

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7501 SENATE LABOR & COMMERCE

SEP 27 1991

ALASKA STATE LEGISLATURE

ELECTIVE DISTRICT 1

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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

MEMORANDUM

TO: All Legislators

FROM: Representative Cheri Davis *CD*

DATE: September 19, 1991

RE: Marine Pilotage Act of 1991

Can we get copies? →

Last session I sponsored House Bill 194, "An Act Relating To the Board of Marine Pilots, Marine Pilots, Investigations of Marine Accidents, and Training Fees; extending the termination date of the Board of Marine Pilots." This bill had over 12 committee and sub-committee hearings and went through over 20 versions. HB 194 did end up as a compromise, which was passed overwhelmingly by both Houses. I am proud to have sponsored this legislation and am pleased with the final "compromise" version. Recently, some of you have received correspondence pertaining to "impending complications" with the adoption of this law.

The Marine Pilot Board is meeting in Ketchikan on October 1st and 2nd to begin drafting regulations, including:

- maximum tariffs
- criteria for recognizing pilot organizations
- licensing criteria

The Board needs time to discuss and implement these regulations, and to carry out the wishes of the Legislature.

If you have any questions about Marine Pilotage, I urge you to contact my office, Senator Pearce's office, or Brad Pierce and Mary Lou Madden from the Office of Management and Budget.

Thank you.



Alaska Coastwise Pilots Association
PO Box 22694
Juneau, Alaska 99802
Telephone: (907) 586-2272
Fax: (907) 463-3773

FILE

Marine Pilotage
Dispatch Service

Ketchikan Office
(907) 225-7245
Fax (907) 247-4568

Red

Senator Jim Duncan
Alaska Legislature
Juneau, Alaska 99811

July 24, 1991

Dear Senator Duncan,

The enclosed material merits your attention regarding the recently passed Marine Pilotage Act (SB 218/HB 194).

Some of our concerns recently expressed to other members of the Legislature and the Governor about this Bill are renewed by my reading of these memos by Captain Ed Murphy (president of the Southwest Alaska Pilots' Association, or SWAPA), and counsel Yoshida of SWAPA.

I) Particularly noteworthy are the following:

a) Captain Murphy's own account of how the political process completely circumvented the House Judiciary Committee's concerns regarding the Bill.

b) The absence of any remarks concerning any higher safety standards which may have been achieved by the Bill, and instead complete emphasis on the tariff and regional definition (turf) issues.

c) Counsel Yoshida's predictions of how the interpretation process (by SWAPA and SEAPA members of the Board of Marine Pilots) will seek to deny recognition to the Alaska Coastwise Pilots Association, or any other group(s) which might want to operate in "their" (SWAPA and SEAPA's) regions.

d) Counsel Yoshida's account of how the "maximum tariff" feature imposed by the Legislature will be circumvented, by virtue of only one pilot organization being allowed (by the BMP) to operate in a given region, and every member of that organization being required by the law to charge the same tariff. Captain Murphy's comment on Section 35 of the Bill (p7, his memo) reveals his hope that the above will only be a stopgap measure until June 30, 1994, when a "sane tariff" (eg: fixed tariff) will be introduced.

e) Captain Murphy's comments about the Alaska Coastwise Pilots Association (ACP) on page 7, ¶ 2 are inaccurate and misleading. ACP has always sought and continues to seek access to pilotage work 24 hours a day, 365 days a year.

II.) Aside from the obvious ramifications of the slanted "interpretation" of the new law that the newly empowered SWAPA and SEAPA members of the Board of Marine Pilots will likely adopt, some other questions must be raised, including:

a) Given the protectionist and self serving approach that the SEAPA and SWAPA organizations

PHONE MEMO

TO Rod

DATE 9/12

TIME 1:45 PM

FROM June

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NO. 885-9675

OF Ketchikan

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MESSAGE

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Mike
HAMMON

4390

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SIGNED *[Signature]*

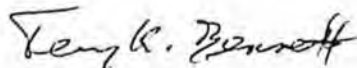
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have taken, how objective are their representatives on the Board likely to be in investigations of marine accidents of their association brothers? Currently at least three, and possibly four SEAPA members are in various stages of investigation by the State.

b) How objective or fair are the SEAPA and SWAPA members of the Board going to be in administration and grading of examinations of ACP pilots?

Thank you for your continued attention to these matters concerning the implementation of the new pilotage law.

Respectfully,

A handwritten signature in cursive script that reads "Terry K. Bennett".

Captain Terry K. Bennett
President
Alaska Coastwise Pilots Association

STEVE K. YOSHIDA, P.C.

MEMORANDUM

TO: *Captain Jeff Pierce*
FROM: *Steve K. Yoshida*
DATE: *June 10, 1991*
RE: *Interpretation of new Pilotage Act*

I thought this analysis might be helpful for our discussion.

I. WHAT ARE PILOTAGE REGIONS AND WHAT ROLE DO RECOGNIZED MARINE PILOT ORGANIZATIONS PLAY IN THE REGION?

The Board of Marine Pilots are required to establish pilotage regions in the state. AS 08.62.040(4)(A). These regions will most likely be the Southeast, Southwest and Aleutian regions with boundaries determined by what is efficient for the dispatch of Southeast Alaska Pilot's Association (SEAPA), SWAPA, and Alaska Maritime Pilots (AMP) members. This follows because all marine pilots must be a member of a pilot organization recognized by the Board (AS 08.62.080) and all pilot organizations recognized by the board must promote a safe and reliable system of marine pilotage for the region in which the organization is

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organized. AS 08.62.175(c)(1). I interpret the requirement the recognized organization promote a pilotage system for the region to mean that the organization must service the entire region, and not just a portion of the region. I base this interpretation on the language in AS 08.62.175(d)(3)(A) and (B), which state that the pilot organization must show effectiveness in "promoting an efficient, reliable, and professional pilotage system in the region", and must maintain a "sufficient number of qualified pilots available for dispatch to serve the needs of vessels visiting the region."

The concepts of a regions and the pilot organization serving the region are closely tied. The regional boundaries will be determined by that area where a recognized marine pilot organization can provide a safe and reliable system of marine pilotage. A recognized marine pilot organization will be able to operate in only one such region. It is not likely that any organizations other than those mentioned above in the areas in which they now operate can be recognized under this interpretation.

II. IS A RECOGNIZED MARINE PILOT ORGANIZATION AN AGENCY OF THE STATE?

In many ways, yes. A marine pilot organization to be recognized must: promote a safe and reliable system of marine pilotage for the region, be

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open for membership to all persons licensed in the region, operate or participate in a training program for pilots and deputy pilots that is approved by the board, cooperate with the board in implementing the act, maintain a sufficient number of qualified pilots available for dispatch to serve the needs of vessels visiting the regions on the full time basis, and have uniform and nondiscriminatory bylaws, articles and rules. AS 08.62.175. The board has the power to audit a pilot or a pilot organization to enforce the act. A violation of the above requirements may lead to a civil fine not in excess of \$5,000.

In addition, all licensed pilots of the region must be a member of a recognized pilot organization by 1 January 1993.

III. WILL REGIONS AND THE CRITERIA FOR RECOGNIZED MARINE PILOT ORGANIZATIONS BE BETTER DEFINED?

Yes. The board is required to adopt minimum standards for recognition of marine pilot organizations by 1 January 1992. There is no deadline in the act for establishing the regions.

IV. WHAT IS THE BOARD LOOKING FOR IN AUDITING A PILOT OR PILOT ORGANIZATION?

The board is interested in seeing that dispatch assignments, pilot payments, office cost deductions, pilot benefits and expenses, which are handled by the pilot organization are applied in a uniform and nondiscriminatory fashion.

V. CAN ONLY RECOGNIZED PILOT ORGANIZATIONS TRAIN PILOTS AND DEPUTY PILOTS IN THE REGION?

Yes. A pilot organization must operate or participate in a board approved training programs for pilots and deputy pilots (AS 08.62.175(c)(5), a person supervising the training of a deputy pilot must hold a license issued under the act (AS 08.62.097(b)(1)), and a person licensed under the act must be a member of a pilot organization in the region (AS 08.62.080).

VI. WILL THE NEW TARIFF PROVISIONS OF THE ACT MEAN PRICE CUTTING?

The act requires the board to establish maximum tariffs, taking a number of factors into consideration. A pilot organization, acting on behalf of its members may adopt new or revised tariffs by notifying the board and publishing its intent, so long as the new tariff does not exceed the maximum tariff established by the board, AS 08.62.045. Since all licensed pilots must be members of pilot organizations as of 1 January 1993, no price cutting can take place after that date unless more than one pilot organization is recognized for the entire region.

VII. WHAT PROTECTION FROM LIABILITY DO PILOTS AND THEIR ORGANIZATIONS HAVE UNDER THE ACT?

The liability of a pilot for damages may not exceed \$250,000 per incident, except where the pilot is grossly negligent, guilty of wilful misconduct, or is disciplined by the board. You should be able to get affordable insurance up to \$250,000 with the above exclusions, but you will not avoid being sued. AS 08.62.165.

Marine pilot organizations are exempt from state and federal anti-trust laws in dispatching, training, establishing tariffs for its members, and providing other services for its members as described in its articles or bylaws as approved by the board.

SWAPA or its members are not liable for damages arising from the operation or participation in its training programs for pilots and deputy pilots, as required and approved by the board.

VIII. WHEN DOES THE ACT TAKE EFFECT?

1 January 1992 - minimum standards for marine pilot organizations must be established by the board. After this date, SWAPA after meeting these minimum standards can be recognized. Since the region and pilot organization concepts are so closely related, I assume that the board will try to establish both by this date.

Page 6 of 6

The maximum tariffs must be established by the board by this date.

1 July 1992 - SWAPA must have its articles and bylaws approved by the board by this date.

1 January 1993 - All licensed pilots must be a member of a recognized pilot organization by this date.

30 June 1994 - the tariff section of the act is automatically repealed.

All other provisions of the act take effect the day after the signing of the act by the governor, scheduled for 26 June 1991.

28 May 1991

To: All Pilots

From: Ed Murphy

Subject: New Alaska State Pilotage Act, House Bill 194

As most of you know by now, we will have a new state pilotage act when the Governor signs House Bill 194 into law. I'd like to report to you, from my perspective, on important elements of the new law and how it might affect SWAPA and each of us individually.

First, a brief synopsis of how the new law came into being: Last year then Governor Steve Cowper directed his staff to study Alaska's state piloting system and report back to him. The administration's Division of Management and Budget completed a nine month study of Alaska's pilotage system in the context of the pilotage systems of the other maritime states which resulted in the booklet Improving Alaska's State Pilotage System. During this same time period, the Southeastern Alaska Pilots began talking with politicians from Southeastern about sponsoring new pilot legislation based on recommendations in the Governor's study. Representative Cheri Davis of Ketchikan agreed to sponsor new pilot legislation based on input from the SEAPA and SWAPA. Dale Collins of SeaPilots and their attorney Chuck Cloudy, George Quick of the MM&P, our attorney Steve Yoshida and I drafted a "pilots bill". We made a conscious choice to go for everything we could --- to include franchising, districting, limited liability, and antitrust legislation. Privately, I thought we would have little chance to gain these objectives but agreed we should go for them. During the drafting process we tried to meet or teleconference with the association membership to gain their input and keep all members as fully informed as we possibly could. Both Collins and I worked on bill language with Joe Merrill, representing A.M.P. We felt this was a political necessity in order to present a united pilot front to the legislators. Finally, the drafters came up with a draft bill which was acceptable to most of the members of both associations. Our draft was then submitted to Rep. Davis and her staff for introduction.

The political process began. Our proposed bill was rewritten by legislative drafters (as all bills are) who changed it considerably. Rep. Davis then introduced the legislation as House Bill 194 and the House speaker assigned it to various committees. H.B. 194 was assigned to 4 house committees which raised a few eyebrows because this was seen as a sign of disfavor by the speaker; most bills being assigned to only 3 committees. We were successful in getting the bill through the first committee, House Transportation, on the first hearing. This seemed to wake up the opposition who had apparently thought it was dead on arrival. Holland America soon revealed itself as our chief opponent, followed by a new industry group who call themselves the Alaska Steamship Operators Assn. (ASSO).

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These industry forces were assisted by a new group of pilots in Southeastern who have landed a piloting contract with Holland America. Called the Alaska Coastwise Pilots, this group is led by Joe Homer and Terry Bennett

At the second committee, Labor and Commerce-- Holland America, ASSO, and ACP actively opposed the new legislation and began lobbying individual legislators heavily. They employed a lobbyist and adopted a tactic which seemed to work for them: they gave lip service to the need for a new pilot act and said they supported this bill but had just a few problems with it. Then at committee hearings they submitted long lists of changes. We saw this as clearly a tactic to delay and kill the bill, while at the same time saying they supported it. The biggest hurdle was probably the House Judiciary Committee. The word was out that the bill would die there and, indeed, that seemed the case. The committee chairman and his chief staffer were clearly opposed to us and it looked like we'd had it. Cheri Davis was able to apply political pressure through the house speaker who owed her political chips because she, a Republican, had joined the Democratic coalition in the house. House Judiciary finally passed out an extremely bare bones version of the legislation. House Finance, chaired by our friend Mike Navarra of Kenai, passed the bill out quickly and it went to floor vote where the House passed it 39-0. But we still had only gutted and unacceptable legislation.

The action then shifted to the Senate where Senator Drue Pearce had sponsored companion legislation, Senate Bill 218. The respective House and Senate versions of a new pilot act were melded in the Senate and we were able to put back in much of what we lost in House Judiciary. But the maneuvering wasn't over. We were attacked by Senate majority leader Rick Halford on tariffs. He wanted a "free market" and thought marine piloting should have no tariff at all or only a maximum tariff. Here, there was a clear choice: stick to our guns on tariff and lose the bill; or, concede to Halford on tariffs and get a bill plus regain most of our losses in the House. We chose the latter course.

Finally, we had our bill through most committees in acceptable form when the last bomb was dropped----the House minority tried to pull off a coup to gain leadership of the House. Cheri Davis wouldn't go along with this scheme and so her punishment was to lose any legislation she had sponsored. This was an unbelievable blow, delivered on the last day of the session and which had nothing to do with the merits of the legislation! How the matter was finally resolved is still something of a mystery. We think there was pressure applied from the Governor's office to lay off and, also, a deal made between the Speaker of the House and the President of the Senate to trade votes on priority legislation. At any rate, at the eleventh hour, the Senate voted for the bill 19-0 and the House, who had to concur with the Senate changes, approved it 37-2.

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Our political friends in Juneau who deserve great credit are the sponsors Rep. Cheryl Davis (and her chief staffer, Geoff Bullock) and Sen. Drue Pearce. Cheryl Davis was far more than a sponsor, she was a champion for this legislation. She fought hard and stuck with it in the face of incredible political heat. She deserves our gratitude. We also got help from Reps. Mike Navarre, Bill Hudson, Richard Foster, Betty Bruckman and Sam Cotton and Senator Virginia Collins. Opponents were Reps. Donley, Zawacki and Martin and Senators Halford and Ellason. Clem Tillon's advice and counsel was invaluable during the entire process. Our lobbyist, Wes Coyner, is the greatest in my opinion and we would have had no chance without him. He's been in Juneau 20 years and says this is the toughest, most down to the wire bill he has ever been a part of. Finally, Jeff Pierce, Mike O'hara and I put a lot of time and effort into this project.

IMPORTANT ELEMENTS OF NEW ALASKA PILOTAGE ACT

SECTION 1-POLICY , FINDINGS AND INTENT--This section mentions the independent contractor nature of state piloting and recognizes the essential function of pilot organizations (we were forced to drop the word "association").

SECTION 4-MEETINGS--Stipulates that the pilot board will meet at least 3 times per year from now on, as opposed to the 2 annual meetings previously.

SECTION 5-POWERS AND DUTIES--This section greatly increases the power of the pilot board in specific areas as well as generally. I believe this is real progress since the attorney general who now represents the board says he is comfortable with the language and can defend board action in court. This additional and more specific power of the board should eliminate individual lawsuits by disgruntled persons who believe the state owes them a license whatever their experience, training and place of dockings.

-directs the board to adopt regulations establishing pilotage regions in the state.

-directs the board to review and approve the articles, bylaws and training programs of pilot organizations. We should pay close attention to this new power of the board as we craft our new articles and bylaws. We should also adopt the attitude that all internal documents and memoranda may now be open to state audit.

-Includes new language requiring pilotage on "inland and coastal water of and adjacent to the state." Industry didn't like this language at all; probably because it would appear to give the state broad authority to require pilotage over a much greater area than before.

-directs the board to adopt standards "under which a pilot may receive a license or an endorsement.....in more than one pilotage region." We fought this one all the way because it would seem to permit and even encourage competition among pilot groups from out of area and force SWAPA pilots to obtain pilotage for Southeastern in order to compete; but at the expense of good currency in our already vast piloting area. However, it's not a total loss. Later in the legislation, you'll find that it must be proven to be in the "state's interest" in order to be licensed for more than one region. It seems to me that will be a difficult burden of proof. Regionalization was about the toughest battle we had----many legislators were opposed to it and, frankly, I'm surprised that it survived, even in this imperfect form.

SECTION 7-PILOTAGE TARIFFS-- This is where we lost badly. Industry fought hard for either no tariff at all or a maximum tariff. We thought we had them beat and it was a dead issue until Senator Halford launched off at us. Only a maximum tariff will be set by the board. What we were able to salvage was the establishment of certain criteria that must be considered when setting the maximum. Our list of 15 such items got whittled down to 5. Note that members of pilot organizations must charge the tariff set by their organization.

Note also that this section is repealed June 30, 1994, so we will have another shot at it in the next legislature. In my opinion, this change will have no immediate affect on us and, as a practical matter, little will change in the way of tariffs. This may also be the opportunity to raise the Cook Inlet tariff without a costly and time consuming tariff proceeding.

-A "Marine Pilot Coordinator" is authorized and will probably be hired. This will most likely be someone who will be a sort of executive secretary to the pilot board and will do most of its work in terms of running the new system, accident investigation and so forth. This could be a good thing if the right person is appointed. Anyone interested? Our license fees will go up to fund this new position and other increased costs of the board.

SECTION 8-LICENSE REQUIREMENT--Requires a pilot to belong to a pilot organization recognized by the board. This section exceeded our hopes and is more than we asked for.

SECTION 9--Is language that does not permit a pilot to pilot within more than one pilotage region, "unless the board determines that it is in the best interests of the state to license pilots for parts of more than one pilotage region." Again, this would appear to put the burden of proof on the applicant to establish the state's best interest.

SECTION 11-QUALIFICATIONS FOR DEPUTY MARINE PILOT LICENSE-- This is the most important section of the bill, in my opinion. It vastly increases the qualifications and entry standards of applicants. Note that applicants must have all federal pilotage for their region before applying, have to complete a training program before gaining a license, and are limited to 20,000 gross tons for 3 years. This section goes on to set standards for training programs; also requires prior board authorization for pilots to supervise training.

QUALIFICATIONS FOR A MARINE PILOT LICENSE--3 years of experience as a deputy marine pilot required before qualifying for a full license plus additional requirements the board may impose.

It appears to me that these increased license qualification and training standards will require that SWAPA do some long range planning of manpower needs in order to get deputy pilot trainees into the pipeline and trained with plenty of lead time. It will be 3 years after a person gets full federal endorsements and then a deputy license before he will be available to pilot all tonnages. We're going to have to plan about 4 years in advance for attrition, etc.

It would also appear to me that 4(b) of this section, (page 8), will take care of the concerns of those members who are concerned about losing license endorsements. This section seems to suggest that current license holders can renew with a license of the same type and subject to the same limitations.

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SECTION 13-- RENEWAL OF LICENSES-- Note part 3 which requires applicants for renewal to have piloted for 60 days of each calendar year of the licensing period in order to renew--or---completed familiarization trips required by the board.

SECTION 15-FEES--Says the board shall set fees for investigations, audits and training. Hard to tell what this will mean to us. Training fees could be good if we can charge these costs to shippers; investigation and audit fees don't sound like something that will be good for us.

SECTION 16--Notable in this section is a new provision requiring the board to impose disciplinary sanctions against a pilot who has his Coast Guard license "conditioned, suspended, or revoked"
Sanctions against a pilot will also be imposed if he charges a tariff different from that of the pilot organization of which he is a member.

SECTION 17 --DISCIPLINARY SANCTIONS--Allows the board to fine a pilot organization up to \$5000 if the organization violates a provision of the new act or regulations enacted under it. This, as well as other sections, suggest to me that we be careful in crafting our new articles, bylaws, and working rules so as to fully comply with the new requirements.

SECTION 18--DUTIES OF LICENSED PILOTS--Read this section carefully--note the phrase "direction and control." We worked hard for this language and industry strongly opposed it. Note this is similar language to the federal pilot statutes.

SECTION 20--PILOTS AS INDEPENDENT CONTRACTORS--Note carefully this new section. It is now illegal for a state pilot to be an employee of the owner or operator of a vessel subject to state pilotage. This is tremendously important both for us and state pilotage nationally as it clearly mandates the essential independence of state pilots from the shipowners interest and control. Unfortunately, the section on tariffs undermines this important new provision of the law. Still, we are clear winners on this section; the cruise industry was practically vehement in their opposition to it.

LIMITATION OF LIABILITY--We started out asking for a personal liability limit of \$5000. I personally doubted we could achieve any limitation of liability for pilots and felt that liability protection for the associations in their training functions was more important and the only thing we could get. As it turned out, we ended up with protection for the association spelled out in the law and personal limitation at \$250,000. That's a lot of money but it sure beats no limitation and should allow us to get good insurance. Note that the pilots limitation does not apply if his error, omission, or fault was cause for disciplinary action against him for: incompetence, chemical impairment, possession or use of drugs, violation of the pilot act or its regulations, guilty of misconduct, or had Coast Guard license suspended, etc.

SECTION 21-- REGIONAL MARINE PILOT ORGANIZATIONS--Very important new section which will require us to do several things in order to be recognized by the board. I believe we should have good legal advice every step of the way in this process.

Section C(4) appears to be a loser for us because it requires recognized pilot organizations to be open to membership by "all persons licensed under this chapter to pilot vessels in the pilotage region in which the organization is recognized." This is not good news but, as a practical matter, I feel it will have little effect on SWAPA in terms of being forced to take as members persons we feel are not properly qualified. With the new qualification and training standards the problem may well be too few applicants rather than too many.

Section 3(b) could have been meaningful but ACP managed to water down the requirement that recognized organizations dispatch pilots all year, 24 hours per day. Now it is essentially meaningless.

SECTION 22-- EXEMPTIONS--The winner here for us is the new requirement that Canadian flag vessels, in order to be exempt from pilotage, must be built in Canada and manned by Canadian citizens. This is good protection from the rumored move by cruise ship interests to register their vessels in Canada to escape Alaska state pilotage requirements.

SECTION 23--Very important new section which requires all oil tankers, whether enrolled or registered, of over 50,000 tons deadweight, to use a state pilot. The immediate effect of this new provision will be on the *Sansinena II*.

SECTION 24--PENALTIES--Penalties for violation have been increased substantially.

SECTION 29-ANTITRUST--The new law now includes marine pilot organizations in the statute of organizations which are exempt from antitrust claims. We need legal advice on the full implications of this but it would seem to be a tremendous boon in terms of preventing frivolous and expensive lawsuits by disgruntled persons.

SECTION 34--The board is allowed to assess all licensees one time to fund the new act.

SECTION 35--All tariff provisions of the new act are repealed on June 30, 1994. At that time, hopefully, we can regain a sane tariff law.

SECTION 36--Section 8, which requires licensees to be a member of a pilot organization, takes effect on January 1, 1993.

MEMORANDUM

State of Alaska
Department of Law

TO Board of Marine Pilots
Department of Commerce and
Economic Development


DATE September 24, 1991

FILE NO 663-91-0174

TEL NO 465-3600

SUBJECT October 1-2, 1991 meeting

FROM:


Gary I. Amendola
Assistant Attorney General
Commercial Section - Juneau

During the October 1-2, 1991 meeting of the Board of Marine Pilots (the Board), it is my understanding that the Board intends to consider regulations dealing with a variety of topics relating to marine pilotage. */ This memorandum deals with the two regulations projects on which the legislature placed an adoption deadline of January 1, 1992, i.e., recognition of pilot organizations and tariffs.

Recognition of pilot organizations

AS 08.62.040(a)(4)(C) requires the Board to adopt regulations establishing criteria for recognizing pilot organizations under AS 08.62.175. Sec. 5, ch. 89 SLA 1991. The regulations dealing with minimum standards of recognition must be adopted by January 1, 1992. Sec. 32, ch. 89 SLA 1991. Under AS 08.62.175, those minimum standards include recognizing a pilot organization only if it

- (1) promotes a safe and reliable pilotage system in its region;
- (2) provides dispatch services for its members;
- (3) adopts and revises tariffs in accordance with AS 08.62.045;
- (4) has its membership open to all pilots licensed in its region;
- (5) operates or participates in an approved training program;
- (6) otherwise cooperates with and assists the Board;

*/ I will be in Anchorage on October 1 for an administrative hearing. I plan to be back in Juneau on October 2. Thus, I can be available to participate by telephone if the Board so wishes.

(7) properly adopts and applies uniform and nondiscriminatory articles, bylaws and organizational rules for its members and applicants for membership;

(8) otherwise insures that its articles, bylaws, and organizational rules comply with applicable law;

(9) adopts and applies its articles, bylaws, and organizational rules in a manner such that they are effective in promoting (a) safe and reliable pilotage system ((1) above) and operation of or participation in a training program ((5) above); and

(10) adopts and applies its articles, bylaws, and organizational rules in a manner that will maintain the ability to dispatch and provide services commensurate with the size of its organization.

Tariffs

AS 08.62.045 requires the Board to adopt maximum tariffs for the provision of specific pilotage services. Sec. 7, ch. 89 SLA 1991. In the process of adopting maximum tariffs the Board must identify those items of expense to be included in the tariff and must otherwise take into consideration

(1) what is reasonable compensation based on actual time piloting and time spent preparing to provide services;

(2) whether addition compensation is justified under certain conditions, e.g., extreme weather or piloting in the winter;

(3) dispatch and transportation expenses and other direct costs of providing services;

(4) reasonable overhead expenses; and

(5) other identified expenses.

The legislature has clearly given the Board broad authority and a fair amount of discretion to (1) implement the Alaska Marine Pilotage Act (the Pilotage Act) and (2) maintain a safe and efficient marine pilotage system. However, in addition to its statutory authority under the Pilotage Act, the Board should keep in mind other laws guiding the process of adopting regulations. AS 44.62.020 requires that "each regulation adopted must be within the scope of authority" of the Pilotage Act. Each regulation must also be "consistent with the statute [in this case

Board of Marine Pilots
Department of Commerce
663-91-0174

September 24, 1991
Page 3

the Pilotage Act] and reasonable necessary to carry out the purpose[s]" of the Pilotage Act. AS 44.62.030. Finally, the Board "may not adopt a regulation or take other action resulting in anticompetitive activities." AS 08.62.040(d).

The Board should also be mindful of the fact that the process of adopting these regulations will take a fair amount of time to complete. The Alaska Administrative Procedure Act relating to the adoption process and the agency processes developed to implement it require that a number of steps be taken from initial consideration to final adoption, including initial drafting, a time for public review and comment, agency review and consideration of public comments, department of law review, and filing with the lieutenant governor. Thus, it will take a significant and coordinated effort to meet the deadlines established by the legislature. To the extent possible, we are prepared to assist the Board in any way to help it meet that deadline.

If you have any questions, please call me at any time.

GIA/jf

cc: B.J. Jordan
Legislative/Regulations Section
Department of Law

Kevin Henderson
Department of Commerce and Economic Development

Ms DELIVER TO SEPT 7 1991
Alaska Coastwise Pilots Association
PO Box 22594
Juneau, Alaska 99802
Telephone: (907) 586-2272
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Marine Pilotage
Dispatch Service

Ketchikan Office
(907) 225-7245
Fax (907) 247-4568



To:
ROD
"BOUDREAUX"
MORAN +

September 7, 1991

[Redacted]
The enclosed material merits your attention regarding the recently passed Marine Pilotage Act (SB 218/HB 194). *Can we get?*

Some of our concerns recently expressed to other members of the Legislature and the Governor about this Bill are renewed by my reading of these memos by Captain Ed Murphy (president of the Southwest Alaska Pilots' Association, or SWAPA), and counsel Yoshida of SWAPA.

1) Particularly noteworthy are the following: *???*

a) Captain Murphy's own account of how the political process completely circumvented the House Judiciary Committee's concerns regarding the Bill *god grief!*

b) The absence of any remarks concerning any higher safety standards which may have been achieved by the Bill, and instead complete emphasis on the tariff and regional definition (tariff) issues.

c) Counsel Yoshida's predictions of how the interpretation process (by SWAPA and SEAPA members of the Board of Marine Pilots) will seek to deny recognition to the Alaska Coastwise Pilots Association, or any other group(s) which might want to operate in "their" (SWAPA and SEAPA's) regions.

d) Counsel Yoshida's account of how the "maximum tariff" feature imposed by the Legislature will be circumvented, by virtue of only one pilot organization being allowed (by the BMP) to operate in a given region, and every member of that organization being required by the law to charge the same tariff. Captain Murphy's comment on Section 35 of the Bill (p7, his memo) reveals his hope that the above will only be a stopgap measure until June 30, 1994, when a "same tariff" (eg: fixed tariff) will be introduced.

e) Captain Murphy's comments about the Alaska Coastwise Pilots Association (ACP) on page 7, ¶ 2 are inaccurate and misleading. ACP has always sought and continues to seek access to pilotage work 24 hours a day, 365 days a year.

Board or Commission	Appointed	Term
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BOARD OF MARINE PILOTS

AS 08.62 - 7 members, 6 appointed by the Governor and 1 designated by the Commissioner of Commerce and Economic Development from his staff to serve a four year term; serves until new member is appointed.

Ann Boudreaux
 Department of Commerce
 and Economic Development
 P.O. Box D
 Juneau, AK 99811-0800
 (work) 465-2538

Captain Dale Collins
 P.O. Box 6100
 Ketchikan, AK 99901
 (work) 225-9696 or 225-9697

June 1, 1995

Fax 247-9696

Keith Greba (Public)
 504 Monastery Street
 Sitka, AK 99835
 (747-8309)

June 1, 1995

William Lorch (Agent)
 1600 A Street, Suite 220
 Anchorage, AK 99501
 (work) 272-0714

June 1, 1992

Fax 272-8795

Michael O'Hara (Pilot)
 P.O. Box 1443
 Palmer, AK 99645
 (work and home) 745-3518

June 1, 1993

Russell Sell (Public)
 1727 W. 11th Street
 Anchorage, AK 99501
 (work) 276-1492
 (home) 276-1492

June 1, 1992

Bob Watt, Agent
 6227 S. Tongass
 Ketchikan, AK 99901
 (home) 225-2795
 (work) 225-2675

June 1, 1994

Fax 225-7521

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To: Rod	From: JoAnne
Co.	Co. Occ Lic
Dept.	Phone # 465-3035
Fax # 561-4194	Fax # 465-2974

Revised 9-19-91

Davis Sections 6. No mention of licensing a pilot for only one region.

Section 9: Pilot must file application for exam 60 days before exam date.
Davis Sections 7 & 8. Pilot must apply for exam 15 working days before exam date.

Section 10: Qualifications.
(a) in Davis Section 10 (1 and 2)
(b) in Davis Section 10 (4b)
(1 - 5e) in Davis Section 10 1 - 5e)

NOTE: *Davis Bill sets up a Deputy Pilot which the requirements in Senator Pearce's Section 10 are. Furthermore, Davis' bill contains a whole new section on training.*

Section 11: Renewal.
(a) Davis Section 6, (b)
(1) Davis Section 11, (1)
(2) Davis Section 11, (2)
(3) Davis Section 11, (3)
(4b) Davis Section 11, (4a,b)

Section 12: Lapsed License.
Meets requirements in AS 08.01.10-120 and passes a written and oral exam if the license has lapsed one year or more.
Same Section, plus fam trips.

Section 13: Disciplinary Actions.
No significant differences.

Section 14: Allows board to take disciplinary sanctions.
No reference.

Section 15: Lists water adjacent to the state for pilotage. Ship in state waters must have a pilot during movement of the ship.
Davis Section 14, leaves language for pilotage as "inside costal waters of Alaska."

Section 16: Liability:
(a) \$5,000.00 per incident except if pilot is either grossly negligent or guilty of wilful misconduct.
Technically the same as in Davis' Section 14, except potential for a higher liability then \$5,000.00.

Section 17: Pilots may organize themselves into organizations as permitted under state and federal law.

Davis Section 17. Technically the same. However, Davis Bill has more guidelines as to the organizations goals, training, etc.

Section 18: Penalties for not employing a pilot.
Same as in Davis Section 20.

Section 19: Short title.
Same as in Davis Section 21.

Section 20: Technical add to statute.
Same as in Davis Section 22.

Section 21: Anti-trust.
Same as in Davis Section 23, except word "licensed."

Section 22: Transition.
Davis Section 24 spells out information more clearly.

Section 23: Effective Date immediately.
Davis Sections 25, 26, 27; breaks down effective date to specific sections.

ADDITIONAL SECTIONS IN DAVIS BILL:

Section 10: Qualifications for Deputy Marine Pilot License – Includes section "Training."

Section 16: Pilot's Lien for Compensation.

Section 18: Exemptions.

We'll use this as
a C.S. to the
Gen's house -
no need to
interfere with
I've accepted
them as a proposal
to take the one.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

March 8, 1991

SUBJECT: Draft bill relating to marine pilots (W.O. 7LS0923)

TO: Senator Drue Pearce

FROM: George Utermohle *GU*
Legislative Counsel

Enclosed is the draft bill relating to the Board of Marine Pilots that was requested for the Senate Labor and Commerce Committee.

The enclosed bill closely follows the draft material supplied with the bill request, except in three regards. First, the draft material repealed the existing provision for licensing of marine pilots and replaced it with a provision setting out the qualifications for a deputy marine pilot license. However, the draft material did not provide for continued licensing of marine pilots. The enclosed draft bill overcomes this problem by eliminating the mention of deputy marine pilots and by making the qualifications apply to licenses for marine pilots.

Second, the supplied material apparently intended to amend the definition section of AS 08.62 by adding a definition of "chemically impaired". However the definition of the term was not included in the material. The enclosed draft bill does not attempt to define "chemically impaired".

Third, the requirement that a pilot complete two familiarization trips for each year that the pilot's license has been lapsed in order to obtain reinstatement of the license has been deleted from Sec. 12 (Sec. 08.62.130) of the bill because the requirement duplicates a similar requirement for renewal of a license. Under the requirements for renewal of a license in Sec. 11 (Sec. 08.62.120) of the bill, a pilot, who has not piloted vessels on at least 60 days during the preceding two years, must complete the number of familiarization trips set by the board before the pilot's license may be renewed. By requiring a pilot to satisfy the requirements for renewal of a license in order to reinstate a lapsed license, the board will be able to set the number of

Senator Drue Pearce

March 8, 1991

Page 2

familiarization trips that must be completed before the license will be reinstated, without adding a new requirement for more familiarization trips under Sec. 12.

If I may be of further assistance, please advise.

GU:pl

91-136.plm

Enclosure

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Board of Marine Pilots, marine pilots, and marine pilot
2 organizations; extending the termination date of the Board of Marine Pilots; and providing
3 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 in certain 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 in certain 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 tariffs and the authority to establish criteria for the training
14 and licensing of marine pilots;

1 (3) marine pilots operating independently of the shipping industry have provided and will
2 continue to provide essential services to the people of the state;

3 (4) marine pilots further the public interest by providing safe pilotage in the water of the
4 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 in the water of the state.

8 (c) It is the intent of the legislature that the Board of Marine Pilots work with

9 (1) marine pilots to ensure that safe pilotage is maintained in the state;

10 (2) pilot organizations in a cooperative effort to enhance the policy of protecting lives
11 and property and the marine environment in the water of the state.

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

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

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

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

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

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

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

23 Sec. 08.62.040. POWERS [AND DUTIES]. (a) The board may [SHALL]

24 (1) provide for the maintenance of efficient and competent: pilotage [PILOT]
25 service on all water [WATERS] covered by this chapter to assure the protection of shipping,
26 [AND] the safety of human life and property, and the protection of the marine environment;

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

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

- 1 (4) adopt regulations establishing
2 (A) pilotage regions in the state;
3 (B) the criteria by which pilotage tariffs are established;
4 (C) the criteria related to a training and investigation fee to be
5 remitted to the board; and
6 (D) pilotage tariffs for each pilotage region [UNDER THE
7 ADMINISTRATIVE PROCEDURE ACT (AS 44.62) ESTABLISHING STANDARDS
8 BY WHICH PILOTAGE FEES MAY BE ESTABLISHED, AND PAY FOR AUDITS
9 WHENEVER AN AUDIT IS NECESSARY TO COLLECT INFORMATION NEEDED
10 TO APPLY THE STANDARDS IN THE REGULATIONS];
11 (5) make available, upon request, copies of this chapter and the regulations
12 adopted under this chapter;
13 (6) review and approve the bylaws and the operating rules of pilot
14 organizations;
15 (7) audit a pilot organization or an individual pilot as considered necessary
16 by the board; and
17 (8) review and approve training programs conducted by pilot organizations
18 [IT].

19 (b) The board may, by regulation, make any other provision for proper and safe pilotage
20 upon the water [WATERS] covered by this chapter and for the efficient administration of this
21 chapter, including establishing

22 (1) different licensing criteria in pilotage regions if justified by regional
23 differences in piloting;

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

26 (3) criteria for trainee selection and for training programs conducted by pilot
27 organizations.

28 * Sec. 6. AS 08.62.040 is amended by adding a new subsection to read:

29 (c) For good cause, the board may require a pilot licensed under this chapter to submit
30 to a physical or mental examination to determine the pilot's fitness to perform the duties of a
31 pilot.

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

2 **Sec. 08.62.050. MARINE PILOT COORDINATOR.** The department, with the approval
3 of the board, is authorized to hire a marine pilot coordinator who is qualified to administer and
4 enforce the provisions of this chapter. The coordinator may not be an active member of a pilot
5 organization in the state and may not work as a pilot while employed as the coordinator, except
6 to the extent required by official duties. The coordinator is in the partially exempt service under
7 AS 39.25.120.

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

9 (b) A pilot may not be licensed in more than one pilotage region at one time.

10 (c) The board shall establish dates for license examinations and shall provide public
11 notice of the dates for license examinations.

12 * **Sec. 9.** AS 08.62.090 is amended by adding a new subsection to read:

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

15 * **Sec. 10.** AS 08.62.100 is repealed and reenacted to read:

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

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

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

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

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

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

1 or motor vessels of any gross tons; or

2 (5) three years of experience as a member of an organized professional pilots
3 association during which the candidate was actively engaged in piloting while holding a
4 minimum license as a master of freight or towing vessels of not more than 1,600 gross tons.

5 (c) An applicant for a license under this section shall possess an endorsement of first
6 class pilotage on the applicant's United States Coast Guard license with no tonnage restrictions
7 for the pilotage region for which the applicant seeks to be licensed.

8 (d) The board may impose other entry level qualifications for a license for a particular
9 pilotage region.

10 (e) In this section, "years of service" is determined in a manner consistent with the
11 regulatory standards of the United States Coast Guard relating to years of service.

12 * **Sec. 11.** AS 08.62.120 is repealed and reenacted to read:

13 Sec. 08.62.120. RENEWAL. (a) Licenses issued under this chapter expire on
14 December 31 of each even-numbered year. In addition to complying with the requirements of
15 AS 08.01.100, in order to renew a license a pilot shall

16 (1) submit a renewal application on a form provided by the board;

17 (2) meet the minimum qualifications set out in AS 08.62.100 and the regulations
18 adopted by the board under AS 08.62.100;

19 (3) on a form approved by the board, provide evidence of a satisfactory physical
20 examination by a licensed physician within 60 days before the date of renewal; and

21 (4) comply with (b) of this section.

22 (b) A licensed pilot who has not piloted in the region for which the pilot is licensed for
23 at least 60 days during the two years before applying for renewal may not have the license
24 renewed until the pilot completes the number of familiarization trips required by the board in the
25 pilotage region for which the license will be renewed.

26 * **Sec. 12.** AS 08.62.130 is repealed and reenacted to read:

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

30 * **Sec. 13.** AS 08.62.150(a) is amended to read:

31 (a) The board may impose a disciplinary sanction on a person licensed under this chapter

- 1 when the board finds that the person
- 2 (1) is incompetent in the performance of pilotage duties;
- 3 (2) is chemically impaired [HABITUALLY INTOXICATED];
- 4 (3) illegally uses or sells narcotic or hallucinogenic drugs;
- 5 (4) makes a false statement to obtain a license;
- 6 (5) violates a provision of this chapter or a regulation adopted under it;
- 7 (6) is guilty of misconduct during the course of employment; [OR]
- 8 (7) has had the person's United States Coast Guard pilot license conditioned,
- 9 suspended, or revoked; or
- 10 (8) charges, collects, or receives an amount for pilotage services that is
- 11 different from the pilotage tariff established by the board [SUFFERED REVOCATION OF
- 12 FEDERAL LICENSURE AS A PILOT].

13 * Sec. 14. AS 08.62.155 is repealed and reenacted to read:

14 Sec. 08.62.155. DISCIPLINARY SANCTIONS. The board may take disciplinary action
15 under AS 08.01.075.

16 * Sec. 15. AS 08.62.160 is amended to read:

17 Sec. 08.62.160. MANDATORY EMPLOYMENT OF LICENSED PILOTS. A vessel
18 subject to this chapter navigating certain water of or adjacent to the state [THE INSIDE
19 COASTAL WATERS OF ALASKA] as determined by the board in regulation shall employ a
20 pilot holding a valid license under this chapter. A vessel in the mandatory pilotage water of
21 the state shall be under the direction and control of a pilot licensed under this chapter
22 during movement of the vessel, unless the pilot is removed by the master for cause.

23 * Sec. 16. AS 08.62 is amended by adding a new section to read:

24 Sec. 08.62.165. LIMITATION OF LIABILITY. (a) A pilot licensed under this chapter
25 is not liable for damages in excess of \$5,000 per incident for damages or loss occurring as a
26 result of the error, omission, fault, or neglect of the pilot in performing pilotage services, except
27 that the limitation does not apply in a case where the pilot is either grossly negligent or guilty
28 of wilful misconduct.

29 (b) Nothing in this section exempts a vessel, a vessel's cargo, or the owner or operator
30 of a vessel or cargo from liability for damage or loss caused by the vessel, the vessel's cargo,
31 or the owner or operator of the vessel or cargo to the vessel, the vessel's cargo, another person,

1 or other property on the ground that

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

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

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

11 * Sec. 17. AS 08.62 is amended by adding a new section to read:

12 Sec. 08.62.175. PILOT ORGANIZATIONS. Marine pilots may organize themselves into
13 organizations, to the extent that the organizations are permitted under state and federal law.

14 * Sec. 18. AS 08.62.190 is amended to read:

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

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

24 * Sec. 19. AS 08.62 is amended by adding a new section to read:

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

27 * Sec. 20. AS 39.25.120(c) is amended by adding a new paragraph to read:

28 (21) marine pilot coordinator of the Board of Marine Pilots.

29 * Sec. 21. AS 45.50.572(a) is amended to read:

30 (a) AS 45.50.562 - 45.50.596 do not forbid the existence or operation of labor,
31 agricultural, [OR] horticultural, or marine pilot organizations created for the purpose of mutual

1 help, and not conducted for profit, or forbid or restrain members of those organizations from
2 lawfully carrying out the legitimate objectives of them; nor are these organizations or members
3 illegal combinations or conspiracies in restraint of trade under the provisions of AS 45.50.562 -
4 45.50.596.

5 * **Sec. 22. TRANSITION; MARINE PILOT LICENSE.** (a) A marine pilot license issued under
6 AS 08.62.100 before the effective date of this Act shall be valid for the period for which the license was
7 issued and may be renewed until December 31, 1994, without examination upon payment of the marine
8 pilot license fee.

9 (b) A person may not hold a marine pilot license after December 31, 1994, without satisfying
10 the requirements of AS 08.62.100, as amended by sec. 10 of this Act.

11 (c) Notwithstanding AS 08.62.080(b), added by sec. 8 of this Act, a marine pilot license issued
12 under AS 08.62.100 before the effective date of this Act, and for subsequent renewals of the license,
13 entitles the licensee to pilot vessels in any marine pilotage region in the state until December 31, 1994.

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

18 * **Sec. 23.** This Act takes effect immediately under AS 01.10.070(c).

HOUSE BILL NO. 194

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES C.DAVIS, G.Phillips, Hudson, Koponen, B.Davis, Taylor, Choquette

Introduced: 3/6/91

Referred: Transportation, Labor & Commerce, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Board of Marine Pilots, marine pilots, and marine pilot
2 organizations; and providing for an effective date."

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

4 * Section 1. FINDINGS. The legislature finds that

5 (1) the first and paramount duty of marine pilots licensed by the state is to provide for
6 the public safety and the protection of the marine environment;

7 (2) marine pilots operating independently of the shipping industry have provided and will
8 continue to provide essential service to the state;

9 (3) licensing and regulation of marine pilots have protected and will continue to protect
10 the public from the consequences of marine accidents;

11 (4) the compulsory use of licensed marine pilots to pilot certain vessels in certain waters
12 of and adjacent to the state is necessary in order to prevent the loss of life and property and to protect
13 the marine environment;

14 (5) marine pilots must be highly trained and regulated to assure that only qualified

1 persons are responsible for navigating vessels in and adjacent to water of the state;

2 (6) the Board of Marine Pilots must have broad authority to regulate marine pilots,
3 including authority to establish marine pilotage regions, tariffs, and training and licensing criteria for
4 marine pilots;

5 (7) marine pilot organizations have provided, and will continue to provide, important
6 service to the public and to protect lives and property and the marine environment;

7 (8) marine pilot organizations should share in the responsibility for maintaining safe and
8 reliable marine pilotage systems established by the Board of Marine Pilots.

9 * Sec. 2. AS 08.62.020 is amended to read:

10 Sec. 08.62.020. APPOINTMENT AND TERM OF OFFICE. The governor shall appoint
11 the pilot, [AND] agent or manager, and public members of the board, subject to confirmation
12 by a majority of the members of the legislature in joint session, for terms of four years [,] or
13 until their successors are appointed. A person, with the exception of the commissioner or the
14 commissioner's designee, may not be appointed to the board for more than two consecutive
15 terms.

16 * Sec. 3. AS 08.62.030 is amended to read:

17 Sec. 08.62.030. MEETINGS. The board shall hold ^{up to 4} at least four [A] regular meetings
18 each year [ANNUAL MEETING]. The board may hold special meetings at the call of the chair
19 or at the request of a majority of the members of the board [CHAIRMAN WITH PRIOR
20 APPROVAL OF THE GOVERNOR].

21 * Sec. 4. AS 08.62.040 is repealed and reenacted to read:

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

23 (1) provide for

24 (A) the examination of applicants for marine pilot and deputy marine pilot
25 licenses; and

26 (B) issuance and renewal of marine pilot and deputy marine pilot licenses
27 for each pilotage region;

28 (2) place qualifications or limitations on marine pilot and deputy marine pilot
29 licenses based on the characteristics of a marine pilotage region in which the licensee will operate
30 and the experience and training of the licensee;

31 (3) recognize regional marine pilot organizations to promote, administer, and

1 manage an efficient, reliable, and safe pilotage system within each marine pilotage region;

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

4 (5) establish pilotage tariffs for each marine pilotage region, and charges for
5 training and other purposes;

6 (6) establish a mandatory random drug and alcohol testing program for persons
7 licensed under this chapter;

8 (7) establish standards for training of marine pilots and deputy marine pilots and
9 review training programs conducted by regional marine pilot organizations and approve the
10 training program if the board finds that the program is consistent with standards established by
11 the board;

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

14 (9) review the articles, bylaws, and operating rules of regional marine pilot
15 organizations recognized by the board and approve the articles, bylaws, and rules, if the board
16 finds that they are consistent with this chapter, regulations adopted under this chapter, and other
17 applicable law;

18 (10) audit regional marine pilot organizations recognized by the board for
19 compliance with applicable law; and

20 (11) impose disciplinary sanctions under AS 08.01.075 on persons licensed under
21 this chapter;

22 (12) establish by regulation marine pilotage regions.

23 (b) The board may, by regulation, make other provisions for proper and safe pilotage
24 upon the waters covered by this chapter and for the efficient administration of this chapter.

25 (c) The board may, for good cause, require a person licensed under this chapter or an
26 applicant for a license issued under this chapter to submit to a physical or mental examination
27 to determine the person's fitness to perform the duties of a marine pilot.

28 * Sec. 5. AS 08.62 is amended by adding a new section to article 1 to read:

29 Sec. 08.62.050. MARINE PILOT COORDINATOR. The department may, after
30 consultation with the board, employ a marine pilot coordinator approved by the board to
31 administer and enforce this chapter. The coordinator may not be an active member of a regional

1 marine pilot organization in the state and may not serve as a marine pilot except as necessary to
2 perform the duties of marine pilot coordinator.

3 * Sec. 6. AS 08.62.080 is repealed and reenacted to read:

4 Sec. 08.62.080. LICENSE REQUIREMENT. (a) A person may not pilot a vessel
5 subject to this chapter unless the person is licensed under this chapter to pilot a vessel of that
6 type or size within that marine pilotage region.

7 (b) Notwithstanding AS 08.01.100(a), marine pilot and deputy marine pilot licenses
8 expire on December 31 of each even-numbered year.

9 * Sec. 7. AS 08.62.090(a) is amended to read:

10 (a) A person who desires to be licensed under this chapter shall apply in writing to the
11 department. A person must apply to take an examination at least 60 days before the
12 scheduled date of an examination; in order to take the examination on that date.

13 * Sec. 8. AS 08.62.090 is amended by adding a new subsection to read:

14 (c) The board shall establish and publish dates for future examinations.

15 * Sec. 9. AS 08.62.100 is repealed and reenacted to read:

16 Sec. 08.62.100. QUALIFICATIONS FOR A MARINE PILOT LICENSE. The board
17 shall issue a marine pilot license for a marine pilotage region to a person who

- 18 (1) is a citizen of the United States;
19 (2) passes written and oral examinations that may be required by the board;
20 (3) successfully completes a training program that has been approved by the
21 board.

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

23 Sec. 08.62.113. QUALIFICATIONS FOR DEPUTY MARINE PILOT LICENSE. (a)

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

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

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

- 31 (1) one year of sea service as a master on ocean or coastwise vessels while holding

1 a license as master of ocean steam or motor vessels of any gross tons;

2 (2) two years of sea service as a master on vessels or tug and tow of not less than
3 1,600 combined gross tons while holding a license as master of vessels of not less than 1,600
4 gross tons;

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

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

11 (5) three years of experience as a member of a professional pilot's organization,
12 during which the person actively engaged in piloting while holding at least a license as a master
13 of freight or towing vessel of not more than 1,600 gross tons.

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

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

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

23 Sec. 08.62.117. TRAINING PROGRAMS. (a) The board shall establish standards for
24 training programs for a marine pilot license. The standards may include requirements for

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

26 (2) supervised dockings, undockings, and tug assisted maneuvers;

27 (3) special training or experience necessary to qualify for a marine pilot license
28 for a particular marine pilotage region;

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

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

31 (b) The board shall establish standards for training programs for a deputy marine pilot

1 license, as the board may consider appropriate.

2 (c) A person who supervises the training of persons who are seeking a license under this
3 chapter shall

4 (1) hold a marine pilot license issued under AS 08.62.100;

5 (2) receive prior authorization from the board to supervise the training of those
6 persons;

7 (3) maintain a written log and evaluation on a form provided by the board of the
8 training and progress of the person being supervised.

9 * Sec. 11. AS 08.62.120 is repealed and reenacted to read:

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

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

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

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

18 (4) submit proof satisfactory to the board that the person

19 (A) has engaged in piloting vessels subject to this chapter during at least
20 60 days in the licensing period immediately preceding the licensing period for which
21 renewal is sought; or

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

25 (b) The board shall establish criteria for the renewal of deputy marine pilot licenses.

26 * Sec. 12. AS 08.62.130 is repealed and reenacted to read:

27 Sec. 08.62.130. LAPSED LICENSES. (a) The board shall reinstate a lapsed marine
28 pilot license if the former licensee satisfies the requirements of AS 08.62.100 and completes two
29 familiarization trips under the supervision of a licensed marine pilot approved by the board for
30 each year that the license has been lapsed to each major port and waterway, defined by the board,
31 in the pilotage region for which the license is to be reissued and, if the license has been lapsed

1 for a year or more, passes an examination administered by the board.

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

4 * Sec. 13. AS 08.62.150(a) is amended to read:

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

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

8 (2) is [HABITUALLY] intoxicated during the performance of pilotage duties
9 due to alcohol;

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

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

12 (5) violates a provision of this chapter or a regulation adopted under this chapter
13 [IT];

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

15 (7) charges, collects, or receives an amount for marine pilot services that is
16 different from the tariff established by the board; or

17 (8) has suffered revocation of federal licensure as a pilot.

18 * Sec. 14. AS 08.62.160 is amended to read:

19 Sec. 08.62.160. MANDATORY EMPLOYMENT OF LICENSED PILOTS. A vessel
20 subject to this chapter navigating the INSIDE COASTAL WATERS OF AK
water of or adjacent to, to the extent permitted by
21 federal law, the state [INSIDE COASTAL WATERS OF ALASKA] as determined by
22 regulation shall employ a marine pilot holding a valid license under this chapter.

23 * Sec. 15. AS 08.62 is amended by adding a new section to read:

24 Sec. 08.62.165. LIABILITY. (a) A person who is licensed under this chapter is not
25 liable in excess of ^{\$500,000.00} \$5,000 for damage or loss occurring as a consequence of the person's error,
26 fault, omission, or neglect in performing services for which a license is required under this
27 chapter. The limitation of liability under this subsection does not apply if the person's error,
28 fault, omission, or neglect is wilful. will add gross negligence

29 (b) This section does not limit the liability of a vessel, its cargo, the owner of the vessel,
30 or the operator of the vessel for damage or loss caused by the vessel because the vessel was
31 piloted by a person licensed under this chapter or the damage or loss was a consequence of the

1 error, fault, omission, or neglect of a person licensed under this chapter while the person was
2 piloting the vessel.

3 (c) A regional organization of marine pilots recognized by the board under this chapter
4 is not liable for damage or loss arising from the error, fault, omission, or neglect of the
5 organization or a member of the organization who is licensed under this chapter that is, directly
6 or indirectly, related to the pilotage of a vessel.

7 (d) A person licensed under this chapter is not liable, directly or indirectly or as a
8 member of a regional organization of marine pilots recognized by the board under this chapter,
9 for loss or damage arising from the error, fault, omission, or neglect of another marine pilot or
10 the regional organization of marine pilots relating to pilotage of a vessel.

11 (e) This section does not limit the liability of the owner or operator of a pilot boat for
12 loss or damage arising from the ownership or operation of a pilot boat or the transportation of
13 marine pilots to and from vessels.

14 * Sec. 16. AS 08.62.170 is repealed and reenacted to read:

15 Sec. 08.62.170. PILOT'S LIEN FOR COMPENSATION. Each vessel, the owner of the
16 vessel, and the master of the vessel are jointly and severally liable for the compensation of a
17 person licensed under this chapter who is employed as a marine pilot on the vessel. A person
18 licensed under this chapter has a lien on the vessel and the vessel's tackle, apparel, and furniture
19 for compensation for marine pilot services.

20 * Sec. 17. AS 08.62 is amended by adding a new section to read:

21 Sec. 08.62.175. REGIONAL ORGANIZATIONS OF MARINE PILOTS. (a) To the
22 extent permitted under federal and state law, persons licensed under this chapter may form an
23 organization of marine pilots for each marine pilotage region.

24 ~~DELETED~~ (b) The board may recognize one organization of marine pilots within each marine
25 pilotage region.

26 (c) An organization of marine pilots recognized by the board shall promote a safe and
27 reliable system of marine pilotage for the region in which the organization is established,
28 including dispatching and training of marine pilots and deputy marine pilots and other functions
29 that the organization may assume. The articles, bylaws, and rules of each organization of marine
30 pilots recognized by the board are subject to approval by the board on the basis of

31 (1) uniform and nondiscriminatory application of the articles, bylaws, and rules

1 to marine pilots and deputy marine pilots licensed under this chapter;

2 (2) compliance with applicable laws; and

3 (3) effectiveness in

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

6 (B) maintaining a sufficient number of qualified pilots to serve the needs
7 of vessels visiting the region;

8 (C) maintaining a training program for marine pilots and deputy marine
9 pilots that is approved by the board.

10 * Sec. 18. AS 08.62.180 is amended to read:

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

12 (1) coastwise vessels exempt from state pilot laws by federal law [VESSELS
13 UNDER ENROLLMENT, EXCEPT AS PROVIDED IN AS 08.62.185];

14 (2) fishing vessels registered in the United States or in British Columbia, Canada;

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

17 (4) vessels of United States registry of less than 300 gross tons and tow boats of
18 United States registry and vessels owned by the State of Alaska, engaged exclusively

19 (A) on the rivers of Alaska, or

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

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

26 (6) pleasure craft.

27 * Sec. 19. AS 08.62.187 is amended to read:

28 Sec. 08.62.187. REGISTRATION OF AGENTS REQUIRED. A person may not act as
29 an agent of a vessel subject to this chapter unless the person's name appears on the register of
30 agents kept by the board under AS 08.62.040(a) [AS 08.62.040(a)(3)].

31 * Sec. 20. AS 08.62.190 is amended to read:

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

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

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

11 Sec. 08.62.201. SHORT TITLE. This chapter may be cited as the Alaska Marine Pilotage
12 Act.

13 * Sec. 22. AS 39.25.120(c) is amended by adding a new paragraph to read:

14 (21) marine pilot coordinator of the Board of Marine Pilots.

15 * Sec. 23. AS 45.50.572(a) is amended to read:

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

22 * Sec. 24. TRANSITION; MARINE PILOT LICENSE. (a) Marine pilot licenses issued under
23 AS 08.62.100 before the effective date of sec. 9 of this Act shall be valid for the period for which the
24 licenses were issued and may be renewed until December 31, 1994, without examination upon payment
25 of the marine pilot license fee.

26 (b) A person who has applied for or made a substantial effort toward qualifying for, as
27 determined by the Board of Marine Pilots, a marine pilot license under AS 08.62.100 before the effective
28 date of sec. 9 of this Act, may receive a marine pilot license under the requirements for licensure as they
29 existed before the effective date of sec. 9 of this Act and may renew the license until December 31,
30 1994, without examination upon payment of the marine pilot license fee.

31 (c) A person may not hold a marine pilot license after December 31, 1994, without satisfying

1 the requirements of AS 08.62.100, as amended by sec. 9 of this Act.

2 (d) Notwithstanding AS 08.62.080(a), as amended by sec. 6 of this Act, a marine pilot license
3 issued under AS 08.62.100 before the effective date of sec. 9 of this Act or under (b) of this section, and
4 for subsequent renewals of the license, entitles the licensee to pilot vessels in any marine pilotage region
5 in the state until December 31, 1994.

6 * Sec. 25. AS 08.62.155 is repealed.

7 * Sec. 26. Sections 1 - 5, 13 - 23, and 25 of this Act take effect July 1, 1991.

8 * Sec. 27. Sections 6 - 12 and 24 of this Act take effect January 1, 1992.

**SECTIONAL ANALYSIS
WITH COMMENTS FROM
VARIOUS ORGANIZATIONS**

Section 1, page 1: No problem except with Alaska Maritime, which argues semantics.

Section 2, page 2 Line 9 AS 08.62.010. CREATION AND MEMBERSHIP OF BOARD.

Will replace the commissioner of Commerce, or his designate, with the pilot coordinator.

Should now be "ok" with all parties.

Section 3, page 2, Line 18 AS 08.62.020. APPOINTMENT AND TERM OF OFFICE.

No changes.

Ok with all parties.

Section 4, page 2, Line 25 AS 08.62.030. MEETINGS.

Increases number of regular meetings from one to four.

Merrill: "The number of Board meetings is not as important as the quality of the meetings. Alternatives as to the way the Board operates should be studied as an alternative to merely increasing the number of meetings.

No problem with all other parties.

Section 5, page 2, Line 30 AS 08.62.040. POWERS AND DUTIES.

Left basically as is with one big exception. The regions were taken out of statute and left up to the board to determine. The other area of concern to others was (5) establish pilotage tariffs for each marine pilotage region, and charges for training and other purposes. However, by giving the board broader powers and the addition of the pilot coordinator, there is going to have to be some sort of income, besides the raising of pilot license fees, to cover their costs.

Merrill: Doesn't agree with training tariff.

Ak. Maritime: Doesn't totally agree with training tariff.

Holland America: Doesn't disagree totally.

Section 6, page 4, Line 14 AS 08.62.050 MARINE PILOT COORDINATOR.

Will be hired by the Department, after approval by the board.

No problems.

Section 7, page 4, Line 20 AS 08.62.080 LICENSE REQUIREMENT.

Does not allow for a pilot to be licensed in more than one region. 

Merrill: Not until regions are defined adequately and the issues of the monopolistic organizations and other barriers to entry are resolved.

N. Star Maritime: As long as their ability, expertise and currency as required by regulation can be demonstrated, pilots should be able to be licensed in more than one region.

Ak.. Maritime: Individuals that are qualified under the State training and trip-frequency guidelines should be forced to abandon one cartel for another.

Section 8 and 9, page 4 Lines 27 and 31 AS 08.62.090 and .090(a), NEW SECTION.

Apply for an exam 60 days before the actual exam.

No problem.

Section 10, page 5, Line 2 AS 08.62.100 QUALIFICATIONS FOR DEPUTY MARINE PILOT LICENSE.

Gives requirements for Deputy Marine Pilot (typo in title, excluded DEPUTY).

No problems, except for clarifications because of typos in Bill Draft.

Section 11, page 5, Line 30 AS 08.62.115 QUALIFICATIONS FOR MARINE PILOT LICENSE.

Lines 6 through 23 will be deleted and left up to the Board to specify. A new section, "TRAINING," will be added to direct the board to set training standards.

No problems.

Section 12, page 6, Line 24, AS 08.62.120 RENEWAL OF LICENSES.

Sets up guidelines for renewal of pilot licenses.

No problem.

Section 13, page 7, Line 10 AS 08.62.130 LAPSED LICENSES.


Establishes guidelines for activating a lapsed license.
No problems.

Section 14, page 7, Line 18 AS 08.62.150(a) Disciplinary sanctions.

Gives reasons for the board to take disciplinary actions against a pilot.
No problems.

Section 15, page 7, Line 31 AS 08.62.160 MANDATORY EMPLOYMENT OF LICENSED PILOTS.

Mandatory pilotage in the water of or adjacent to, to the extent permitted by federal law. It used to say INSIDE COASTAL WATERS OF ALASKA.

Holland America: This would expand mandatory pilotage in the State. 

AK Maritime: Needs more info.

N. Star Maritime: Leave as in current statute.

Section 16, page 8, Line 5 AS 08.62.165 LIABILITY.

Addresses pilot liability, et all.

Holland America: Way too limited.

Section 17, page 8, Line 27 AS 08.62.170 PILOT'S LIEN FOR COMPENSATION.

Vessel owners and masters are jointly and severally liable for the compensation of a pilot.

Alaska Maritime: Objects because it makes the agent liable for pilot compensation....but it doesn't.

Section 18, page 9, Line 2 AS 08.62.175 REGIONAL ORGANIZATIONS OF MARINE PILOTS.

Franchising.

Merrill: No.

Ak.. Maritime: No

Holland America: No

N. Star Maritime: No

ISS (Elwood): No 

Section 19, page 9, Line 23 AS 08.62.180 EXEMPTIONS.

Self Explanatory.

Section 20, page 10, Line 8 AS 08.62.187 REGISTRATION OF AGENTS REQUIRED

Self Explanatory.

Section 21, page 10, Line 12 AS 08.62.190 PENALTY

Penalty for not employing a licensed pilot.

Alaska Maritime: Language change.

Section 22, page 10, Line 22 AS 08.62.201 SHORT TITLE.

Section 23, page 10, Line 25 AS 39.25.120(c)

Adds Marine Pilot Coordinator to a new section.

Section 24, page 10, Line 27 AS 45.50.572(a) DEALS WITH ANTI-TRUST.

Section 25, page 11, Line 3 TRANSITION; APPOINTMENTS TO THE BOARD OF MARINE PILOTS.

Section 26, page 11, Line 13 TRANSITION; MARINE PILOT LICENSE.

Section 27, page 11, Line 27 Repealing some statutes (book keeping)

Section 28, page 11, Line 28 Effective dates.*

Section 29, page 11, Line 29 Effective dates.*

* Effective dates are delayed to allow for the pilots to choose which region they wish to be licensed in.

FAX COVER SHEET

REGIONAL CITIZENS' ADVISORY COUNCIL
601 WEST FIFTH AVENUE SUITE 500
ANCHORAGE, AK 99501
(907) 277-7222 FAX (907) 277-4523

DELIVER TO: Alaska Board of Marine Pilots

FROM: Regional Citizens' Advisory Council

REGARDING: Alaska Marine Pilotage Study

DESCRIPTION

Letter from Council and two letters from committee members

DATE: 12/10/90 TIME: 2:25PM # OF PAGES: 8

THESE ITEMS ARE BEING SENT:

FOR YOUR IMMEDIATE ACTION, KEEP US ADVISED OF ACTION.

FOR YOU TO PROCESS.

FOR YOUR REVIEW AND APPROVAL

FOR YOUR GENERAL INFORMATION

FOR YOUR APPROVAL AND CORRECTION.

FOR YOUR SIGNATURE.

REMARKS:

DEC-10-90 MON 14:36

RCAC

FAX NO. 9072774523

P. 02

Regional Citizens' Advisory Council
601 West Fifth Avenue, Suite 500
Anchorage, AK 99501
277-7222 (FAX) 277-4523

December 10, 1990

Alaska Board of Marine Pilots
c/o Department of Commerce and Economic Development
P.O. Box D
Juneau, AK 99811-0200

Dear Sir:

The Regional Citizens' Advisory Council has reviewed the Alaska Marine Pilotage Study (Review Draft) dated October, 1990, which was prepared by the Division of Policy in the Office of the Governor. Pilotage issues have a direct impact on our efforts to insure the safety of marine transportation in Prince William Sound, and are of great concern to us.

It is apparent that there are serious flaws in the existing pilotage statutes which need to be corrected. Due to the short timeframe for the submission of comments on this study, there was insufficient time to do an indepth analysis of the issues raised therein. Some general concerns were noted in our brief review, however, and the following comments are submitted for your consideration:

We feel that Prince William Sound tank vessel traffic should be considered separately in the Pilotage Study.

We suggest that the Governor's Office consider the possibility that the pilots in Prince William Sound will become the employees of a local port authority if such an organization is established in the future.

Also included are comments submitted by members of our Port Operations and Vessel Traffic Systems Committee. We have encouraged our members to submit their views to you as concerned private citizens, and the comments from Mr. Bill Conley and from Mr. Matt Kinney are included for that purpose.

RCU BY: XEROX TELECOPIER 7010 ; 12-10-90 3:36PM ;
DEC-10-90 MON 14:37 RCAC

9072774523-
FAX NO. 9072774523

9074633641;H 3
P. 03

We appreciate the opportunity to comment on the Pilotage Study and would like to receive further information on the proposed revisions to the pilotage statute as they are developed.

Sincerely,

Christopher H. Gates
CHRISTOPHER H. GATES *SS*
Vice President for
Port Operations & Vessel Traffic Systems

CC: RCAC Members
PO/VTS Members
Alyeska Pipeline Service Company
USCG MSO Valdez

DEC-10-90 MON 14:37

RCAC

FAX NO. 9072774523

P. 04

5 December 1990

NOTES FROM BILL CONLEY
DRAFT LEGISLATION MARINE PILOT ACT

Specific Sections

Sec. 08.62.020

Does not define length of term. Is the term for the full four years, or different from the Governor's term?

Sec. 08.62.040

Item 4 adopts regulations establishing pilot regions in the state and establishes criteria by which pilotage tariffs are set. It provides for different tariffs within a region but does not establish how to establish these differences. What would be the basis for different tariffs? Tonnage? Distances? Weather? Deep pockets? I believe some guide lines should be established to insure uniformity in each region.

Sec. 08.62.045

Marine Pilot Coordinator. I would like to see this section include that the Coordinator should hold a Masters license and would be responsible to perform periodic "check rides." I do not think this should be a "bureaucrat" as the interaction with the pilots can best be performed by another mariner.

Sec. 08.62.080

This section should include provisions for levels of proficiency. The section only addresses entrance level pilots. There should be some criteria for advancement and for pilots to progress from entrance level for smaller vessels to advanced level for larger vessels.

Sec. 08.62.100

Entry level qualifications should include Alaska residency.

DEC-10-90 MON 14:38 RCAC

FAX NO. 9072774523

P. 05

Sec. 08.62.150

This section should include the penalty for a pilot who does not submit to or fails his/her physical exam.

Sec. 08.62.180

Item 3 should delete reference to steam as archaic.

General Comments

This shows a very definite improvement, but still leaves some gaps in its pilotage rules before Alaska raises its standards to the rest of the world marine industry.

I do believe this should address pilotage areas. Alaska needs probably four areas and a minimum of three. I think for the sheer magnitude of our Alaska coastline we need to define four distinct areas: Southeast, Southcentral, Western, and Northern. The Western area to include all of the Aleutian Chain and the northern area to extend into the Chukchi and the Beaufort Seas. Even these areas are vast, but I am not sure the volume of traffic would support smaller areas.

DATE 12/5/90

TO: ALL MEMBERS, PO & VTC SUBCOMMITTEE
FROM: MATT KIRKNEY, PO & VTC SUBCOMMITTEE MEMBER
SUBJECT: PILOTAGE

SINCE OUR LAST MEETING IVE SPENT CONSIDERABLE TIME REVIEWING THE FOLLOWING DOCUMENTS CONCERNING ALASKA PILOTAGE:

1. ALASKA MARINE PILOTAGE STUDY (MADSEN & PIERCE)
2. REPORT ON EXXON VALDEZ (NTSB 3/90)
MARINE ACCIDENT REPORT
3. DRAFT LEGISLATION AMENDING THE MARINE PILOTS ACT (AS, 08.62) 10/8/90 STATE OF ALASKA, DEPARTMENT OF LAW.

IVE SUPPLEMENTED THIS READING WITH CONVERSATION WITH VARIOUS INDIVIDUAL INCLUDING A VALDEZ PILOT, A LOCAL SHIP AGENT, AND A FLEET MANAGER OF ONE OF TAPS OWNERS.

FROM THESE VARIOUS SOURCE IVE COME TO THE FOLLOWING CONCLUSIONS OR POSSIBLE FUTURE RECOMMENDATIONS.

1. RCAC, ESPECIALLY OUR SUBCOMMITTEE SHOULD DIRECT THEIR ATTENTION ON THOSE VESSEL ENGAGED IN CARRYING ANSCO OR COOK INLET CRUDE. BASICALLY ANY VLCC OR TANK VESSELS GREATER THAN 20,000 DWT.

I DO NOT FEEL THAT WE SHOULD FOR INSTANCE MAKE RECOMMENDATIONS THAT EFFECT OTHER SHIPPING SUCH AS COMMON FREIGHT, PASSENGER OR COMMERCIAL FISHING.

DEC-10-90 MON 14:39

RCAC

FAX NO. 9072774523

P. 07

DEC-05-1990 23:33 FROM MATT-WALDEZ

TO

P. 34

2. THE NTSB MADE ONE RECOMMENDATION TO THE USCA CONCERNING PILOTAGE:

"SEEK LEGISLATION TO REQUIRE ALL PILOTS OF COMMERCIAL VESSELS ON THE NAVIGABLE WATERS OF THE U.S. TO HAVE A FEDERAL PILOT'S LICENSE WHICH WOULD BE LEGALLY SUPERIOR TO ALL STATE-ISSUED DOCUMENTS, LICENSES OR COMMISSIONS THAT A STATE MAY CONTINUE TO EMPLOY. TO ACCREDIT THAT IT DESIRES TO PILOT VESSELS ENGAGED IN FOREIGN TRADE (NTSB/EV 3/90 pg 177)

I SUPPORT THIS CONCEPT.

3. THE "REPORT" TO THE GOVERNOR, THOUGH INFORMATIVE WOULD MAKE SHAMBLES OF A PWS PILOTAGE SYSTEM THAT IS THE BEST AROUND. UNFORTUNATELY S.E. AND S.W. AREAS ARE EXPERIENCING A MULTITUDE OF INTERNAL BICKERING. SWAPA WAS EXONERATED BY THE NTSB, AND CONTINUES TO OPERATE FIRST RATE OPERATION FROM ALL I SPOKE WITH.

4. I DO FAVOR A REVIEW OF QUALIFICATION AND MORE TRAINING REQUIREMENTS. SOME POSSIBILITIES ARE:

1. PILOTS MUST BE USCG LICENSED FOR MASTER, UNLIMITED TONNAGE ALL WATERS.
2. YEARLY PHYSICALS
3. PILOTS BE ALASKA RESIDENT
4. DRUG AND ALCOHOL SCREENING PRIOR TO DEPARTURE.

THE STATE BOARD OF PILOTS RECENTLY CONVENED TO DISCUSS QUALIFICATION OF PWS TAPS PILOTS. THE RECOMMENDATIONS WERE GOOD, BUT I'VE NOT SEEN THE RESULTS OF THE MEETING.

DEC-10-90 MON 14:40
DEL 403-1550

FAX NO. 9072774523

P. 08
P. 05FROM RCAC
MATT - JALDEZ

5. PILOTS AS STATE EMPLOYEES IS AN OLD
IDEA. BUT IF WE LOOK AT PWS TAPS PILOTS
THESE RECORDS IS GOOD. SHOWS WE ALSO
REQUIRE AIRLINE PILOTS (TALK ABOUT PREVIOUS
CARGO TO BE STATE EMPLOYEES? PRIVATE
INTERESTS IS WORKING FINE, CERTAINLY
THE STATE AND FEDERAL AGENCIES CHARGED
WITH PILOT OVERSIGHT ARE KEEPING AN
EYE ON THE SITUATION. (IE JOBLEYS USES)

I WOULD RATHER WE AGGRESSIVELY PERSUE AGGRESSIVE
MANDATORY OVERSIGHT BY FEDERAL AND
STATE AGENCIES

6. WE'VE TOUCHED BRIEFLY ON A PORT AUTHORITY
FOR VALDEZ. VALDEZ HAS TO HANDLE TRAFFIC
TO ~~AS~~ WARRANT SUCH AN ACTION.
ALASKA AND THE USCA COMBAT AND HAVE
TECHNICAL "AUTHORITY" OVER TANKERS. THAT
LEAVES VALDEZ WITH A HANDFUL OF CRUISE
SHIPS AND AN OCCASIONAL FREIGHT BARGE.
EASILY HANDLED BY THE PORT DIRECTOR AND HARBOURMASTER.
IF IN THE FUTURE, THE ADDITION OF A
MAJOR PETROCHEMICAL FACILITY SUCH AS TAPS
COMES ON LINE, THEN A PORT AUTHORITY MIGHT
BE NECESSARY

ONE LAST WORD ON PILOTS. I THINK IT IS
IMPORTANT TO HAVE PILOTS ~~WHO DO~~
NOTHING BUT SPECIALIZE IN TANKERS IN OUR
OF ALASKAN WATERS. THE EXISTING FLEET OF
TAPS TANKERS IS STABLE AND MOST PILOTS
HAVE DONE ~~THE~~ ALL THE FLEET TANKERS NUMBERS
TIMES. THIS CONSISTENCY BREEDS EXPERIENCED
TANKER PILOTS.

Sincerely
MATT KINNEY



Holland America Line
Westours Inc.

March 6, 1991

VIA TELECOPIER - 907 463 5352

Mr. Rod R. Mourant
Office of Senator Drue Pearce
P.O. Box V
Juneau, Alaska 99811

Re: Pilotage Legislation

Dear Mr. Mourant:

Tony Thein has suggested that I provide you with the latest draft of pilotage legislation which we have put together. As Tony has probably already mentioned to you, the only reason we have prepared draft legislation is to provide an alternative to the legislation now being advanced by various pilotage groups in Alaska. For reasons explained more fully below, we believe that the legislation being promoted by these pilots will have unwarranted adverse impacts upon the shipping industry in Alaska.

We have no problem whatsoever supporting the idea that pilots should have adequate training for their jobs. In fact, we believe this is essential and have long felt that the requirements of Alaska law were inadequate in this regard. Consequently, we fully support legislation that will increase the quality of pilots operating in Alaska.

Where we take issue with certain pilots is their apparent desire to use the shield of government in order to gain what is essentially monopoly power. The efforts to achieve a monopoly are in three separate areas:

1. Pilot Independence: The pilots that have been advancing the legislation which we oppose are seeking to prohibit shipping companies from employing pilots directly. They claim that an employee cannot have the necessary independence. We find it very hard to understand why pilots are different from any other profession in this regard. For example, there is no requirement that businesses use only independent doctors, engineers, architects or any other licensed professional. Utilizing the rationale of the pilots, one could argue that businesses should never be allowed to employ anyone who is required to exercise independent judgment. The absurdity of that proposition is obvious. The fact of the matter is that businesses routinely employ people who need and are expected to exercise independent judgment and who, in fact, do so.

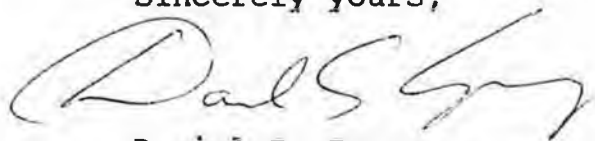
Mr. Rod R. Mourant
March 6, 1991
Page 2
VIA TELECOPIER

2. Established Rates: For reasons which we cannot explain, the pilots somehow seem to feel that they are unable to negotiate rates directly with the shipping companies. Instead, they need to have the State negotiate on their behalf. We fail to understand why pilots are such a special group of people that the market place and the laws of supply and demand cannot be allowed to operate in the normal course. The State of Alaska regulates many professions. The primary reason for regulation is to protect the general public from unqualified professionals. In this case, it seems that the pilots are seeking to protect themselves from the general public.
3. Pilot Organizations: Although the legislation being pushed by the pilots purports to be a safety bill, one of the real purposes underlying it is an attempt to legitimize and immunize marine pilot organizations. The legislation that we are opposing essentially allows these marine pilot organizations to act as a quasi-governmental entity. Effectively, it will require shippers to deal exclusively with these organizations.

Having controlled prices and created a monopoly, the pilots proposing the legislation also seek to limit their liability as well as the liability of the marine pilot organizations. We find it very hard to understand why, on the one hand, safety is a primary concern while, on the other hand, the concern is one that only the shipping companies are being required to pay for.

This cover letter obviously only summarizes some of the major issues. There are many other differences between the legislation being advanced by the pilots and the draft that we have prepared. I would be more than willing to discuss this further with you at your convenience. My direct telephone is (206) 286-3490.

Sincerely yours,



Daniel S. Grausz
Vice President and
General Counsel

DSG/scl
Enclosure

cc: Arie van Noort (by fax)
Tony Thein
Bob Berto (by fax)

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

"For an Act entitled: "An Act relating to Marine Pilots and providing for an effective date."

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

* Section 1. AS 08.32.010(c)(12) is amended to read:

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

* Sec. 2. AS 08.62 is amended by adding a new section to read:

Sec. 08.62.005. INTENT. The legislature declares that it is the policy of the State of Alaska to prevent the loss of lives and property, and to protect the marine environment of the state by requiring compulsory pilotage in certain waters in, around, and adjacent to the State of Alaska. The legislature finds that in order to assure the protection of lives and property and the marine environment of the state, licensed

marine pilots having extensive local knowledge are required to pilot certain vessels in certain waters in, around, and adjacent to the State of Alaska. The legislature also finds that to carry out this policy, it is necessary to give the Board of Marine Pilots broad statutory authority, including the authority to establish criteria for the training and licensing of marine pilots.

* Sec. 3. AS 08.62.030 is amended to read:

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

* Sec. 4. AS 08.62.040 is repealed and reenacted to read:

Sec. 08.62.040. POWERS AND DUTIES. (a) The board shall have the authority to

(1) provide for

(A) the examination of applicants for marine pilot and deputy marine pilot licenses; and

(B) the issuance and renewal of marine pilot and deputy marine pilot licenses for each pilotage region;

(2) consistent with the law, adopt regulations, subject to the Administrative Procedure Act (AS 44.62), placing qualifications or limitations on marine pilot and deputy marine pilot licenses based on the characteristics of a marine pilotage region in which the licensee will operate and experience and the

training of the licensee;

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

(4) adopt regulations subject to the Administrative Procedure Act (AS 44.62) establishing training, investigation and licensing fees to be remitted to the board;

(5) adopt regulations, subject to the Administrative Procedure Act (AS 44.62), establishing marine pilotage regions;

(6) establish a mandatory random drug and alcohol testing program for persons licensed under this chapter;

(7) establish standards for training of marine pilots and deputy marine pilots and review training programs;

(8) impose disciplinary sanctions under AS 08.01.075 on persons licensed under this chapter; and

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

(b) The board may, by regulation adopted under the Administrative Procedure Act (AS 44.62), make any other provision for proper and safe pilotage upon the waters covered by this chapter and for the efficient administration of this chapter.

(c) For good cause, the board may require a person licensed under this chapter or an applicant for a license issued under this chapter to submit to a physical or mental examination to determine the person's fitness to perform the duties of a marine pilot or deputy marine pilot.

* Sec. 5. AS 08.62 is amended by adding a new section to read:

Sec. 08.62.045. MARINE PILOT COORDINATOR. The department, with the approval of the board, is authorized to hire a marine pilot coordinator who is qualified to make recommendations to the board so as to assist the board in the administration and enforcement of the provisions of this chapter. The coordinator may not work as a pilot while employed as the coordinator, except to the extent required by official duties. While employed as the coordinator, the coordinator may not, directly or indirectly, receive, become entitled to or share pilotage fees earned by others working as pilots.

* Sec. 6. AS 08.62.090 is repealed and reenacted to read:

AS 08.62.090. LICENSING PROCEDURES. (a) An application for an original, renewal or reinstated license under this chapter must be made in writing to the board on a form prescribed by the board, must include all information specified by the board of the form and must be accompanied by the licensing fee.

(b) The board shall establish dates for license examinations and shall provide public notice of such dates. The board shall require license examinations for applicants for original licenses and for applicants seeking to reinstate a license that has been lapsed for in excess of one year. The board may require license examinations for applicants for renewal licenses. License examinations may be written and/or oral. In order to be eligible to take the next scheduled examination, a person must file the license application with the board at least 60 days before the date of the examination.

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

Sec. 08.62.100. QUALIFICATIONS. (a) The board shall issue an original pilot's license to a person for one or more pilotage regions if he or she

(1) is a citizen of the United States;

(2) passes the examination given by the board;

(3) qualifies in accordance with the regulations adopted by the board including those regulations that are specific to the pilotage region or regions for which the applicant seeks to be licensed;

(4) successfully completes a training program that has been approved by the board; and

(5) on a form approved by the board, provides evidence of a satisfactory physical examination by a licensed medical doctor conducted within 60 days before the date of application; and

(6) possesses an endorsement of first class pilotage on the person's United States Coast Guard license without tonnage restrictions for the pilotage region for which the person seeks the license.

(b) The board shall issue an original deputy marine pilot license to a person for one or more pilotage regions if he or she

(1) is a citizen of the United States;

(2) passes the examination given by the board;

(3) qualifies in accordance with the regulations adopted by the board including those regulations that are

specific to the pilotage region or regions for which the applicant seeks to be licensed;

(4) successfully completes a training program that has been approved by the board;

(5) on a form approved by the board, provides evidence of a satisfactory physical examination by a licensed medical doctor conducted within 60 days before the date of application;

(6) possesses an endorsement of first class pilotage on the person's United States Coast Guard license without tonnage restrictions for the pilotage region for which the person seeks the license; and

(7) provides proof satisfactory to the board of the following experience

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

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

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

(D) two years of sea service as a commanding officer of United States government vessels of not less than

1,600 gross tons and holding a license as the master of ocean steam or motor vessels of any gross tons; or

(E) three years of experience during which the candidate was actively engaged in piloting while holding a minimum license as a master of freight or towing vessel of not more than 1,600 gross tons.

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

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

* Sec. 8. AS 08.62 is amended by adding a new section to read:

Sec. 08.62.117. TRAINING PROGRAMS. (a) The board shall establish standards for training programs for marine pilot and deputy marine pilot licenses. The standards shall include requirements for

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

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

(3) special training or experience necessary to qualify for a license for a particular pilotage region;

(4) completion of the training program within a specified period; and

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

(b) A person who supervises the training of persons who are seeking a license under this chapter shall

(1) hold a marine pilot license issued under AS 08.62.100(a);

(2) receive prior authorization from the board to supervise the training of those persons; and

(3) maintain a written log and evaluation on a form provided by the board of the training and progress of the person being supervised.

* Sec. 9. AS 08.62.120 is repealed and reenacted to read:

Sec. 08.62.120. RENEWAL. (a) All licenses expire on December 31 of each even-numbered year. Applications for renewal must be filed with the board during the 90-day period prior to license expiration. Licenses that are not renewed will be deemed to have lapsed. In order to renew a license, an applicant for renewal must

(1) as of the time of application for renewal, satisfy the requirements of AS 08.62.100 to the same extent as would be the case were the applicant applying for an original license rather than a renewal license;

(2) satisfy such other requirements as are provided in regulations promulgated by the board for the renewal of pilot licenses or deputy pilot licenses, as applicable; and

(3) submit proof satisfactory to the board that the applicant

(A) has engaged in piloting vessels subject to

this chapter in each pilotage region for which renewal is sought during at least 60 days within the two year period immediately preceding the date of application for renewal; or

(B) completed, during the time period specified by the board in its regulations, the minimum number of familiarization trips required by the board's regulations in each pilotage region for which the license is to be renewed.

* Sec. 10. AS 08.62.130 is repealed and reenacted to read:

Sec. 08.62.130. LAPSED LICENSE. In order to reinstate a lapsed license, an applicant for reinstatement must

(1) as of the time of application for reinstatement, satisfy the requirements of AS 08.62.100 to the same extent as would be the case were the applicant applying for an original license rather than a reinstated license;

(2) satisfy such other requirements as are provided in regulations promulgated by the board for the reinstatement of lapsed pilot or deputy pilot licenses, as applicable;

(3) submit proof satisfactory to the board that the applicant has completed two trips for each year that the license has been lapsed to each major port and waterway, defined by the board, in the pilotage region for which the license is to be reinstated; and

(4) take and pass the board's examination for reinstatement of licenses if the license has been lapsed one year or more.

* Sec. 11. AS 08.62.150(a) is amended to read:

Sec. 08.62.150. ENFORCEMENT AUTHORITY [DENIAL, REVOCATION OR SUSPENSION]. (a) The board may impose a disciplinary sanction on a person licensed under this chapter when the board finds that the person

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

(2) is intoxicated during the performance of pilotage duties due to alcohol [HABITUALLY INTOXICATED];

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

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

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

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

(7) has had his or her Coast Guard pilot's license conditioned, suspended, or revoked [SUFFERED REVOCATION OF FEDERAL LICENSURE AS A PILOT].

* Sec. 12. AS 08.62 is amended by adding a new section to read:

Sec. 08.62.165. ALLOCATION OF LIABILITY. (a) A person licensed under this chapter is not liable for damages or loss occurring as a result of the person's error, omission, fault or neglect in the actual performance of pilotage services on board a vessel, except that

(1) such limitation does not apply in cases where the person is either grossly negligent or guilty of willful

misconduct;

(2) such limitation does not apply to limit the liability of the person to the owner or operator of the vessel on which the pilotage services were performed in cases where the person is either negligent or guilty of willful misconduct; and

(3) such limitation shall not limit the authority of the board under this chapter to impose appropriate disciplinary sanctions on the person as a result of such error, omission, fault or neglect.

(b) This section does not limit the liability of a vessel, its cargo, the owner of the vessel or the operator of the vessel for damage or loss caused by the vessel because the vessel was piloted by a person licensed under this chapter or the damage or loss was a consequence of the error, fault, omission or neglect of a person licensed under this chapter while the person was piloting the vessel.

(c) A person licensed under this chapter is not liable for loss or damage arising from the error, fault, omission or neglect in the actual performance of pilotage services on board a vessel of another person licensed under this chapter.

* Sec. 13. AS 08.62.190 is amended to read:

Sec. 08.61.190. PENALTIES. (a) A master or owner of a vessel required by this chapter to employ a licensed pilot who fails to do so when a licensed pilot is available, unless the perils or hazards of the sea prevent the employment of a pilot, is guilty of a misdemeanor and, upon conviction is punishable by a fine of not less than \$5,000 [\$1,000] nor more than \$15,000

[\$5,000] for the first offense and not less than \$10,000 nor more than \$30,000 for subsequent offenses.

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

* Sec. 14. AS 08.62 is amended by adding a new section to read:

AS 08.62.210. SHORT TITLE. This Act may be cited as the Alaska Marine Pilotage Act.

* Sec. 15. AS 39.25.120(c)(9) is amended by adding a new paragraph to read:

(M) Board of Marine Pilots:

* Sec. 16. AS 39.25.120(c) is amended by adding a new paragraph to read:

(21) marine pilot coordinator of the Board of Marine Pilots.

* Sec. 17. TRANSITION. (a) Pilot licenses issued under AS 08.62.100 as in effect before the effective date of this Act shall be valid for the period for which the licenses were issued but in no event beyond December 31, 1994. If any such license would expire prior to December 31, 1994, it shall be renewed by the board for the period from the date of expiration until December 31, 1994 if the applicant pays the required renewal fee and would otherwise qualify for renewal under the requirements of AS 08.62 as in effect prior to the effective date of this Act including the regulations promulgated thereunder.

(b) Pilot licenses issued or renewed pursuant to (a) of this section entitle the licensee to pilot vessels in any pilotage region in the state during the period to which the license relates.

(c) No person may be issued a pilot license for any period subsequent to December 31, 1994 who has not met the requirements of AS 08.62.090 and AS 08.62.100 as set forth in sections 6 and 7 of this Act.

* Sec. 18. EFFECTIVE DATE. This Act takes effect January 1, 1992.

91-B/PILOTZ.LEG

3/6/91

Red

SOUTHWEST ALASKA PILOTS ASSOCIATION

PETITION FOR MAXIMUM TARIFFS

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MAXIMUM TARIFF PETITION

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BEFORE THE ALASKA BOARD OF MARINE PILOTS

IN THE MATTER OF THE SOUTHWEST)
ALASKA PILOTS ASSOCIATION'S)
PETITION TO THE ALASKA BOARD OF)
MARINE PILOTS TO ESTABLISH)
MAXIMUM PILOTAGE TARIFFS IN THE)
SOUTHWEST ALASKA REGION)

**MAXIMUM PILOTAGE TARIFF
PETITION FOR SOUTHWEST ALASKA**

**I.
INTRODUCTION**

The Southwest Alaska Pilots Association ("SWAPA") on behalf of its member pilots, petitions the Alaska Board of Marine Pilots to establish pilotage maximum tariff rates for the Southwest Alaska region intended to produce just and reasonable rates.

Captain Robert Hendricks, as president of SWAPA an incorporated association, and on behalf of SWAPA members respectfully represents that:

1. SWAPA is presently composed of twenty-two (22) members duly licensed by the Alaska Board of Marine Pilots. Eighteen (18) of these pilots hold a state very large crude carrier (VLCC) endorsement, the only such endorsements in the state. SWAPA member pilots provide pilotage 24 hours a day, 365 days a year throughout the ports of the Southwest Alaska region, identified in Section III. Each pilot takes his turn throughout the year, under all conditions of wind

and sea, snow and ice, daylight and darkness, aboard vessels of all types, sizes and nationalities.

2. SWAPA pilots are duly licensed pilots regularly engaged in the profession of pilotage as defined by 12 AAC 56.040 and 12 AAC 56.030 of the Alaska Administrative Code.

3. The current rates of pilotage and other charges observed in the business of pilotage for Southwestern Alaska were established by order of the Alaska Board of Marine Pilots effective April of 1979 and are set forth in Exhibit "A", attached hereto and made a part of this petition. AS 08.72.045 establishes the basis upon which the maximum tariff rates of pilotage are prescribed by the Alaska Board of Marine Pilots.

4. Petitioners respectfully submit that the rates of pilotage as prescribed by this Board effective April of 1979, should now be revised in order to establish a reasonable maximum charge for the services rendered as explained below.

II. METHODOLOGY FOR ESTABLISHING MAXIMUM TARIFFS

SWAPA petitions the Board to establish reasonable maximum tariffs by maintaining the present tariff schedule in Exhibit "A" with the following exceptions¹:

a. Increase the base rates for Cook Inlet (250%) non-described ports (150%), and Dutch Harbor (150%) based on

¹Changes to the old tariff are shown graphically in Section II

the comparisons with other United States West Coast ports pilotage tariffs and the rising cost of operating expenses.

b. Make the following changes to the charges additional to port tariff:

i. Delete maximum charge of \$600.00 per day, in paragraph 3. The rate shall stay the same at \$50.00 or a portion thereof, with no day limitation.

ii. Eliminate paragraph 5.

iii. Renumber previous paragraph 6 to paragraph 5.

iv. Renumber previous paragraph 7 to paragraph 6. Change rate to \$500.00 and add to the charge in (new) paragraph 6 an additional surcharge in paragraph 1 for each movement.

iv. Renumber previous paragraphs 8, 9 and 10 to 7, 8 and 9 respectively. Change rate to \$500 per movement in (new) paragraphs 7 and 9. In paragraph 9, delete the last sentence and delete reference to tonnage and location for docking and undocking.

v. Renumber previous paragraph 11 to paragraph 10. Change rate of (new) paragraph 10 to \$50.00 per hour or a portion thereof.

vi. Renumber previous paragraphs 12 and 13 to 11 and 12 respectively. Change rate in (new) paragraphs 11 and 12 for bridge watch time to \$100 per hour. The

remainder of the paragraph is deleted in each paragraph (11 and 12).

vii. Previous Paragraph 14 is deleted.

viii. Renumber previous paragraph 15 to paragraph 13. Change rate in (new) paragraph 13 to 75%.

ix. Renumber previous paragraphs 16 and 17 to paragraphs 14 and 15 respectively. Delete 36 hours from notice time in (new) paragraph 15.

x. Renumber previous paragraph 18 to paragraph 16. Delete last portion of the first sentence of the new paragraph 16.

xi. Renumber previous paragraph number 19 to paragraph 17.

xii. Add new paragraph 18 - surcharge for pilot training.

xii. Add new paragraph 19 - winter surcharge.

Justification for these increases and charges are explained in part IV.

III.

PROPOSED PILOTAGE

MAXIMUM BASE TARIFF AND ADDITIONAL CHARGES

A. PROPOSED PILOTAGE MAXIMUM BASE TARIFF

	<u>Requested Max. Rate</u>
Homer Pilot Station to Port of Anchorage.....	\$2,481.50
Homer Pilot Station to Nikiski.....	1,858.50

Homer Pilot Station to Drift River.....	1,858.50
Homer Pilot Station to N. Foreland/Point Possession/Tyonek.....	2,187.50
Anchorage to Drift River (North of Kalgin Island).....	1,858.50
Anchorage to Drift River (South of Kalgin Island).....	2,481.50
Anchorage to Nikiski.....	1,634.50
Nikiski to Drift River (North of Kalgin Island).....	1,473.50
Nikiski to Drift River (South of Kalgin Island).....	1,858.50
Homer Pilot Station to Kasitsna Bay.....	1,498.00
Homer Pilot Station to Homer..	1,459.50
Homer Pilot Station to Port Chatham.....	2,625.00
Other Alaska Ports:	
Following rates are one way only:	
Valdez.....	1,271.00
Cordova.....	1,302.50
Whittier.....	1,302.50
Ocean Entrances of Prince William Sound to Designated State Pilots Stations for Valdez, Whittier and Cordova.....	1,875.00
Ocean Entrances of Prince William Sound to Knowles Head Anchorage.....	1,250.00

Knowles Head Anchorage to Valdez or Whittier Pilot Station.....	1,250.00
Seward.....	1,302.50
Kodiak - (City Harbor).....	1,302.50
(Women's Bay).....	1,302.50
Cold Bay.....	1,692.50
King Cove.....	1,500.00
Dutch Harbor, Unalaska, Illuliuk Harbor and Captain's Bay.....	1,562.50
Adak.....	1,692.50
Discoverer Bay and Kazakov Bay.....	1,875.00
Yakutat and Icy Bay.....	1,500.00
Cominco Mine - Red Dog . . .	1,270.00
Charges for unlisted ports and passages not otherwise listed in this tariff negotiated for time and risk. Maximum charge will be.....	1,042.50

The rates are one way only.

B. PROPOSED CHARGES ADDITIONAL TO PORT TARIFF

1. A tonnage surcharge of \$.02 (2 cents) per gross ton is made for all tonnage in excess of 14,000 gross tons. In all the preceding cases any gross tonnage in excess of 50,000 gross tons will be charged for at \$.01 (1 cent) per gross ton.
2. All rates remain the same whether piloting is to or from sea, or, to or from a pilot boarding or debarking point.

— Shall be stricken from Charges Additional to Port Tariff.

█ Shall be added to Charges Additional to Port Tariff.

3. Standby/travel fee: When standing by to pilot, or traveling to or from distant pilot ports and not actually piloting, such time shall be charged for at a rate of \$50.00 per hour or a portion thereof up to a maximum of \$600.00 per day.
4. Transportation and Subsistence:
- A. Vessels, owners, agents and charterers shall pay pilotage fees; pilots' travel expenses such as plane and ferry fares, per diem] allowances, cab fares, telegrams, telephone calls, and all other expenses pertaining to ship's business.
 - B. Per diem rates for pilots shall correspond to those published by the Internal Revenue Service of the U.S. Treasury Department. These rates shall be adjusted on April 1 of each year. Total rates shall be distributed 60% to hotel, 20% to dinner, 10% to lunch and 10% to breakfast, rounded to the nearest dollar, but in no instance will distribution exceed the total daily allowances.
 - C. When adequate meals and rooms are not furnished to the pilot when on ship, a charge will be made in accordance with the above rates. Accommodations for the pilot must be at least comparable to the accommodations of the vessel's officer personnel.
- ~~5. Travel, standby, and work days begin and end at midnight. Each category occurring at any point within a midnight to midnight time period will be charged for according to the category involved.~~
65. If one pilot exceeds eight (8) hours continuous running time without a six (6) hour rest period or presence of a relief pilot (i.e., a second pilot) while transiting compulsory pilotage waters, overtime shall be charged for at the rate of \$75.00 per hour or portion thereof.

— Shall be stricken from Charges Additional to Port Tariff.

■ Shall be added to Charges Additional to Port Tariff.

76. Shifting of ship from dock to harbor or harbor anchorage; from harbor or harbor anchorage to dock; from anchorage within a harbor to another anchorage within the same harbor, will be charged at ~~\$250.00~~ \$500.00 plus tonnage surcharge in paragraph #1 per each movement. A dock to dock shift comprises two movements and will be charged for accordingly. Anchoring or laying to for loading cargo or discharging cargo shall be considered as regular port charge and all fees and tariffs shall be assessed the same as if the vessel moored.
87. On each occasion of hauling ship alongside a dock or mooring to position tanks, holds, manifolds, loading arms, towers or hoses comprises a single movement and will be charged ~~for~~ accordingly at ~~\$250.00~~ \$500.00 per movement.
98. Movement of a ship in the absence of availability of the ship's own propulsion system even though assisted by tugboats will be charged ~~for~~ at twice the prevailing rate for each evolution engaged.
- ~~109.~~ Docking/Undocking vessels ~~over 2,000 gross tons~~ without the use of a tugboat, if a tugboat is available, at Anchorage, Seward, Whittier, Valdez, Cordova, Kodiak, Womens Bay, will be charged ~~for~~ at the rate of ~~\$300.00~~ an additional \$500.00 per movement. It will remain pilot's option whether ~~or not to proceed without use of a tug.~~
- ~~110.~~ Carried to sea detention on board; off duty detention on board, intentional or otherwise, or off duty standby on board at the request of the master will be charged ~~for~~ at a rate of ~~\$400.00~~ per day, \$50.00 per hour, or portion thereof. If disembarked at a position other than the base station from which dispatched, first class return passage and subsistence will be charged.
- ~~1211.~~ Bridge watch time rendered while ship is anchored or moored will be charged ~~for~~ at the rate of ~~\$50.00~~ \$100.00 per hour or portion thereof. In ~~eases where one pilot has exceeded eight (8) hours~~

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