

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
7507 SENATE LABOR & COMMERCE

*Harold S. Kirchner*

Mr. C.L. Cloudy  
July 27, 1990  
Page Three

be judgment proof. Although a potential damage award against an individual pilot is still of dubious value today, pilots are nevertheless being named in suits with increasing frequency, often where recovery from the pilot is clearly not the objective of the plaintiff. It is virtually automatic now that in any marine accident, if a pilot was aboard, he will be a named defendant in one or more lawsuits. Usually, the legal fees alone are beyond the limited resources of the pilot. As a result, pilots today confront the reality that every time they board a vessel, they face the prospect of financial ruin, regardless of how well they perform their services. That situation does not promote better, safer pilotage or provide any other benefit to a state or its citizens.

In every place where a pilot liability limitation statute has been adopted, the shipping industry has supported it. Vessel owners and operators have made the judgment that it is in their economic interest to have liability shifted from the pilot to the vessel and its owner and operator. Standard marine hull and P&I insurance policies have always covered loss or damage due to pilot negligence. Assuming that pilotage rates would have to reflect either the cost of meaningful liability insurance for the pilot (such insurance, in fact, is not available) or the financial risks to the pilot of the uninsured liability, it is economically inefficient for a vessel to pay such rates when its own insurance already provides coverage at little or no additional cost.

Mr. C.L. Cloudy  
July 27, 1990  
Page Four

DIFFERENT FORMS OF LIABILITY LIMITATION

Limited liability statutes take several forms. The first state to adopt limited liability was Oregon. In 1959, that state enacted the dual rate system that you describe. At the current time, it is the only state with that type system, which offers the vessel the option of two rates. The higher rate would include the cost to the pilot of obtaining reasonable trip insurance covering the pilot's potential liability for that pilotage assignment. Alternatively, a vessel may elect a lower rate. In return for the lower rate, the vessel agrees not to assert any personal liability against the pilot or pilot association and to defend, indemnify and hold harmless the pilot and his association from third party claims. Additionally, each pilot must obtain a surety bond in the amount of \$250, which amount is the exclusive, total limit of a pilot's liability to third parties unless the act or omission was in connection with the pilotage of a vessel electing to pay the higher rate. Or. Rev. Stat. §§776.510.540 (1989).

In 1981, the State of Washington adopted a dual rate system virtually identical to that of Oregon. That statute was replaced in 1986, however, by a simple statement that a pilot's liability for damages or loss occasioned by the pilot's errors, omissions, fault, etc. in the performance of pilotage services, will not

*Harris & Hirschner*

Mr. C.L. Cloudy  
July 27, 1990  
Page Five

exceed \$5,000 except in the case of willful misconduct or gross negligence. The Washington statute also declares, as does the Oregon statute, that the vessel and its owner and operator are liable to third parties for the pilot's negligence. Wash. Rev. Code §88.16.118 (1989 Pocket Part).

In 1988, South Carolina adopted a statute virtually identical to Washington's. S.C. Code Ann. §§54-15-350, -360 (Law. Co-op. 1989 Pocket Part). A similar, simple limit on liability was enacted for pilots in Houston (Harris County), Texas in 1987, although the limit there is \$1,000. Tex. Stat. Ann. art. 8280a (Vernon Pamphlet, 1990). In 1989, identical limitations were provided for pilots in Galveston, Freeport (Brazoria County), and the Sabine River (Jefferson and Orange Counties), *id*, arts. 8280b-8280d. The Texas statutes differ from those of South Carolina, Washington and Oregon in that they do not contain the declaration of a master-servant relationship, which you have mentioned and which is discussed below. They do, however, state that the vessel and its owner and operator are liable to third parties for a pilot's negligence.

Louisiana has taken a somewhat different approach. Pilots operating between Pilottown and New Orleans on the Mississippi River (the Crescent River Pilots) are covered by a provision added to their pilotage statute in 1986 stating that any person seeking

Mr. C.L. Cloudy  
July 27, 1990  
Page Six

to hold a pilot liable for damages or loss occasioned by the pilot's error, omission, fault or neglect must prove by clear and convincing evidence that the damages arose from the pilot's gross negligence or willful misconduct. Rev. Stat Ann. §34:1011 (1990 Pocket Part). This standard of care/liability exclusion was extended to the other two groups of pilots operating on the Mississippi River in 1988. Id §§ 34:966 (Associated Branch [Bar] Pilots), 34:1005 (New Orleans - Baton Rouge Pilots).

ANALYSIS OF THE DIFFERENT FORMS OF LIABILITY LIMITATION

Although I understand that you have been discussing the dual-rate system with the Alaska OMB, it is my opinion that the Washington, South Carolina, and Texas model may be the preferable limitation of liability mechanism. To me, the Oregon statute has troubling features that are the product of the legal uncertainties attendant to that "first generation" experiment in liability limitation and of the unique circumstances surrounding its adoption and subsequent revisions.

The dual rate system created in the statute is somewhat illusory. It was designed to impart at least the appearance of consideration and bargaining to the "agreement" required in the statute by which a vessel and its owner and operator assumes the risks of the pilot's negligence. The unstated belief was that, in fact, no

*Hurris & Hirschner*

Mr. C.L. Cloudy  
July 27, 1990  
Page Seven

vessel would elect the higher rate. It is my understanding that the pilots have contracted with an insurer who will offer trip insurance but that such trip insurance has only been purchased in a handful of instances over the years involving vessels (primarily drydocks) that do not regularly engage in shipping activities and that do not have their own P&I insurance. Those vessels purchased the trip insurance as an alternative to their own P&I policy. They paid a very high premium that was acceptable only because it was the only insurance carried. That was not the circumstance envisioned by the statute.

The Oregon statute also has a number of declarations, characterizations and certain repeated phrases designed to bolster the sense that the vessel's waiver of claims against the pilot and its indemnification of the pilot are either freely assumed or are derived from the employment of the pilot rather than from the statutory mandate. I question the need for these items and am concerned that they may have unwanted consequences in other, non-liability areas. The master-servant predicate that you have mentioned is one example. Another would be the statement that "the services of any individual pilot...have been voluntarily accepted and are voluntarily rendered pursuant to the election authorized by ORS 776.510." Although a similar statement in a municipal tariff was found by the court in United States v. President Van

Mr. C.L. Cloudy  
July 27, 1990  
Page Eight

Buren, supra, to be a significant factor supporting the enforceability of immunity provisions in the tariff, I am not sure, as discussed below, that such language is necessary for the validity of a statutory provision.

Additionally, the statute reflects the view that noncompulsory pilotage is also essential to the enforceability of the dual rate system. When the Oregon statute was first enacted in 1959, the state did not have a compulsory pilotage law. In 1973, however, the state adopted a compulsory pilotage requirement. A number of observers, including the late Alex Parks, the author of the 1959 statute as well as the treatise, The Law of Tug, Tow, and Pilotage, felt that the switch to compulsory pilotage eviscerated the theory of voluntary election on which the dual rate system depended. Parks discussed this subject in the 1982 edition of his treatise, pages 1035-1039 (copy enclosed). I should caution that Parks' views expressed there were naturally affected by his authorship of the 1959 legislation, a fact not disclosed in the treatise.

Ironically, by 1982 Parks had taken the position that a monetary limit on pilot liability, without the dual rate mechanism, could survive legal challenges, even in a compulsory pilotage setting, so long as it was presented as deriving from a state's authority to maintain reasonable pilotage fees. He suggested a \$250

*Murphy & Kirchner*

Mr. C.L. Cloudy  
July 27, 1990  
Page Nine

limit with the requirement that each pilot post a bond in that amount.

The uncertainties resulting from the 1973 compulsory pilotage requirement were addressed in 1983 amendments to the Oregon statute. At the urging of the Columbia River Pilots, the compulsory pilotage provision was replaced by one that allows a ship to decline to take a state pilot upon payment of 3/4 of the otherwise applicable pilotage fee. At the urging of the Columbia River Bar Pilots, however, the \$250 liability limit/bond requirement suggested by Parks was also adopted. Whatever the relative merits of a dual rate system versus a simple liability limit may be, the presence of both in the same statute would seem to present additional questions and concerns.

It is not clear to me that non-compulsory pilotage is essential to the validity of a dual rate system. If it is, that would be an important factor favoring a liability limit instead. The prevailing view today is that a "take or pay" pilotage requirement, such as that presently used in Oregon and a few other states, is no longer an acceptable substitute for a clear, affirmative pilotage requirement. This is a subject to which the APA and this firm have devoted substantial attention in the past year. It cannot be adequately covered in this letter. I should mention, however, that the Coast Guard has expressed the belief that "take

Mr. C.L. Cloudy  
July 27, 1990  
Page Ten

or pay" provisions and certain other perceived shortcomings in the language of some state pilotage requirements are a serious problem. This assessment may not be justified by the facts. Nevertheless, the Coast Guard's view and the potential for a federal "remedy" must be acknowledged. For that and other reasons, a number of states are currently reviewing the language of their pilotage requirements to see if they can be expanded and strengthened. I would hate to see a state move in the opposite direction.

A liability limitation of the type adopted by Washington, South Carolina, and Texas has obvious advantages over a dual rate system. It is more simple and direct. Also, because such a limitation is not based on a theory of voluntary election by the vessel owner, compulsory pilotage should not be a problem.

Of course, the concern with a liability limitation is with its enforceability and constitutionality. The courts tend to look with disfavor on efforts to shield professionals and others from the consequences of their own negligence. Nevertheless, there are many forms and types of liability limitation that not only pass constitutional and judicial scrutiny but are in the public interest as well.

The important consideration in this area is that innocent people who have suffered damage through the actions of others must be able to secure compensation for that damage. So long as an

*Harris & Hinchner*

Mr. C.L. Cloudy  
July 27, 1990  
Page Eleven

injured party's right to recover for damages from some source is not jeopardized, the placement of liability can be treated as essentially an economic matter. Shifting liability from one party to another occurs frequently whether by law or by private contract. For example, a standard ship repair contract will require the vessel owner to waive consequential and incidental damages arising out of faulty workmanship and to indemnify the shipyard against third party claims arising out of the yard's performance of the repair work, even claims involving negligence by the yard. This is acceptable to a vessel owner, in most cases, because it is much cheaper to have the vessel's insurance cover those claims. As with a pilotage assignment, the potential damages and the resulting cost of insuring against the damages would far outweigh the value of the repair job if the yard were to assume liability for its negligence.

I believe that it is a legitimate exercise of state power to limit a pilot's liability. It is a rational feature of a comprehensive system designed to assure that an adequate number of well-trained pilots are available to handle all vessels moving in the state's waters and that pilotage rates are maintained at reasonable levels.

A statutory limitation should have the following features, each of which can be found in one or more of the existing statutes:

Mr. C.L. Cloudy  
July 27, 1990  
Page Twelve

1. a statement of legislative findings and intent justifying the limitation;
2. a clear, simple, monetary limitation;
3. an exclusion from the limitation for wanton and reckless acts (the use of the term "gross negligence should be avoided if possible); and
4. a statement that the vessel, its owner and operator remain liable for damage or loss occasioned by the vessel as a result of any act by the pilot in the performance of his pilotage duties.

An additional consideration in this area is that the limitation should not only fix the pilot's potential liability for damages, it should provide a disincentive for suing the pilot or otherwise protect the pilot from the staggering legal fees that accompany these types of suits. I have no specific recommendations on that point, although I am familiar with many of the ideas and suggestions from various pilot attorneys and other interested observers. The state statutes enclosed handle this in different ways. For example, the Oregon and Texas statutes provide that in the event that a pilot is named in a suit for which the limitation would be applicable, the pilot can pay the limitation amount into the court and have the proceeding dismissed as to him.

Finally, I must acknowledge that the law in this area is neither extensive nor certain. No case of which I am aware has directly addressed the enforceability or validity of any of the five limitation statutes. The liability exclusion in the Oregon

*Harris & Kirchner*

Mr. C.L. Cloudy  
July 27, 1990  
Page Thirteen

statute was applied in the well-known HALCOUSSI case, Olympia Sauna Compania S.A. v United States, 604 F Supp. 1297 (D. Or. 1984). To my knowledge, the validity of the liability exclusion in that statute was not challenged, however, I have also been told that the Louisiana (Crescent River) standard of care statute was determined by a court to be procedural rather than substantive and was applied to an accident that occurred prior to the enactment of the statute.

While there is no case that can be cited as directly upholding the enforceability of a liability limiting statute, I do think that the trend in adopting such statutes can be seen as reflecting a growing level of comfort in the legal and policy justifications for limiting pilot liability. Until such time as the courts give specific, contrary direction, this trend should continue.

#### Master/Servant Relationship and Liability Limitation

A declaration of a pilot's status as the servant of a vessel and of its owner and operator is not common to all statutory liability limitation schemes. The Texas statutes, for example, do not contain any such declaration, although they do state that a vessel its owner and operator are liable for the acts of a pilot. Ironically, one state, California, has such a declaration but does not have liability limitation. Cal. Harb. & Nav. Code §1134 (West

Mr. C.L. Cloudy  
July 27, 1990  
Page Fourteen

1990 Com. Pocket part).

I have never seen an explanation of why the master/servant declaration is in those statutes that have it. It is my belief, however, that they all, including the one in the California statute, can be traced back to the original 1959 Oregon dual rate statute. My impression is that it was considered as another feature contributing to the enforceability of the liability limitation. I would guess that Alex Parks took it from the standard "pilotage clause" in towing contracts. These clauses are used to apply the borrowed servant doctrine to the provision by a towing company of a docking pilot for a vessel. They typically state that when a docking pilot boards the vessel, he is the servant of the vessel and its owner and that the towing company will not be responsible for his actions. In contrast to liability exclusion/limitation clauses in pilotage tickets, "pilotage clauses" in towing contracts have been repeatedly upheld in court. Sun Oil Co. v. Dalzell, 287 U.S. 291 (1932); see also, Parks, Law of Tug, Tow and Pilotage, 1057-1065.

Whatever the reason for including the master-servant provision in the Oregon statute, I believe that the other states simply copied it without a great deal of thought.

In the case of the 1959 Oregon statute, the master-servant provision did not make a change in law. As you know, the

*Harris & Kirchner*

Mr. C.L. Cloudy  
July 27, 1990  
Page Fifteen

traditional maritime principle is that in a non-compulsory pilotage setting, the ship is liable in rem and the shipowner is liable in personem for the negligence of a pilot. The theory is that the pilot in those cases is a voluntarily hired employee of the vessel and its owner or operator, and, under the rule of respondeat superior, the owner or operator is responsible for damages caused by the pilot's negligence just as much as they would be for any member of the crew. See, e.g. Homer Ramsdell Trans Co. v. Compagnie Generale Transatlantique, 128 U.S. 406, (1901); California v. Norfolk, 435 F. Supp 1039 (N.D. Cal. 1978). Since Oregon had a non-compulsory pilotage system in 1958, the statutory recitation that the pilot is the servant of the vessel and its owner and operator would have merely codified existing maritime law.

In the case of compulsory pilotage, the pilot is deemed an independent contractor. There is no master-servant relationship between the vessel owner and operator, on the one hand, and the pilot, on the other. As a consequence, the vessel owner or operator is not personally liable for damage caused by the pilot's negligence. People of California v. Italian Motorship Ilice, 534 F. 2d 836 (9th Cir. 1976); Matteria v. Commercial Cable Co., 137 F. Supp. 472 (S.D.N.Y. 1956); New York Dock Co. v. New York and Cuba Mail S.S. Co., 1931 A.M.C. 1349, aff'd. 1932 A.M.C. 1984 (N.Y. Sup. Ct.) In compulsory pilotage, the vessel, however, is

Mr. C.L. Cloudy  
July 27, 1990  
Page Sixteen

liable in rem for damages caused by the negligence of the pilot.  
The China v. Walsh, 74 U.S. (7 Wall.) 53, 19 L. Ed. 67  
(1868). The Barnstable. 181 U.S. 464 (1900).

Washington, California (San Francisco Bay only), South Carolina, and Louisiana all have compulsory pilotage. As a consequence, it would appear that the master-servant declarations in their statutes make a substantive change of law. I have expressed previously, however, my own opinion that a statement extending liability for a pilot's negligence to a vessel and its owner and operator is a desirable and perhaps necessary feature of a system for limiting a pilot's liability. A substantive change of law to accomplish that would therefore be required by statute in compulsory pilotage states.

It seems to me that such a statutory change need not be in the form of a declaration of a master-servant relationship. A direct statement of vessel owner and operator liability without the master-servant language, such as that found in the Texas statutes, should be sufficient. There are some unfortunate, non-legal consequences to declaring a pilot to be a servant of the vessel and its owner and operator. Wherever possible, both the state and the pilots should be careful to promote the importance of the state pilot's independence of the vessel and its owner. When a state pilot boards a vessel, his primary obligation is to

*Huis & Kuchner*

Mr. C.L. Cloudy  
July 27, 1990  
Page Seventeen

protect the state, its citizens and its environment. Any unnecessary diminution of the state pilot's status should be avoided.

Federal Legislation Affecting Vessel Owner/Operator  
Liability for Pilot Negligence

An issue that has not yet been considered in any depth, to my knowledge, is the effect that the federal oil spill liability and prevention legislation may have on liability for pilot negligence. That legislation will soon be completed. It will provide that a vessel owner and operator, and perhaps the owner of the cargo, will be liable, up to the limits set in the bill, for damages from oil spills caused by the vessel owner or operator, its employees, agents, and others in a "contractual relationship, existing directly or indirectly, with the [vessel owner or operator]." Although the question has not been addressed during consideration of the bills in Congress, I would assume that a pilot, compulsory or non-compulsory, would be treated as a party in a contractual relationship with the vessel owner or operator.

If that will indeed be the case, the effect of the federal legislation would be to assure a deep pocket for oil spill damages caused by the acts of a pilot. As a consequence, there should be even less hesitancy over excluding or limiting a pilot's liability. Retaining pilot liability would provide no benefit to

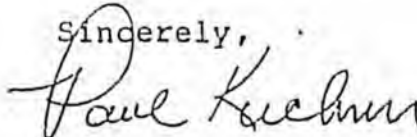
*Kurmas & Kirchner*

Mr. C.L. Cloudy  
July 27, 1990  
Page Eighteen

the public in terms of preserving useful sources for compensation. Once vessel owners are made responsible for a pilot's acts by this legislation, I am sure that they would much rather have restrained pilotage fees than pay higher fees required to cover a pilot's potential liability.

I hope that this information and these views are helpful.

Sincerely,



Paul G. Kirchner

Enclosures  
PGK/aes

## COMMENTS

### STUDY RECOMMENDATIONS

• *The Marine Pilotage Act should be amended to include an opening statement of intent, which establishes the fact that marine pilots are employed under state control for the purpose of protecting lives, property, vessels, and the marine environment.*

#### Comments:

#### SEAPA

- tie board duties and responsibilities back to legislative intent
- state that it is intent of legislature to limit number of pilot licenses

• *The State Board of Marine Pilots should be given clear and unambiguous authority in statute to promulgate and enforce more extensive entry-level requirements for state pilots.*

#### Comments:

#### Coast Guard:

- entry level qualifications too stringent
- would exclude marine ferry employees
- State should have same qualifications as Coast Guard
- use Coast Guard nomenclature, where appropriate, to avoid confusion

#### Alaska Maritime Agencies

- should keep provision for two years as Master in local region

#### SEAPA

- 1600 tons or more
- calculate time same as Coast Guard
- minimum service time

- refine wording re: experience appropriate to specific region to preclude charter fishing boat, pleasure boat, etc.
- set requirement at "six years licensed seagoing experience"
- set specific hour requirements under different types of Coast Guard licenses

#### AMP

- 1600 gross ton or more
- add two years service as active pilot in an association
- allow pilots who do not meet entry level requirements to enter training program, but to undergo additional training (similar to an apprenticeship program)

#### SWAPA

- allow for experience on any vessel of 1600 gross tons
- delete section concerning appropriate to region or require that person gain experience while holding master's license

#### Other pilot (unidentified region)

- 1600 gross tons

• *The Board should establish an additional pilotage region in the Aleutian Chain.*

• *The Board should move towards exclusive licensing by region.*

#### Comments:

#### SWAPA

- define regions but keep Dutch Harbor and Captain's Bay in Southwest Region
- allow port endorsement outside region only for those pilots so licensed at effective date of legislation

## AMP

- don't allow port endorsements outside region
- allow transition period, based on recency experience

## SEAPA

- don't allow port endorsements outside region
- grandfather, but make new requirements mandatory at next renewal

## Alaska Maritime Agencies

- regions a good idea, but agents must maintain right to employ any qualified pilot in region regardless of group with which they are affiliated

## Other

- don't allow port endorsements in other regions
- grandfather existing licenses

*•The Board should establish increased standards for progressive licensing, including a formalized deputy pilot program. The Board should develop training criteria that provide all deputy pilots equal opportunity to perform the ship movements necessary to upgrade their licenses.*

## Comments:

### Other

- current docking/undocking requirements inadequate

## SWAPA

- detail steps of deputy pilot program
- require simulator training
- set limits for training period
- state that deputy must complete training to be eligible to take exam for limited license, not over 20,000 gross tons

## SEAPA

- current docking requirements inadequate
- give associations sufficient leeway to allow them to train new pilots and to take in new members according to internal criteria so long as criteria reasonably adhere to guidelines set forth and are equitably administered by association
- give board explicit authority to oversee training programs

## Coast Guard

- require simulator training
- recurrent training for working pilots to deal with new technology (similar to airplane pilots)
- consider establishing a separate "docking pilot" license

• *The Board should establish a **check-ride system for fully-licensed pilots**, conducted by current senior pilots designated from each region by the Board.*

## Comments:

### Other

- check ride evaluation not appropriate for marine pilots

## SEAPA

- check ride evaluation not appropriate for marine pilots

• ***Recency criteria** should be adopted for pilots to maintain endorsements for specific waters and ports.*

• *The Board should develop an approved list of **continuing education** options and require that pilots complete a course between license renewals.*

**Comments:** (includes comments on renewal as well as recency)

**SEAPA**

- require 60 days service in last biennium as federal or state pilot as condition for renewal
- grandfather existing pilots from meeting entry level requirements

**AMP**

- define familiarization trips

**Coast Guard**

- for each year that license has lapsed, require two round trips on vessels over 1600 GT to each major port and waterway in pilotage region, with at least one trip made at night

*\*The Board should be authorized to conduct random substance abuse testing.*

*\*Every pilot should be required to submit to a complete annual physical exam.*

**Comments:**

**Coast Guard**

- require that pre-employment physical exam include chemical test for dangerous drugs
- follow Coast Guard requirements for physical exams prior to license renewal
- consider having state appointed physicians establish minimum physical standards relating to vision, hearing and general physical condition and possibly review and/or administer general physicals
- use Coast Guard terminology for "chemically impaired"

## SEAPA

- define chemically impaired to cover both habitual substance abuse and intoxication/drug use while on duty

*• The Division of Occupational Licensing should be authorized to hire a full-time marine pilot coordinator to investigate marine accidents, review training programs and participate in license examinations.*

*• All complaints concerning pilotage service should be directed to the State Board through the Marine Coordinator—not to pilot organizations.*

*• The state should pursue the possibility of establishing an accord with the U.S. Coast Guard to share information about accidents/incidents and to conduct joint investigations.*

## Comments:

### Alaska Maritime Agencies

- good concept as long as individual performs investigative and clerical support functions for board
- must not assume operational or administrative control of policy

## SEAPA

- assure that coordinator operates subject to guidance and oversight of Board
- Board must maintain primary authority
- will be difficult to find qualified person to take job
- Coordinator should also be specifically empowered to direct and assist in accident investigations

## Other

- coordinator could become dominant individual, usurping Board authority

Coast Guard

-agree that accord between Coast Guard and state should be established

• *The state should not place a specific limit on the number of pilot licenses issued.*

Comments:

SEAPA

-limit number of licenses

Other

-new pilotage act should have provisions for closely monitoring pilot requirements and for only issuing licenses that satisfy those requirements

SWAPA

-Board should be authorized to limit number of licenses

American Pilots Association

-Board should be authorized to limit number of licenses

• *The Board should have authority to consider accident investigation and other state administrative costs in setting pilotage rates.*

Comments:

Alaska Maritime Agencies

-expenses of state Board in conducting the state's business should be part of the tariff

*inequitable to cover program receipts w/ license fees*

• Board meetings should be scheduled at least three times per year, with provision for emergency meetings at the request of the chair.

*less spent  
afford what  
above highly  
not pilots  
can*

• *The Department of Commerce and Economic Development Commissioner or designee position on the State Board should be reassigned to an active pilot from the Aleutians*

*region. Non-pilot members should represent all regions of the state.*

*• The Board should either cease to require detailed information on ships' movements from individual pilots or should use the information to **publish periodic management reports.***

**Comments:**

SEAPA

- replace "may" with "shall" when referring to powers and duties of Board

SWAPA

- Board should not only have authority in statute but should be mandated to perform listed duties and responsibilities

*• **Pilot organizations should be recognized in state law and chartered to provide state-approved training for deputy pilots.***

**Comments:**

SEAPA

- give board authority to review both associations and independent pilots
- section recognizing associations is meaningless as written. Should state that state will sanction pilot associations as long as their bylaws and operating procedures are approved by the state
- The state should consider some of the more abstract aspects of the regulated monopoly issue before it embraces that concept completely.
- Marine pilots as a class should not be denied the protection offered to all other citizens under existing antitrust laws?
- a lack of competition does not assure competence

## SWAPA

- amend antitrust laws to exclude marine pilot organizations

## American Pilots' Association

- clearly state legislative intent to remove pilot organizations from antitrust law

## AMP

- include "independent contractor" after pilot associations to make clear that pilots are independent within their association for liability purposes

*• In return for limiting liability and providing protection from antitrust litigation, pilot organizations should have their bylaws and operating rules approved by the Board.*

## Comments:

### Federal Trade Commission

- make board authority over pilot associations more explicit
- make non-competition agreements illegal
- allow board to hear antitrust or monopoly complaints brought against pilot organizations

### Alaska Maritime Agencies

- Board should have statutory authority to approve all dispatching and working rules employed by association

## SEAPA

- Association policies do not promote enhanced professionalism or competent pilotage
- The State must investigate disciplinary policies of the Pilot Associations and safeguard them from being merely a vehicle for advancing the views of an empowered minority.
- The State must accomplish a vigorous and comprehensive review of the bylaws, operating rules, articles and other documents of the

associations with regard to establishing and maintaining the rights of pilots to due process, free speech and freedom to pursue a livelihood in their chosen profession.

-Associations cannot be watchdogs over themselves

• *The Board should be authorized in statute to establish an enforceable tariff schedule.*

**Comments:**

**SWAPA**

-don't create special tariffs by region

**SEAPA**

-don't create special tariffs by region  
-state that tariff schedule is to insure safe, efficient and year-round pilotage service

**AMP**

-current inequities in state tariffs need to be addressed

• *In order to assure that all pilots and pilot organizations honor the Board-established pilotage rates, pilot organizations and individual businesses should be required by law either to submit copies of their annual audits to the State Board or, in the case of individual contract pilots, to keep their books open for state audit.*

**Comments:**

**Alaska Maritime Agencies**

-board should be able to conduct audits of financial records for purposes of tariff adjustment and approval/rejection of items claimed by pilot associations that impact tariff

**SEAPA**

-the State must look into the practice of spreading liability for litigation costs and legal settlements against association among contract pilots who have no voice in Association business

-the State must assure that income and expensing procedures are equatable and equal to the work performed.

• *Individual pilot liability should be limited in statute to a specific dollar amount.*

• *Pilot license fees should be reviewed by the Board and increased substantially to reflect the increased costs of program administration.*

• *The tariff schedule should be reviewed by the Board and adjusted where necessary. The Board should consider special rates for unique circumstances.*

• *The Board should have the authority to include a training fee in the tariff schedule to provide partial support for training and continuing education programs.*

**Comments:**

**Alaska Maritime Agencies**

-any expense not directly related to shipboard operations should not be recovered through the tariff; for example, legal and travel costs associated with restraint of trade cases pending against pilot groups

# MEMORANDUM

State of Alaska

Department of Law

TO: Marine Pilot Working Group,  
Interested Parties

DATE: October 8, 1990

FILE NO.: 465-3600

TEL. NO.: Draft Legislation

SUBJECT: amending the Marine  
Pilots Act

FROM:

*Gary I. Amendola*  
Gary I. Amendola  
Assistant Attorney General

*Cruise lines against.*

On September 13--14, 1990 individuals representing the State of Alaska and varying interests related to marine pilotage met in Juneau to discuss possible changes to AS 08.62, the Marine Pilots Act. During that meeting the state agreed to take the first cut at drafting those changes. Attached is a first draft of that legislation. We have attempted to incorporate in this draft those ideas and concepts that were discussed and were at least generally acknowledged to warrant further consideration. I will leave it to you to decide how close to doing so we came.

All of the interested parties to this project are well aware that there are a number of legal and policy choices that must be made. Those choices will certainly affect the substance of legislation that may be proposed or enacted. Although to some extent this draft may reflect the legal and policy choices that will ultimately be made by the State, the draft should not be taken, and may not be taken as doing so already. We are simply acting as the recording secretary of this group's efforts. The document is intended only to stimulate the processes by which those choices will be made. We expect that it will.

If you have any questions, please contact me at your convenience.

GIA/prm

Attachment

cc: Douglas B. Baily  
Ron Lorensen  
Jeff Bush  
Ron Clarke

*Foster - Bd has had problems exercising  
authority - statute ? variety of  
other reasons.*

CHAPTER 62.  
MARINE PILOTS.

## Article

1. Board of Marine Pilots (08.62.005--08.62.045)
2. Licensing (08.62.080 -- 08.62.155)
3. General Provisions (08.62.160 -- 08.62.210)

ARTICLE 1.  
BOARD OF MARINE PILOTS.

## Section

05. Intent
10. Creation and membership of the board
20. Appointment and term of office
30. Meetings
40. Powers and duties
45. Marine pilot coordinator

ARTICLE 2.  
LICENSING.

## Section

80. License requirements
90. Application
100. Qualifications
120. Renewal
130. Lapsed license
140. Fees
150. Enforcement authority
155. Disciplinary sanctions

ARTICLE 3.  
GENERAL PROVISIONS.

## Section

160. Mandatory employment of licensed pilots
165. Allocation of liability
170. Pilot's lien
175. Pilot organizations
180. Exemptions
185. Certain licensed pilots required for oil tankers
187. Registration of agents required
190. Penalty
200. Definitions
210. Short title

"An Act relating to Marine Pilots . . ."

\* Section 1. AS 08.62 is amended by adding a new section to read:

Sec. 08.62.005. INTENT. (a) 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 <sup>bro-dee than present</sup> 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 pilotage regions and tariffs and the authority to establish criteria for the training and licensing of marine pilots.

(b) The legislature recognizes that marine pilots operating independently of the shipping industry have provided and will continue to provide essential services to the people of the State of Alaska. Marine pilots further the public interest by providing safe pilotage in the pilotage waters of the State of Alaska. It is the intention of the legislature that the board work with marine pilots to ensure that safe pilotage is maintained in the State of Alaska.

(c) The legislature also recognizes that in the past pilot organizations have provided, and in the future will continue to provide important services on behalf of marine pilots. By doing so, these pilot organizations have furthered the policy of protecting lives and property and the marine environment in the pilotage waters of the State of Alaska. It is the intention of the legislature that the board work with pilot organizations in a cooperative effort to enhance that policy.

\* Sec. 2. AS 08.62.010 is repealed and reenacted to read:

Sec. 08.62.010. CREATION AND MEMBERSHIP OF BOARD. There is created the Board of Marine Pilots. The board shall consist of one state licensed marine pilot from each pilotage region who is actively engaged in, and for at least the past 5 years was actively engaged in, piloting vessels subject to this chapter, two agents or managers of vessels subject to this chapter, each being from a different pilotage region, and two public members from different pilotage regions who qualify under AS 08.01.025. All members of the board must be residents of the state. yes

*Handwritten notes:*  
w/ pilots -  
the regulate  
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08.62  
re

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

Sec. 08.62.020. APPOINTMENT AND TERM OF OFFICE. The governor shall appoint the members of the board in accordance with AS 08.01.020. No member may be appointed to the board for more than two consecutive terms.

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

Sec. 08.62.030. MEETINGS. The board shall hold at least

s/b  
murray

three 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. 5. AS 08.62.040 is amended to read:

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

(1) provide for the maintenance of efficient and competent pilotage [PILOT] service on all waters covered by this chapter in order to assure the protection of shipping, [AND] the safety of human life and property, and the protection of the marine environment;

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

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direction.

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

(4) adopt regulations establishing pilotage regions in the state, establishing the criteria by which to set pilotage tariffs, including criteria related to a training and investigation fee to be remitted to the board, and setting pilotage tariffs for each region, provided that the board may adopt different tariffs within a region if justified [ADOPT REGULATIONS UNDER THE ADMINISTRATIVE PROCEDURE ACT (AS 44.62) ESTABLISHING STANDARDS BY

WHICH PILOTAGE FEES MAY BE ESTABLISHED, AND PAY FOR AUDITS WHENEVER AN AUDIT IS NECESSARY TO COLLECT INFORMATION NEEDED TO APPLY THE STANDARDS IN THE REGULATIONS];

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

(6) review and approve the bylaws and the operating rules of pilot associations; and

(7) audit a pilot association as considered necessary by the board;

(8) review and approve training programs conducted by pilot organizations.

(b) The board may, by regulation, make any other provision for proper and safe pilotage upon the waters covered by this chapter and for the efficient administration of this chapter, including establishing different licensing criteria in pilotage regions if justified by regional differences in piloting, establishing a mandatory random drug and alcohol testing program for marine pilots, and adopting criteria for trainee selection and for training programs conducted by pilot organizations.

<sup>2</sup>  
(c) For good cause, the board may require a marine pilot to submit to a physical or mental examination to determine the pilot's fitness to perform the duties of a marine pilot.

\* Sec. 6. 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 administer and enforce the provisions of this chapter. The coordinator may not be an active member of an Alaska pilot organization and may not work as a pilot while employed as the coordinator, except to the extent required by official duties. The coordinator is a member of the partially exempt service under AS 39.25.120 (If this provision is accepted, AS 39.25.120 will also have to be amended).

\* Sec. 7. AS 08.62.080 is amended to read:

Sec. 08.62.080. LICENSE REQUIREMENTS. (a) A person may not pilot a vessel subject to this chapter unless the person is licensed under this chapter.

(b) Except as provided in (c) of this section, a pilot may not be licensed at any one time, in more than one of the pilotage regions established by the board.

*allows exceptions s/b??*  
(c) The board may issue an endorsement to a licensed pilot for specific ports outside of the pilotage region for which the pilot is licensed. The board shall establish criteria upon which to determine whether to issue or renew an endorsement. Among other factors, the board must consider local knowledge and recency of service in determining whether to issue or renew an endorsement.

(d) The board shall establish dates for license examinations and shall provide public notice of such dates.

\* Sec. 8. AS 08.62.090 is amended to read:

Sec. 08.62.090. APPLICATION. (a) A person who desires

to be licensed under this chapter shall apply in writing to the department.

(b) The application shall provide the information and be made on a form prescribed by the board.

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

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

Sec. 08.62.100. ENTRY LEVEL QUALIFICATIONS. (a) The

*Needs clarification  
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board will issue a license to a person if he or she is a citizen of the United States, passes the examinations given by the board, qualifies in accordance with regulations adopted by the board, and meets the qualifications in (b) - (d) of this section.

*more specific?*

(b) In addition to the qualifications in (a) of this section, an applicant must provide documentation to the board of the following service:

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

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

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

*How many?  
- give out of board  
- just into written  
hand just  
where get written  
if all public  
provide policy*

any gross tons; or

(4) Two years service as commanding officer of United States government vessels of not less than 1,000 gross tons and holding a license as the master of ocean steam or motor vessels any gross tons; or

*Too broad*  
~~(5) Two~~ years of service as the master of local vessels appropriate to the pilotage region in which the applicant seeks to be licensed.

(c) An applicant must also possess an endorsement of first class pilotage on the applicant's United States Coast Guard license with no tonnage restrictions for the pilotage region for which the applicant seeks to be licensed.

(d) In accordance with its authority under AS 08.62.040, the board may impose other entry level qualifications for a particular pilotage region.

\* Sec. 10. 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. In order to renew a license, a pilot must

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

(2) meet the minimum qualifications set out in AS 08.62.100 and the board's implementing regulations;

(3) provide evidence of a satisfactory physical examination within 90 days of the date of renewal; and

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

(b) A licensed marine pilot who has not piloted in Alaska during the two years prior to a request for renewal may not have the license renewed until the pilot takes the number of familiarization trips required by the board in the pilotage region for which the license will be renewed.

\* Sec. 11. AS 08.62.130 is repealed and reenacted to read:

Sec. 08.62.130. LAPSED LICENSE. The board will reinstate a lapsed license if, in addition to complying with the requirements of AS 08.01.100 (a)-(c), the pilot

(1) makes at least two trips for each year that the license has been lapsed to each major port and waterway in the pilotage region covered by the license;

(2) takes and passes a written and oral examination if the license has been lapsed five years or more; and

(3) complies with all other criteria established by the board.

AS 08.62.140 is unchanged.

Sec. 08.62.140. FEES. The department shall set fees under AS 08.01.065 for applications, licenses, and agent registrations.

\*Sec. 12. AS 08.62.150 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

failure to  
file accident  
report? (5?)

DRAFT

10/8/90

the board finds that the person

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

(2) is chemically impaired [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] ;or

(8) charges, collects, or receives an amount for pilotage  
services that is different than the pilotage tariff established by  
the board.

(b) [Repealed, sec. 4, ch. 60, SLA 1987.]

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

Sec. 08.62.155. DISCIPLINARY SANCTIONS. The board may  
take disciplinary action in accordance with AS 08.01.075.

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

Sec. 08.62.160. MANDATORY EMPLOYMENT OF LICENSED PILOTS.  
A vessel subject to this chapter navigating certain [THE INSIDE  
COASTAL] waters in, around, and adjacent to the State of Alaska as

new  
C.G.  
regs  
J.T.S.B.

determined by the board in regulation shall employ a pilot holding a valid license under this chapter.

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

Sec. 08.62.165. ALLOCATION OF LIABILITY. (a) A pilot licensed by the State of Alaska is not liable for damages in excess of \$5,000.00 for damages or loss occurring as a result of the pilot's error, omission, fault, or neglect in performing pilotage services, except that such limitation does not apply in cases where the pilot is either grossly negligent or guilty of wilful misconduct.

(b) Nothing in this section exempts the vessel, its owner or its operator from liability for damage or loss occasioned by that vessel to another person or other property on the ground that (1) the vessel was piloted by a pilot licensed by the State of Alaska, or (2) the damage or loss occurred as a result of that pilot's error, omission, fault, or neglect.

(c) An organization of pilots is not liable for any claims arising from acts or omissions of a pilot or organization of pilots that relate, directly or indirectly, to pilotage of a vessel. A pilot is not liable either directly or as a member of an organization of pilots for any claims arising from acts or omissions of any other pilot or organization of pilots that relate, directly or indirectly, to pilotage of a vessel. The limitation in this subsection does not apply to acts or omissions relating to

the ownership or operation of pilot boats or the transportation of pilots to and from the vessel to be piloted.

AS 08.62.170 is unchanged.

Sec. 08.62.170. PILOT'S LIEN [FOR COMPENSATION]. Each vessel, its tackle, apparel and furniture and the owner of the vessel are jointly and severally liable for the compensation of a pilot employed on the vessel and the pilot has a lien on the vessel, the vessel's tackle, apparel and furniture for the pilot's compensation.

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

Sec. 08.62.175. PILOT ORGANIZATIONS. Marine pilots may form themselves into associations, provided they are not in conflict with the laws of the State of Alaska or of the United States.

AS 08.62.180 is unchanged.

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

(1) vessels under enrollment, except as provided in AS 08.62.185;

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

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

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

(A) on the rivers of Alaska, or

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

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

(6) pleasure craft.

AS 08.62.185 is unchanged.

Sec. 08.62.185. CERTAIN LICENSED PILOTS REQUIRED FOR OIL TANKERS. (a) Any oil tanker, whether enrolled or registered, of 50,000 dead weight tons or greater, shall, when navigating in state waters beyond Alaska pilot stations either

(1) employ a pilot licensed by the state under this chapter; or

(2) utilize a federally licensed pilot whose duty station has been on that tanker throughout that specific voyage.

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

AS 08.62.187 is unchanged.

Sec. 08.62.187. REGISTRATION OF AGENTS REQUIRED. A

person may not act as an agent of a vessel subject to this chapter unless the person's name appears on the register of agents kept under AS 08.62.040(a) (3).

\* Sec. 17. AS 08.62.190 is amended to read:

Sec. 08.62.190. 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 \$1,000 nor more than \$5,000.

(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 of not less than \$500 nor more than \$1,000.

AS 08.62.200 is unchanged.

Sec. 08.62.200. DEFINITIONS. In this chapter

- (1) "board" means the Board of Marine Pilots;
- (2) "commissioner" means the commissioner of the Department of Commerce and Economic Development;
- (3) "department" means the Department of Commerce and Economic Development;
- (4) "vessel" means all vessels not exempt under AS 08.62.180.

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

*Not high enough?*  
*Class A or B*

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

\* Sec. 19. TRANSITION.

Sec. 1. The membership of the board as it is exists on the effective date of this Act shall continue to conduct the affairs of the board in accordance with this Act until such time as the membership of the board is appointed in accordance with sections 2 and 3 of this Act, provided that the membership of the board is appointed in accordance with sections 2 and 3 of this Act on or before \_\_\_\_\_, 1991.

Sec. 2. A pilot licensed under AS 08.62 on the effective date of this Act will remain licensed under this chapter until required for the second time to renew his or her license in accordance with section 9 of this Act. Upon renewal, each pilot must then qualify for the license in accordance with the criteria in this Act and any implementing regulations. In addition, after the effective date of this Act, any pilot applying for a change in, an amendment to, or an endorsement for his or her license must qualify in accordance with the criteria in this Act and any implementing regulations.

\* Sec. 20. EFFECTIVE DATE. This Act takes effect

\_\_\_\_\_, 1991.

# MEMORANDUM

Reg  
State of Alaska  
Office of the Governor  
Division of Policy

TO: Senator Lloyd Jones  
Representative Richard Foster  
Transportation Committee Chairs

DATE: August 10, 1990

PHONE: 465-3568

FROM: Brad Pierce/Marilou Madden  
Senior Analysts

FILE NO. 91D-580

SUBJECT: Marine Pilotage Study

At the request of the Governor, the Division of Policy is conducting a study of Alaska's marine pilotage system to be released in October. The intent of the study is to provide focus for a legislative sunset review of the Board of Marine Pilots during the 1991 session. The study will recommend changes to the Marine Pilotage Act and supporting regulations. A meeting of attorneys from the Department of Law and the various pilot's associations as well as the president of the American Pilots Association is planned for late September in Juneau to draft a new Act.

As you may know, a recent National Transportation Safety Board (NTSB) study of the *Exxon Valdez* oil spill criticized the state for its relaxed marine pilotage standards. Preliminary study of Alaska's pilotage system and commentary from the American Pilots' Association has revealed that Alaska has some of the weakest pilotage laws and lowest professional standards for marine pilots in the nation. In the wake of the *Exxon Valdez* disaster, several states are reexamining and upgrading their pilotage laws. The Governor believes strongly that it is in Alaska's best interest to have a new Marine Pilotage Act that is at least as good as any in the country.

If you or your staff have questions about the study or wish to provide input, please contact Brad Pierce or Marilou Madden at the number listed above.

BP/MLM/dnrc/91D-580

cc: Alaska Legislature

Bob Evans, Legislative Liaison  
Mary Halloran, Director, OMB/Policy  
Office of the Governor

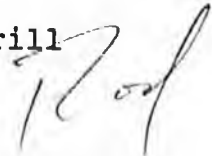
Marine

Pilotage

Act

Rod; Harlan called w/ the following info  
& request: Anytime hearings on  
Marine Pilots Eunseling is being heard  
please inform Joe Merrill who represents  
the Southwest Marine Pilots @ 786-4865.

X

TO: Dr. Joe Merrill  
FROM: Rod Mourant   
RE: SB 218 - Marine Pilots

The work session is scheduled for monday at 8AM but we are still unsure of Labor & Commerce hearing. Could be Wed 5/8 or Fri 5/10. Depends on what happens to bill in Transportation. We will try to keep you advised.

April 6, 1991

Drue -

RE: Marine Pilotage

This is the latest in marine pilotage. Joseph W. Homer is an independent pilot who objects to regional dispatch exclusivity and the regional licensing provisions. He is seeking court action which would void SB 218 and HB 194.

Rod

- ① have legal do a memo explaining this suit in layman's English
- ② what are the legal implications?
  - ⓐ the ~~scheme~~ regional provisions are subject to question?

February 21, 1991

Drue -

MARINE PILOTS...

Spoke with Ray in Jones' office. They will decide by tomorrow afternoon whether or not they are going to introduce legislation. They are leaning in the direction of doing nothing.

Gov's Office will also make a decision on their course of action today or tomorrow.

Had an interesting conversation with Tony Thyne, lobbyist for Holland America Line. They oppose the board setting pilotage rates, delineating exclusive territories for association dispatch only and the setting of pilot personal liability at such a low level.

OK

Red

Ray Gillespie  
463-3375

Members of the Alaska Steamship Operators Association

Alaska Maritime Agencies

North Star Terminal and Stevedore Company

Southeast Stevedoring

Northwest Cruise Ship Association

Sealand Services

Pacific Merchant Shipping Association

ROGER GALT

BP CARRIAGE

Cheri:

First of all, Marine Pilot Stuff.

Jeff Pierce called and gave the following information:

- 1) He is the highest paid pilot in their organization and last year he made \$190,000.00 working 10 months.
- 2) According to Pierce, the average pilot in the U.S. makes between \$140-150,000.00 working 5.5 months.
- 3) His association was not asked to "open their books," but under the new regulations, its mandatory. The other thing is that tariffs are regulations. If the regs pass and when the associations open up their books the State finds out that false information was given in support of the tariffs, the State can change the regs.
- 4) SWAPA just received a letter from BP saying they are giving SWAPA a 9.7% increase in piloting charges. SWAPA did not solicit an increase.

These questions came in response to Larry Gallowags' following comments:

- 1) A Valdez pilot made \$500,000.00 last year.
- 2) SWAPA refused to open their books to him.
- 3) The maximum tariff proposals are, in his opinion, too high.
- 4) He did not run the idea of a "Blue Ribbon Panel" by anyone, that it was 'his decision alone.'

Additionally, Tuckerman was very surprised at the creating of a "Blue Ribbon Panel."

JEFF

# ALASKA STATE LEGISLATURE

## ELECTIVE DISTRICT 1

HYDER  
KETCHIKAN  
KUPREANOF  
MEYERS CHUCK  
PETERSBURG  
SAXMAN  
WRANGELL



## HOME

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

## DURING SESSION

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

## Representative Cheri L. Davis

### TESTIMONY MARINE PILOTAGE ACT HOUSE BILL 194

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

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

It has been almost twenty years since any major changes were made regarding piloting in Alaska. Since introducing this bill, I have been told by some people, "things are fine....if it isn't broken, don't fix it." While I don't feel our pilotage regulations are "broken," I do feel they can use some much needed maintenance.

Pilots play an important, integral part, of transportation in Alaska. Pilots are taken on board at a particular place for the purpose of conducting a ship through inside coastal waters, or from or into a port. It is their "local knowledge" that ensures the safe passage of vessels through our waters.

This bill is a product of compromise. I have met with several representatives from the shipping industry, pilot board members, pilots and pilot organizations. I have taken into consideration all of their comments and requests and incorporated those constructive suggestions into this bill.

The Law of Tug, Tow and Pilotage gives a history of everything you could ever want to know about piloting. It gives a history of the pilotage industry and cites court cases that back-up the need for a strong Pilot Board. Giving the board the statutory power to enforce and regulate its pilots will serve in the best interest of Alaska.

Thank you.

---

## Board of Marine Pilots

The Senate Labor & Commerce Committee will be introducing an Act relating to Marine Pilots, the board and organizations today.

This legislation was prompted by the OMB study of marine piloting in Alaska, the Oil Spill Commission's recommendations and the affirmative vote by the Board of Marine Pilots on this proposed legislation.

There are two other pieces of legislation dealing with marine pilotage. HB 162 introduced by the governor deals with the boards sunset date. HB 194 introduced by Rep Cheri Davis addresses the entire Marine Pilotage Act.

**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.

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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### MEMORANDUM

February 21, 1991

**SUBJECT:** Sectional Summary of Work Order 7LS0571; An Act relating to the Board of Marine Pilots, marine pilots, and marine pilot organizations

**TO:** Representative Cheri Davis

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

This memorandum is a sectional summary of Work Order 7LS0571.

A sectional summary of a bill is not an authoritative interpretation of a bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the findings of the legislature in regard to marine pilots and the Board of Marine Pilots.

Section 2 of the bill repeals and reenacts AS 08.62.010 relating to the creation and membership of the Board of Marine Pilots. Most significantly the section removes the commissioner of commerce and economic development from the board and replaces the commissioner with a public member.

Section 3 of the bill amends AS 08.62.020 in order to conform to the changes made in the membership of the Board of Marine Pilots by sec. 2 of the bill.

Section 4 of the bill amends AS 08.62.030 by requiring the Board of Marine Pilots to hold at least four meetings each year and by allowing special meetings to be called by the chair of the board or a majority of the membership of the board.

Section 5 of the bill repeals and reenacts AS 08.62.040 relating to the powers and duties of the Board of Marine Pilots.

Section 6 of the bill adds a new section to AS 08.62 providing that the Department of Commerce and Economic Development, after consultation with the Board of

Representative Cheri Davis

February 21, 1991

Page 2

Marine Pilots, may employ a marine pilot coordinator to administer and enforce AS 08.62.

Section 7 of the bill repeals and reenacts AS 08.62.080 relating to the requirement for pilot licenses, limits on pilot licenses, and expiration date of pilot licenses.

Sections 8 and 9 of the bill amend AS 08.62.090 by adding requirements that a person must apply to take an examination administered by the Board of Marine Pilots at least 60 days before the scheduled date of the examination and that the board establish and publish the dates for future examinations.

Section 10 of the bill repeals and reenacts AS 08.62.100 relating to the qualifications for a marine pilot license. The most significant change from prior requirements for licensure is the addition of substantial requirements for specific experience.

Section 11 of the bill amends AS 08.62 by adding a new section establishing the qualifications for a deputy marine pilot license.

Section 12 of the bill repeals and reenacts AS 08.62.120 relating to the requirements for renewal of marine pilot and deputy marine pilot licenses.

Section 13 of the bill repeals and reenacts AS 08.62.130 relating to requirements for the reinstatement of lapsed marine pilot and deputy marine pilot licenses.

Section 14 of the bill amends AS 08.62.150(a) relating to grounds for imposition of disciplinary actions on marine pilots and deputy marine pilots.

Section 15 of the bill amends AS 08.62.160 relating to the mandatory employment of marine pilots by extending the mandatory pilotage requirement to the high seas adjacent to the state, to the extent permitted by federal law.

Section 16 of the bill adds a new section to AS 08.62 relating to the liability of marine pilots, marine pilot organizations, vessels, their cargo, owners and operators of vessels, and owners and operators of pilot boats for damage or loss resulting from or related to the provision of pilotage services.

Section 17 of the bill repeals and reenacts AS 08.62.170 relating to the pilot's lien for compensation for pilotage services.

Section 18 of the bill adds a new section to AS 08.62 relating to the creation of regional marine pilot organizations and the recognition by the Board of Marine Pilots of one marine pilot organization for each marine pilotage region.

Section 19 of the bill amends AS 08.62.180 relating to those vessels exempt from the mandatory pilotage requirements under AS 08.62 by further limiting the exemption for Canadian vessels to those Canadian vessels that are built in Canada and manned by Canadian crews.

Section 20 of the bill makes technical changes to AS 08.62.187 in order to conform to changes made to AS 08.62.040, by sec. 5 of the bill.

Section 21 of the bill amends AS 08.62.190 by increasing the criminal penalties for violating provisions of AS 08.62.

Section 22 of the bill amends AS 08.62 by adding a new section providing that AS 08.62 may be cited as the Alaska Marine Pilotage Act.

Section 23 of the bill amends AS 39.25.120(c) by providing that the marine pilot coordinator, authorized by AS 08.62.050 as added by sec. 6 of this bill, shall be in the exempt state service.

Section 24 of the bill amends AS 45.50.572(a) by adding licensed marine pilot organizations to the list of organizations that are exempt from certain provisions of AS 45.50 relating to monopolies and restraint of trade.

Section 25 of the bill provides for the transition of the membership of the Board of Marine Pilots from its current structure to the structure proposed by the bill.

Section 26 of the bill provides for transition from the current marine pilot licensing requirements to those proposed by the bill. The licensing requirements proposed by the bill would apply to new marine pilots as soon as the requirements take effect, but current marine pilot licensees would have until January 1, 1995 to satisfy the new requirements.

Section 27 of the bill repeals AS 08.62.155 and 08.62.200(2) which are no longer needed.

Section 28 of the bill provides that those provisions of the bill not related to the licensure of marine pilots and deputy marine pilots take effect on July 1, 1991.

Section 29 of the bill provides that those provisions of the bill relating to licensure of marine pilots and deputy marine pilots take effect on January 1, 1992.

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

BY REPRESENTATIVE C.DAVIS

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; 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 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 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 \$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.

29 (1) 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 (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.



7-LS0571A ✓  
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2/21/91

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE C.DAVIS

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; and providing for an effective date."

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

4 <sup>IN</sup> \* 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 08.62.010 is repealed and reenacted to read:

10 *Comp'd 7/25/16* Sec. 08.62.010. CREATION AND MEMBERSHIP OF BOARD. (a) The Board of  
11 *DL* Marine Pilots is created in the Department of Commerce and Economic Development. The board  
12 consists of seven members.

13 (b) Three members of the board shall be pilots licensed under AS 08.62.100 who have  
14 been actively engaged in piloting on vessels subject to this chapter; not more than one pilot  
15 member may be from each marine pilotage region. Two members of the board shall be agents  
16 or managers of vessels subject to this chapter. Two members of the board shall be public  
17 members. All members of the board shall be residents of the state.

18 \* Sec. 3. AS 08.62.020 is amended to read:

19 Sec. 08.62.020. APPOINTMENT AND TERM OF OFFICE. The governor shall appoint  
20 the [PILOT AND AGENT OR MANAGER] members of the board, subject to confirmation by  
21 a majority of the members of the legislature in joint session, for terms of four years [,] or until  
22 their successors are appointed. A person [, WITH THE EXCEPTION OF THE  
23 COMMISSIONER OR THE COMMISSIONER'S DESIGNEE,] may not be appointed to the  
24 board for more than two consecutive terms.

25 \* Sec. 4. AS 08.62.030 is amended to read:

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

30 \* Sec. 5. AS 08.62.040 is repealed and reenacted:

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

- 1 (1) provide for
- 2 (A) the examination of applicants for marine pilot and deputy marine pilot
- 3 licenses;
- 4 (B) issuance and renewal of marine pilot and deputy marine pilot licenses
- 5 for each pilotage region; and
- 6 (C) transfer of marine pilot and deputy marine pilot licenses between
- 7 marine pilotage regions;
- 8 (2) place qualifications or limitations on marine pilot and deputy marine pilot
- 9 licenses based on the characteristics of the marine pilotage region in which the licensee will
- 10 operate and the experience and training of the licensee;
- 11 (3) recognize regional marine pilot organizations to promote, administer, and
- 12 manage an efficient, reliable, and safe pilotage system within each marine pilotage region;
- 13 (4) keep a register of licensed marine pilots, licensed deputy marine pilots, marine
- 14 pilot trainees, and agents;
- 15 (5) establish pilotage tariffs for each marine pilotage region, and charges for
- 16 training and other purposes;
- 17 (6) establish a mandatory random drug and alcohol testing program for persons
- 18 licensed under this chapter;
- 19 BOARD CONTROLS (7) establish standards for training of marine pilots, deputy marine pilots, and
- 20 marine pilot trainees and review training programs conducted by regional marine pilot
- 21 organizations and approve the training program if the program is consistent with standards
- 22 established by the board;
- 23 (8) make available, upon request, copies of this chapter and the regulations
- 24 adopted under this chapter;
- 25 BOARD CONTROLS (9) review the articles, bylaws, and operating rules of regional marine pilot
- 26 organizations and approve the articles, bylaws, and rules, if they are consistent with this chapter,
- 27 regulations adopted under this chapter, and other applicable law;
- 28 (10) audit regional marine pilot organizations for compliance with applicable law;
- 29 and { INDIVIDUAL PILOTS IF NOT REGIONAL CONTROL }
- 30 (11) impose disciplinary sanctions under AS 08.01.075 on persons licensed under
- 31 this chapter.

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

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

6 (d) The board shall establish the following marine pilotage regions:

7 (1) Southeastern Alaska marine pilotage region, consisting of the water of the  
8 state and adjacent high seas from Dixon Entrance to Yakutat;

9 (2) Southwestern Alaska marine pilotage region, consisting of the water of the  
10 state and the adjacent high seas from Icy Bay to Demarcation Point, including Dutch Harbor and  
11 Captain's Bay; and

12 (3) Aleutian Island marine pilotage region, consisting of the water of the state and  
13 the adjacent high seas of the Aleutian Islands and Alaska Peninsula.

14 \* Sec. 6. AS 08.62 is amended by adding a new section to article 1 to read:

15 Sec. 08.62.050. MARINE PILOT COORDINATOR. The department may, after  
16 consultation with the board, employ a marine pilot coordinator to administer and enforce this  
17 chapter. The coordinator may not be an active member of a regional marine pilot organization  
18 in the state and may not serve as a marine pilot except as necessary to perform the duties of  
19 marine pilot coordinator.

20 \* Sec. 7. AS 08.62.080 is repealed and reenacted to read:

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

24 (b) A person may not be licensed for more than one marine pilotage region at one time.

25 (c) Notwithstanding AS 08.01.100(a), marine pilot and deputy marine pilot licenses  
26 expire on December 31 of each even-numbered year.

27 \* Sec. 8. AS 08.62.090(a) is amended to read:

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

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

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

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

3 Sec. 08.62.100. QUALIFICATIONS FOR <sup>DEPUTY</sup> MARINE PILOT LICENSE. (a) The board X  
4 shall issue a marine pilot license for a marine pilotage region to a person who

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

9 (b) A person who applies for a marine <sup>DEPUTY</sup> pilot license under this chapter shall provide proof X  
10 satisfactory to the board of the following experience:

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

13 (2) two years of sea service as a master on vessels or tug and tow of not less than  
14 1,600 combined gross tons while holding a license as master of vessels of not less than 1,600  
15 gross tons;

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

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

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

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

28 (d) In this section, "one year of sea service" means 365 days of <sup>AS DEMAND BY CL</sup> ~~standing watch~~ <sup>AT SEA UNDER WAY</sup> on a  
29 seagoing vessel; and "day" means eight hours on watch during a 24 hour period.

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

31 Sec. 08.62.115. QUALIFICATIONS FOR <sup>DEPUTY</sup> MARINE PILOT LICENSE. (a) X