person who held a marine pilot license of any type issued under AS 08.62 on the day before the current AS 08.62.100 took effect is eligible to receive a renewable marine pilot license of the same type without having to comply with the provisions of AS 08.62.100(a). . . . The Board of Marine Pilots is authorized to provide by regulation the means by which a person licensed under AS 08.62.100(b) may change the type of marine pilot license and the qualifications and endorsements attached to that license.

In order to provide for an orderly transition from the former marine pilot licensing system to the new system enacted by ch. 89, SLA 1991, a transition provision (sec. 30, ch. 89, SLA 1991) was added to allow the licenses issued under the former AS 08.62.100 to remain in effect for the remainder of the biennial period for which they were originally issued. . . .

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Taken together, AS 08.62.100(b) and sec. 30, ch. 89, SLA 1991, provide that persons who held a marine pilot license on the day before the current AS 08.62.100 took effect may continue to provide marine pilotage services for the remainder of the period for which their license issued under the former AS 08.62.100 was issued and provide a grace period during which these persons may apply for and receive a new marine pilot license issued under the current AS 08.62.100(a) or (b).

(Footnotes omitted; emphasis added.)

Mr. Utermohle's memo to Rep. Davis goes on to explain the legislative history leading to the adoption of the language that now appears at AS 08.62.100(b).

At this juncture, we believe the most critical provision of AS 08.62.100(b) is the last sentence: "A person who receives a license under this subsection may change the type of marine pilot license and the qualifications and endorsements attached to the license in accordance with regulations adopted by the Board." This provision was intended to grant the Board broad authority to regulate the transition from the former statutory scheme to the new statutory scheme.

Under this provision, the Board has authority to convert any current license to either a deputy marine pilot license (AS 08.62.093) or marine pilot license (AS 08.62.100(a)), with appropriate qualifications and endorsements reflecting the qualifications and endorsements that are currently on the license. If the conversion is made prior to December 31, 1992, then such a license could simply be renewed pursuant to AS 08.62.120.

It appears that the persons most at risk at this time are those holding step one, step two, or channel licenses under the old regime, who cannot meet the requirements of AS 08.62.193(b) for deputy marine pilot licenses. Prior to December 31, 1992, when these licenses expire, the Board should convert these licenses to deputy marine pilot licenses with appropriate qualifications and endorsements. Subsection .120(b) gives the Board unlimited authority to regulate the renewal of deputy marine pilot licenses when they expire on December 31.

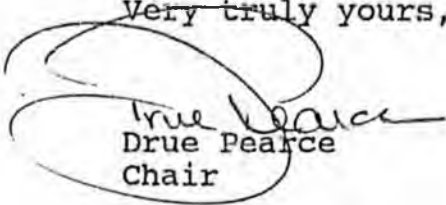
We urge the Board to adopt regulations establishing procedures and criteria for converting existing licenses to either deputy

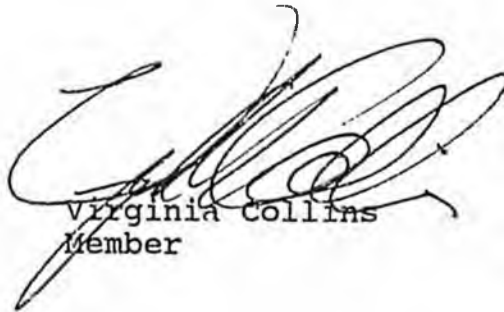
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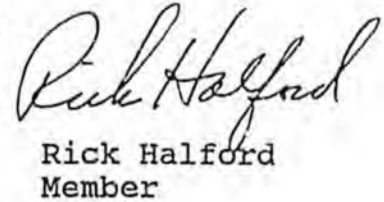
marine pilot licenses or marine pilot licenses before the end of this year, so that licensees can apply for renewal of those licenses under the new statutory regime. By doing so, the Board will be carrying out the intent of the legislature.

Thank you.

Very truly yours,


Drue Pearce
Chair


Virginia Collins
Member


Rick Halford
Member

enclosures

cc: Department of Commerce and Economic Development
Attention: Larry Galloway

Office of the Attorney General
Attention: Gary Amendola

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

April 29, 1992

SUBJECT: "Grandfather" Licensing Provision of the Alaska Marine Pilotage Act (AS 08.62) (Work Order No. 7-LS2330)

TO: Representative Cheri Davis

FROM: George Utermohle *GU*
Legislative Counsel
Utermohle *GU*

You have asked what is the effect of the "grandfather" licensing provision (AS 08.62.-100(b)) of the Alaska Marine Pilotage Act (AS 08.62) as amended by ch. 89, SLA 1991.

AS 08.62.100(b)^{1/} provides that a person who held a marine pilot license of any type issued under AS 08.62 on the day before the current AS 08.64.100 took effect is eligible to receive a renewable marine pilot license of the same type without having to comply with the provisions of AS 08.62.100(a). The license that such a person receives will be subject to the same qualifications and endorsements as were attached to the license under the licensing provisions that were in effect before ch. 89, SLA 1991 took effect. The ability of a person to renew a license issued under AS 08.62.-100 is subject to compliance with the licensing renewal requirements of AS 08.62.120, to the board's power to revoke licenses under AS 08.62.150, and similar provisions of AS 08.62. The Board of Marine Pilots is authorized to provide by regulation the means by which a person licensed under AS 08.62.100(b) may change the type of marine pilot license and the qualifications and endorsements attached to that license.

^{1/} AS 08.62.100(b) states:

(b) Notwithstanding (a) of this section, a person who holds a marine pilot license of any type on the day before the effective date of this section shall, subject to continued eligibility for the license under this chapter and regulations adopted under this chapter, receive a renewable marine pilot license of the same type and subject to the same qualifications and endorsements as that which the person held on the day before the effective date of this section. A person who receives a license under this subsection may change the type of marine pilot license and the qualifications and endorsements attached to the license in accordance with regulations adopted by the board.

Representative Cheri Davis

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In order to provide for an orderly transition from the former marine pilot licensing system to the new system enacted by ch. 89, SLA 1991, a transitional provision (sec. 30, ch. 98, SLA 1991)^{2/} was added to allow the licenses issued under the former AS 08.62.100 to remain in effect for the remainder of the biennial period for which they were originally issued. Without this transition period, all marine pilots issued under the former AS 08.62.100 would be extinguished by the repeal of the authority under which they were issued. Until new licenses were issued under the current AS 08.62.100, there would be no one in the state who was able to provide marine pilot services required under AS 08.62. Such a result would have an adverse effect on marine commerce in the state and be contrary to the public welfare and safety that AS 08.62 seeks to promote.

Taken together, AS 08.62.100(b) and sec. 30, ch. 89, SLA 1991, provide that persons who held a marine pilot license on the day before the current AS 08.62.100 took effect may continue to provide marine pilotage services for the remainder of the period for which their license issued under the former AS 08.62.100 was issued and provide a grace period during which these person may apply for and receive a new marine pilot license issued under the current AS 08.62.100(a) or (b).

Senate CS CSHB 194 (Labor & Commerce) was passed by the legislature and became ch. 89, SLA 1991 when signed by the Governor July 1, 1991. As passed by the House, HB 194 repealed the former marine pilot licensing system under AS 08.62.100 and established a completely new system of licensing with significantly different requirements for eligibility for the license. The bill did not provide for "grandfathering" of the then current licensees.^{3/} The then current licensees would

^{2/} Section 30, ch. SLA 1991 states:

TRANSITION; MARINE PILOT LICENSE. A marine pilot license issued under AS 08.62.100 before the effective date of sec. 12 of this Act shall be valid for the period for which the license was issued. (Emphasis added.)

^{3/} Section 7, CSHB 194 (Finance) as it passed the House stated:

• Sec. 7. AS 08.62.100 is repealed and reenacted to read:

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

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

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

(continued...)

have had to qualify for new licenses under the new licensing system by December 31, 1994 or lose their marine pilot licenses until they did qualify.^{4/}

HB 194 as it passed the House was significantly revised in the Senate Labor and Commerce Committee. One of the last changes made by the Senate Labor and Commerce Committee before it passed the bill out of committee on May 19, 1991 was to amend the bill to provide for the "grandfathering" of the then currently licensed licensees by continuing the then current licensing system for those licensees. This amendment made by the committee incorporated the present language of AS 08.62.100(b) and replaced the former language of the marine pilot license transitional provision with the current language (sec. 30, ch. 89, SLA 1991).

In conclusion, AS 08.62 (Alaska Marine Pilotage Act) as amended by ch. 89, SLA 1991 provides that a person may obtain a renewable marine pilot license in either of two ways; by qualifying under AS 08.62.100(a) or by qualifying under AS 08.62.100(b). The transitional provision contained in sec. 30, ch. 89, SLA 1991 does not limit the ability of qualified individuals to receive and renew marine pilot licenses under AS 08.62.100(b), but instead merely serves to provide for a smooth transition from the licensing system under the former AS 08.62.100 to the licensing system under the current AS 08.62.100.

^{3/}(...continued)

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

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

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

(5) three years of experience as a professional pilot during which the candidate was actively engaged in piloting.

(c) An applicant for a license under this section shall possess an endorsement of first class pilotage on the applicant's United States Coast Guard license with no tonnage restrictions.

^{4/} Section 16, CSHB 194 (Finance) as it passed the House stated:

* **Sec. 16. TRANSITION; PILOT LICENSE.** (a) A pilot license issued under AS 08.62.100 before the effective date of this Act shall be valid for the period for which the license was issued and may be renewed until December 31, 1994, without examination upon payment of the pilot license fee.

(b) A person may not hold a pilot license after December 31, 1994, without satisfying the requirements of AS 08.62.100, as amended by sec. 7 of this Act.

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

Representative Cheri Davis

April 29, 1992

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If I may be of further assistance, please advise.

GU:pl:gc
92-310.plm

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

M. an Nimwegen

May 19, 1991 Senate Labor & Commerce

4:20pm