

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7508 SENATE LABOR & COMMERCE

1 The board shall issue a deputy marine pilot license for a marine pilotage region to a person who X
 2 (1) is a citizen of the United States;
 3 (2) passes written and oral examinations ^{DEPUTY} that may be required by the board;
 4 (3) successfully completes a training program as a ~~marine pilot trainee~~, during a X
 5 period of at least six months and not more than three years ^{AS DEFINED BY BOARD} that includes

6 (A) a minimum of 100 documented familiarization and training trips on
 7 vessels subject to this chapter including at least 50 dockings and 50 undockings under the
 8 supervision of a licensed marine pilot performed by the applicant at significant docks
 9 within the region as specified by the board;

10 (B) a course in ship handling at a simulator approved by the board; and

11 (C) additional training requirements that may be required by the board,
 12 including requirements for tug assisted dockings and undockings.

13 (b) A person licensed as a ^{DEPUTY} marine pilot under this section may, except as X
 14 otherwise provided by the board, pilot vessels of 20,000 gross tons or less in the marine pilotage
 15 region for which the license is issued.

16 (c) A marine pilot who supervises a marine pilot trainee on familiarization and training
 17 trips shall

18 ~~DELETED~~ (1) have at least five years of experience as a licensed marine pilot in the marine
 19 pilotage region; and

20 (2) be authorized by the board to supervise marine pilot trainees.

21 (d) A marine pilot who supervises the training of marine pilot trainees shall maintain a
 22 written report and evaluation of each trip, docking, and undocking completed by the marine pilot
 23 trainee.

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 AS 08.62.120 is repealed and reenacted to read:

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

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

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

31 (3) provide evidence of satisfactory completion of a physical examination by a

8 DELETE
 12 SECTION OF
 TRAINING
 13 CONSTRAINT

- 1 licensed physician within 60 days before the date of renewal of the license;
- 2 (4) submit proof satisfactory to the board that the person
- 3 (A) has engaged in piloting vessels subject to this chapter during at least
- 4 60 days in the licensing period immediately preceding the licensing period for which
- 5 renewal is sought; or
- 6 (B) completed the minimum number of familiarization trips required by the
- 7 board for renewal of a marine pilot license for the marine pilotage region for which the
- 8 license is to be renewed.
- 9 (b) The board shall establish criteria for the renewal of deputy marine pilot licenses.

10 * Sec. 13. AS 08.62.130 is repealed and reenacted to read:

11 Sec. 08.62.130. LAPSED LICENSES. (a) The board shall reinstate a lapsed marine

12 pilot license if the former licensee satisfies the requirements of AS 08.62.100 and completes two

13 trips for each year that the license has been lapsed to each major port and waterway, defined by

14 the board, in the pilotage region for which the license is to be reissued and, if the license has

15 been lapsed for a year or more, passes an examination administered by the board.

16 (b) The board shall establish criteria for reinstatement of a lapsed deputy marine pilot

17 license.

18 * Sec. 14. AS 08.62.150(a) is amended to read:

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

20 when the board finds that the person

- 21 (1) is incompetent in the performance of pilotage duties;
- 22 (2) is ^{habitually} intoxicated ^{due to} due to alcohol or narcotic or hallucinogenic drugs;
- 23 (3) illegally uses or sells narcotic or hallucinogenic drugs;
- 24 (4) makes a false statement to obtain a license;
- 25 (5) violates a provision of this chapter or a regulation adopted under this chapter
- 26 [IT];
- 27 (6) is guilty of misconduct during the course of employment; [OR]
- 28 (7) charges, collects, or receives an amount for marine pilot services that is
- 29 different from the tariff established by the board; or

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

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

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

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

6 Sec. 08.62.165. LIABILITY. (a) A person who is licensed under this chapter is not
7 liable in excess of \$5,000 for damage or loss occurring as a consequence of the person's error,
8 fault, omission, or neglect in performing services for which a license is required under this
9 chapter. The limitation of liability under this subsection does not apply if the person's error,
10 fault, omission, or neglect is wilful.

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

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

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

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

27 * Sec. 17. AS 08.62.170 is repealed and reenacted to read:

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

1 for compensation for marine pilot services.

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

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

6 ~~OPT~~ (b) The board shall recognize one organization of marine pilots within each marine
7 pilotage region.

8 (c) Each organization of marine pilots shall promote a safe and reliable system of marine
9 pilotage for the region in which the organization is established, including dispatching and training
10 of marine pilots, deputy marine pilots, and trainee pilots and other functions that the organization
11 may assume. The articles, bylaws, and rules of each organization of marine pilots recognized
12 by the board are subject to approval by the board on the basis of

13 (1) uniform and nondiscriminatory application of the articles, bylaws, and rules
14 to marine pilots and deputy marine pilots licensed under this chapter and marine pilot trainees;

15 (2) compliance with applicable laws; and

16 (3) effectiveness in

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

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

21 (C) maintaining a training program for marine pilots, deputy marine pilots,
22 and marine pilot trainees that is approved by the board.

23 * Sec. 19. AS 08.62.180 is amended to read:

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

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

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

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

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

31 (A) on the rivers of Alaska, or

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

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

7 (6) pleasure craft.

8 * Sec. 20. AS 08.62.187 is amended to read:

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

12 * Sec. 21. AS 08.62.190 is amended to read:

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

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

22 * Sec. 22. AS 08.62 is amended by adding a new section to read:

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

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

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

27 * Sec. 24. AS 45.50.572(a) is amended to read:

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

1 members illegal combinations or conspiracies in restraint of trade under the provisions of
2 AS 45.50.562 - 45.50.596.

3 * Sec. 25. TRANSITION; APPOINTMENTS TO THE BOARD OF MARINE PILOTS. (a) Persons
4 who are serving on the Board of Marine Pilots, other than the commissioner of commerce and economic
5 development, on the effective date of sec. 2 of this Act shall continue to serve for the term to which they
6 were appointed.

7 (b) The governor shall appoint a public member to fill the position formerly occupied by the
8 commissioner of commerce and economic development on the Board of Marine Pilots. The appointment
9 made under this subsection shall be made for an initial term of one, two, three, or four years as
10 determined by the governor.

11 (c) Persons shall be appointed to the Board of Marine Pilots after the effective date of sec. 2 of
12 this Act in accordance with the qualifications set out in AS 08.62.010, as amended by sec. 2 of this Act.

13 * Sec. 26. TRANSITION; MARINE PILOT LICENSE. (a) Marine pilot licenses issued under
14 AS 08.62.100 before the effective date of sec. 10 of this Act shall be valid for the period for which the
15 licenses were issued and may be renewed until December 31, 1994, without examination upon payment
16 of the marine pilot license fee.

17 (b) A person who has applied for or made a substantial effort toward qualifying for, as
18 determined by the Board of Marine Pilots, a marine pilot license under AS 08.62.100 before the effective
19 date of sec. 10 of this Act, may receive a marine pilot license under the requirements for licensure as
20 they existed before the effective date of sec. 10 of this Act and may renew the license until December
21 31, 1994, without examination upon payment of the marine pilot license fee.

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

24 (d) A marine pilot license issued under AS 08.62.100 before the effective date of sec. 10 of this
25 Act or under (b) of this section, and for subsequent renewals of the license, entitles the licensee to pilot
26 vessels in any marine pilotage region in the state until December 31, 1994.

27 * Sec. 27. AS 08.62.155 and 08.62.200(2) are repealed.

28 * Sec. 28. Sections 1 - 6, 14 - 25, and 27 of this Act take effect July 1, 1991.

29 * Sec. 29. Sections 7 - 13 and 26 of this Act take effect January 1, 1992.

C. Davis Draft

7-LS0571A ✓
Utermohle
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 * 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 Sec. 08.62.010. CREATION AND MEMBERSHIP OF BOARD. (a) The Board of
11 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 (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 (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
- 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 MARINE PILOT LICENSE. (a) The board
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 pilot license under this chapter shall provide proof
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 standing watch 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 DEPUTY MARINE PILOT LICENSE. (a)

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

2 (1) is a citizen of the United States;

3 (2) passes written and oral examinations that may be required by the board;

4 (3) successfully completes a training program as a marine pilot trainee, during a
5 period of at least ~~30~~ months and not more than three years, that includes

6 (A) a minimum of 100 documented familiarization and training trips on
7 vessels subject to this chapter including at least 50 dockings and 50 undockings under the
8 supervision of a licensed marine pilot performed by the applicant at significant docks
9 within the region as specified by the board;

10 (B) a course in ship handling at a simulator approved by the board; and

11 (C) additional training requirements that may be required by the board,
12 including requirements for tug assisted dockings and undockings.

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

16 (c) A marine pilot who supervises a marine pilot trainee on familiarization and training
17 trips shall

18 (1) have at least ~~five~~ years of experience as a licensed marine pilot in the marine
19 pilotage region; and

20 (2) be authorized by the board to supervise marine pilot trainees.

21 (d) A marine pilot who supervises the training of marine pilot trainees shall maintain a
22 written report and evaluation of each trip, docking, and undocking completed by the marine pilot
23 trainee.

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

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26 a person who is licensed under AS 08.62.100 shall

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

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

31 (3) provide evidence of satisfactory completion of a physical examination by a

1 licensed physician within 60 days before the date of renewal of the license;

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

3 (A) has engaged in piloting vessels subject to this chapter during at least
4 60 days in the licensing period immediately preceding the licensing period for which
5 renewal is sought; or

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

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

10 * Sec. 13. AS 08.62.130 is repealed and reenacted to read:

11 Sec. 08.62.130. LAPSED LICENSES. (a) The board shall reinstate a lapsed marine
12 pilot license if the former licensee satisfies the requirements of AS 08.62.100 and completes two
13 trips for each year that the license has been lapsed to each major port and waterway, defined by
14 the board, in the pilotage region for which the license is to be reissued and, if the license has
15 been lapsed for a year or more, passes an examination administered by the board.

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

18 * Sec. 14. AS 08.62.150(a) is amended to read:

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

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

22 (2) is habitually intoxicated due to alcohol or narcotic or hallucinogenic drugs;

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

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

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

26 [IT];

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

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

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

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

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

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

6 Sec. 08.62.165. LIABILITY. (a) A person who is licensed under this chapter is not
7 liable in excess of \$5,000 for damage or loss occurring as a consequence of the person's error,
8 fault, omission, or neglect in performing services for which a license is required under this
9 chapter. The limitation of liability under this subsection does not apply if the person's error,
10 fault, omission, or neglect is wilful.

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

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

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

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

27 * Sec. 17. AS 08.62.170 is repealed and reenacted to read:

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

1 for compensation for marine pilot services.

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

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

6 ~~(b) The board shall recognize one organization of marine pilots within each marine~~
7 ~~pilotage region.~~

8 (c) Each organization of marine pilots shall promote a safe and reliable system of marine
9 pilotage for the region in which the organization is established, including dispatching and training
10 of marine pilots, deputy marine pilots, and trainee pilots and other functions that the organization
11 may assume. The articles, bylaws, and rules of each organization of marine pilots recognized
12 by the board are subject to approval by the board on the basis of

13 (1) uniform and nondiscriminatory application of the articles, bylaws, and rules
14 to marine pilots and deputy marine pilots licensed under this chapter and marine pilot trainees;

15 (2) compliance with applicable laws; and

16 (3) effectiveness in

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

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

21 (C) maintaining a training program for marine pilots, deputy marine pilots,
22 and marine pilot trainees that is approved by the board.

23 * Sec. 19. AS 08.62.180 is amended to read:

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

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

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

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

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

31 (A) on the rivers of Alaska, or

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

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

7 (6) pleasure craft.

8 * Sec. 20. AS 08.62.187 is amended to read:

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

12 * Sec. 21. AS 08.62.190 is amended to read:

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

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

22 * Sec. 22. AS 08.62 is amended by adding a new section to read:

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

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

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

27 * Sec. 24. AS 45.50.572(a) is amended to read:

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

1 members illegal combinations or conspiracies in restraint of trade under the provisions of
2 AS 45.50.562 - 45.50.596.

3 * Sec. 25. TRANSITION; APPOINTMENTS TO THE BOARD OF MARINE PILOTS. (a) Persons
4 who are serving on the Board of Marine Pilots, other than the commissioner of commerce and economic
5 development, on the effective date of sec. 2 of this Act shall continue to serve for the term to which they
6 were appointed.

7 (b) The governor shall appoint a public member to fill the position formerly occupied by the
8 commissioner of commerce and economic development on the Board of Marine Pilots. The appointment
9 made under this subsection shall be made for an initial term of one, two, three, or four years as
10 determined by the governor.

11 (c) Persons shall be appointed to the Board of Marine Pilots after the effective date of sec. 2 of
12 this Act in accordance with the qualifications set out in AS 08.62.010, as amended by sec. 2 of this Act.

13 * Sec. 26. TRANSITION; MARINE PILOT LICENSE. (a) Marine pilot licenses issued under
14 AS 08.62.100 before the effective date of sec. 10 of this Act shall be valid for the period for which the
15 licenses were issued and may be renewed until December 31, 1994, without examination upon payment
16 of the marine pilot license fee.

17 (b) A person who has applied for or made a substantial effort toward qualifying for, as
18 determined by the Board of Marine Pilots, a marine pilot license under AS 08.62.100 before the effective
19 date of sec. 10 of this Act, may receive a marine pilot license under the requirements for licensure as
20 they existed before the effective date of sec. 10 of this Act and may renew the license until December
21 31, 1994, without examination upon payment of the marine pilot license fee.

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

24 (d) A marine pilot license issued under AS 08.62.100 before the effective date of sec. 10 of this
25 Act or under (b) of this section, and for subsequent renewals of the license, entitles the licensee to pilot
26 vessels in any marine pilotage region in the state until December 31, 1994.

27 * Sec. 27. AS 08.62.155 and 08.62.200(2) are repealed.

28 * Sec. 28. Sections 1 - 6, 14 - 25, and 27 of this Act take effect July 1, 1991.

29 * Sec. 29. Sections 7 - 13 and 26 of this Act take effect January 1, 1992.

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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

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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 Sec. 08.62.010. CREATION AND MEMBERSHIP OF BOARD. (a) The Board of
11 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, and persons licensed under this
- 29 chapter whose pilot fees are not collected by a regional marine pilot organization, for compliance
- 30 with applicable law; and *{ INDIVIDUAL PILOTS IF NOT REGIONAL CONTROL }*
- 31 (11) impose disciplinary sanctions under AS 08.01.075 on persons licensed under

1 this chapter.

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

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

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

8 (1) Southeastern Alaska marine pilotage region, including the water of the state
9 and adjacent high seas from Dixon Entrance to Cape Suckling;

10 (2) Aleutian Island/Alaska Peninsula marine pilotage region, including the water
11 of the state and the adjacent high seas from the southernmost point of the entrance to Kamishak
12 Bay on the southern shore of the Alaska Peninsula, then along the southern and northern shores
13 of the Alaska Peninsula, and then to Cape Newenham on the north shore of Bristol Bay and
14 including the Kodiak Island archipelago, the Aleutian Islands, and Bristol Bay; and

15 (3) Southcentral/Western/Arctic marine pilotage region, including the water of the
16 state and the adjacent high seas outside of the other marine pilotage regions described in this
17 subsection.

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

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

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

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

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

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

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

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7-15-15
Regions
in statute

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

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

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

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

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

9 (1) is a citizen of the United States;

10 (2) passes the written and oral examinations that may be required by the board;

11 (3) has completed training requirements established by the board; and

12 (4) satisfies (b) and (c) of this section.

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

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

17 (2) two years of sea service as a master on vessels or tug and tow of not less than
18 1,600 combined gross tons while holding a license as master of vessels of not less than 1,600
19 gross tons;

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

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

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

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

1 (d) In this section, "one year of sea service" means 365 days of standing watch on a
2 seagoing vessel; and "day" means eight hours on watch during a 24 hour period.

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

4 Sec. 08.62.115. QUALIFICATIONS FOR DEPUTY MARINE PILOT LICENSE. (a)

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

6 (1) is a citizen of the United States;

7 (2) passes written and oral examinations that may be required by the board;

8 (3) successfully completes a training program as a marine pilot trainee, during a
9 period of at least six months and not more than three years, that includes

10 (A) a minimum of 100 documented familiarization and training trips on
11 vessels subject to this chapter including at least 50 dockings and 50 undockings under the
12 supervision of a licensed marine pilot performed by the applicant at significant docks
13 within the region as specified by the board;

14 (B) a course in ship handling at a simulator approved by the board; and

15 (C) additional training requirements that may be required by the board,
16 including requirements for tug assisted dockings and undockings.

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

20 (c) A marine pilot who supervises a marine pilot trainee on familiarization and training
21 trips shall

22 (1) have at least five years of experience as a licensed marine pilot in the marine
23 pilotage region; and

24 (2) be authorized by the board to supervise marine pilot trainees.

25 (d) A marine pilot who supervises the training of marine pilot trainees shall maintain a
26 written report and evaluation of each trip, docking, and undocking completed by the marine pilot
27 trainee.

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

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

31 (1) submit an application for renewal of the license on a form provided by the

submit proof of continued qualification under AS 08.62.100 to receive a

provide evidence of satisfactory completion of a physical examination by a
within 60 days before the date of renewal of the license;

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

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

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

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

* Sec. 13. AS 08.62.130 is repealed and reenacted to read:

Sec. 08.62.130. LAPSED LICENSES. (a) The board shall reinstate a lapsed marine
pilot license if the former licensee satisfies the requirements of AS 08.62.100 and completes two
trips for each year that the license has been lapsed to each major port and waterway, defined by
the board, in the pilotage region for which the license is to be reissued and, if the license has
been lapsed for a year or more, passes an examination administered by the board.

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

* Sec. 14. AS 08.62.150(a) is amended to read:

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

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

(2) is habitually intoxicated due to alcohol or narcotic or hallucinogenic drugs;

(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 this chapter

[IT];

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

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

1 board;

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

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

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

7 (A) has engaged in piloting vessels subject to this chapter during at least
8 60 days in the licensing period immediately preceding the licensing period for which
9 renewal is sought; or

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

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

14 * Sec. 13. AS 08.62.130 is repealed and reenacted to read:

15 Sec. 08.62.130. LAPSED LICENSES. (a) The board shall reinstate a lapsed marine
16 pilot license if the former licensee satisfies the requirements of AS 08.62.100 and completes two
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28 (4) makes a false statement to obtain a license;

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

30 [IT];

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

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

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

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

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

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

10 Sec. 08.62.165. LIABILITY. (a) A person who is licensed under this chapter is not
11 liable in excess of \$5,000 for damage or loss occurring as a consequence of the person's error,
12 fault, omission, or neglect in performing services for which a license is required under this
13 chapter. The limitation of liability under this subsection does not apply if the person's error,
14 fault, omission, or neglect is wilful.

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

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

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

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

31 * Sec. 17. AS 08.62.170 is repealed and reenacted to read:

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

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

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

10 (b) The board shall recognize one organization of marine pilots within each marine
11 pilotage region.

12 (c) Each organization of marine pilots shall promote a safe and reliable system of marine
13 pilotage for the region in which the organization is established, including dispatching and training
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17 (1) uniform and nondiscriminatory application of the articles, bylaws, and rules
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21 (A) promoting an efficient, reliable, and professional marine pilotage
22 system in the region;

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24 of vessels visiting the region;

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26 and marine pilot trainees that is approved by the board.

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

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

31 (3) vessels propelled by machinery and not more than 65 feet in length over deck,

1 except tugboats and towboats propelled by steam;

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

4 (A) on the rivers of Alaska, or

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

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

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16 * Sec. 21. AS 08.62.190 is amended to read:

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19 or hazards of the sea prevent the employment of a pilot, is guilty of a misdemeanor and, upon
20 conviction, is punishable by a fine of not less than \$5,000 [\$1,000] nor more than \$15,000 for
21 the first offense and not less than \$10,000 nor more than \$30,000 for each subsequent
22 offense [\$5,000].

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

26 * Sec. 22. AS 08.62 is amended by adding a new section to read:

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

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

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

31 * Sec. 24. AS 45.50.572(a) is amended to read:

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

7 * Sec. 25. TRANSITION; APPOINTMENTS TO THE BOARD OF MARINE PILOTS. (a) Persons
8 who are serving on the Board of Marine Pilots, other than the commissioner of commerce and economic
9 development, on the effective date of sec. 2 of this Act shall continue to serve for the term to which they
10 were appointed.

11 (b) The governor shall appoint a public member to fill the position formerly occupied by the
12 commissioner of commerce and economic development on the Board of Marine Pilots. The appointment
13 made under this subsection shall be made for an initial term of one, two, three, or four years as
14 determined by the governor.

15 (c) Persons shall be appointed to the Board of Marine Pilots after the effective date of sec. 2 of
16 this Act in accordance with the qualifications set out in AS 08.62.010, as amended by sec. 2 of this Act.

17 * Sec. 26. TRANSITION; MARINE PILOT LICENSE. (a) Marine pilot licenses issued under
18 AS 08.62.100 before the effective date of sec. 10 of this Act shall be valid for the period for which the
19 licenses were issued and may be renewed until December 31, 1994, without examination upon payment
20 of the marine pilot license fee.

21 (b) A person who has applied for or made a substantial effort toward qualifying for, as
22 determined by the Board of Marine Pilots, a marine pilot license under AS 08.62.100 before the effective
23 date of sec. 10 of this Act, may receive a marine pilot license under the requirements for licensure as
24 they existed before the effective date of sec. 10 of this Act and may renew the license until December
25 31, 1994, without examination upon payment of the marine pilot license fee.

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

28 (d) A marine pilot license issued under AS 08.62.100 before the effective date of sec. 10 of this
29 Act or under (b) of this section, and for subsequent renewals of the license, entitles the licensee to pilot
30 vessels in any marine pilotage region in the state until December 31, 1994.

31 * Sec. 27. AS 08.62.155 and 08.62.200(2) are repealed.

- 1 * Sec. 28. Sections 1 - 6, 14 - 25, and 27 of this Act take effect July 1, 1991.
- 2 * Sec. 29. Sections 7 - 13 and 26 of this Act take effect January 1, 1992.

AMENDOLA

N/O GRANDFATHER

N/O TRANSITION FROM

ASST PILOT TO PILOT

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

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

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

* **Sec. 2.** 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 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. 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 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;

(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 [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 or an individual pilot 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.

(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.

* 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) A pilot may not be licensed at any one time in more than one of the pilotage regions established by the board.

(c) 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 board will issue a deputy pilot's 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.

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

(4) Two years of service as commanding officer of United States government vessels of not less than 1,⁶000 gross tons and holding a license as the master of ocean steam or motor vessels any gross tons; or

(5) Three years of experience as a member of an organized professional pilots association, during which period the candidate was actively engaged in piloting while holding a minimum license as a master freight or towing vessel not more than 1600 gross tons.

(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.

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

* **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 addition to complying with the requirements of AS 08.01.100, 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) on a form approved by the board, provide evidence of a satisfactory physical examination by a licensed medical doctor within 60 days before the date of renewal; and

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

(b) A licensed marine pilot who has not piloted in the region in which the pilot is licensed for at least 60 days 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; and

(2) takes and passes a written and oral examination if the license has been lapsed one year or more.

* 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 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 determined by the board in regulation shall employ a pilot holding a valid license under this chapter. A vessel in the mandatory pilotage waters of the State of Alaska must be under the direction and control of a state licensed pilot during any movement of the vessel, unless the pilot is removed by the master for cause.

* **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 per incident 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 cargo, 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.

* **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.

* **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, unless the perils or hazards of the sea prevent the employment of a pilot, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than

\$5,000 [\$1,000] nor more than \$15,000 [\$5,000] for the first offense and not less than \$10,000 nor more than \$30,000 for the second offense.

(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 \$1,000 [\$500] nor more than \$5,000 [\$1,000].

* Sec. 18. AS 08.62.200 is amended to read:

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;[.]

(5) "chemically impaired" means . . .

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

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

* Sec. 20. AS 39.25.120(c)(9) is amended by adding a new paragraph to read:

(M) Board of Marine Pilots,

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

(a) AS 45.50.562--45.50.596 do not forbid the existence or operation of labor, agricultural, [or] horticultural or

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

* **Sec. 22. TRANSITION.**

Sec. 1. 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. 23. EFFECTIVE DATE.** This Act takes effect
_____, 1991.

LEGISLATOR'S COPY

If you have any modifications, please contact the assigned staff immediately.

LEGISLATIVE RESEARCH AGENCY
RESEARCH REQUEST FORM

91.128
Request #

Senator Drue Pearce
Requested for (Legislator)

State Regulations of Marine

Rod Mourant (3844)
Staff Phone Number

Pilots

ASSIGNMENT

01/28/91 11:00 a.m.
Date/Time Initials

Carol R. Vandor 01/29/91
Staff (3991) Date

SUBJECT DESCRIPTION

See attached.

Rod.
If it's not in the report - have Research do a quick + dirty on state licensing -
1 who/how many restrict #'s
2 who requires apprenticeships?
3 Fed licenses?

LRG
#3 RESEARCH
1/28/91
D&B

PURPOSE: _____

Background Info/Pertinent Files? _____

ANTICIPATED COMPLETION DATE: February 15, 1991

Alaska State Legislature

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



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

Senator Drue Pearce
District G

TO: Gordon S. Harrison, Director
Legislative Research Agency

FROM: Rod Mourant, Legislative Aide
Senate Labor & Commerce Committee

DATE: January 28, 1991

RE: Marine Pilotage Act

I placed an order today for a research project that Senator Pearce would like completed ASAP. I referenced the enclosed article and offered to forward a copy.

The questions she would like answered by the study are:

1. Which states restrict the number of marine pilot licenses issued and at what level, respectively, are they limited?
what is maximum number issued?
2. Which states require an apprenticeship before issuing a marine pilot's license to an individual?
3. Which states require an individual to hold a federal marine pilot's license prior to issuing the individual a state license?

Thanks in advance for the speedy service!

ENCLOSURE

RECEIVED
JAN 29 1991

Legislative Research Agency

Pilotage—State or Federal

IN A PREVIOUS COLUMN, the terms 'State' and 'Federal (CG)' pilot were used. Mariners of many other countries embark State pilots in the USA without really knowing the legal basis of the pilot's authority nor without any awareness that an approaching US ship may not have a separate pilot aboard. This column will attempt to explain the differences, provide some background to the present situation and highlight some current problems.

Basically, a Federal pilot is one who is licensed by the US Coast Guard (CG) to pilot US ships in a specific area and who is acting under the authority of that licence. A State pilot, who will, in almost all cases, concurrently hold Federal pilotage, is licensed by a State to pilot foreign ships upon that State's waters.

In many instances, the required Federal pilot is the master or one of the ship's mates who also hold the appropriate pilotage endorsement. The State pilot, however, is not a member of the crew, but a 'servant of the vessel,' engaged to advise the master about the waters to be transited. In actual practice, as most mariners around the world know, the pilot assumes the conn (while legally cloaked as 'adviser!'). Occasionally, the term 'docking pilot' will be heard. This does not necessarily mean that person holds any pilotage endorsement, but refers to the master of the assisting tug(s) who comes aboard the ship to control his tug(s) and perform the berthing/unberthing.

The First Congress (1789) recognised that the individual States would be better qualified to know the conditions of their ports and channels. Thus, the authority and basis for State regulation of pilots was established, in the words of the present statute: 'Except as otherwise provided . . . pilots in the bays, rivers, harbors and ports of the United States shall be regulated only in conformity with the laws of the States' [46 USC 8501(a)]. This not only meant that States would license pilots, but that they could determine where and when their pilots were required to be employed. States where a pilot is required are referred to as compulsory pilotage. Some States do not require a pilot to be employed (non-compulsory), but a pilotage fee must still be paid. Most masters, having to pay the pilotage fee anyway, will usually opt for the pilot.

Federal pilotage

In the mid-1800s, Congress inadvertently threatened the State pilotage system, enacting two separate laws intended to provide greater safety in the operation of steamships by requiring Federal licensing of masters, mates, engineers and pilots. The situation was corrected by further legislation which effectively established the concept of Federal pilotage. The present statute requires that ' . . . a coastwise sea-going vessel shall be under the direction and control of a pilot licensed (by the CG) if the vessel is: not sailing on register (i.e., foreign trade); underway; not on the high seas; and, propelled by machinery and subject to inspection' [46 USC 8502 (a)].

The effect of this law was to allow US-flag ships in

domestic trade to utilise CG-licensed pilots; US-flag ships in foreign trade and all foreign ships continued to be piloted by State-licensed pilots. Even many US mariners do not understand that the law thus *requires* pilots on subject vessels on *all* navigable waters of the US, including territorial seas. Practically speaking, it would be nearly impossible to comply with the law literally—i.e., pilotage endorsements for all waters—and the CG has long recognised that ' . . . there are many large portions of our coastline where there are no navigational risks to vessels proceeding along the coast within territorial seas. In view of this, the CG has a long history of only licensing individuals as pilots for a portion of the navigable waters of the US, primarily harbor areas, high traffic areas, rivers and the Great Lakes.' (FR, V. 53, N.108, p.20655)

It is interesting to note, in view of the brouhaha over pilotage in the *Exxon Valdez* casualty, that Congress intended to exempt parts of Prince William Sound from Federal pilotage requirements. As per 46 USC 8502(g), 'the Secretary shall designate by regulation the areas of the approaches to and waters of Prince William Sound, Alaska, on which a vessel subject to this section is not required to be under the direction and control of a pilot licensed' by the CG.

Licensing of State pilots

As one might expect, the various procedures employed by the different States for licensing their pilots are as varied as their waters and conditions are unique. Some States restrict the number of State licences issued. Applicant entry varies from a four year apprenticeship (with no prior seagoing experience) to a competitive examination while holding a second mate's licence (with one year's sea time as second mate) to two years' experience as master on large ships and 50 round trips on the waters applied for.

Some States require a Federal licence as a prerequisite—others only require this licence after completion of training. Virtually all States require State-licensed pilots to progress through 'steps' in tonnage/length/draft of ships handled to ensure adequate experience is gained; often, part of this is under the supervision of a senior, more experienced pilot. Some State pilot associations further require simulator training.

State pilotage laws, including licensing, are administered by a State pilot commission or board. Typically, this body will include one or two serving pilots, thus ensuring that the applicants, examinations and continuing qualifications of State-licensed pilots benefit from the 'real world' experience of State pilots who really know what skills the job requires.

CG licensing procedures

While the CG is the present government agency charged with the authority to examine for and issue Federal pilotage licences/endorsements, their execution is a mixed bag. Qualification is simpler than for State licences—a specified number of qualifying round-trips (r/t) on certain-size vessels gains entrance to the examination. No actual shiphandling experience need be demonstrated, the CG apparently 'assuming'

that observation of same is adequate. The dichotomy here is that 'pilotage' is composed of 'local knowledge' and 'shiphandling,' yet the CG requirements seemingly confuse the two—local knowledge is generally gained independently of vessel size; shiphandling is a function of ship size, but ability cannot be determined solely in the examination room.

The trip requirements vary with the licence held and position on board. In some CG Districts (CGD), holding an unlimited master's licence gains qualification in six r/t—in other CGDs, one must hold the same licence and be serving as master to qualify in 12 r/t. No prior licence must be held for an original pilot (only) licence, but three years on deck is required and, usually, the initial number of r/t required are much greater (up to 20 or more). Once the original endorsement or original pilot licence is obtained, the r/t requirements for 'extension of route' (additional pilotage) are lessened.

The initial exam is comprehensive (piloting, chart navigation, weather, shiphandling, pollution, etc.)—subsequent exams for extension of route usually only cover local knowledge, chart sketch, aids to navigation and a rules of the road section. The thoroughness and expediency by which r/t are evaluated, the exam graded and the content of the exam, itself, also vary widely, depending on the CG personnel in the Regional Examination Center (REC). As the CG is first a military organisation, the 'generalist' idea prevails, and the service rotates personnel through a variety of billets to diversify their experience.

Applicants for pilotage and other licences are seldom comforted by the thought that their livelihood is merely a step on the promotion ladder for CG personnel, rather than being judged by a professional mariner. Theoretically, one benefit to this scheme is preventing too much familiarity with the maritime community which might lead to less than scrupulous practices in issuance of licences and seamen's papers—it hasn't always prevented abuses, however.

Except as noted above (non-compulsory pilotage), there are few exemptions to pilotage in the USA. Generally, only US ships under 1,600 grt (self-certified) and foreign ships under 300 grt are exempt from pilotage. Recent regulations have added an additional exemption for vessels towing tank barges totalling not more than 10,000 grt. In these vessels, as well as vessels up to 1,600 grt, the master (or mate) is a 'self-certified' pilot. 'Self-certified' pilots must have four r/t (up to 1,600 grt) or 12 r/t (tank barges to 10,000 grt), with a quarter of the required trips made at night. No exam is required.

There are some troubling aspects to the 'self-certified' pilotage. Small vessels *do* get into collisions with much larger vessels and a 10,000 grt barge loaded with toxic chemicals is not something to be 'exempted'! Without a 'recency of service' requirement, the requisite four/12 r/t could have been made at any time in the past. No vessel size is stipulated—it could legally be an outboard-equipped skiff! With the CG trying to justify authority over State pilots, it is interesting to note that these exemptions are granted, apparently without similar concern.

Increasingly, in recent years, a conflict has developed between the CG and State pilots. Basically,

the CG desires to exert direct control over the actions of State pilots (no attempt will be made here to address how CG control of State pilots might contravene the 'sense of Congress' that States should control their own pilots!). The CG may also, rightfully, be concerned about the lack of any pilot aboard a foreign vessel in 'non-compulsory' areas. Although not unlikely, most masters would think twice about the consequences of this act, especially on a first call! In any case, the CG already has authority to require a Federal pilot in any area where a State does not—i.e., non-compulsory areas [46 USC 8503(a)].

The scenario concerning the CG, which is not rare, would see a State pilot, acting on that licence, involved in a casualty. The State could suspend the pilot's licence, but he would still be free to pilot on the authority of his *Federal* licence. The reverse is also true, although in States where a State licence is predicated upon possession of a Federal licence, revocation and/or suspension (R&S) of the latter would automatically result in R&S of the former. The CG has taken action against State pilots by indirect means—i.e., violations of the Federal Boat Safety Act of 1971 (negligence), Ports and Waterways Safety-Act of 1972 (pollution), etc.

Other than the 'normal' bureaucratic urge to expand jurisdiction, the CG seems to feel that State boards and associations may be lax in policing their own ranks. Perhaps, on occasion, this is so—but is CG control the best way to remedy this problem? Like other professional associations (physicians, lawyers, etc.), State pilots may be reluctant in policing their own due to the unspoken fear of being in the same position themselves at a later time (there, but for the grace of God, go II). It is also very true that State pilots, are fully aware of the difficulties of the job, more so than the CG, and are thus reluctant to respond to well-intentioned, but uninformed pressure.

Some States/associations have apparently been lax in responding to some deficiencies. Certainly, when one pilot has had four or five casualties, some action is warranted. This, of course, is where the CG would wish to impose their heavy-handed punishment of R&S, which is somewhat misleadingly referred to as 'remedial.' Is this the proper course? The CG apparently feels that putting a pilot (or other mariner) on the beach is going to improve his or her skills. This is wrong-headed thinking! The State pilots are in a much better position to impose (truly) 'remedial' measures—and many *have* done so—such as simulator courses, renewed supervision or other additional training.

If State pilot boards/associations are reluctant to impose discipline or require additional training, how can the problem be resolved? One proposal is that a separate pilot certification board, perhaps affiliated with the American Pilots Association (APA), could be empowered to review all accidents involving State pilots. This board would have the authority to impose appropriate remedial measures, where necessary, revoking or suspending State licences, when required. Much the same as with medical board certification, such a board could also certify pilots to minimum standards and would go a long way toward removing the only criticism by the CG of the State pilot system. □

WORK ORDER REQUEST FORM

W.O. [17] LS-1220

KEYWORDS: MARINE PILOTS ASSIGNED: Utermohle
MARINE TRANSPORTATION
VESSELS

REQUEST FOR: Research/OP TAKEN BY: Barnes

SUBJECT: Capt. Joseph Homer v SE AK Pilots

REQUESTED FOR: SC SL&C BY: Rod Mourant PHONE: 465-3844

DELIVER TO: Sen. Pearce, Cap 101

INSTRUCTIONS: Opinion relating to Captain Joseph W. Homer v Southeastern Alaska Pilots, et. al. See attached.

OBTAIN	SPECIAL DRAFTING INSTRUCTIONS ATTACHED []
	AUTHORIZED TO CONFER WITH _____
	RETURN _____
	_____ TO REQUESTOR
	APPROVED: <u> X </u> DIRECTOR, LEGAL SERVICES

REVIEWED _____	SPECIAL INSTRUCTIONS to TYPING/PROOFING
IN <u>04/15/91</u> DUE _____	_____
TYPED: Draft _____ Date _____	_____
Final _____ Date _____	
PROOFED _____ DELIVERED _____	Request for DRAFT

Alaska State Legislature

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



SENATE LABOR AND COMMERCE COMMITTEE

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

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

TO: Tam Cook, Director
Division of Legal Services

FROM: Rod Mourant, Legislative Aide
Senate Labor & Commerce Committee

A handwritten signature in black ink, appearing to read "Rod".

DATE: April 14, 1991

RE: Captain Joseph W. Homer vs Southeastern AK Pilots, et al

Tam, Senator Pearce requested that you please have staff review this suit and explain its meaning and implications in common english.

What are the legal implications? How does it affect current marine pilotage regulation and procedure? Specifically, how does it affect the concept of regional pilotage in Alaska?

As you know, there are currently two pieces of legislation dealing with marine pilotage making their way through the legislature. How are their provisions affected?

Thank you.

Attachment

RICHARD D. PENNINGTON & ASSOCIATES, P.C.
920 W. 6th Ave.
Anchorage, Alaska 99501
(907) 277-1130

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

CAPTAIN JOSEPH W. HOMER)

Plaintiff,)

vs.)

SOUTHEASTERN ALASKA PILOTS)
ASSOCIATION; STATE OF ALASKA BOARD OF)
MARINE PILOTS; PAUL M. TAYLOR;)
RUSSELL SELL; CAPTAIN MICHAEL O'HARA;)
WILLIAM C. LORCH; MARK FOSTER; RANDELL)
BURNS; CAPTAIN ARNT ANTONSEN; CAPTAIN)
JOHN MARCUS BALDRY; CAPTAIN WILLIAM)
BULLARD; CAPTAIN A. HARLEY CLOUGH;)
CAPTAIN DALE O. COLLINS; CAPTAIN EDWARD)
J. CREASEY; CAPTAIN ARCHIE GENE DIMENT;)
CAPTAIN ROGER S. DUNN; CAPTAIN HAROLD K.)
ELSENHORN; CAPTAIN JAMES HODGMAN;)
CAPTAIN COLIN EDWARD JONES; CAPTAIN)
JACK MARONI; CAPTAIN ROBERT K.)
NERUP; CAPTAIN LYLE R. PETKE; CAPTAIN)
GEORGE R. PORTER; CAPTAIN JAMES P.)
RANDALL; ROBERT W. SMITH; CAPTAIN)
MICHAEL SPENCE; CAPTAIN WILLIAM R. SWAN;)
CAPTAIN LESLIE A. TAYLOR; CAPTAIN)
VERNON H. WYATT,)

Defendants.)

Case No. _____)

COMPLAINT AND JURY DEMAND

COMES NOW plaintiff, Captain Joseph W. Homer, by and
through his attorneys, RICHARD D. PENNINGTON & ASSOCIATES, P.C.,

and for his complaint against defendants, alleges, avers and states as follows:

I. JURISDICTION AND VENUE

1. Plaintiff Captain Joseph W. Homer brings this civil action seeking treble damages and injunctive relief for injuries and threatened and continuing injuries to his business, property and trade caused by defendants' monopolistic practices, unreasonable restraints of trade and other violations of the Sherman and Clayton Acts, and the Federal Trade Commissions Act, including 15 USC §§ 15 and 26, 15 USC §§ 1, 2, 13 and 18, and 15 USC 45. The Court has ancillary jurisdiction over the state law claims in this matter. Finally, relief is sought pursuant to the Federal Civil Rights Act, 42 U.S.C. 1983 for Due Process, Equal Protection and Privileges and Immunities violations.

2. The defendant, State of Alaska Board of Marine Pilots (The Board and its members are collectively referred to as the "Board."), maintains its principal office, transacts business and is found within the District of Alaska.

3. The defendants Paul M. Taylor, Russell Sell, Captain Michael O'Hara, William C. Lorch, Mark Foster, Randell Burns, and Captain Harold Elsensohn are members of the State of Alaska Board of Marine Pilots. At all times referred to in this Complaint, they acted in both their official capacity and as private individuals. They maintain their offices, reside, transact business and are found within the District of Alaska.

4. The defendant, Southeastern Alaska Pilots Association (hereinafter referred to as the "Association"), maintains its principal office, transacts business and is found within the District of Alaska.

5. The defendants, Captain Arnt I. Antonsen, Captain John Marcus Baldry, Captain William Bullard, Captain A. Harley Clough, Captain Dale O. Collins, Captain Edward J. Creasey, Captain Archie Gene Diment, Captain Roger S. Dunn, Captain Harold K. Elsensohn, Captain James Hodgman, Captain Colin Edward Jones, Captain Jack Maroni, Captain Robert K. Nerup, Captain Lyle R. Petke, Captain George R. Porter, Captain James P. Randall, Captain Robert W. Smith, Captain Michael Spence, Captain William R. Swan, Captain Leslie A. Taylor, and Captain Vernon H. Wyatt maintain their principal offices, transact business, and are found within the District of Alaska.

6. The Court has jurisdiction under 15 USC §§ 15 and 26, 15 U.S.C. §§ 1, 2, 13, and 18, 15 U.S.C. 45 and 42 U.S.C. 1983.

II. DEFENDANTS

7. The State of Alaska Board of Marine Pilots is made a defendant herein. The Board is organized and exists pursuant to Chapter 106 of the 1970 Session Laws of Alaska as amended (Alaska Statutes §§ 08.62.010 et. seq. The Board is comprised of two marine pilots licensed under Chapter 106 of the 1970 Session Laws of Alaska, as amended, who have been actively engaged in piloting on vessels subject to that chapter, two agents or managers of

vessels which are subject to that chapter, two public members in accordance with Alaska Statute 08.62.010, and the Commissioner of the Department of the Commerce and Economic Development or his designee.

8. Defendants Paul M. Taylor, Russell Sell, Captain Michael J. O'Hara, William C. Lorch, Mark Foster, and Captain Harold Elsensohn are members of the Alaska Board of Marine Pilots, and they performed actions on behalf of the State of Alaska Board of Marine Pilots under the color of law.

9. The Association is a group of pilots associated together to fix prices, restrict competition, establish service areas, share profits, and provide central dispatching facilities to its members. The Association maintains its principal office in Ketchikan, Alaska.

10. Defendants, Captain Arnt I. Antonsen, Captain John Marcus Baldry, Captain William Bullard, Captain A. Harley Clough, Captain Dale O. Collins, Captain Edward J. Creasey, Captain Archie Gene Diment, Captain Roger S. Dunn, Captain Harold K. Elsensohn, Captain James Hodgman, Captain Colin Edward Jones, Captain Jack Maroni, Captain Robert K. Nerup, Captain Lyle R. Petke, Captain George R. Porter, Captain James P. Randall, Captain Robert W. Smith, Captain Michael Spence, Captain William R. Swan, Captain Leslie A. Taylor, Captain Vernon H. Wyatt (hereinafter referred to as the "Pilots") are members of the Association and they are

responsible for the creation, maintenance, and enforcement of the policies and practices of the Association.

III. CO-CONSPIRATORS

11. Various other persons and at least one (1) other pilot association not made defendants herein have participated as co-conspirators with the defendants in the violations hereinafter alleged and have performed acts and have made statements in furtherance thereof.

IV. PLAINTIFF CAPTAIN JOSEPH W. HOMER

12. Plaintiff Captain Joseph W. Homer is an independent Marine Pilot who transacts business and is found within the District of Alaska. Plaintiff Captain Joseph W. Homer maintains a residence in the State of Rhode Island. Presently, he possesses an Alaska limited license to pilot ships of not more than 20,000 gross tons upon the waters in and surrounding Dutch Harbor, Alaska, Yakutat, Alaska, and Southeast Alaska, and has been a contract pilot in Southeastern Alaska for the Association.

13. The plaintiff Captain Joseph W. Homer, in addition to his limited Alaska license, also possesses the following licenses:

Master of Freight and Towing Vessels of Not More Than 1,000 Gross Tons Upon Oceans; Chief Mate of Freight and Towing Vessels of Not More Than 1,500 Gross Tons Upon Oceans; Radar Observer Unlimited (Expires April 1991); First Class Pilot of Steam or Motor Vessels of any Gross Tons Upon New London Harbor; First Class Pilot of Steam or Motor Vessels of any Gross Tons Upon Thames River New London to Allyn Point; First Class Pilot of Steam or Motor

Vessels of any Gross Tons Upon Block Island Sound From Orient Point to Block Island; First Class Pilot of Steam or Motor Vessels of any Gross Tons Upon East Long Island Sound From Stratford Shoal to the Race; First Class Pilot of Steam or Motor Vessels of any Gross Tons Upon Western Long Island Sound From Execution Rocks to Stratford Shoal; First Class Pilot of Steam or Motor Vessels of any Gross Tons Upon Port Jefferson and Bridgeport Harbors; First Class Pilot of Steam or Motor Vessels of any Gross Tons Upon East River From the Battery to the 59th Street Bridge; First Class Pilot of Steam or Motor Vessels of any Gross Tons Upon East River From the 59th Street Bridge to Execution Rocks; Hempstead Harbor.

V. CREATION OF THE MONOPOLY

14. Derendant Pilots are in the business of being marine pilots. Marine pilots in the State of Alaska are licensed by the U.S. Coast Guard and the State of Alaska to pilot marine vessels in the territorial waters of the State of Alaska. Marine pilots are the only persons who are licensed and authorized by the State of Alaska to pilot marine vessels in the territorial waters of the State of Alaska. Marine pilots are hired by the owners of marine vessels to pilot ships in the State's territorial waters.

15. In carrying on their business, it is the practice of defendant Pilots to pilot marine vessels within and without the territorial jurisdiction of the State of Alaska and/or upon navigable rivers and streams thereof. The marine vessels have originated in ports outside of Alaska, and are in commerce between the several states and between the United States and foreign nations. Goods contained in these vessels have been transported from the port of origin to land at docks, wharfs, and other

receiving instrumentalities, on or in the vicinity of land, for sale and delivery to persons residing within the State of Alaska, and thereby, the defendant Pilots have been engaged in commerce between the several states and territories of the United States and in commerce between the United States and foreign nations.

16. The defendant Pilots have organized a trade association or organization known as the Southeastern Alaska Pilots Association. The Association is composed of approximately 21 marine pilots, who but for their membership in the Association, would compete with one another for business in the Southeastern Alaska pilot market. Each of the pilots operates his business according to his own desires, uncontrolled by anyone, save and except the determination and control of the Association.

17. Membership in the Association is limited to 21 marine pilots. To join the Association, a pilot must pay fees of up to Sixty Thousand Dollars (\$60,000.00) and must await a vacancy created by the expulsion, death, or retirement of a member of the Association, or creation of a new membership position by a two-thirds vote of the membership. Filling of vacancies is arbitrary and done at the whim of the members of the Association.

18. During the peak shipping season, the Association hires "contract pilots" to perform piloting services which cannot be performed by the members of the Association. Such "contract pilots" serve at the whim of the Association and its members. "Contract pilots" are not eligible for membership except as set

forth in the preceding paragraph. "Contract pilots" are required to pay a certain percentage of their piloting fees to the Association in exchange for being permitted to work in Southeastern Alaska. The net income from the "contract pilots" is distributed as profits to the other pilots of the Association on the basis as is set out in the Bylaws of the Association.

19. The Association was created to allow its members to fix prices, restrict competition, establish service areas, share profits, private central dispatching facilities to its members, and to give its members economic power against owners of marine vessels and against other marine pilots.

20. The Association has entered into agreement with at least one other similar association for the purpose of delineating service areas. There is an agreement among the associations that they will not compete with each other within their particular service areas. Accordingly, there is insignificant competition to the Southeastern Alaska Pilots Association in Southeast Alaska.

21. Since the creation of the Association up to the present time, all of the defendant Pilots and the defendant Association have been and continue to be engaged in an illegal conspiracy and restraint of trade in interstate marine commerce in violation of the Sherman Anti-Trust Act of Section 1, 15 USC 1, and in violation of the Alaska Monopolies and Restraint of Trade Act, A.S. 45.50.562 et. seq., and the Alaska Unfair Trade Practices and Consumer Protection Act, A.S. 45.50.471, which conspiracy has had

as its intent and purpose the elimination from competition of the plaintiff Captain Joseph W. Homer as well as other marine pilots who are not members of the Association within the geographical areas involved. Said conspiracy was entered into for the purpose of restraining and/or monopolizing such trade in the aforesaid geographical areas and to diminish or prevent marine pilots who are not members of the Association from working in that geographical area. Defendant Pilots and defendant Association have been and continue to attempt to monopolize, and to monopolize marine piloting in the geographical area involved. Said conspiracy to restrain trade is a violation per se of Section 1 of the Sherman Anti-Trust Act, and said conspiracy to monopolize, attempts to monopolize or monopolization are violations of Section 2 of the Sherman Anti-Trust Act. The conspiracy is also a violation of the Alaska Monopolies and Restraint of Trade Act.

22. At its incipency the arrangements and practices of the Southeast Pilots Association were such that could develop into a violation of Section 1 of the Sherman Act. Such practices and arrangements are in violation of Section 5 of the Federal Trades Commission Act, 42 U.S.C. §45 (a) (1).

23. It was part of said combination and conspiracy and the object and purpose thereof to accomplish the following, among other things, to wit:

A. To arbitrarily, unlawfully, unreasonably and knowingly raise, fix, control, set, stabilize and affect the price

of marine piloting services shipped in interstate commerce as aforesaid, into the State of Alaska.

B. To arbitrarily, unlawfully, unreasonably and knowingly prevent, suppress, and eliminate competition between and among the defendant Pilots in interstate commerce as aforesaid, in the State of Alaska.

C. To arbitrarily, unlawfully, unreasonably and knowingly prevent, suppress, and eliminate competition from competitors and prospective competitors of the defendant Pilots in interstate commerce as aforesaid, in the State of Alaska.

D. To arbitrarily, unlawfully, unreasonably and knowingly prevent, suppress, and eliminate competition from any source of marine pilots in interstate commerce, as aforesaid, in the State of Alaska.

E. To establish and maintain unreasonably high, excessive, monopolistic and noncompetitive prices in interstate commerce, as aforesaid, in the State of Alaska.

24. As part of said unlawful combination and conspiracy in pursuance thereof, and in furtherance thereof, and to effectuate its subject and purpose, the said defendant Pilots and defendant Association did:

A. Discourage and prevent competent independent marine pilots including the plaintiff Captain Joseph W. Homer from working as marine pilots in Southeastern Alaska.

B. Obtained high, arbitrary and unreasonable rates for marine piloting service in Southeastern Alaska.

C. Held meetings at various times under the guise of so-called "official" meetings at which time defendant pilots made plans for the furtherance of their conspiracy.

D. Create and maintain a monopoly of marine piloting services in interstate commerce in the State of Alaska.

E. Refuse to deal or do business with any person not a member of or controlled by the Association.

F. Induced vessel agents not to do business with, or lessen their business with non-members of the Association.

G. Sought and obtained administrative controls and restrictions against non-members of the Association through governmental agencies.

H. And other acts not specified herein but which will be discovered during the course of discovery.

25. The Association controls the market for pilot services in Southeastern Alaska. The Association has the market power to set, raise, and maintain prices ("tariffs") for pilot services in Southeastern Alaska. The Association fixes prices and enforces the fixed prices through its Articles, Bylaws, and Operating Rules. The Association prices are "published" as "tariffs" by the State of Alaska Board of Marine Pilots. The State of Alaska Board does not have statutory authority to set, approve, or enforce prices.

26. Ship owners, ship masters, and ship agents refuse to hire pilots in Southeastern Alaska who do not belong to the Association for fear that the Association will retaliate against them. Pilots who do not belong to the Association are unable to obtain work in Southeastern Alaska, unless they serve as "contract pilots" to the Association.

27. The Association allocates virtually all work in the Southeastern pilot market among its members. The Association operates a "dispatch" service to supply pilots to ships in Southeast Alaskan waters. The purpose of the dispatch service is to limit competition for piloting services and to fix prices for these services. "Dispatch" services are available only to members of the Association or to "contract pilots" hired by the Association.

VI. REGULATORY SCHEME FOR THE LICENSING OF MARINE PILOTS

28. There are approximately 90 marine pilots licensed to pilot marine vessels in the territorial waters of the State of Alaska. Marine pilots are responsible for docking and undocking marine vessels in the ports and harbors of the State of Alaska.

29. The Board is the State's licensing authority for marine pilots in the State of Alaska. The Board is responsible for establishing the qualification of pilots and providing for examination of pilots and the issuance of original or renewal of pilot licenses to qualified persons.

30. For those vessels that require a pilot, it is unlawful for that vessel to navigate in the coastal waters of Alaska without a pilot holding a valid license from the Board.

31. The Board consists of seven members appointed to four year terms by the Governor of Alaska. Two of the members must be pilots licensed by the Board who have been actively engaged in piloting on vessels requiring a pilot. One such pilot board member is Southeastern Pilot Association member, defendant Captain Harold K. Elsensohn. Two members must be agents or managers of vessels subject to Chapter 62 of the Alaska Statutes. Two members of the Board must be public members in accordance with AS 08.01.025. The final member of the Board is the Commissioner of the Department of Commerce and Economic Development. All members of the Board must be residents of the State of Alaska.

32. Pursuant to the terms of Section 2 of Chapter 106 of the 1970 Session Laws of Alaska, as amended, the Board may promulgate regulations establishing the qualifications of pilots and providing for the examination of pilots and the issuance of original or renewal pilot licenses. The laws of Alaska are silent as to the form or content of any such regulating and practices. The laws of Alaska do not state a policy favoring the creation of monopolistic practices.

33. In 1971, as amended in 1986, the Board promulgated regulations and practices creating four classes of licenses for marine pilots: (1) temporary licenses, (2) channel pilots

licenses, (3) limited pilots licenses and (4) unlimited pilot's licenses. A temporary license may be issued to a person applying for unlimited, limited, or channel pilots license. A channel pilots license is a license to pilot in mainship channels only. A channel pilot may perform docking and undocking only under the direct supervision of a pilot holding an unlimited pilot's license. A limited pilots license is a license to pilot vessels up to a certain size vessel. There are two (2) categories of limited license: step one (1), vessels of not more than 20,000 gross tons, and step two (2), vessels of not more than 40,000 gross tons. An unlimited pilot's license is a license to pilot any vessel. Plaintiff Captain Joseph W. Homer presently holds a limited pilots licenses for vessels of not more than 20,000 gross tons upon the waters in and surrounding Dutch Harbor, Alaska, Southeast Alaska, and Yakutat, Alaska, as more fully set out in paragraph 13 herein.

34. In 1971, as amended in 1986, the Board had promulgated regulations and practices specifying the qualifications for an unlimited pilot's license. Among the regulations and practices, it is the requirement that an applicant for an unlimited pilot's license conduct a specified number of dockings and undockings under the supervision of a holder of an unlimited pilot's license. Specifically 12 AAC 56.045 states:

(a) A pilot with a step one limited license wishing to increase the license to a step two license shall

(1) apply on a form provided by the Department of Commerce and Economic

Development, not less than one year after the date the step one license was issued;

(2) submit evidence of 20 vessel movements while serving as a licensed State of Alaska pilot, at least 10 of which must have been on vessels in excess of 10,000 gross tons; and

(3) submit evidence of having performed five dockings and five undockings of vessels in excess of 10,000 gross tons.

(b) A pilot with a step two license wishing to increase the license to an unlimited license shall

(1) apply on a form provided by the Department of Commerce and Economic Development, not less than one year after the date the step two limited license was issued;

(2) submit evidence of 20 vessel movements while serving as a step two licensed State of Alaska pilot, at least 10 of which must have been on vessels in excess of 20,000 gross tons; and

(3) submit evidence of having performed five dockings and five undockings of vessels in excess of 20,000 gross tons.

(c) A pilot with either step limited license who subsequently satisfies the requirement of 12 AAC 56.030 for an unlimited license, may apply for an unlimited license. This application shall comply with the requirements of 12 AAC 56.025(a)(1), (3) and (4). (Eff. 12/14/86, Reg. 100; am 8/29/87, Reg. 103)

Specifically, 12 AAC 56.030 states:

(a) An unlimited pilot license will only be granted to a licensed master who has extensive

local knowledge with a wide range of experience handling a variety of ship types and sizes.

(b) An applicant for an unlimited pilot license shall have practical knowledge of the navigation of vessels and of the conditions of navigation in the waters for which applying, which will be determined by oral and written examination before the board from topics listed in 12 AAC 56.070(b) and (c).

(c) An applicant for an unlimited pilot license shall comply with 12 AAC 56.025 and shall submit evidence that the applicant

(1) has been a Coast Guard licensed master or pilot on the waters for which the applicant is applying for a minimum of one year; and

(2) has executed a minimum of 10 dockings and 10 undockings under the supervision of a state licensed pilot, at least half of which must have been on vessels requiring an Alaska license pilot and at least half of which must have been on vessels in excess of 20,000 gross tons. (Eff. 6/11/71, Reg. 38; am 6/1/72, Reg. 42; am 12/14/86, Reg. 100)

35. All of the unlimited pilots who are qualified to supervise an applicant's dockings and undockings pursuant to the terms of the regulations and practices set forth in the preceding paragraph, in Southeast Alaska, are members of defendant Southeastern Alaska Pilots Association or the Southwestern Alaska Pilot Association (SWAPA). Thus, before an applicant can receive an unlimited pilot's license, he must either conduct the specified number of dockings and undockings under the supervision of a member of the Southeastern Alaska Pilots Association or the Southwestern

Alaska Pilot Association (SWAPA), or work as a pilot aboard ships of more than 20,000 tons and self certify the dockings. Lack of an unlimited license in conjunction with the Association's monopolistic dispatching practices narrows and restricts the number of such ships available for such work.

36. In addition to the required dockings and undockings, the Board must make a determination as to whether an applicant is qualified to receive a pilot's license. The Board has no objective criteria for determining the qualifications of a pilot. The decision of the Board concerning a pilot's qualifications are arbitrary and capricious.

37. In practice, when a pilot applies for a new license or to upgrade a license, the application is referred to the pilot member of the Board from the geographical area which pertains to the license being sought for approval or disapproval. That is, a license application from Southeast Alaska is referred to Captain Harold K. Elsensohn, a member of the defendant Association for his approval or disapproval of that particular applicant. Applications for licenses in Southcentral or Southwestern Alaska are referred to the pilot member who belongs to the Southwestern Pilots Association. It is the Board's practice to unquestioningly follow the recommendation of the pilot board member, thereby acquiescing in the Association's monopolistic scheme of practice.

VII. REGULATORY SCHEME FOR THE FIXING
OF FEES PAID TO MARINE PILOTS

38. In 1971, the Board promulgated regulations and practices fixing prices to be charged by Alaska marine pilots. Specifically, 12 AAC 56.130 provides:

12 AAC 56.130. General Rule for Determining Rates. If no rate for an area has been established, the rate mutually agreed upon by the parties will be used until a rate is established by the Board.

Specifically, 12 AAC 56.140 states:

12 AAC 56.140. Consent to Rate Deviation. If parties to a piloting contract are dissatisfied with the rates established for an area, the parties may agree to a higher rate. This rate mutually agreed must be submitted to the Board for approval. No deviation from the published rate may be used until approved by the Board.

The Board does not have authority to set rates for marine piloting services.

39. In keeping with the above mentioned regulations and practices, the Board has published rates which may be charged by marine pilots to pilot marine vessels in the territorial waters of the State of Alaska.

VIII. INJURY TO PLAINTIFF CAPTAIN JOSEPH W. HOMER

40. Plaintiff Captain Joseph W. Homer applied for an unlimited pilot's license pursuant to the aforementioned statutes and regulations and practices. The Board denied his application because plaintiff Captain Joseph W. Homer failed to meet the

requirements of 12 AAC 56.030, which was set out previously in this Complaint concerning supervised dockings and undockings.

41. The reason that plaintiff Captain Joseph W. Homer has been unable to get the specified number of dockings and undockings is because he has been blocked and prevented from working as a pilot on the appropriate size vessels. Additionally, defendant Pilots and defendant Association, including Southwestern Alaska Pilot Association, have refused to supervise the required dockings and undockings. All marine pilots who hold an unlimited pilot's license for Southeastern Alaska, the only people qualified to supervise the dockings and undockings in Southeastern Alaska, are members of defendant Association. There are no qualified marine pilots who are not members of the Association or tied to the Association as contract pilots and friends who could supervise the dockings and undockings.

42. Refusal of the defendant Pilots and the defendant Association to supervise plaintiff Captain Joseph W. Homer's dockings and undockings is in furtherance of the aforementioned conspiracy to restrain trade between the several states and between the United States and foreign nations. The refusal of the defendant Pilots and the defendant Association is in furtherance with the defendant Pilots and defendant Association's monopolization and attempted monopolization of marine pilot services within the State of Alaska.

43. Plaintiff Captain Joseph W. Homer has asked the defendant Board to modify the regulations and practices such that the defendant Pilots and defendant Association will not be able to determine and choose which marine pilots will receive required dockings and undockings necessary to obtain an unlimited pilot's license. The Board has refused plaintiff Captain Joseph W. Homer's request, primarily as a result of the urging of the pilot board members. Moreover, defendant Pilots and defendant Association in furtherance of their conspiracy to restrain trade in violation of the Sherman Act, petitioned, lobbied and took actions to cause the Board to reject plaintiff Captain Joseph W. Homer's request to modify the regulations and practices such that the defendant pilots and defendant Association could control the entry of unlimited pilots into their area of operation.

44. Defendants' actions have prevented plaintiff Captain Joseph W. Homer from obtaining an unlimited pilot licenses.

45. The Defendants have fixed prices for marine piloting services in the State of Alaska. As a result of the fixing of prices, the plaintiff Captain Joseph W. Homer has not been allowed to compete with the Defendant pilots.

46. The foregoing acts were intentionally and maliciously done with the expressed purpose of destroying the business and good will of plaintiff Captain Joseph W. Homer and eliminating plaintiff Captain Joseph W. Homer as a competitor.

47. Said acts of defendants constitute unreasonable restraints upon interstate trade and commerce and have crippled the business of plaintiff Captain Joseph W. Homer by depriving him of the license needed to pilot marine vessels into and out of the State of Alaska, by preventing him from entering into contracts with ship owners, and in these and other various respects, have caused plaintiff Captain Joseph W. Homer serious damage and loss.

48. As a direct result of defendants' unlawful actions, plaintiff Captain Joseph W. Homer has lost profits from piloting vessels in an amount exceeding \$200,000.00 which will be proved at the time of trial.

49. Under the Anti-Trust Laws of the United States and the State of Alaska, plaintiff Captain Joseph W. Homer is entitled to recover his reasonable attorney's fees and three times the amount of said damages.

50. Unless the defendants are prevented from continuing to carry out the acts, plans, schemes and conspiracy referred to above, plaintiff Captain Joseph W. Homer's business and goodwill will be destroyed or will continue to at least be seriously and irreparably injured and damaged.

51. The aforesaid mentioned acts of defendants have caused and are continuing to cause immediate and irreparable harm and damage to plaintiff Captain Joseph W. Homer for which there is no adequate remedy at law.

IX. INTERFERENCE WITH PROSPECTIVE
BUSINESS OPPORTUNITIES

52. During the Spring and Summer of 1990, the plaintiff Captain Joseph W. Homer sought to enter into contracts whereby he would provide marine piloting services to ship owners, ship masters, and ship agents who do business in Southeastern Alaska.

53. The defendants Association and Pilots were aware of the efforts made by the plaintiff Captain Joseph W. Homer to enter into the contracts to provide marine piloting services.

54. Defendants Association and Pilots intentionally and improperly interfered with the plaintiff Captain Joseph W. Homer's prospective contractual relationships. The interference consisted of inducing or otherwise causing these ship owners, ship masters, and ship agents not to enter into or continuing the prospective relationship and by preventing plaintiff Captain Joseph W. Homer from acquiring or continuing the prospective relationship.

55. Plaintiff Captain Joseph W. Homer suffered pecuniary harm because of the loss of the benefits of the aforementioned relationships.

56. The interference by the defendants Association and Pilots were made possible by the monopolistic practices of the defendant Association and the unfair trade practices of the defendants Association and Pilots. The interference was the direct result of the monopoly created by the defendants Association and Pilots.

57. The defendants Association and Pilots contacted ship owners, ship masters, and ship agents with whom plaintiff Captain Joseph W. Homer was negotiating to provide marine piloting services and disparaged the quality of the services to be provided by the plaintiff Captain Joseph W. Homer. The defendants implied that the services to be provided by plaintiff Captain Joseph W. Homer were not of suitable quality, and that the plaintiff Captain Joseph W. Homer would not be able to provide the marine piloting services. These statements were false and they were not privileged.

58. The statements were intended to cause plaintiff Captain Joseph W. Homer pecuniary loss, and they did in fact cause the plaintiff Captain Joseph W. Homer pecuniary loss.

FIRST CLAIM FOR RELIEF

VIOLATION OF SECTION 1 OF THE SHERMAN ACT BY ASSOCIATION

59. All prior allegations are re-alleged.

60. Pursuant to the result of the creation of the monopoly described above, defendants Association and Pilots entered into a contract, combination or conspiracy in restraint of trade and commerce of marine piloting services which constitutes a violation of Section One of the Sherman Act.

61. As a direct result of the defendants' unlawful actions and violations of Section 1 of the Sherman Act, plaintiff Captain Joseph W. Homer has sustained damages and lost profits from piloting vessels in an amount exceeding \$200,000.00, which amount will be proved at the time of trial.

62. Under the anti-trust laws of the United States, plaintiff Captain Joseph W. Homer is entitled to recover his reasonable attorneys' fees and three fold of the amount of damages and lost profits.

SECOND CLAIM FOR RELIEF

VIOLATION OF SECTION 2 OF THE SHERMAN ACT BY ASSOCIATION

63. All prior allegations are re-alleged.

64. Pursuant to the result of the creation of the monopoly described above, defendant Association and Pilots entered into a contract, combination, or conspiracy in restraint of trade and commerce of marine piloting services, which constitutes a violation of Section 2 of the Sherman Act.

65. As a direct result of defendants' unlawful actions in violation of Section 2 of the Sherman Act, plaintiff Captain Joseph W. Homer has sustained damages and lost profits from piloting vessels in an amount exceeding \$200,000.00 which amount will be proved at the time of trial.

66. Under the Anti-Trust Laws of the United States, plaintiff Captain Joseph W. Homer is entitled to recover his reasonable attorney's fees and three-fold the amount of his damages and lost profits.

THIRD CLAIM FOR RELIEF

VIOLATION OF FEDERAL TRADE COMMISSIONS ACT

67. All prior allegations are re-alleged.

68. Pursuant to a creation of a monopoly described above, defendants Association and Pilots entered into a contract, combination, or conspiracy in restraint of trade and commerce of marine piloting services, which constitutes a violation of the Federal Trade Commission Act.

69. As a direct result of defendants' unlawful actions and violations of the Federal Trade Commission Act, plaintiff Captain Joseph W. Homer has sustained damages and lost profits from piloting vessels in an amount exceeding \$200,000.00, which amount will be proved at the time of trial.

FOURTH CLAIM FOR RELIEF

VIOLATION OF ALASKA MONOPOLIES AND RESTRAINT OF TRADE ACT BY ASSOCIATION

70. All prior allegations are re-alleged.

71. Pursuant to the creation of the monopoly described above, defendants Association and Pilots entered into a contract, combination, or conspiracy in restraint of trade and commerce of marine piloting services, which constitutes a violation of the Alaska Monopolies and Restraint of Trade Act. A.S. 45.50.562 et seq.

72. As a direct result of defendants' unlawful actions in violation of the Alaska Monopolies and Restraint of Trade Act, plaintiff Captain Joseph W. Homer has sustained damages and lost profits from piloting vessels in an amount exceeding \$200,000.00, which amount will be proved at the time of trial.

FIFTH CLAIM FOR RELIEF

INJUNCTIVE RELIEF FOR MONOPOLISTIC
PRACTICES AGAINST ASSOCIATION

73. All prior allegations are re-alleged.

74. Unless the defendants are prevented from continuing to carry out the acts, plans, schemes and conspiracy referred to in the preceding claims for relief, plaintiff Captain Joseph W. Homer's business and goodwill will be destroyed or will continue to at least be seriously and irreparably injured and damaged.

75. The aforesaid mentioned acts of defendants have caused and are continuing to cause immediate and irreparable harm and damage to plaintiff Captain Joseph W. Homer for which there is no adequate remedy at law.

SIXTH CLAIM FOR RELIEF

VIOLATION OF ALASKA UNFAIR TRADE
PRACTICES AND CONSUMER PROTECTION
ACT BY ASSOCIATION

76. All prior allegations are re-alleged.

77. Defendants Association and Pilots have engaged in unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce, including but not limited to, disparaging the services of the plaintiff Captain Joseph W. Homer by false or misleading representations of fact; making false or misleading statements of fact concerning the reasons for, existence of, or amount of price reductions; engaging in other conduct creating a likelihood of confusion or of misunderstanding, and which mislead, deceived, or damaged plaintiff

Captain Joseph W. Homer in connection with the sale or advertisement of services; using or employing deception, fraud, false pretense, false promise, misrepresentation, or knowing concealing, suppressing, or omitting a material fact with intent that other rely upon the concealment, suppression, or omission in connection with the sale or advertisement of services; representing that an agreement confers or involves rights, remedies, or obligations which it does not confer or involve.

78. As a direct result of the defendants' unlawful actions in violation of the Alaska Unfair Trade Practices and Consumer Protection Act, plaintiff Captain Joseph W. Homer has sustained damages and lost profits in piloting vessels in an amount exceeding \$200,000.00, which amount will be proved at the time of trial.

SEVENTH CLAIM FOR RELIEF

INJUNCTIVE RELIEF FOR UNFAIR TRADE PRACTICES AGAINST ASSOCIATION

79. All prior allegations are re-alleged.

80. Unless the defendants are prevented from continuing to carry out the unfair methods of competition and unfair or deceptive acts or practices in the conduct of the trade or commerce, as described above, plaintiff Captain Joseph W. Homer's business and "good will" will be destroyed or will continue to at least be seriously and irreparably damaged.

81. The aforesaid mentioned acts of defendants have caused, and are continuing to cause, immediate and irreparable harm

and damage to plaintiff Captain Joseph W. Homer for which there is no adequate remedy at law.

EIGHTH CLAIM FOR RELIEF

VIOLATION OF FEDERAL ANTI-TRUST
LAWS BY BOARD

82. All prior allegations are re-alleged.

83. The regulations and practices promulgated by the defendant Board are in furtherance of said contract, combination, and conspiracy in restraint of trade and, hence, is in violation of the Sherman and Clayton Anti-Trust Acts. Accordingly, said regulations and practices are null and void.

84. But for the existence of the said unlawful regulations and practices, plaintiff Captain Joseph W. Homer would be entitled to receive an unlimited pilot's license.

NINTH CLAIM FOR RELIEF

VIOLATION OF FEDERAL INTERSTATE
COMMERCE CLAUSE

85. All prior allegations are re-alleged.

86. The aforesaid mentioned regulations and practices of defendant Board unduly burden commerce between the several states and territories of the United States, and commerce between the United States and foreign nations. The said regulations and practices are in violation of the United States Constitution, Article 1, Section 8, Clause 3 which specifically grants to Congress the power to regulate commerce. Accordingly, said regulations and practices are null and void.

87. But for the existence of the aforesaid mentioned regulations and practices, plaintiff Captain Joseph W. Homer would be entitled to receive an unlimited pilot's licenses.

88. Plaintiff Captain Joseph W. Homer is entitled to relief pursuant to 42 U.S.C. 1983.

TENTH CLAIM FOR RELIEF

VIOLATION OF DUE PROCESS AND EQUAL PROTECTION

89. All prior allegations are re-alleged.

90. The aforesaid mentioned regulations and practices of the defendant Board deprived the plaintiff Captain Joseph W. Homer of his rights to due process and equal protection pursuant to Section 1 of the 14th Amendment to the Constitution of the United States of America.

91. Plaintiff Captain Joseph W. Homer is entitled to relief pursuant to 42 U.S.C. 1983 for the violation of the aforesaid due process and equal protection rights.

ELEVENTH CLAIM FOR RELIEF

VIOLATION OF FEDERAL PRIVILEGES AND IMMUNITIES

92. All prior allegations are re-alleged.

93. The aforesaid mentioned regulations and practices of the defendant Board deprived the plaintiff Captain Joseph W. Homer of the privileges and immunities of such that should be enjoyed by a citizen of the State of Alaska. Said regulations and practices are in violation of the Constitution of the United States, Article IV, Section 2, clause 1, which specifically states that the

citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

94. But for the existence of the aforesaid mentioned regulations and practices, plaintiff Captain Joseph W. Homer would be entitled to receive a limited pilot's license.

95. Plaintiff Captain Joseph W. Homer is entitled to relief pursuant to 42 U.S.C. 1983 because of the denial of privileges and immunities by the State of Alaska board of Marine Pilots and its members.

TWELFTH CLAIM FOR RELIEF

VIOLATION OF ALASKA EQUAL PROTECTION

96. All prior allegations are re-alleged.

97. The aforesaid mentioned regulations and practices of defendant Board denied the plaintiff Captain Joseph W. Homer to natural right to life, liberty, pursuit of happiness, and the enjoyment of the rewards of his industry. The aforesaid mentioned regulations and practices of defendant Board deny plaintiff Captain Joseph W. Homer of equal rights, opportunities, and protection under the law. The said regulations and practices are in violation of the Constitution of the State of Alaska, Article I, Section 1. Accordingly, said regulations are null and void.

98. But for the existence of the aforesaid mentioned regulations, plaintiff Captain Joseph W. Homer would be entitled to receive unlimited pilot's licenses.

THIRTEENTH CLAIM FOR RELIEF

VIOLATION OF ALASKA DUE PROCESS

99. All prior allegations are re-alleged.

100. The aforesaid mentioned regulations of the defendant Board deprive the plaintiff Captain Joseph W. Homer of liberty, or property, without due process of law. The aforesaid mentioned regulations and practices of defendant Board deprive the plaintiff Captain Joseph W. Homer of fair and just treatment in the course of legislative and executive investigations.

101. Said regulations and practices are in violation of the Constitution of the State of Alaska, Article I, Section 7, which provides that no person shall be deprived of life, liberty, or property without due process of law, and that the right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

102. But for the existence of the aforesaid mentioned regulations and practices, plaintiff Captain Joseph W. Homer would be entitled to receive unlimited pilot's licenses.

FOURTEENTH CLAIM FOR RELIEF

VIOLATION OF ALASKA STATUTES BY THE BOARD

103. All prior allegations are re-alleged.

104. The regulations and practices of the State of Alaska Board of Marine Pilots are contrary to public policy expressed by the Statutes of the State of Alaska.

105. But for the existence of the aforesaid regulations and practices, plaintiff Captain Joseph W. Homer would be entitled to receive an unlimited pilot's license.

FIFTEENTH CLAIM FOR RELIEF

INJUNCTIVE RELIEF AGAINST BOARD

106. All prior allegations are re-alleged.

107. Unless the defendant Board is prevented from continuing to carry out the violation of the plaintiff Captain Joseph W. Homer's rights under the Constitutions of the United States and State of Alaska, the plaintiff Captain Joseph W. Homer's business and "good will" will be destroyed or will continue to at least be seriously and irreparably injured and damaged.

108. The aforesaid mentioned acts of defendant Board have caused and are continuing to cause immediate and irreparable harm and damage to plaintiff Captain Joseph W. Homer for which there is no adequate remedy at law.

SIXTEENTH CLAIM FOR RELIEF

INTERFERENCE WITH PROSPECTIVE CONTRACTUAL
RELATIONSHIPS BY THE ASSOCIATION

109. All prior allegations are re-alleged.

110. The defendants Association and Pilots intentionally and improperly interfered with the plaintiff Captain Joseph W. Homer's prospective contractual relationships with ship owners, ship masters, and ship agents.

111. The interference consisted of inducing or otherwise causing the ship owners, ship masters, and ship agents not to enter

into or continue a prospective relationship with the plaintiff Captain Joseph W. Homer or preventing the ship owners, ship masters, and ship agents from acquiring or continuing a prospective relationship.

112. Plaintiff Captain Joseph W. Homer suffered pecuniary harm because of the loss of benefits of the relationship.

SEVENTEENTH CLAIM FOR RELIEF

DISPARAGEMENT

113. All prior allegations are re-alleged.

114. The defendants Association and Pilots made false statements to ship owners, ship masters, and ship agents implying that the plaintiff Captain Joseph W. Homer was not qualified to act as a marine pilot within the State of Alaska. These statements were false.

115. The publication of these statements were not privileged.

116. The statements were made with the intent to cause plaintiff Captain Joseph W. Homer pecuniary harm, and they did in fact cause the plaintiff Captain Joseph W. Homer pecuniary harm.

WHEREFORE, the plaintiff Captain Joseph W. Homer prays:
For relief under the First Claim:

1. That the Court adjudge and decree that defendants Association and Pilots have entered into a contract or conspiracy and unreasonable restraint of trade and commerce of marine piloting services among several states in violation of Section 1 of the

Sherman Act, that the aforesaid contract or conspiracy is illegal, and that said contract or conspiracy be ordered to be canceled and terminated;

2. That the Court issue an injunction restraining perpetually the defendants, their successors, assignees, officers, directors, agents, employees and persons acting for or in their behalf and continuing the effects of such contract or conspiracy;

3. The Court grant judgment for plaintiff Captain Joseph W. Homer against defendants for three-fold the amount of damages as shall be set by the jury, together with reasonable attorney's fees and all costs and disbursements of this action;

4. That this Court award plaintiff Captain Joseph W. Homer such further and different relief which this Court may deem just and equitable under the premises.

For relief under the Second Claim:

1. That the Court adjudge and decree that defendants Association and Pilots have entered into a contract or conspiracy and unreasonable restraint of trade and commerce of marine piloting services among several states in violation of Section 2 of the Sherman Act, that the aforesaid contract or conspiracy is illegal, and that said contract or conspiracy be ordered to be canceled and terminated;

2. That the Court issue an injunction restraining perpetually the defendants, their successors, assignees, officers,