

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 752

Revenues:

There are approximately 123 licensed marine pilots whose licensing fees must be increased to cover the new costs provided in the bill. In addition, current expenses of the Board of Marine Pilots exceed revenues generated from licensing fees to support its licensing program.

Licensing fees must be raised to cover an additional \$131.7 (an average of the new costs identified in this fiscal note for the first two years, \$98.3, and the current deficit of \$33.4), totalling \$131.7. Therefore, a biennial licensing fee of \$1,070 (\$535 per year) will be necessary to cover the additional program costs ($\$1,070 \times 123 = \131.6). Marine Pilot licensees currently pay a biennial fee of \$180 (\$90 per year). If licensing fees are not increased to cover program costs, the program must then be supported by the general fund.

Since marine pilot licenses are due for renewal on December 31, 1992 (FY 93), revenues will not be collected in the first year of operation under provisions of CSHB 194(JUD). Funding in the first year must therefore be covered by general funds, unless a special one time assessment fee is made to licensees in FY 92.

The revenues identified in this fiscal note are based on the assumption that licensees will be willing to increase their fees to fully cover the costs of its licensing program beginning in FY 93 during the license renewal period.

CS FOR HOUSE BILL NO. 194 (FINANCE)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
 Referred:

Sponsor(s): REPRESENTATIVES C.DAVIS, G.Phillips, Hudson, Koponen, B.Davis, Taylor, Choquette, Baker, Sharp

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Board of Marine Pilots, marine pilots, investigations of marine
 2 accidents, and training fees; and extending the termination date of the Board of Marine
 3 Pilots."

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

5 * Section 1. AS 08.03.010(c)(12) is amended to read:

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

7 * Sec. 2. AS 08.62.040 is amended to read:

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

9 (1) provide for the maintenance of efficient and competent pilotage [PILOT]
 10 service on all inland and coastal water of the state [WATERS COVERED BY THIS
 11 CHAPTER] to assure the protection of shipping, [AND] the safety of human life and property,
 12 and the protection of the marine environment;

13 (2) consistent with the law, adopt regulations, subject to the Administrative
 14 Procedure Act (AS 44.62), establishing the qualifications of and required training for pilots and

1 providing for the examination of pilots and the issuance of original or renewal pilot licenses to
2 qualified persons;

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

4 (4) adopt regulations under the Administrative Procedure Act (AS 44.62)
5 establishing standards by which pilotage fees may be established, and pay for audits whenever
6 an audit is necessary to collect information needed to apply the standards in the regulations;

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

9 (6) impose civil fines under AS 08.62.190 for violations of this chapter or
10 regulations adopted under this chapter [IT].

11 (b) The board may, by regulation, make any other provision for proper and safe pilotage
12 upon the inland and coastal water of the state [WATERS COVERED BY THIS CHAPTER]
13 and for the efficient administration of this chapter, including establishing a mandatory random
14 drug and alcohol testing program for pilots licensed under this chapter.

15 * Sec. 3. AS 08.62.040 is amended by adding a new subsection to read:

16 (c) The board may require a pilot licensed under this chapter to submit to a physical or
17 mental examination to determine the pilot's fitness to perform the duties of a pilot.

18 * Sec. 4. AS 08.62 is amended by adding new sections to article 1 to read:

19 Sec. 08.62.050. MARINE PILOT COORDINATOR. The department may, after
20 consultation with the board, employ a marine pilot coordinator approved by the board to
21 administer and enforce this chapter. The coordinator may not be a member of a regional marine
22 pilot organization in the state and may not serve as a pilot except as necessary to perform the
23 duties of marine pilot coordinator.

24 Sec. 08.62.055. TRAINING PROGRAMS FOR PILOT LICENSE. (a) The board shall
25 establish standards for training programs for a pilot license. The standards may include
26 requirements for

27 (1) familiarization and training trips on vessels subject to this chapter;

28 (2) dockings, undockings, and tug assisted maneuvers;

29 (3) completion of the training program within a specified period;

30 (4) other training or experience that the board considers appropriate.

31 (b) The board may not establish standards under this section that have the effect of

1 unreasonably restricting entry into the profession by any person.

2 * Sec. 5. AS 08.62.080 is amended by adding a new subsection to read:

3 (b) The board shall establish dates for license examinations and shall provide public
4 notice of the dates for license examinations.

5 * Sec. 6. AS 08.62.090 is amended by adding a new subsection to read:

6 (c) In order to be eligible to take the next scheduled examination, a person shall file the
7 application with the board at least 30 days before the date of the examination.

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

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

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

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

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

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

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

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

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

30 * Sec. 8. AS 08.62.120 is repealed and reenacted to read:

31 Sec. 08.62.120. RENEWAL. Licenses issued under this chapter expire on December 31

1 of each even-numbered year. In addition to complying with the requirements of AS 08.01.100,
2 in order to renew a license a pilot shall

- 3 (1) submit a renewal application on a form provided by the board;
- 4 (2) meet the minimum qualifications set out in AS 08.62.100 and the regulations
5 adopted by the board under AS 08.62.100; and
- 6 (3) on a form approved by the board, provide evidence of a satisfactory physical
7 examination by a licensed physician within 60 days before the date of renewal.

8 * Sec. 9. AS 08.62.130 is repealed and reenacted to read:

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

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

13 (a) The board may impose a disciplinary sanction on a person licensed under this chapter
14 when the board finds that the person

- 15 (1) is incompetent in the performance of pilotage duties;
- 16 (2) is [HABITUALLY] intoxicated during the performance of pilotage duties
17 due to alcohol, a controlled substance, or other drug;
- 18 (3) illegally possesses, uses, or sells controlled substances [NARCOTIC OR
19 HALLUCINOGENIC DRUGS];
- 20 (4) makes a false statement to obtain a license;
- 21 (5) violates a provision of this chapter or a regulation adopted under this chapter
22 [IT];
- 23 (6) is guilty of misconduct during the course of employment; or
- 24 (7) has had the person's United States Coast Guard pilot license conditioned,
25 suspended, or revoked [SUFFERED REVOCATION OF FEDERAL LICENSURE AS A
26 PILOT].

27 * Sec. 11. AS 08.62.155 is repealed and reenacted to read:

28 Sec. 08.62.155. DISCIPLINARY SANCTIONS. The board may take disciplinary action
29 under AS 08.01.075.

30 * Sec. 12. AS 08.62.160 is amended to read:

31 Sec. 08.62.160. MANDATORY EMPLOYMENT OF LICENSED PILOTS. A vessel

1 subject to this chapter navigating inland and coastal water of the state [THE INSIDE
2 COASTAL WATERS OF ALASKA] as determined by the board in regulation shall employ a
3 pilot holding a valid license under this chapter. A vessel in the mandatory pilotage water of
4 the state shall be under the conduct of a pilot licensed under this chapter during movement
5 of the vessel, unless the pilot is removed by the master for cause.

6 * Sec. 13. AS 08.62.185 is repealed and reenacted to read:

7 Sec. 08.62.185. PILOTS REQUIRED FOR OIL TANKERS. (a) An oil tanker of 50,000
8 dead weight tons or greater that is not required by federal law to be under the direction and
9 control of a federally licensed pilot shall employ a pilot licensed by the state under this chapter
10 when navigating in state inland or coastal water beyond Alaska pilot stations.

11 (b) The pilot required in (a) of this section shall control the vessel during all docking
12 operations.

13 * Sec. 14. AS 08.64.190 is repealed and reenacted to read:

14 Sec. 08.62.190. CIVIL FINE. (a) A master or owner of a vessel required by this chapter
15 to employ a licensed pilot who fails to do so when a licensed pilot is available, unless the perils
16 or hazards of the sea prevent the employment of a pilot, is subject to a civil fine imposed by the
17 board of not less than \$5,000 nor more than \$15,000 for the first violation and not less than
18 \$10,000 nor more than \$30,000 for each subsequent violation.

19 (b) Except as provided in (a) of this section, a person who violates a provision of this
20 chapter or a regulation adopted under this chapter is subject to a civil fine imposed by the board
21 of not less than \$1,000 nor more than \$5,000.

22 (c) Each day on which a violation described in this section occurs is a separate violation.

23 * Sec. 15. AS 39.25.120(c) is amended by adding a new paragraph to read:

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

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

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

30 (c) Notwithstanding (a) - (b) of this section, a person licensed under AS 08.62 who applies for
31 a change, amendment, or an endorsement for the person's pilot license must qualify for the change,

1 amendment, or endorsement under AS 08.62, as amended by this Act and implementing regulations
2 adopted by the Board of Marine Pilots.

3 * **Sec. 17. INVESTIGATION OF MARINE ACCIDENTS.** The marine pilot coordinator of the Board
4 of Marine Pilots shall cooperate with federal and state agencies responsible for regulation of marine
5 pilots and the investigation of marine accidents to develop guidelines for, and a system of timely,
6 thorough, and fair investigations of, marine accidents involving death or injury to a person or damage
7 to property. The marine pilot coordinator shall submit a report on the guidelines and system developed
8 to investigate marine accidents and on recommendations for legislation necessary to provide for the
9 investigation of marine accidents to the legislature on the first legislative day of the Second Regular
10 Session of the Seventeenth Alaska State legislature.

11 * **Sec. 18.** The Department of Commerce and Economic Development, notwithstanding AS 08.01.065,
12 may establish a one-time assessment on persons licensed under AS 08.62 and applicants for licenses
13 under AS 08.62 to pay for additional training required under this Act before the next period for renewal
14 of marine pilot licenses.

MAY-11-91 SAT 11:22 SEA PILOTS

P. 01

MARINE PILOTING

Southeastern Alaska Pilots' Association

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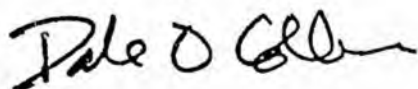
May 11, 1991

Representative Cheri Davis
Senator Drue Pearce
Alaska State Legislature
Juneau, AK 99811

Dear Senator Pearce and Representative Davis,

This is to advise you that the Southeastern Alaska Pilots' Association fully supports a one time assesment of every Alaska Pilot, to fund costs associated with Senate Bill 218 and House Bill 194.

Sincerely,



Dale O. Collins
President

SOUTHWEST ALASKA PILOTS ASSOCIATION

P.O. Box 977
Homer, Alaska 99603

Tel: (907) 235-8783
Fax: (907) 235-8119

Senator Drue Pearce,
Representative Cheri Davis,
Alaska State Legislature
Juneau, Alaska 99811

Dear Senator Pierce and Representative Davis,

This is to advise you that the South West Alaska Pilots Association supports a one time assesment of every Alaska state pilot, to fund costs associated with House Bill 194 and Senate Bill 218.

Sincerely yours
R.L. Hendricks
R.L. Hendricks Pres.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

P.O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2534

DIVISION OF OCCUPATIONAL LICENSING

April 8, 1991

The Honorable Cheri Davis
Alaska House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Davis:

The Board of Marine Pilots is pleased to support House Bill 194. The board appreciates your efforts and shares your concerns about the seriousness of enacting a modern pilotage law for the State of Alaska.

If there is any way that the Board of Marine Pilots can be of any assistance to you in this fight, please call upon me.

Very truly yours,



M. Paul Taylor, P.E., Chairman
BOARD OF MARINE PILOTS

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4891a

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF COMMERCE &
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DIVISION OF OCCUPATIONAL LICENSING

P.O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2534

May 10, 1991

Senator Drue Pearce

Dear Senator Pearce:

If the Board of Marine Pilots would advocate an assessment on Marine Pilot licensees sufficient to implement SB218 for FY '92, then the Department of Commerce and Economic Development would have no objection to such an assessment. I understand that this type of assessment has occurred twice within recent years for other boards with sweeping changes. Both times this assessment was done through Statutes and I understand that would be the proper procedure in the case of Marine Pilots.

Sincerely,

Ann Boudreaux

Ann Boudreaux
Director

PILOTAGE ORGANISATION FOR PORT EMPLOYED PILOTS

Captain Jim Varney, FNI, FIMH, MCIT

Immediate Past-President, International Maritime Pilots' Association

Lately Marine Services Manager/Harbour Master, Ports of Auckland Ltd

This chapter is taken from the new major book The Nautical Institute on Pilotage and Shiphandling, published this month, and serves well to introduce the book.

THE PUBLICATION of this book on Pilotage is timely, given the changes that are taking place in various parts of the world with regard to the employment of pilots.

As president of IMPA, and a member of the maritime safety committee of the International Association of Ports and Harbours (IAPH) I was recently given the task of reviewing and updating the chapter dealing with 'Pilots and Pilotage' in the IAPH publication *Guidelines on Port Safety and Environmental Protection*.

I am pleased to record that all recommendations were accepted in full, and the revised chapter was re-printed and published in June 1989. At the time I recommended to all IMPA members that *regardless of how they were employed*; private, State, or port, every pilot station should obtain a copy. While they are not mandatory, but simply 'Guidelines' for IAPH members, the observance and fair implementation of them should ensure better working relationships with all those concerned in the efficient operation of any port regardless of its size or complexity. The unknown (to me) authors of the original chapter are to be congratulated on the manner in which they addressed this topic.

To this end I make no apology for including the following extract from the 'Guidelines' with the hope that their wider publication will assist pilots of all persuasions as well as other members of the seagoing profession and those whose job it is to administer pilotage services.

PILOTS AND PILOTAGE

PILOTAGE IS A UNIQUE SERVICE based upon local knowledge and special conditions prevailing in the pilotage area. It may be performed in coastal waters, estuarial waters, rivers, ports, harbours, lakes or enclosed dock systems or any combination of these areas which may come within a port's jurisdiction.

A pilot's function is to combine technical knowledge concerning the operation of a vessel with local knowledge concerning special conditions which exist in the port area and with which the master of the vessel cannot be expected to be conversant. In this respect, pilots must first of all be technically capable of piloting vessels of all types which call at the port. They must be well versed in the latest equipment and navigational aids as well as the regulatory and environmental requirements.

The second and perhaps most important part of the pilot's function, however, is an overall appreciation due to his local knowledge of the special regulations and unique conditions which exist in the port area.

Administration

The rules governing pilotage should be designed to meet the special conditions and needs of each port area. In order to maintain a safe and efficient pilotage service and for this service to meet the special conditions of the port area, an authority must be established which will have the ultimate regulatory control over the pilotage service. Essentially, this system is now in operation throughout many ports in the world. Such a body is ordinarily a group of maritime-oriented people, having interests in the port area, who make regulations to cover the following considerations.

- The eligibility of pilots to perform pilotage services within its jurisdiction;
- The requirements for obtaining a licence or other type of operating authority for pilots;
- The administration of the examination procedures necessary in order to ensure that applicants for pilot licences are properly trained, qualified and have the requisite local knowledge;
- The requirement that pilots keep themselves abreast of the latest technological developments and the latest navigational aids;
- The investigation of casualties, accidents and alleged transgressions by pilots, and the conduct of any necessary disciplinary measures;
- The fixing of the proper number of pilots necessary to ensure a satisfactory traffic flow;
- The fixing of fair and reasonable rates for pilotage services;
- The requirements to ensure that pilots receive proper and fair treatment, timely remuneration, and any other action necessary to ensure that an efficient pilotage service is rendered;
- Determine the necessary equipment (boats, accommodation, etc.) and manning scales for its efficient and safe operation; and
- The requirement that pilots report breaches of ratified international conventions (overloading, faulty pilot boarding/disembarking systems, pollution by oils or other noxious substances, etc.) and breaches of national and port regulations, etc.
- For the bond to limit the liability of a pilot, in those countries where there is no legal protection. (The level of pilotage fee charged must to some extent be reflected in the insurance costs of the service. Therefore, the introduction of 'limited liability' should lower insurance premiums and thus costs);
- Pilots should meet the medical and eye-sight requirements prescribed by their national administration.

... Training

Pilot training covers two major aspects—viz., technical training in vessel operations and in the use of

the latest vessel equipment and navigational aids and the training and acquisition of experience with respect to the special and unique conditions which exist in the port area. These background skills for pilots have been developed in two principal ways.

Pilots with experience as deep-sea mariners possessing a master's or mate's licence or as licensed tugboat officers: these pilots have acquired their technical background skills through actual vessel operations and their training as pilots in a particular port area requires them to become thoroughly familiar with and aware of the conditions which exist in the port area. The amount of training and the length of training period for a prospective pilot whose technical skills have been acquired through actual vessel operations will depend upon a number of factors, such as the complexities of the special conditions in the port area and the amount and type of traffic in the port. The initial training period would probably be from six months to a year.

Pilots train under what was historically known as the guild system and which is now commonly described as the apprenticeship system. This training programme is used by some State pilot associations in the United States and elsewhere in the world and has proved to be successful and effective. The apprenticeship system takes a relatively young person with a good educational background, who is physically qualified to be a pilot and who then undergoes a period of apprenticeship with the licensed pilots in the port area. Such an apprenticeship or learning period usually lasts between five and ten years. The apprentice pilot simultaneously learns technical skills concerning vessel operations and the conditions of the port area during a period of actual on-the-job training. This training also involves a programme of study for the apprentice, who must acquire adequate technical background, skills and knowledge.

There is also a system of training which is a combination of the other two systems. A candidate for a pilot's licence spends alternating periods as an apprentice pilot and at sea, qualifying for his mate's and/or master's certificates or licences.

Pilotage of any type of vessel would be possible only after a pre-determined number of years, during which a pilot would progress to vessels of increasing tonnage and/or draught. In some circumstances it may be required that an upper age limit be imposed on pilots for certain types or classes of ships.

Enrichment of skills

It must be recognised that pilots are learning and reinforcing their skills every day. They are continuously finding different combinations of weather, current, traffic and of course, different standards of vessels and crews. This requires a variation in their approach to the manoeuvres they have to make, which in turn adds to their store of knowledge. Pilots should be encouraged to attend one or more of the many training establishments located throughout the world. These include radar simulators, bridge simulators and model basins for both day and/or night-time scenes and ship-handling.

Some pilot associations promote this improvement of skills by having 'sounding trips'—trips on which a

pilot is observed by a more senior colleague who assesses his ability and performance and his suitability for advancement to piloting ships of a greater size or draught. In other districts, on vessels of unusual size, shape and/or manoeuvring characteristics, a second pilot is put aboard to observe the pilotage and perhaps assist with such tasks as communications.

Prevention of the one-man error

The pilot must take into account not only the safe conduct of the vessel he is piloting, but also the safety, protection and well-being of other vessels and users of the port, the port itself and the environment. The effective utilisation of pilots depends most critically upon the effectiveness of the communications developed between the pilot and the master and upon the mutual respect which each has for the functions and duties of the other, also the effectiveness of communications to the VTS and the masters of attending tugs.

When a pilot boards a vessel, he is given the conduct or the charge of piloting the vessel while the master remains in command. The pilot's function is to manoeuvre the vessel within the port area so that local hazards, special regulations, environmental requirements and any other unique local conditions existing in the port area are brought to the attention of the master for adherence or avoidance, as the case may be. Problems of so-called one-man error may arise in situations due to a lack of communication between the pilot, the master, the harbour information control organisation or the tugs. Communication by the pilot to all involved should be relatively standardised and it should always be complete.

The pilot would usually undertake the following procedure:

- Inform the master of the instructions the pilot had received concerning the vessel with respect to docking, time of arrival, assistance of tugs, whether port or starboard docking is to be effected and any other pertinent information such as manoeuvres to be carried out;
- Inform the master of any special conditions that may be expected during the passage;
- Inform the master of the traffic anticipated (through traffic systems in ports where such systems exist), especially if the traffic is expected to be unusual; and
- Inform the master of the known weather conditions and the weather expected on the intended route.

The master should inform the pilot:

- The characteristics of the vessel: length, beam, height of mast, draught of vessel fore and aft, type of engines, number of propellers and rudders, bow and stern thrusters, whether the propellers are right handed or left handed, whether the pitch is fixed or controllable.
- The manoeuvring characteristics of the vessel: number of revolutions at each speed, maximum number of revolutions astern, time response of the engine and of the rudder, turning ability, minimum speed at which the vessel will steer under normal circumstances, maximum time that the engine can run continuously astern.
- Any unusual characteristics or defects or problems that could affect the safe manoeuvring of the vessel, number of crew available for mooring.

All pilots should be familiar with the IMO vocabulary, especially in countries in which the English language is not the first language.

Control of tugs and other craft

A programme of close co-ordination and communication with operators of tugs and other craft is an integral part of pilotage practice. A uniform practice and procedure is essential to assure absolute compliance with all instructions and orders given from the bridge. Tug and other craft operators assisting the vessel must at all times be under the control of the pilot. Past instances on record, when disaster or damage was caused or nearly caused, could probably have been averted had there been closer co-operation and better communication between the bridge and the assisting craft. This could be effected by ensuring that in the port area certain VHF channels are reserved exclusively for ships, tugs and mooring craft, etc. The master, upon the advice of the pilot, shall determine the number of tugs to be employed but the port authority may stipulate a minimum number. The pilot shall determine the positioning, speeds and how the tugs are to be made fast.

Port practice and policies

The personnel infrastructure of a port area includes many different elements such as tugboat operators, stevedoring companies, waterside labour, local coast guard authorities, customs officials, pilots and others. In a port, pilots may operate in any of the following areas: sea and estuaries, rivers, docks, canals and lakes. Some pilots may only perform berthing/unberthing functions and in addition some of senior status may be required for VLCCs and similar large vessels.

The achievement of safe, efficient and pollution-free operations within a port area obviously depends upon the effective co-ordination of all these elements. A pilot certainly has an essential role in the achievement of this objective but not the only role. Port co-ordination must be achieved through some authoritative form of co-operative effort, between all the groups which operate within the port area.

In some ports where there is not already one co-ordinating body, it may be advisable to have a port/marine liaison committee, made up of representatives of organisations charged with the establishment, maintenance and protection of the port's aids to navigation, vessel traffic services and port facilities. In addition, the committee should also include representatives of other services necessary for the safe movement of vessels within the port area. This committee would advise on matters such as (but not restricted to):

- Draught limitations.
- When and where tugboat escort and/or assistance is needed.
- Suggested time for movements under various tidal conditions.
- Regulations governing movement of marine traffic in the ports.
- A review of all matters affecting the safe and efficient operation of the port and the promulgation of such guidelines as are warranted to achieve these purposes. These should include consideration of the different types of accident that could occur and a review of the means at the disposal of the port in case of an accident, especially one involving a vessel carrying oil, gas, chemicals or other noxious and/or hazardous cargo. This would enable a decision to be made about the most appropriate measures to be taken to safeguard the safety of lives,

vessels, installations and the environment, in turn determining what additional equipment is needed to cope with potential emergencies.

- An advisory role in port development and renovation.
- VTS is a service provided for the purpose of: enhancing the safety of the vessels navigating or moored in the area, of the harbour installations and the protection of the environment; and co-ordinating, expediting and maintaining an orderly flow of traffic. The VTS will provide information, advice and instructions mainly based on the rules and regulations promulgated by the port marine liaison committee.

It is obvious that a VTS can only be properly operated if there is close co-operation between all the parties involved and more particularly between the VTS operators and the pilots who are the direct link between the VTS centre and the vessels and who are fully conversant with the local rules, regulations and procedures.

The presence of a pilot on board a vessel will enable the VTS to simplify its procedures and interventions as far as that vessel is concerned. Pilots may also be called upon by the operators of the VTS to participate in its operation, where their particular knowledge of local conditions and expertise in handling various sizes and types of ships can be invaluable. □

FURTHER TO THIS I would add.

1. The ultimate objective for any pilot service, no matter how the pilots are employed, must be to provide a pilot as and when required for every vessel requesting such a service.
2. The person provided should be properly qualified and experienced in handling the size and type of vessel to which they are allocated.
3. They should be physically fit and mentally alert to enable them to carry out the duties of a pilot throughout the pilotage act.
4. This can vary greatly, and is not only dependent upon distance; harbour, dock work, river, or estuary pilotage or combination of these, but is also subject to the vagaries of weather; tide; traffic patterns, and last but not least, equipment failure, all of which can play havoc with rosters and duty turns in a busy pilotage district.

Basic qualification

This may differ from country to country, but, in the main, the government or State will be responsible for setting the basic qualification that a *candidate* for a pilot's licence must hold. The vast majority today insist on the master foreign-going certificate or its equivalent, with or without command time. In many ways this is an advantage to port authorities who employ pilots, as they can then utilise the skills of these people more fully for a greater range of work. This again is dependent upon the size and nature of the port and its workforce.

To those of you who are intent on joining the profession—I wish you well. After 26 years as a pilot, I still think that one of the most pleasurable moments is to arrive on the bridge of a ship and be greeted by a firm handshake, a friendly and sometimes mightily relieved master, and the magical words 'she's all yours, pilot'. As long as you don't take this too literally you can then settle down to enjoy your work—i.e., the sheer pleasure of controlling, in most cases, the largest objects built by mankind capable of being moved, which will require your undivided attention. Just be sure that they are also capable of being stopped. □

HB 1944

SENATE FINANCE COMMITTEE REPORT

DATE: 5/19/91

FURTHER:

DATE TURNED INTO OFFICE: 5/21/91

The Finance Committee considered CS FOR HOUSE BILL NO. 194 (FINANCE)

"An Act relating to the Board of Marine Pilots, marine pilots, investigations of marine accidents, and training fees; and extending the termination date of the Board of Marine Pilots."

and recommended:

replace with _____ CS
 or adopt S CS OSHB 194 (L&C)
 attached amendment(s)
 L&C letter of intent adopted

same title
 new title
 technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) DOED 5/20/91
116.5 GF/PR

zero fiscal note(s) _____

appropriation-no fiscal note

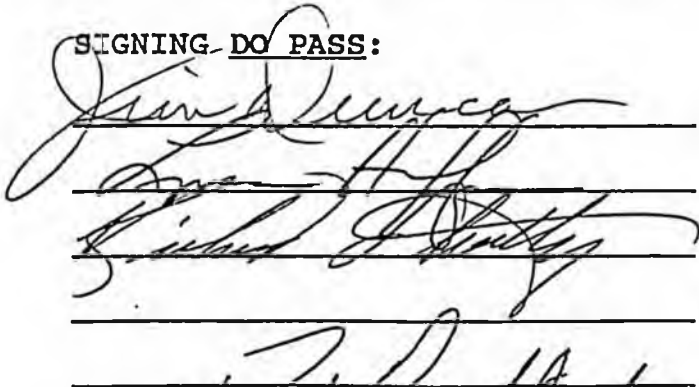
APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

SIGNING DO PASS:



OTHER RECOMMENDATIONS:

See Adam - No Rec

1. Pat [Signature]

2. [Signature] do pass

Co-Chairs: Signatures and Recommendations

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SCS CSHB 194(L&C)

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: Relating to the Board of Marine BRU: Occupational Licensing
Pilots, marine pilots, Component: Administration
 Sponsor: Rep. C. Davis, et al
 Requestor: Senate Labor & Commerce COMPONENT SERIAL NO.

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	72.3	72.3	72.3	72.3	72.3	72.3
TRAVEL	23.5	23.5	23.5	23.5	23.5	23.5
CONTRACTUAL	10.0	10.0	10.0	10.0	10.0	10.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	10.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	116.8	106.8	106.8	106.8	106.8	106.8

CAPITAL						
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REVENUE	116.8	145.1	0	145.1	0	145.1
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER GF/PR	116.8	106.8	106.8	106.8	106.8	106.8
TOTAL	116.8	106.8	106.8	106.8	106.8	106.8

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

(SEE ATTACHED)

Prepared By: Jennifer Strickler, Admin. Officer Phone: 465-2144
 Division: Occupational Licensing Date: May 20, 1991
 Approved by Commissioner: Glenn A. Olds
 Agency: Commerce and Economic Development Date: 5/20/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE ANALYSIS

SCS CSHB 194 (L&C)

The bill makes a number of amendments to the Marine Pilotage Act. The expenses identified in this fiscal note result primarily from holding at least three meetings each year as specified in Section 4, and the employment of a Marine Pilot Coordinator established by Section 7.

The bill places the Marine Pilot Coordinator in the partially exempt service of State government and is charged with the responsibility to administer and enforce the chapter. The costs identified are based on a similar Executive Director position, Range 22.

Personal Services:

Marine Pilot Coordinator, XE, 12 months, \$72.3
Range 22A

Travel: 23.5

Funding of \$10.0 will cover travel and per diem expenses for the marine pilot coordinator to conduct audits, review training programs, and to enforce compliance with the marine pilotage act.

Funding of \$13.5 will provide for the three additional meetings each year as required by Section 4.

Contractual Services: 10.0

This funding will provide for communications, postage, printing, advertising, and auditing costs.

Supplies: 1.0

Funding will provide for daily operating supplies for the Marine Pilot Coordinator position.

Equipment: 10.0

Funding will provide one-time equipment costs for the Marine Pilot Coordinator position. This funding will also provide for on-going office space costs.

TOTAL COSTS: \$116.8

Revenues:

There are approximately 123 licensed marine pilots whose licensing fees must be increased to cover the new costs provided in the bill. In addition, current expenses of the Board of Marine Pilots exceed revenues generated from licensing fees to support its licensing program.

Licensing fees must be raised to cover an additional \$145.2 (an average of the new costs identified in this fiscal note for the first two years, \$111.8, and the current deficit of \$33.4), totalling \$145.2. Therefore, a biennial licensing fee of \$1,180 (\$590 per year) will be necessary to cover the additional program costs ($\$1,180 \times 123 = \145.1). Marine Pilot licensees currently pay a biennial fee of \$180 (\$90 per year). If licensing fees are not increased to cover program costs, the program must then be supported by the general fund.

Marine pilot license renewals are due on December 31, 1992 (FY 93). Therefore, revenues from the new fees would normally be collected in the second year of operation under provisions of SCS CSHB 194(L&C). However, Section 34 establishes a one-time assessment fee to cover costs before the next renewal period, therefore, expenses will be covered by general fund program receipts.

The revenues identified in this fiscal note are based on the assumption that licensees will be willing to increase their fees to fully cover the costs of its licensing program.

LETTER OF INTENT
SENATE LABOR & COMMERCE COMMITTEE

IT IS THE INTENT OF THE LEGISLATURE THAT THE PROVISIONS OF SECTION 29 OF SCS FOR CSHB 194(L&C) ARE NOT INTENDED TO PREVENT FAIR AND OPEN COMPETITION BUT RATHER PROVIDE FOR EXEMPTION IN REGARD TO REQUIREMENTS FOR MARINE PILOTAGE ORGANIZATIONS AS STATED IN AS 45.50.572(G).

SENATE CS FOR CS FOR HOUSE BILL NO. 194 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 5/19/91
Referred: Finance

Sponsor(s): REPRESENTATIVES C.DAVIS, G.Phillips, Hudson, Koponen, B.Davis, Taylor, Choquette, Baker, Sharp, Navarre, Leman

A BILL

FOR AN ACT ENTITLED

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

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

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

8 (b) The legislature finds that

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

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

1 (3) marine pilots operating as independent contractors have provided and will continue
2 to provide essential services to the people of the state;

3 (4) marine pilots further the public interest by providing safe pilotage on the inland and
4 coastal water of and adjacent to the state;

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

9 (c) It is the intent of the legislature that the Board of Marine Pilots

10 (1) exercise jurisdiction over pilotage and marine pilots on the inland and coastal water
11 of and adjacent to the state to the maximum extent allowed under federal and state law; and

12 (2) work with

13 (A) marine pilots to ensure that safe pilotage is maintained in the state; and

14 (B) pilot organizations in a cooperative effort to enhance the policy of protecting
15 lives and property and the marine environment.

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

17 (12) Board of Marine Pilots (AS 08.62.010) -- June 30, 1994 [1991];

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

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

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

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

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

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

28 (1) provide for the maintenance of efficient and competent pilotage [PILOT]
29 service on the inland and coastal water of and adjacent to the state [ALL WATERS
30 COVERED BY THIS CHAPTER] to assure the protection of shipping, [AND] the safety of
31 human life and property, and the protection of the marine environment;

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

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

6 (4) adopt regulations establishing

7 (A) pilotage regions in the state;

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

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

12 [UNDER THE ADMINISTRATIVE PROCEDURE ACT (AS 44.62) ESTABLISHING
13 STANDARDS BY WHICH PILOTAGE FEES MAY BE ESTABLISHED, AND PAY
14 FOR AUDITS WHENEVER AN AUDIT IS NECESSARY TO COLLECT
15 INFORMATION NEEDED TO APPLY THE STANDARDS IN THE REGULATIONS];

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

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

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

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

24 (9) establish and publish the dates of future license examinations [IT].

25 (b) The board may, by regulation, make any other provision for proper and safe pilotage
26 upon the inland and coastal water of and adjacent to the state [WATERS COVERED BY
27 THIS CHAPTER] and for the efficient administration of this chapter, including establishing

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

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

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

3 (4) standards under which a pilot may receive a license or an endorsement
4 to a license to pilot vessels in more than one pilotage region.

5 * Sec. 6. AS 08.62.040 is amended by adding new subsections to read:

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

9 (d) Notwithstanding the exemption from AS 45.50.562 - 45.50.596 granted to pilot
10 organizations under AS 45.50.572(a), the board may not adopt a regulation or take other action
11 resulting in anti-competitive activities that, if the board were subject to AS 45.50.562 - 45.50.596,
12 would violate AS 45.50.562 - 45.50.596.

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

14 Sec. 08.62.045. PILOTAGE TARIFFS. (a) The board shall adopt by regulation
15 maximum tariffs that may be charged by pilots for the provision of specific pilotage services.
16 The board shall identify those expenses that are included in the tariff. In adopting maximum
17 tariffs under this subsection, the board shall take into consideration

18 (1) reasonable compensation for actual time aboard a vessel as a pilot and for
19 time engaged in preparing to provide pilotage services;

20 (2) differential compensation for seasonal and weather conditions, risks involved
21 in providing pilotage service, and overtime;

22 (3) dispatch expense; transportation expenses, and other associated costs directly
23 related to the provision of pilotage services;

24 (4) reasonable overhead expenses that are necessary to provide year round pilotage
25 services for the region; and

26 (5) other expenses identified by the board.

27 (b) A pilot organization recognized by the board, acting on behalf of its members, may
28 adopt a new or revised tariff for provision of pilot services if the pilot organization follows the
29 procedures set out in (c) of this section. The tariff adopted under this subsection must include
30 those expenses identified by the board under (a) of this section, but may not exceed the
31 maximum tariff set by the board. The tariff adopted under this subsection may be revised

1 annually.

2 (c) A pilot organization shall send a notice of intent to adopt a tariff for provision of
3 pilot services to the board and publish the notice on at least three days during a period of 14
4 consecutive days in a newspaper of general circulation in the state. The notice of intent to adopt
5 a tariff shall include a copy of the proposed tariff, the name and mailing address of the pilot
6 organization that intends to adopt the tariff, and a statement of the time and place of adoption
7 of the tariff. A pilot organization may not adopt a tariff until 30 days have elapsed from the later
8 of the mailing of the notice of intent to adopt a tariff to the board or the last date of publication
9 of the notice of intent to adopt a tariff. A tariff may not take effect until 30 days after the tariff
10 is adopted by the pilot organization.

11 (d) A pilot organization recognized by the board or a member of the pilot organization
12 may not charge a tariff for the provision of pilotage services that exceeds the maximum tariff set
13 by the board, that is different from the tariff adopted by the pilot organization, or that has not
14 taken effect under (c) of this section.

15 Sec. 08.62.050. MARINE PILOT COORDINATOR. (a) The department, with the
16 approval of the board, may hire a marine pilot coordinator who is qualified to assist the board
17 in administering and enforcing the provisions of this chapter. The coordinator is in the partially
18 exempt service under AS 39.25.120.

19 (b) The person who is hired as coordinator may not

20 (1) be an active member of a pilot organization in the state;

21 (2) work as a pilot while employed as the coordinator, except to the extent
22 required by official duties; or

23 (3) have a financial interest in a pilot organization or in a pilot vessel or other
24 equipment used by a pilot organization.

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

26 Sec. 08.62.080. LICENSE REQUIREMENT. A person may not pilot a vessel subject
27 to this chapter unless the person is licensed under this chapter and is a member of a pilot
28 organization recognized by the board.

29 * Sec. 9. AS 08.62.080 is amended by adding new subsections to read:

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

1 one pilotage region.

2 (c) A license issued under this chapter must identify the specific waterways and ports in
3 each pilotage region in which a licensee is authorized by the board to pilot vessels. The board
4 shall authorize a licensee to pilot vessels in a specific waterway or port in a pilotage region upon
5 the licensee satisfying the training and other qualifying requirements required by the board to
6 pilot vessels in that waterway or port.

7 * Sec. 10. AS 08.62.090 is amended by adding a new subsection to read:

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

10 * Sec. 11. AS 08.62 is amended by adding new sections to read:

11 Sec. 08.62.093. QUALIFICATIONS FOR DEPUTY MARINE PILOT LICENSE. (a)

12 The board shall issue a deputy marine pilot license for a marine pilotage region to a person who

- 13 (1) is a citizen of the United States;
14 (2) passes the written and oral examinations that may be required by the board;
15 (3) has completed training requirements established by the board; and
16 (4) satisfies (b) and (c) of this section.

17 (b) A person who applies for a deputy marine pilot license under this chapter shall
18 provide proof satisfactory to the board of the following experience:

- 19 (1) one year of service as a master on ocean or coastwise vessels while holding
20 a license as master of ocean steam or motor vessels of any gross tons;
21 (2) two years of service as a master on vessels or tug and tow of not less than
22 1,600 combined gross tons while holding a license as master of vessels of not less than 1,600
23 gross tons;
24 (3) two years of service as a chief officer on ocean or coastwise vessels of not
25 less than 1,600 gross tons while holding a license as master of ocean steam or motor vessels of
26 any gross tons;
27 (4) two years of service as commanding officer of United States commissioned
28 vessels of not less than 1,600 gross tons while holding a license as master of ocean steam or
29 motor vessels of any gross tons; or
30 (5) three years of experience as a member of a professional pilot's organization,
31 during which the person actively engaged in piloting while holding at least a license as a master

1 of freight or towing vessel of not more than 1,600 gross tons.

2 (c) A person who applies for a deputy marine pilot license under this section shall
3 possess an endorsement of first class pilotage on the person's United States Coast Guard license
4 without tonnage restrictions for the pilotage region for which the person seeks the deputy marine
5 pilot license.

6 (d) A person licensed as a deputy marine pilot under this section may, except as
7 otherwise provided by the board, pilot vessels of 20,000 gross tons or less in a marine pilotage
8 region for which the license is issued.

9 (e) In this section, "years of service" has the meaning given to the term by the United
10 States Coast Guard under 46 C.F.R. 10.

11 **Sec. 08.62.097. TRAINING PROGRAMS FOR DEPUTY MARINE PILOT LICENSE.**

12 (a) The board shall establish standards for training programs for a deputy marine pilot license.
13 The standards may include requirements for

- 14 (1) supervised familiarization and training trips on vessels subject to this chapter;
15 (2) supervised dockings, undockings, and tug assisted maneuvers;
16 (3) special training or experience necessary to qualify for a deputy marine pilot
17 license for a particular marine pilotage region;
18 (4) completion of the training program within a specified period;
19 (5) other training or experience that the board considers appropriate.

20 (b) A person who supervises the training of persons who are seeking a deputy marine
21 pilot license under this chapter shall

- 22 (1) hold a marine pilot license issued under AS 08.62.100;
23 (2) receive prior authorization from the board to supervise the training of those
24 persons;
25 (3) maintain a written log and evaluation on a form provided by the board of the
26 training and progress of the person being supervised.

27 * **Sec. 12.** AS 08.62.100 is repealed and reenacted to read:

28 **Sec. 08.62.100. QUALIFICATIONS FOR A MARINE PILOT LICENSE.** (a) The board
29 shall issue a marine pilot license for a marine pilotage region to a person who

- 30 (1) is a citizen of the United States;
31 (2) passes examinations that may be required by the board;

1 (3) has three years experience as a deputy marine pilot licensed under this
2 chapter; and

3 (4) satisfies additional requirements as may be required by the board by
4 regulation.

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

13 * Sec. 13. AS 08.62.120 is repealed and reenacted to read:

14 Sec. 08.62.120. RENEWAL OF LICENSES. (a) In order to renew a marine pilot license,
15 a person who is licensed under AS 08.62.100 shall

16 (1) submit an application for renewal of the license on a form provided by the
17 board;

18 (2) submit proof of continued qualification under AS 08.62.100 to receive a
19 marine pilot license;

20 (3) provide evidence of satisfactory completion of a physical examination by a
21 licensed physician within 60 days before the date of renewal of the license;

22 (4) submit proof satisfactory to the board that the person has

23 (A) engaged in piloting vessels subject to this chapter in the marine
24 pilotage region for which the license is to be renewed during at least 60 days of each
25 calendar year in the licensing period immediately preceding the licensing period for which
26 renewal is sought; or

27 (B) completed the minimum number of familiarization trips required by
28 the board for renewal of a marine pilot license for a marine pilotage region for which the
29 license is to be renewed.

30 (b) The board shall establish criteria for the renewal of a deputy marine pilot license.

31 * Sec. 14. AS 08.62.130 is repealed and reenacted to read:

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

5 (b) The board shall establish criteria for reinstatement of a lapsed deputy marine pilot
6 license.

7 * Sec. 15. AS 08.62.140 is amended to read:

8 Sec. 08.62.140. FEES. The department shall set fees under AS 08.01.065 for
9 applications, licenses, [AND] agent registrations, investigations, audits, and training.

10 * Sec. 16. AS 08.62.150(a) is amended to read:

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

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

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

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

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

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

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

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

21 (8) charges, collects, or receives an amount for pilotage services that is in
22 excess of the maximum tariff established by the board or different from the tariff adopted
23 by the pilot organization of which the person is a member [SUFFERED REVOCATION OF
24 FEDERAL LICENSURE AS A PILOT].

25 * Sec. 17. AS 08.62.155 is repealed and reenacted to read:

26 Sec. 08.62.155. DISCIPLINARY SANCTIONS. (a) The board may take disciplinary
27 action against a person licensed under this chapter under AS 08.01.075.

28 (b) The department may impose a civil fine not to exceed \$5,000 on a marine pilot
29 organization recognized by the board, if the organization violates this chapter or a regulation
30 adopted under this chapter.

31 * Sec. 18. AS 08.62 is amended by adding a new section to article 3 to read:

1 Sec. 08.62.157. DUTIES OF LICENSED PILOTS. (a) A person licensed under this
2 chapter has a primary duty to safely navigate vessels under the pilot's direction and control and
3 to protect life and property and the marine environment while engaged in the provision of pilot
4 services.

5 (b) A person licensed under this chapter shall report to the appropriate authority all
6 violations of a federal or state pilotage law.

7
8 * Sec. 19. AS 08.62.160 is amended to read:

9 Sec. 08.62.160. MANDATORY EMPLOYMENT OF LICENSED PILOTS. A vessel
10 subject to this chapter navigating the inland or coastal water of or adjacent to the state [THE
11 INSIDE COASTAL WATERS OF ALASKA] as determined by the board in regulation shall
12 employ a pilot holding a valid license under this chapter. The board shall define the
13 mandatory pilotage water of the state.

14 * Sec. 20. AS 08.62 is amended by adding new sections to read:

15 Sec. 08.62.163. PILOTS AS INDEPENDENT CONTRACTORS. (a) Pilots licensed
16 under this chapter are independent contractors and may not be employed as an employee of the
17 owner or operator of a vessel subject to this chapter.

18 (b) The owner or operator of a vessel subject to this chapter may not employ a person
19 licensed under this chapter as an employee.

20 Sec. 08.62.165. LIMITATION OF LIABILITY. (a) A pilot licensed under this chapter
21 is not liable for damages in excess of \$250,000 per incident for damages or loss occurring as a
22 result of the error, omission, fault, or neglect of the pilot in performing pilotage services, except
23 that the limitation does not apply in a case where

24 (1) the pilot is either grossly negligent or guilty of wilful misconduct; or

25 (2) the error, omission, fault, or neglect of the pilot constitutes an act for which
26 the board shall impose a disciplinary sanction under AS 08.62.150(a)(1), (2), (3), (5), (6), or (7).

27 (b) Nothing in this section exempts a vessel, a vessel's cargo, or the owner or operator
28 of a vessel or cargo from liability for damage or loss caused by the vessel, the vessel's cargo,
29 or the owner or operator of the vessel or cargo to the vessel, the vessel's cargo, another person,
30 or other property on the ground that

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

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

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

10 * Sec. 21. AS 08.62 is amended by adding a new section to read:

11 Sec. 08.62.175. REGIONAL MARINE PILOT ORGANIZATIONS. (a) To the extent
12 permitted under federal and state law, persons licensed under this chapter may form organizations
13 of pilots within each pilotage region established by the board.

14 (b) The board shall recognize pilot organizations that satisfy the minimum standards
15 established by the board by regulation.

16 (c) A pilot organization recognized by the board shall

17 (1) promote a safe and reliable system of marine pilotage for the region in which
18 the organization is recognized;

19 (2) provide for the dispatch of pilots who are members of the organization;

20 (3) adopt and revise tariffs for the provision of pilotage services by the members
21 of the organization;

22 (4) be open to membership by all persons licensed under this chapter to pilot
23 vessels in the pilotage region in which the organization is recognized;

24 (5) operate or participate in a training program for pilots and deputy pilots that
25 is approved by the board;

26 (6) cooperate with and assist the board in implementing this chapter.

27 (d) A pilot organization recognized by the board may not begin operating until the
28 articles, bylaws, and rules of the pilot organization are approved by the board on the basis of

29 (1) uniform and nondiscriminatory application of the articles, bylaws, and rules
30 to marine pilots and deputy marine pilots licensed under this chapter and trainees for marine pilot
31 licenses;

1 (2) compliance with applicable laws; and

2 (3) effectiveness in

3 (A) promoting an efficient, reliable, and professional marine pilotage
4 system in the region;

5 (B) maintaining a sufficient number of qualified pilots available for
6 dispatch to serve the needs of vessels visiting the region during each hour of the day and
7 each day of the year to the extent that it is reasonably possible given the size of the
8 membership of the pilot organization;

9 (C) promoting training programs for marine pilots and deputy marine
10 pilots that are approved by the board.

11 * Sec. 22. AS 08.62.180 is amended to read:

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

13 (1) vessels subject to federal pilot requirements under 46 U.S.C. 8502
14 [UNDER ENROLLMENT,] except as provided in AS 08.62.185;

15 (2) fishing vessels, including fish processing and fish tender vessels, registered
16 in the United States or in British Columbia, Canada;

17 (3) vessels propelled by machinery and not more than 65 feet in length over deck,
18 except tugboats and towboats propelled by steam;

19 (4) vessels of United States registry of less than 300 gross tons and towboats of
20 United States registry and vessels owned by the State of Alaska, engaged exclusively

21 (A) on the rivers of Alaska, or

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

24 (5) vessels of Canada, built in Canada and manned by Canadian citizens
25 including Canadian cruise ships, engaged in frequent trade between British Columbia and Alaska,
26 if reciprocal exemptions are granted by Canada to vessels owned by the State of Alaska and
27 those of United States registry; and

28 (6) pleasure craft.

29 * Sec. 23. AS 08.62.185(a) is amended to read:

30 (a) Any oil tanker, whether enrolled or registered, of 50,000 dead weight tons or greater,
31 shall, when navigating in state water [WATERS] beyond Alaska pilot stations [EITHER

1 (1)] employ a pilot licensed by the state under this chapter [, OR

2 (2) UTILIZE A FEDERALLY LICENSED PILOT WHOSE DUTY STATION
3 HAS BEEN ON THAT TANKER THROUGHOUT THAT SPECIFIC VOYAGE].

4 * Sec. 24. AS 08.62.190 is amended to read:

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

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

14 * Sec. 25. AS 08.62.190 is amended by adding a new subsection to read:

15 (c) For purposes of (a) of this section, the board shall define by regulation the phrase
16 "when a licensed pilot is available."

17 * Sec. 26. AS 08.62.200 is amended by adding new paragraphs to read:

18 (5) "knowingly" has the meaning given in AS 11.81.900(a);

19 (6) "pilot" means a person licensed under this chapter as a pilot or a deputy pilot.

20 * Sec. 27. AS 08.62 is amended by adding a new section to read:

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

23 * Sec. 28. AS 39.25.120(c) is amended by adding a new paragraph to read:

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

25 * Sec. 29. AS 45.50.572(a) is amended to read:

26 (a) AS 45.50.562 - 45.50.596 do not forbid the existence or operation of labor,
27 agricultural, [OR] horticultural, or marine pilot organizations created for the purpose of mutual
28 help, and not conducted for profit, or forbid or restrain members of those organizations from
29 lawfully carrying out the legitimate objectives of them; nor are these organizations or members
30 illegal combinations or conspiracies in restraint of trade under the provisions of AS 45.50.562 -
31 45.50.596.

1 * Sec. 30. TRANSITION; MARINE PILOT LICENSE. A marine pilot license issued under
2 AS 08.62.100 before the effective date of sec. 12 of this Act shall be valid for the period for which the
3 license was issued.

4 * Sec. 31. INVESTIGATION OF MARINE ACCIDENTS. The marine pilot coordinator of the Board
5 of Marine Pilots shall cooperate with federal and state agencies responsible for regulation of marine
6 pilots and the investigation of marine accidents to develop guidelines for, and a system of timely,
7 thorough, and fair investigations of, marine accidents involving death or injury to a person or damage
8 to property or the marine environment. The marine pilot coordinator shall submit a report on the
9 guidelines and system developed to investigate marine accidents and on recommendations for legislation
10 necessary to provide for the investigation of marine accidents to the legislature on the first legislative
11 day of the Second Regular Session of the Seventeenth Alaska State legislature.

12 * Sec. 32. TRANSITION: REGIONAL MARINE PILOT ORGANIZATIONS. (a) The Board of
13 Marine Pilots shall adopt minimum standards for recognition of marine pilot organizations under
14 AS 08.62.175, added by sec. 21 of this Act, by January 1, 1992.

15 (b) Notwithstanding AS 08.62.175(d), added by sec. 21 of this Act, a marine pilot organization
16 recognized by the Board of Marine Pilots may operate until July 1, 1992, without having its articles,
17 bylaws, and rules approved by the board under AS 08.62.175(d).

18 * Sec. 33. The Board of Marine Pilots shall adopt maximum tariffs under AS 08.62.045, added by
19 sec. 7 of this Act, before January 1, 1992.

20 * Sec. 34. The Department of Commerce and Economic Development, notwithstanding AS 08.01.065,
21 may establish a one-time assessment on persons licensed under AS 08.62 and applicants for licenses
22 under AS 08.62 to pay for additional costs required under this Act before the next period for renewal
23 of marine pilot licenses.

24 * Sec. 35. AS 08.62.045 is repealed June 30, 1994.

25 * Sec. 36. Section 8 of this Act takes effect January 1, 1993.

26 * Sec. 37. Except for sec. 8 of this Act, this Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA ()
1991 LEGISLATIVE SESSION

No. 3

Bill Version: CSHB 194 (FIN)

(H) Publish Date: 5/15/91

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: Relating to the Board of Marine Pilots, marine pilots, BRU: Occupational Licensing
 Component: Administration
 Sponsor: Rep. C. Davis, et al
 Requestor: House Judiciary

COMPONENT SERIAL NO.	0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	72.3	72.3	72.3	72.3	72.3	72.3
TRAVEL	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL	10.0	10.0	10.0	10.0	10.0	10.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	10.0					
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	103.3	93.3	93.3	93.3	93.3	93.3

CAPITAL						
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REVENUE	0	131.6	0	131.6	0	131.6
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER GF/PR	103.3	93.3	93.3	93.3	93.3	93.3
TOTAL	103.3	93.3	93.3	93.3	93.3	93.3

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) (SEE ATTACHED)	Changes in <u>SCB CSHB 194 (L-10)</u> reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate. 5-14-91 <u>RM</u> date Comte Aide (initial)
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Prepared By: Jennifer Strickler, Admin. Officer Phone: 465-2144
 Division: Occupational Licensing Date: May 14, 1991
 Approved by Commissioner: Glenn A. Olds
 Agency: Commerce and Economic Development Date: 5-14-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE ANALYSIS

CSHB 194 (JUD)

The bill makes a number of amendments to the Marine Pilotage Act. The expenses identified in this fiscal note result from paying for audits to collect information needed to apply standards as mentioned in Section 2, and the employment of a Marine Pilot Coordinator established by Section 4.

The bill places the Marine Pilot Coordinator in the partially exempt service of State government and is charged with the responsibility to administer and enforce the chapter. The costs identified are based on a similar Executive Director position, Range 22.

Personal Services:

Marine Pilot Coordinator, XE, 12 months, \$72.3
Range 22A

Travel: 10.0

Funding of \$10.0 will cover travel and per diem expenses for the marine pilot coordinator to conduct audits, review training programs, and to enforce compliance with the marine pilotage act.

Contractual Services: 10.0

This funding will provide for communications, postage, printing, advertising, and auditing costs.

Supplies: 1.0

Funding will provide for daily operating supplies for the Marine Pilot Coordinator position.

Equipment: 10.0

Funding will provide one-time equipment costs for the Marine Pilot Coordinator position. This funding will also provide for on-going office space costs.

TOTAL COSTS: \$103.3

Revenues:

There are approximately 123 licensed marine pilots whose licensing fees must be increased to cover the new costs provided in the bill. In addition, current expenses of the Board of Marine Pilots exceed revenues generated from licensing fees to support its licensing program.

Licensing fees must be raised to cover an additional \$131.7 (an average of the new costs identified in this fiscal note for the first two years, \$98.3, and the current deficit of \$33.4), totalling \$131.7. Therefore, a biennial licensing fee of \$1,070 (\$535 per year) will be necessary to cover the additional program costs ($\$1,070 \times 123 = \131.6). Marine Pilot licensees currently pay a biennial fee of \$180 (\$90 per year). If licensing fees are not increased to cover program costs, the program must then be supported by the general fund.

Since marine pilot licenses are due for renewal on December 31, 1992 (FY 93), revenues will not be collected in the first year of operation under provisions of CSHB 194(JUD). Funding in the first year must therefore be covered by general funds, unless a special one time assessment fee is made to licensees in FY 92.

The revenues identified in this fiscal note are based on the assumption that licensees will be willing to increase their fees to fully cover the costs of its licensing program beginning in FY 93 during the license renewal period.

Alaska State Legislature

Senator Drue Pearce, Chair
Senator Virginia Collins, Vice Chair
Senator Dick Ellason
Senator Rick Halford
Senator Jay Kerttula



WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3844

3111 C STREET, SUITE 150
ANCHORAGE, ALASKA 99504
(907) 561-2018

SENATE LABOR AND COMMERCE COMMITTEE

PROVISIONS OF SENATE CS FOR CS FOR HB 194(L&C)

FINDINGS -

THE FINDINGS SECTION STATES THAT MANDATORY MARINE PILOTAGE BY PILOTS WITH EXTENSIVE LOCAL KNOWLEDGE IS REQUIRED IN ORDER TO PROTECT LIVES, PROPERTY AND THE MARINE ENVIRONMENT. IN ORDER TO ACCOMPLISH THAT GOAL, THE BOARD MUST BE GRANTED BROAD AUTHORITY TO ESTABLISH TRAINING PROGRAMS, TARIFFS, PILOTAGE REGIONS AND LICENSING REQUIREMENTS. THE BOARD SHOULD BE GRANTED JURISDICTION OVER PILOTS AND MARINE PILOTAGE AND TO WORK WITH PILOTS AND PILOT ORGANIZATIONS TO ACCOMPLISH ITS GOALS. THE LEGISLATURE FURTHER FINDS THAT PILOT ASSOCIATIONS ARE NECESSARY IN ORDER TO CONTINUE TO ACCOMPLISH AND ENHANCE PAST EFFORTS TO PROVIDE SAFE PILOTAGE.

BOARD OF MARINE PILOTS -

THE SUNSET DATE OF THE BOARD IS EXTENDED TO JUNE 30, 1994. THE BOARD IS APPOINTED BY AND SERVES AT THE PLEASURE OF THE GOVERNOR. MEMBERSHIP OF THE BOARD REMAINS UNCHANGED WITH TWO PILOTS, TWO AGENTS/MANAGERS, TWO PUBLIC MEMBERS AND THE COMMISSIONER OF THE DEPARTMENT OF COMMERCE SERVING ON THE BOARD. THE BOARD IS REQUIRED TO HOLD AT LEAST THREE MEETINGS A YEAR. THE BOARD IS GRANTED THE AUTHORITY TO MAINTAIN EFFICIENT AND COMPETENT PILOTAGE ON THE INLAND AND COASTAL WATER OF AND ADJACENT TO THE STATE IN ORDER TO PROTECT SHIPPING, HUMAN LIFE, PROPERTY AND THE ENVIRONMENT.

THE BOARD IS EMPOWERED TO ADOPT REGULATIONS TO ESTABLISH QUALIFICATIONS AND TESTING REQUIREMENTS AND SHALL APPROVE TRAINING PROGRAMS FOR PILOTS AND DEPUTY PILOTS. THE BOARD IS REQUIRED TO COOPERATE WITH THE DEPARTMENT OF ENVIRONMENT CONSERVATION IN THE REVIEW AND APPROVAL OF OIL TANKER PILOT TRAINING PROGRAMS. THE BOARD SHALL ESTABLISH PILOTAGE REGIONS AND SHALL RECOGNIZE PILOT ASSOCIATIONS. THEY MAY CARRY OUT AUDITS OF PILOTS OR ASSOCIATIONS AND SET FEES FOR PILOT

LICENSING, TESTING AND AUDITS. THEY MAY REQUIRE A PILOT TO UNDERGO A PHYSICAL OR MENTAL EXAMINATION.

TAKING INTO CONSIDERATION SUCH FACTORS AS ACTUAL PILOTAGE TIME, WEATHER, RISK, DISPATCH AND TRANSPORTATION EXPENSES, THE BOARD SHALL ESTABLISH MAXIMUM TARIFF RATES. THE BOARD SHALL IMPOSE DISCIPLINARY SANCTIONS FOR A PERSON FOUND INCOMPETENT, CHEMICALLY IMPAIRED, POSSESSING, USING OR SELLING NARCOTICS OR DRUGS, HAVING THEIR COAST GUARD LICENSE SUSPENDED OR REVOKED, OR CHARGING IN EXCESS OF THE MAXIMUM TARIFF OR A RATE DIFFERENT FROM THE ASSOCIATION'S ADOPTED TARIFF.

MARINE PILOT COORDINATOR -

THROUGH PROGRAM RECEIPTS AND A ONE TIME ASSESSMENT OF PILOTS, THE POSITION OF MARINE PILOT COORDINATOR IS ESTABLISHED TO WORK WITH THE BOARD IN ADMINISTERING AND ENFORCING THIS CHAPTER. THE COORDINATOR MAY NOT BE AN ACTIVE PILOT, AN ACTIVE MEMBER OF A PILOTAGE ASSOCIATION OR HAVE FINANCIAL INTEREST IN AN ASSOCIATION. ADDITIONALLY, THE COORDINATOR SHALL COOPERATE WITH STATE AND FEDERAL AGENCIES IN THE REGULATION OF MARINE PILOTAGE AND IN THE INVESTIGATION OF MARINE ACCIDENTS. THE COORDINATOR SHALL SUBMIT A REPORT ON ESTABLISHED ACCIDENT INVESTIGATION PROCEDURES AND RECOMMEND LEGISLATIVE CHANGES TO THE LEGISLATURE AT THE BEGINNING OF SESSION NEXT YEAR.

DEPUTY MARINE PILOTS LICENSE -

DEPUTY MARINE PILOT LICENSING REQUIREMENTS AND TRAINING ARE ESTABLISHED IN THIS LEGISLATION. REQUIREMENTS INCLUDE U.S. CITIZENSHIP, ORAL AND WRITTEN EXAMINATION, EXTENSIVE EXPERIENCE AND POSSESSION OF AN ENDORSEMENT OF FIRST CLASS PILOTAGE ON THEIR USCG LICENSE.

MARINE PILOT LICENSE -

THE LEGISLATION MAKES PROVISION FOR THE ISSUANCE OF A MARINE PILOT LICENSE THAT REQUIRES CITIZENSHIP, EXAMINATIONS, THREE YEARS OF EXPERIENCE AS A DEPUTY PILOT AND ADDITIONAL REQUIREMENTS. THE PRIMARY DUTY OF THE PILOT IS TO SAFELY NAVIGATE VESSELS UNDER THEIR DIRECTION AND CONTROL AND TO PROTECT LIFE PROPERTY AND THE MARINE ENVIRONMENT. THE PILOT IS REQUIRED TO REPORT ALL VIOLATIONS OF STATE OR FEDERAL PILOTAGE LAWS TO THE APPROPRIATE AUTHORITY. USE OF LICENSED PILOTS IS MANDATORY ON VESSELS SUBJECT TO THE CHAPTER WHICH ARE NAVIGATING THE INLAND OR COASTAL WATER OF OR ADJACENT TO THE STATE. PILOTS MAY BE

LICENSED FOR A SINGLE REGION AND A PORTION OF ANOTHER REGION WHEN THE BOARD DETERMINES IT TO BE IN THE STATE'S BEST INTEREST. PILOTS ARE REQUIRED TO BE INDEPENDENT CONTRACTORS AND NOT BE EMPLOYEES OF AN OWNER OR OPERATOR OF A VESSEL SUBJECT TO THIS CHAPTER. A MARINE PILOT IS LIABLE FOR \$250,000 PER INCIDENT FOR DAMAGES OR LOSSES CAUSED BY ERROR, FAULT, NEGLIGENCE OR OMISSION. THERE IS NO LIABILITY LIMIT FOR DAMAGES AS A RESULT OF WILFUL MISCONDUCT, GROSS NEGLIGENCE OR WHEN THE ERROR, FAULT, NEGLIGENCE OR OMISSION RESULTS IN DISCIPLINARY SANCTIONS BY THE BOARD.

MARINE PILOT ORGANIZATIONS -

PERSONS LICENSED UNDER THIS CHAPTER MUST BE MEMBERS OF A PILOT ORGANIZATION AND MAY FORM PILOTAGE ORGANIZATIONS WITH MEMBERSHIP AS SMALL AS A SINGLE MEMBER. THE BOARD SHALL RECOGNIZE ALL ORGANIZATIONS THAT ARE FORMED IN COMPLIANCE WITH MINIMUM STANDARDS SET BY THE BOARD. THE ORGANIZATIONS, WHOSE PRIMARY GOAL IS TO PROMOTE A SAFE AND RELIABLE SYSTEM FOR MARINE PILOTAGE, SHALL PROVIDE DISPATCH, ADOPT TARIFFS, BE OPEN FOR MEMBERSHIP BY ALL LICENSED PILOTS, OPERATE OR PARTICIPATE IN TRAINING PROGRAMS FOR PILOTS OR DEPUTY PILOTS AND COOPERATE WITH THE BOARD. THESE ORGANIZATIONS ARE REQUIRED TO HAVE BOARD APPROVAL OF BYLAWS, ARTICLES AND RULES. THEY ARE ALSO REQUIRED TO HAVE QUALIFIED PILOTS AVAILABLE FOR DISPATCH FOR A REASONABLE NUMBER OF DAYS EACH YEAR COMMENSURATE WITH THE SIZE OF THEIR MEMBERSHIP.

ANTITRUST/ANTI COMPETITION PROVISIONS -

SECTION 6 OF THIS ACT FORBIDS ACTIONS BY THE BOARD THAT MAY RESULT IN ANTI-COMPETITIVE ACTIVITIES. PROVISIONS OF SECTION 29 ALLOW INDIVIDUAL PILOTS TO FORM ORGANIZATIONS AND SET TARIFF RATES THAT MEET THE REQUIREMENTS OF THE BOARD'S ADOPTED MAXIMUM TARIFF. IN ADDITION TO THESE ELEMENTS IN THE LEGISLATION, THE ADOPTED LABOR & COMMERCE LETTER OF INTENT PROVIDES FOR OPEN AND FAIR COMPETITION REGARDLESS OF THE PROVISIONS IN SECTION 29.

OIL TANKER PROVISIONS -

CONSISTENT WITH RECOMMENDATIONS OF THE STATE OIL SPILL COMMISSION PILOTAGE STATUTES ARE UPDATED AND REQUIRE ANY OIL TANKER NAVIGATING IN MANDATORY PILOTAGE WATER OF THE STATE TO HAVE A STATE LICENSED PILOT AT THE HELM.

SCS FOR CS HB 194(L&C) TRANSITION TIME LINE

ORGANIZATIONS -

- * JAN. 1, 1992 - THE BOARD ADOPTS MINIMUM STANDARDS FOR RECOGNITION OF ORGANIZATIONS.
- * JAN. 1, 1992 - THE BOARD MUST ESTABLISH MAXIMUM TARIFFS THAT MAY BE CHARGED BY PILOTAGE ORGANIZATIONS.
- * JULY 1, 1992 - ORGANIZATIONS MUST HAVE THEIR ARTICLES, BYLAWS AND RULES APPROVED BY THE BOARD.

CURRENTLY LICENSED PILOTS -

- * JULY 1, 1992 - PILOTS MUST BE MEMBERS OF AN AUTHORIZED ORGANIZATION.
- * PILOTS LICENSED ON THE EFFECTIVE DATE OF THIS ACT ARE "GRANDFATHERED" FOR THEIR LICENSE TYPE, ENDORSEMENTS AND RESTRICTIONS.

INDIVIDUALS CURRENTLY IN TRAINING PROGRAMS -

- * INDIVIDUALS RECEIVE CREDIT FOR EXPERIENCE AND TRAINING WHICH TOOK PLACE PRIOR TO THE EFFECTIVE DATE OF THE ACT WHEN SEEKING NEW LICENSES OR ENDORSEMENTS AND MUST MEET LICENSING AND ENDORSEMENT REQUIREMENTS THAT ARE PRESENT IN THE ACT.

NEW APPLICANTS FOR LICENSES -

- * APPLICANTS FOR LICENSES MUST MEET ALL PROVISIONS OF THE ACT.

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

P.O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2534

May 10, 1991

Senator Drue Pearce

Dear Senator Pearce:

If the Board of Marine Pilots would advocate an assessment on Marine Pilot licensees sufficient to implement SB218 for FY '92, then the Department of Commerce and Economic Development would have no objection to such an assessment. I understand that this type of assessment has occurred twice within recent years for other boards with sweeping changes. Both times this assessment was done through Statutes and I understand that would be the proper procedure in the case of Marine Pilots.

Sincerely,

Ann Boudreaux

Ann Boudreaux
Director

DEPT. OF ENVIRONMENTAL CONSERVATION

April 18, 1991


BILL NUMBER: CSHB 194 (L&C)

TITLE: Relating to the Board of Marine Pilots, marine pilots, and marine pilot organizations; and providing for an effective date.

DEPARTMENT POSITION: Support

ANALYSIS: This bill clarifies and strengthens the authority of the Marine Pilots Board. Its passage would insure that competent marine pilots would be on board certain vessels in Alaska State waters, thus increasing the level of safety of vessel operations and protecting our marine environment.

The Department of Environmental Conservation believes that the mandatory use of local marine pilots with knowledge of the area in which they operate is an integral part of oil spill prevention. State licensed pilots was a major recommendation of both the Alaska Oil Spill Commission (Recommendation #20) and the States/British Columbia Oil Spill Task Force (Recommendation #15).


John A. Sandor
Commissioner

ALASKA STATE LEGISLATURE

ELECTIVE DISTRICT 1

HYDER
KETCHIKAN
KUPREANOF
MEYERS CHUCK
PETERSBURG
SAXMAN
WRANGELL



HOME

P.O. BOX 5723
KETCHIKAN, AK 99901
PHONE 225-6304

DURING SESSION

P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE 465-3424

Representative Cheri L. Davis

TESTIMONY MARINE PILOTAGE ACT HOUSE BILL 194

The legislatures of all coastal States have, by statute, created boards or commissions to govern the operation of pilots of their respective states; for the appointment and licensing of such pilots; and, frequently, for the fixing of rates for pilots. Such boards and commissions are administrative agencies and, as such, are creatures of statute. The jurisdiction and authority which they assert must be found within the four corners of the statutes under which they were created.

House Bill 194 gives our Board of Marine Pilots this jurisdiction and authority.

It has been almost twenty years since any major changes were made regarding piloting in Alaska. Our pilots play an important, integral part, of transportation in our state. Pilots are taken on board at a particular place for the purpose of conducting a ship through inside coastal waters and into ports. It is their "local knowledge" that ensures the safe passage of vessels through these waters. Giving the board the statutory power to enforce and regulate its pilots will serve in the best interest of Alaska.

This bill is a product of compromise. I have met with several representatives from the shipping industry, pilot board members, pilots and pilot organizations. The version of the bill you have in front of you this evening is the seventeenth draft...all products of compromise. I have taken into consideration all of their comments and requests and incorporated those suggestions into this bill.

Thank you.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

P.O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2534

DIVISION OF OCCUPATIONAL LICENSING

April 8, 1991

The Honorable Cheri Davis
Alaska House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Davis:

The Board of Marine Pilots is pleased to support House Bill 194. The board appreciates your efforts and shares your concerns about the seriousness of enacting a modern pilotage law for the State of Alaska.

If there is any way that the Board of Marine Pilots can be of any assistance to you in this fight, please call upon me.

Very truly yours,



M. Paul Taylor, P.E., Chairman
BOARD OF MARINE PILOTS

MPT/1vs5199t
4891a

MAY-11-91 SAT 11:22 SEA PILOTS

P. 01

MARINE PILOTING

Telephone: (907) 226-9896
(907) 226-9897

Southeastern Alaska Pilots' Association

CABLE ADDRESS: SEAPILOTS

P. O. BOX 6100
KETCHIKAN, ALASKA 99901

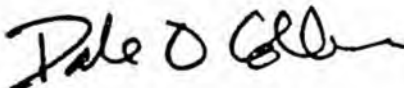
May 11, 1991

Representative Cheri Davis
Senator Drue Pearce
Alaska State Legislature
Juneau, AK 99811

Dear Senator Pearce and Representative Davis,

This is to advise you that the Southeastern Alaska Pilots' Association fully supports a one time assesment of every Alaska Pilot, to fund costs associated with Senate Bill 218 and House Bill 194.

Sincerely,



Dale O. Collins
President

SOUTHWEST ALASKA PILOTS ASSOCIATION

P.O. Box 977
Homer, Alaska 99603

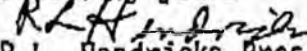
Tel: (907) 235-8783
Fax: (907) 235-6119

Senator Drue Pearce,
Representative Cheri Davis,
Alaska State Legislature
Juneau, Alaska 99811

Dear Senator Pierce and Representative Davis,

This is to advise you that the South West Alaska Pilots Association supports a one time assesment of every Alaska state pilot, to fund costs associated with House Bill 194 and Senate Bill 218.

Sincerely yours


R.L. Hendricks Pres.

Alaska Steamship Operators Association

May 19, 1991

The Honorable Cheri Davis
Representative
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

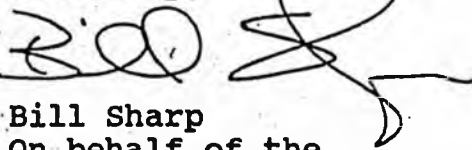
Re: SCS for CSHB 194 (L&C)

Dear Representative Davis:

This is to advise you that the Alaska Steamship Operators Association supports SCS for CSHB 194 (L&C) in the form which passed the Senate Labor and Commerce Committee on May 19, 1991.

Thank you for the opportunity to work with you on this legislation.

Sincerely,



Bill Sharp
On behalf of the
Alaska Steamship Operators Association

cc: Senator Drue Pearce

HB 1916

HOUSE COMMITTEE REPORT

(11)

Date Referred: May 1, 1991

FURTHER REFERRALS:

Date of Committee Action: 5-1-91

The FINANCE Committee considered:

HB 196

HOUSE BILL NO. 196

LIABILITY OF RESPONSE ACTION CONTRACTORS

"An Act limiting civil liability for acts or omissions of an oil spill response action contractor and establishing strict liability on responsible parties for certain acts or omissions of a response action contractor; amending the definition of 'response action'; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 196 (fin) the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) 2700 5-1-91

zero fiscal note _____

zero fiscal note(s) 000 3-18-91

	SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Larson			<i>[Signature]</i>		X	
Phillips						
Sharp	<i>[Signature]</i>	✓				
Boyer	<i>[Signature]</i>	X				
Brown	<i>[Signature]</i>	✓				
Sponer	<i>[Signature]</i>	✓				
Jacko	<i>[Signature]</i>	✓				
Barnes						
Javarr						
Mackay	<i>[Signature]</i>	✓				

[Signature]
CHAIRMAN'S SIGNATURE

CS FOR HOUSE BILL NO. 196 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON OIL AND GAS

A BILL

FOR AN ACT ENTITLED

1 "An Act limiting civil liability for acts or omissions of an oil spill response action
2 contractor and establishing strict liability on responsible parties for certain acts or
3 omissions of a response action contractor; amending the definitions of 'response action' and
4 'response action contractor'; relating to a report by the Citizens Oversight Council on Oil
5 and Other Hazardous Substances; providing for the repeal on July 1, 1992, of changes
6 made by this Act; and providing for an effective date."

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

8 * Section 1. AS 46.03.822(a) is amended to read:

9 (a) Notwithstanding any other provision or rule of law and subject only to the defenses
10 set out in (b) of this section and the exception set out in (i) of this section, the following persons
11 are strictly liable, jointly and severally, for damages [TO PERSONS OR PROPERTY,
12 WHETHER PUBLIC OR PRIVATE, INCLUDING DAMAGE TO THE NATURAL
13 RESOURCES OF THE STATE OR A MUNICIPALITY.] and for the costs of response.

1 containment, removal, or remedial action incurred by the state or a municipality, resulting from
2 an unpermitted release of a hazardous substance or, with respect to response costs, the substantial
3 threat of an unpermitted release of a hazardous substance:

4 (1) the owner of, and the person having control over, the hazardous substance at
5 the time of the release or threatened release: this paragraph does not apply to a consumer product
6 in consumer use;

7 (2) the owner and the operator of a vessel or facility, from which there is a
8 release, or a threatened release that causes the incurrence of response costs, of a hazardous
9 substance;

10 (3) any person who at the time of disposal of any hazardous substance owned or
11 operated any facility or vessel at which the hazardous substances were disposed of, from which
12 there is a release, or a threatened release that causes the incurrence of response costs, of a
13 hazardous substance;

14 (4) any person who by contract, agreement, or otherwise arranged for disposal or
15 treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous
16 substances owned or possessed by the person, other than domestic sewage, or by any other party
17 or entity, at any facility or vessel owned or operated by another party or entity and containing
18 hazardous substances, from which there is a release, or a threatened release that causes the
19 incurrence of response costs, of a hazardous substance:

20 (5) any person who accepts or accepted any hazardous substances, other than
21 refined oil, for transport to disposal or treatment facilities, vessels or sites selected by the person,
22 from which there is a release, or a threatened release that causes the incurrence of response costs,
23 of a hazardous substance.

24 * Sec. 2. AS 46.03.822(a) is repealed and reenacted to read:

25 (a) Notwithstanding any other provision or rule of law and subject only to the defenses
26 set out in (b) of this section and the exception set out in (i) of this section, the following persons
27 are strictly liable, jointly and severally, for damages to persons or property, whether public or
28 private, including damage to the natural resources of the state or a municipality, and for the costs
29 of response, containment, removal, or remedial action incurred by the state or a municipality,
30 resulting from an unpermitted release of a hazardous substance or, with respect to response costs,
31 the substantial threat of an unpermitted release of a hazardous substance:

1 (1) the owner of, and the person having control over, the hazardous substance at
2 the time of the release or threatened release; this paragraph does not apply to a consumer product
3 in consumer use;

4 (2) the owner and the operator of a vessel or facility, from which there is a
5 release, or a threatened release that causes the incurrence of response costs, of a hazardous
6 substance;

7 (3) any person who at the time of disposal of any hazardous substance owned or
8 operated any facility or vessel at which the hazardous substances were disposed of, from which
9 there is a release, or a threatened release that causes the incurrence of response costs, of a
10 hazardous substance;

11 (4) any person who by contract, agreement, or otherwise arranged for disposal or
12 treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous
13 substances owned or possessed by the person, other than domestic sewage, or by any other party
14 or entity, at any facility or vessel owned or operated by another party or entity and containing
15 hazardous substances, from which there is a release, or a threatened release that causes the
16 incurrence of response costs, of a hazardous substance;

17 (5) any person who accepts or accepted any hazardous substances, other than
18 refined oil, for transport to disposal or treatment facilities, vessels or sites selected by the person,
19 from which there is a release, or a threatened release that causes the incurrence of response costs,
20 of a hazardous substance.

21 * Sec. 3. AS 46.03.822 is amended by adding a new subsection to read:

22 (k) In this section, "damages" include damage to persons or to public or private property,
23 damage to the natural resources of the state or a municipality, and damage caused by acts or
24 omissions of a response action contractor for which the response action contractor is not liable
25 under AS 46.03.823 or 46.03.825.

26 * Sec. 4. AS 46.03.823(a) is amended to read:

27 (a) A person who is a response action contractor with respect to a release or threatened
28 release of a hazardous substance other than oil whose acts or omissions are not contrary to a
29 response plan or order by a state or federal agency having jurisdiction over the release or
30 threatened release is not civilly liable for injuries, costs, damages, expenses, or other liability that
31 results from the release or threatened release unless the release or threatened release is caused

1 by an act or omission of the response action contractor that is negligent or grossly negligent or
2 constitutes intentional misconduct. To show negligence by a response action contractor, a
3 claimant must show that the acts or omissions of the contractor under the response action contract
4 were not in accordance with generally accepted professional standards and practices at the time
5 the response action services were performed.

6 * Sec. 5. AS 46.03.823(a) is repealed and reenacted to read:

7 (a) A person who is a response action contractor with respect to a release or threatened
8 release of a hazardous substance whose acts or omissions are not contrary to a response plan or
9 order by a state or federal agency having jurisdiction over the release or threatened release is not
10 civilly liable for injuries, costs, damages, expenses, or other liability that results from the release
11 or threatened release unless the release or threatened release is caused by an act or omission of
12 the response action contractor that is negligent or grossly negligent or constitutes intentional
13 misconduct. To show negligence by a response action contractor, a claimant must show that the
14 acts or omissions of the contractor under the response action contract were not in accordance
15 with generally accepted professional standards and practices at the time the response action
16 services were performed.

17 * Sec. 6. AS 46.03.823(g) is repealed and reenacted to read:

18 (g) In this section, "response action" means an action taken in connection with the
19 mitigation or cleanup of a release or threatened release of a hazardous substance other than oil,
20 including investigation, evaluation, plan development, mapping and surveying, engineering,
21 design and construction, removal, and equipment provision.

22 * Sec. 7. AS 46.03.823(g) is repealed and reenacted to read:

23 (g) In this section,

24 (1) "response action" means an action taken in connection with the mitigation or
25 cleanup of a hazardous substance release or threatened release, including investigation, evaluation,
26 plan development, mapping and surveying, engineering, design and construction, removal, and
27 equipment provision:

28 (2) "response action contract" means a written contract or agreement to provide
29 response action with respect to a release or threatened release of a hazardous substance, entered
30 into by a person with

31 (A) the department:

1 (B) another person who has entered into an agreement with the department
2 that provides for response action subject to the department's oversight and control;

3 (C) a federal agency with jurisdiction over the release or threatened
4 release; or

5 (D) another person potentially liable for the release or threatened release
6 under state or federal law;

7 (3) "response action contractor" means

8 (A) a person who enters into a response action contract with respect to a
9 release or threatened release of a hazardous substance and who is carrying out the
10 contract, including a cooperative organization formed to maintain and supply response
11 equipment and materials that enters into a response action contract relating to a release
12 or threatened release; and

13 (B) a person who is retained or hired by and is under the control of a
14 person described in (A) of this paragraph to provide services related to the response
15 action contract.

16 * Sec. 8. AS 46.03 is amended by adding a new section to read:

17 Sec. 46.03.825. OIL SPILL RESPONSE ACTION CONTRACTORS. (a) A person who
18 is a response action contractor with respect to a release or threatened release of oil whose act or
19 omission is not contrary to an order of the federal or state on-scene coordinator is not civilly
20 liable for injuries, costs, damages, expenses, or other liability that results from the release or
21 threatened release, or from the response action contractor's act or omission in response to the
22 release or threatened release, unless the person bringing a claim against the response action
23 contractor proves by a preponderance of the evidence that

24 (1) the response action contractor would have been liable for the initial release
25 or threatened release under AS 46.03.822 even if that contractor had not carried out a response
26 action;

27 (2) the response action contractor acted with gross negligence or intentional
28 misconduct; or

29 (3) the response action contractor, without approval by the federal or state on-
30 scene coordinator, substantially deviated from an oil spill contingency plan previously approved
31 under AS 46.04.030, and the plan was either prepared by that contractor for a party responsible

1 for the release under AS 46.03.822 or that contractor previously agreed to comply with the terms
2 of that plan under a contract with parties responsible for the release under AS 46.03.822.

3 (b) The limitation on liability contained in (a) of this section does not apply to

4 (1) an action for personal injury or death;

5 (2) an action for damages to tangible personal property not caused by oil; or

6 (3) an act or omission that occurs more than 15 days after the release.

7 (c) If the liability of an oil spill response action contractor is not limited under (a) of this
8 section or if the provisions of (a) of this section do not apply because of (b) of this section, the
9 oil spill response action contractor is not civilly liable for injuries, costs, damages, expenses, or
10 other liability that results from the response action contractor's act or omission with respect to
11 a release or threatened release of oil unless the act or omission of the oil spill response action
12 contractor is negligent, grossly negligent, or constitutes intentional misconduct. This subsection
13 does not apply to an oil spill response action contractor who would have been liable for the
14 initial release or threatened release of oil under AS 46.03.822 even if that contractor had not
15 carried out a response action.

16 (d) In this section, "response action" means an action taken to respond to a release or
17 threatened release of oil, including but not limited to mitigation, clean up, or removal of a release
18 or threatened release of oil.

19 * Sec. 9. AS 46.03.826 is amended by adding new paragraphs to read:

20 (14) "response action contract" means a written contract or agreement to provide
21 response action with respect to a release or threatened release of a hazardous substance entered
22 into by a person with

23 (A) the department;

24 (B) another person who has entered into an agreement with the department
25 that provides for response action subject to the department's oversight and control;

26 (C) a federal agency with jurisdiction over the release or threatened
27 release; or

28 (D) another person potentially liable for the release or threatened release
29 under state or federal law;

30 (15) "response action contractor" means

31 (A) a person who enters into a response action contract with respect to a

1 release or threatened release of a hazardous substance and who is carrying out the
2 contract, including a cooperative organization formed to maintain and supply response
3 equipment and materials that enters into a response action contract relating to a release
4 or threatened release;

5 (B) a person who is retained or hired by and is under the control of a
6 person described in (A) of this paragraph to provide services related to the response
7 action contract; and

8 (C) a person who acts as a volunteer and is engaged in a response action.

9 * Sec. 10. AS 46.03.822(k), 46.03.825, 46.03.826(14), and 46.03.826(15) are repealed.

10 * Sec. 11. REPORT. The Citizens Oversight Council on Oil and Other Hazardous Substances
11 (AS 24.20.600) shall review the entire subject of response action contractor civil liability and the status
12 of oil spill contingency plan holders. The review of both subjects shall be completed and a report
13 submitted to the legislature before January 15, 1992. The report must address whether further
14 modifications are necessary to state laws on response action contractor civil liability, and include an
15 analysis of whether the present state laws that require shippers and owners to hold contingency plans
16 and that enable shippers and owners to contract with response action contractors to carry out contingency
17 plans are adequate to protect the public in the event of an oil spill.

18 * Sec. 12. Sections 2, 5, 7, and 10 of this Act take effect July 1, 1992.

19 * Sec. 13. Sections 1, 3, 4, 6, 8, 9, and 11 of this Act take effect immediately under AS 01.10.070(c).

FISCAL NOTE

No. 1
 Bill Version: CSHB 196(O&G)
 (H) Publish Date: 3/13/91

STATE OF ALASKA
 1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: DEC
 Title: Limited Liability for oil spill BRU: Environmental Quality
response action contractors Component: SPPM
 Sponsor: House Oil & Gas
 Requestor: House Oil & Gas COMPONENT SERIAL NO.

1	0	1	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Janice Adair Phone: 2600
 Division: Commissioner's Office Date: March 11, 1991

Approved by Commissioner: *Janice Adair*
 Agency: AD=2 Date: 3/11/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

No. 2

Bill Version: CSHB 196 (JUD)

(H) Publish Date: 5/1/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____
Title: "An act limiting civil liability for acts or omissions of an oil spill response action contractor..."
Sponsor: House Special Committee on Oil & Gas
Requestor: House Judiciary

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Component: Council & Subcommittees

COMPONENT SERIAL NO: 783

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	32.0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	32.0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	32.0	0	0	0	0	0
TOTAL	32.0	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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

CSHB 196(JUD) proposes a study be prepared to assess the oil spill response action contractor civil liability and oil spill contingency plan holder status. Funding would be from the Oil and Hazardous Release Response Fund. To perform this study, the Citizens' Oversight Council would need funds for contractual services for legal and other research.

see attached page

Prepared By: Pamela A. Sloops, Director

Michele Brown, Exec. Director

465-3850
Phone: 561-2101

Division: Administrative Services

Citizens' Oversight Council

Date: 4/23/91

Approved By: Warren W. Endicott, Executive Director

Agency: Legislative Affairs Agency

Date: 4/23/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

COMMITTEE COPY

CONTINUATION OF FISCAL NOTE: CSHB 196(JUD)

CSHB 196(Jud) limits liability for civil damages for oil spill response action contractors who respond to a release or a threatened release of oil, unless the contractor acts with gross negligence or intentional misconduct. The limited liability is intended to encourage aggressive oil spill response.

In analyzing this bill, the legislature found that there were good public reasons to address the issue of oil spill response action contractor liability. However, the legislature also found that the subject is extremely complex because of the varying public interests and the variations in the types of response action contractors currently operating in Alaska. The legislature wants the study to identify the types of contractors responding to different oil spill discharges so that the legislature could finely tune which response action contractors operating in which scenarios ought to have limited liability for civil damages.

The legislature also intended the study to address the relationships between different response action contractors and the holders of contingency plans. In order to have a strengthened and cohesive oil spill response, it is critical that the contingency plan holder and the response action contractor adhere to a single plan with direction and oversight by state and federal agencies. In analyzing current law, the legislature found that confusion in response may still exist. Accordingly, the legislature has requested that the study include an assessment of whether the present state laws that require oil shippers and owners to hold contingency plans, and that enable oil shippers and owners to contract with response action contractors to carry out contingency plans, are adequate to protect the public in the event of an oil spill.

CONTRACTUAL

Estimate approximately 2 months or 320 hours of research and report preparation.

Estimate contracting at approximately \$100 per hour on the assumption that the contractor would assume all expenses for the project, including travel, supplies, postage, copying, computer services, etc.

$\$100 \times 320 \text{ hours} = \$32,000$

SPONSOR STATEMENT IN SUPPORT OF CSHB 196 (JUDICIARY)
Bill Hudson Chairman, House Special Committee on Oil and Gas

May 1, 1991

The need for strong and prompt oil spill cleanup capability is well recognized by the public. Spills from the *Torrey Canyon*, the Santa Barbara oil well incident, the IXTOC #1 blowout, the grounding of the *Arco Merchant*, the *Amoco Cadiz* and finally the *Exxon Valdez* incidents all gravely punctuated the need for new laws.

With the advent of Alaska's legislation requiring strict liability for spill damages (Ch. 112, SLA 1972), oil spill response action cleanup contractors (RAC's) became exposed to unlimited strict liability. This created a difficult situation for RACs and legislative efforts were then made to reduce the threat of such law suits (Ch. 39, SLA 1989 & Ch. 191, SLA 1990). Nevertheless, current Alaska law does not provide the same emergency response immunity to RACs as it does for other emergency responders.

CSHB 196 amends AS 46.03.822 and .823 and adds section .825 which proposes to shift the liability for certain acts of simple negligence during the first 15 days following the spill, so long as the RAC's act or omission is not contrary to the order of the state or federal On Scene Coordinator (OSC), or substantially deviates from the applicable oil spill contingency plan. "Substantial deviation" does not include minor departures from a plan that are inevitable in a crisis situation. Instead the phrase refers to a significant, and/or unjustifiable departure of a RAC from the fundamental requirements of an applicable plan.

CSHB 196 also calls for a complete study of the issues of RAC liability to be made by the legislature's Citizen's Oversight Council by January 15, 1992. To ensure that this will be done, the bill also contains a sunset provision of one year.

The bill also requires that a Response Action Contractor who seeks a demonstration of financial responsibility from a shipper or other potential client must accept any of the forms of financial responsibility that are acceptable to the State as described in AS 46.04.040(e) and as approved by the Department of Environmental Conservation. There is some question as to whether this amendment will actually expand access to response action services as it is possible that a RAC may simply elect to withhold service rather than accept financial responsibility in a format that it finds unacceptable.

The benefits of this bill extend beyond encouragement of rapid initial response. The implementation of HB 567 in June of this year will require the demonstration of significant

oil spill cleanup capabilities by the industry. Statewide, oil facilities and operations without the financial resources to have their own cleanup capability, will have to turn to spill cleanup cooperatives and cleanup RACs for the cleanup services required by law. At this time these operators have been reluctant to join cleanup co-ops partly because of their exposure to unlimited liability. In addition, cleanup contractors have become sensitized to the liability issue and are now reconsidering offering their services. This bill is intended to reduce some of the initial impediments to start-up of potential cleanup businesses and the formation of co-ops.

This bill also is expected to assist in the successful resolution of response action contracts in Prince William Sound that will assure uninterrupted supply and distribution of ANS crude to a wide array of companies that have been negatively impacted by Alyeska's requirements for \$1 Billion in financial responsibility from shippers. This bond requirement was established in response to Alyeska's interpretation of RAC liability under existing Alaska law. As a result some companies have already been excluded from the maritime transport of ANS crude (Cove Shipping, U. S. Refining); others have withdrawn from the trade (Mobile and reportedly Shell this summer); while others have had their supply and/or distribution threatened (Tesoro and Conoco).

In addition, by being more consistent with other states and the federal law, large RACs such as the Marine Response Corporation (MSRC) should be more inclined to respond to spills in Alaska and perhaps even locate here. This bill has no effect on the responsibilities for cleanup or on the planning standards enacted by the legislature in 1990.

In summary, CSHB 196

1. Shifts the liability for damages caused a RAC's simple negligence during the first 15 days of oil spill cleanup to the spiller so long as the RAC.
 - a. Does not cause personal injury.
 - b. Does not violate an order of the On Scene Coordinator.
 - c. Does not substantially deviate from the applicable oil spill contingency plan.
2. Calls for a study of the state's liability laws to be done by next legislative session.
3. Sunsets these provisions in one year so this legislature will be able to reconsider the issue.
4. Requires that a RAC who seeks a demonstration of financial responsibility from a shipper or other potential client must accept any of the forms of financial responsibility that are acceptable to the State as described in AS 46.04.040(e) and as approved by the Department of Environmental Conservation.

SECTION-BY-SECTION ANALYSIS OF CSHB 196 (JUDICIARY)

The 13 sections of CSHB 196 (Judiciary) fall into three categories:

1. Substantive sections: that is, those sections that either define the liability of oil spill response action contractors (RACs) or transfer that liability to the spiller;
2. conforming amendments to existing law; and
3. sections which merely set out existing law -- which will be "restored" after this legislation sunsets.

1. The Substantive Sections:

Section 8. This is the most significant section of the bill. It provides that oil spill RACs are responsible for damages caused by their cleanup activities if they were grossly negligent or acted with intentional misconduct. This limited liability, however, applies only during the first 15 days following the spill, and only if the oil spill RAC was not responsible for the spill itself. Nor is the oil spill RAC's liability limited if it substantially deviates from an approved oil spill contingency plan that was either prepared by that RAC, or which the RAC agreed to follow in a cleanup contract with the spiller.

Subsection (b) provides, in addition, that limited liability does not apply to actions for personal injury or death, or for actions for damages to tangible personal property not caused by the oil.

Subsection (c) provides that if, for any of the reasons stated

above, the oil spill RAC's liability is not limited to "gross negligence," the injured party will have to prove simple negligence in order to hold the oil spill RAC liable. However, if the oil spill RAC also caused the spill, the RAC will still be strictly liable.

Subsection (d) was added by House Judiciary and provides that a Response Action Contractor who seeks a demonstration of financial responsibility from a shipper or other potential client must accept any of the forms of financial responsibility that are acceptable to the State as described in AS 46.04.040(e). These include the following: 1) self insurance; 2) insurance; 3) surety; 4) guarantee; 5) letter of credit; and 6) insurance pools such as Protection and Indemnity Clubs ("P & I Clubs"). The intent is to assure that Alaska shippers and other users of spill response services have the same options for demonstrating financial responsibility to a RAC as they do to the State.

The requirements of this amendment are effective as to any response action contract entered into or renewed on or after the effective date of the legislation.

Subsection (e) limits those "response actions" for which liability is limited only to activities undertaken in response to an actual or imminently threatened spill.

Section 3. This section provides that, if an oil spill RAC's liability is limited under Section 8, the spiller is strictly liable for those damages.

Section 9. This section sets out the type of people who are covered by the limitation of liability in Section 8. It uses

existing law's definitions of "response action contract" and "response action contractors," with one important addition -- volunteers are now covered by the limitation of liability. See p. 7, l. 8.

Section 11. This section provides that the Citizens' Oversight Council on Oil and Hazardous Substances will prepare and submit a report to the legislature by January 15, 1992 on the liability issues covered by this bill. Since this legislation will "sunset" on July 1, 1992 (see below), the report is intended to aid the legislature in considering this issue next year.

2. The Conforming Amendments.

Section 1. Section 3, as we have seen, transfers certain liabilities from the oil spill RAC to the spiller. It does so by adding a definition of "damages" for which the spiller is responsible to Alaska's basic strict liability law (AS 46.03.822). Since Section 3 now sets out the damages for which the spiller is liable, there is no longer any need to repeat the now-redundant list in Section 822(a). Section 1 therefore deletes this now-surplus language (p. 1, ls. 11-13); otherwise, it makes no change in the liability statute. Except for the bracketed and capitalized language on page 1, all of Section 1 merely sets out existing law.

Section 4 and Section 6. Section 8 creates limitations on liability specific to oil spill response action contractors. AS 46.03.823 is an existing liability statute dealing with all hazardous waste cleanup contractors (including oil spill RACs). Section 4 and Section 6 remove oil spill RACs from the coverage of

Section 823 by inserting the words "other than oil" on p. 3, l. 28 and p. 4, l. 19. Except for these words, the remainder of these sections simply set out existing law, which will still be applicable to people involved in other types of hazardous substances cleanup.

Section 13. This section provides an immediate effective date.

3. "Sunset" Provisions.

Section 10 repeals the substantive provisions of this bill, and Section 12 makes that repeal effective July 1, 1992. Once the new law is repealed, it is necessary to restore the law as it exists today. Section 2, Section 5 and Section 7 of the bill accomplish this by setting out presently existing law, while Section 12 then provides that these existing laws will be "restored" on July 1, 1992.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
P.O. BOX 0, JUNEAU, ALASKA 99811-1800

TELEPHONE
(907) 465-2600

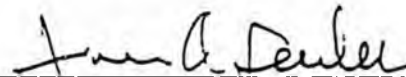
March 11, 1991

POSITION PAPER

HB 196

House Bill 196 proposes to shift the liability for simple negligence from an innocent oil spill response action contractor (RAC) to the party responsible for the spill so long as the RAC's act or omission is not contrary to a response plan or an order of the Federal or State on-scene coordinator.

The Department of Environmental Conservation supports HB 196 for the reasons set out in Section One of the Legislation, Findings and Purpose.



John A. Sandor
Commissioner

CSHB 196 Background

SECTION A,

No. 1

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 11, 1991

The Honorable Bill Hudson
Alaska State Representative
P.O. Box V
Juneau, AK 99811

Greetings:

It has come to my attention that some of the major transporters of bulk petroleum products are in the process of reviewing their responsibilities under Ch. 191, SLA 1990, to prepare contingency plans and to clean up spills of oil and other hazardous substances by June 1, 1991. It is my understanding that the cost of preparedness, because of the lack of response action contractors willing to operate in Alaska, among other aspects of the Act, is so high that these transporters are reconsidering the economics of serving Alaska distributors.

We must quit the overall belief that spill responsibilities are limited to the multinational corporations (the worst possible event while ANWR and other national events towards wetlands and coastal exploration are on the Congressional minds would be a airlift or river barge loaded with fuel would cause a major spill and no clean up contractor available). The Juneau boat harbor is a situation that did happen and is documented in the following paragraph.

Last weekend the group here in Juneau that is organized to respond to oil spills was called out by the Coast Guard to clean up a spill caused by the sinking of a vessel in the small boat harbor. The group responded, but the next day they met to consider whether or not they would respond in the future because of the liability imposed on response action contractors under Ch. 191. I do not know what their decision was, or if they have reached a decision, but their concern may be an indicator that cooperatives organized to respond to spills either may refuse to respond to spills by persons who are not members of the cooperatives or that cooperatives may be forced to disband, leaving no organization available to respond to spills.

CSHB 196 Background

SECTION A,

No. 2

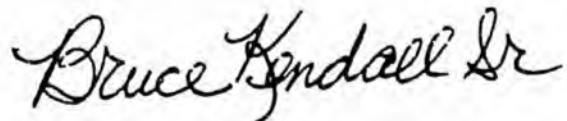
April 11, 1991

Emergencies could even cause a special session, which may be required if amendment cannot be achieved in this session and fuel supplies, especially for those areas of the state that are not equipped to clean up spills, are disputed or not delivered to those communities dependent upon bulk shipments, including the communities on the Interior river systems.

I am also concerned that even if the bulk transporters of petroleum products continue in the Alaska trade, the price of fuel may rise severely because of the necessity to cover the increased costs of spill response. This could have a major impact on the prices of home heating fuel, automobile gasoline and diesel fuel and fuel for electrical generation equipment throughout Alaska, but especially in the small, rural communities. If fuel deliveries are disrupted, the fishing season could be seriously affected.

I hope that you will look carefully at this problem to make sure that we are able to maintain fuel shipments and provide adequate spill response capability throughout the state at the same time.

Respectfully,

A handwritten signature in cursive script that reads "Bruce Kendall Sr".

Bruce B. Kendall, Sr.
Legislative Liaison

QUESTIONS AND ANSWERS REGARDING CSHB 196 (JUDICIARY)

1. DOESN'T EXISTING LAW ALREADY LIMIT THE LIABILITY OF CLEANUP CONTRACTORS?

AS 46.03.823 adopts the common law liability rule of simple negligence. For RACs who had no involvement in the spill itself, that is not a limitation on liability. Additionally, AS 46.03.823 provides that, under a number of poorly defined circumstances, the innocent RAC may be strictly liable for any damage caused during spill cleanup.

2. WHY SHOULD WE LIMIT THE LIABILITY OF OIL SPILL RACS?

Oil spill RACs are responding to an emergency in a crisis atmosphere. As a result, they are particularly vulnerable to lawsuits. Alaska has recognized this by limiting liability to "gross negligence" for people who respond to other kinds of emergencies -- including medical emergencies and disaster emergencies. AS 09.65.090-091.

The threat of lawsuits can deter people from becoming oil spill cleanup contractors, and can cause unnecessary delays by existing contractors in implementing spill response.

3. BUT DOESN'T ALASKA HAVE PLENTY OF OIL SPILL CLEANUP CAPABILITY EVEN UNDER EXISTING LAW?

Yes, a lot of people came forward to help cleanup the Exxon Valdez spill. However, this was after Exxon, one of the largest companies in the world, acknowledged responsibility for cleanup. This is not always the case.

Moreover, there are many areas of the State that do not have

spill cleanup capability. Last year, the legislature significantly increased oil spill cleanup capability requirements. The new law takes effect this June, and in most places in the state, oil terminals and shippers -- particularly small ones -- are expected to be unable to meet those requirements.

We have already seen Alaska's cleanup liability laws threatening the availability of necessary oil spill cleanup services in Prince William Sound. People have been reluctant to join the new Cook Inlet spill coop (CISPRI) because of potential liability. A Juneau contractor testified in the House Resources Committee that it was reconsidering its entry into the field because of liability concerns. The oil industry's new nationwide cleanup corporation -- MSRC -- has made it clear that it is uninterested in locating assets in any state that does not limit oil spill cleanup contractor liability.

Aggravating the problem is the fact that the United States Congress, and the legislatures of California, Hawaii, Washington, Texas, Florida, Virginia and Delaware have already adopted a "gross negligence" standard for oil spill cleanup contractors. A number of other states will be following suit shortly. Being among a shrinking minority of states with unlimited cleanup contractor liability, Alaska will find itself at an even greater competitive disadvantage in attracting necessary resources.

4. ISN'T HB 196 A SPECIAL-INTEREST BAIL-OUT BILL TO HELP TESORO OBTAIN CLEANUP COVERAGE FROM ALYESKA?

As a result of existing law, Alyeska has conditioned the availability of cleanup services for Tesoro's transportation of

crude oil through Prince William Sound on financial responsibility terms that Tesoro can't meet. Whether or not Alyeska's demands are reasonable or constitute an overreaction to the problem, the existing liability problem that prompted Alyeska's decision is real. The Alyeska situation presents the most current, dramatic illustration of this larger problem. It is, however, only a symptom of Alaska's unreasonable liability rules for oil spill cleanup contractors -- one that has already spread to other areas of the state, and will spread further as Alaska's new cleanup requirements take effect.

5. ALYESKA HAS INDICATED THAT IT IS UNSATISFIED WITH CSHB 196 (JUDICIARY). WHY PASS THIS BILL IF IT WON'T FIX THE TESORO/CONOCO/ALYESKA PROBLEM?

The goal of this legislation is not to "fix" a private dispute. However, the Alyeska/Tesoro situation was precipitated, in substantial part, by an unreasonable liability environment. That is a legitimate legislative concern. CSHB 196 (Judiciary) would define an oil spill RAC's liability in essentially the same way as new federal law, and the laws of our sister coastal states. Whether a particular RAC -- be it Alyeska or anyone else -- chooses to remain unreasonable is not something that should influence this basic public policy decision.

6. CAN'T WE JUST PROVIDE THAT OIL SPILL RACS CAN BE INDEMNIFIED FOR THEIR SIMPLE NEGLIGENCE?

Congress, and other states, have considered, and rejected, indemnification as an alternative approach to limited liability. Indemnification has three different problems:

1. When a crisis occurs, there will be no time to negotiate

an indemnification agreement. Indemnification has been used to limit the liability of hazardous chemicals cleanup contractors, since that type of cleanup is normally preceded by months of study and negotiation. However, since oil spill cleanup RACs operate in a different environment, the federal government and other states have realized that the indemnification approach doesn't work here;

2. Indemnification does not prevent a person from being sued. It merely promises that someone might pick up the bill for the lawsuit later. The point of limited liability legislation is to remove the threat of litigation itself; and

3. Under HB 196, the liability for the cleanup contractor's negligence is transferred to the spiller. However, since oil spill cleanup is often done under contract with the state, an indemnification approach would transfer that liability from the RAC to the public. The spiller, rather than the people of Alaska, should pay for the consequences of good faith cleanup actions.

7. DOES THIS BILL "WEAKEN" ALASKA'S LIABILITY LAWS?

With respect to the spiller, the bill strengthens Alaska law by making it clear that the spiller is responsible for damages caused by cleanup contractors.

With respect to the cleanup contractor, the legislation strengthens existing law by attaching consequences to the cleanup contractor's failure to substantially comply with a contingency plan which it authored, or which it agreed to follow by contract. Remember that, under existing law, the RAC is neither the holder

of, nor legally responsible for, the contents of the contingency plan. That responsibility falls on the spiller (i.e. the tanker operator). This positive aspect of the legislation was a principal reason why the Prince William Sound Regional Citizens Advisory Committee, and the Citizens Oversight Council, withdrew any objections to the legislation.

8. TRANSFERRING THE LIABILITY TO THE SPILLER IS FINE, BUT WHAT HAPPENS IF THE SPILLER IS INSOLVENT, OR CAN'T BE FOUND?

As a result of recent state and federal legislation, the possibility of inadequate compensation from the spiller has been minimized.

First, with respect to tankers, Alaska law subjects both the tanker owner/operator and the owner of the oil to unlimited strict liability for all damages. This will often result in two "deep pockets" in the event of a spill.

Moreover, all major oil handling activities in the state must post substantial financial responsibility under both federal and state law. These financial guarantees are accessible by any injured party, irrespective of the spiller's financial solvency.

Finally, there now exists a state fund to insure the adequacy of state cleanup funds. More importantly, Congress has now created a \$1 billion/incident federal fund which is available to anyone who cannot obtain satisfaction from the responsible parties themselves.

April 11, 1991

Representative Cliff Davidson
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811

Re: CSHB 196 (Oil & Gas)

Dear Representative Davidson:


The Alaska Miners Association supports this bill.

Anyone involved in oil spill cleanup and response should be encouraged to concentrate on the work at hand, i.e. cleaning up the spill, without being concerned that their every decision and action will be subject to detailed scrutiny and possible liability.

Without this change/clarification at least two things will occur:

1. Cleanup efforts will be hampered and delayed through concerns for liability, and
2. The cost for all petroleum products to outlying areas of the state will increase unnecessarily as suppliers seek to protect themselves from frivolous charges, acts of omission, and honest mistakes.

Sincerely,



Steven C. Borell, P.E.
Executive Director

cc: Phil Holdsworth
Kent Dawson

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To <i>H. Hastings</i>	From <i>Jon T</i>	
Co.	Co.	
Dept. <i>401546.3</i>	Phone #	
Fax #	Fax #	

Alyeska pipeline

SERVICE COMPANY

1604 SOUTH BRADAW STREET, ANCHORAGE, ALASKA 99512, TELEPHONE (907) 879-1811, TELEFAX (907) 879-1817

March 15, 1991

Representative Bill Hudson
 Capitol Room 111, MS 3100
 Box 7
 Juneau, Alaska 99811

Re: H.B. 196

278-5026

Dear Representative Hudson:

You recently asked Paul Richards to comment on H.B. 196 on behalf of Alyeska Pipeline Service Company. We have reviewed the issue of potential legislative changes to response action contractor liability in the context of the financial responsibility requirements in our Oil Spill Response Service Agreements. As a result of this review, we have developed the following statement of our position:

"Alyeska Pipeline Service Company, which operates the trans Alaska pipeline system, is an initial oil spill response action contractor for tank vessels in Prince William Sound. The vessels have incorporated Alyeska's initial response plan into their contingency plans. Under the terms of contracts between Alyeska and the owners, operators or charterers of these vessels, Alyeska is indemnified for costs and certain liabilities that might arise out of Alyeska's response on behalf of a vessel. The contracts also require that the party contracting on behalf of a vessel demonstrate financial responsibility to perform its indemnity obligations. Tesoro has been unable to demonstrate compliance with the financial responsibility provisions of the standard contract and is presently operating under a temporary agreement that expires on June 30, 1991. Alyeska has advised Tesoro that the temporary agreement will not be extended.

"Alyeska supports enactment of Alaska legislation that a response action contractor can be liable for simple negligence in its oil spill response activities ONLY when its acts are inconsistent with the National Contingency Plan or directives of the President or when its actions cause personal injury or death. Congress enacted this standard in section 4201(a) of the Oil Pollution Act of 1990. If such legislation becomes law in Alaska, Alyeska will reduce the financial responsibility requirements for all tank vessels contracting for its initial oil spill response

SECTION E,
 No. 3

Representative Bill Hudson
March 15, 1991
Page 2

services. The amounts of such reduced requirements have not been determined. However, on the basis of Tesoro's current financial condition and available insurance coverage, and existing insurance coverage of owners of the vessel that Tesoro is using to transport its oil, Alyeska is confident that Tesoro will have no difficulty in arranging to meet such revised financial responsibility requirements.

"If the Alaska law ultimately adopted has a narrower exemption from liability for simple negligence than that provided by federal law, Alyeska will review the financial responsibility requirements of its contracts for initial oil spill response in light of the exposure to liability that remains under the new law. If substantial exposure to liability for simple negligence remains, Alyeska may not be able to reduce the financial responsibility requirements to a level that Tesoro can meet."

Please contact me or Mr. Richards if we may be of further assistance.

Sincerely yours,


J. H. Harmiller
President

encl

cc: Gene Burden
Paul Richards