
SENATE BILL 5409

State of Washington

53rd Legislature

1993 Regular Session

By Senators Vognild, Nelson, Sheldon and Erwin; by request of Board of Pilotage Commissioners

Read first time 01/27/93. Referred to Committee on Transportation.

1 AN ACT Relating to strengthening the provisions of the pilotage act
2 affecting marine safety and protection of the marine environment; and
3 amending RCW 88.16.050, 88.16.070, 88.16.090, and 88.16.100.

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

5 **Sec. 1.** RCW 88.16.050 and 1987 c 485 s 3 are each amended to read
6 as follows:

7 This chapter shall apply to the pilotage districts of this state as
8 defined in this section.

9 (1) "Puget Sound pilotage district", whenever used in this chapter,
10 shall be construed to mean and include all the waters of the state of
11 Washington inside the international boundary line between the state of
12 Washington, the United States and the province of British Columbia,
13 Canada and east of one hundred twenty-three degrees twenty-four minutes
14 west longitude.

15 (2) "Grays Harbor pilotage district" shall include all inland
16 waters, channels, waterways, and navigable tributaries within Grays
17 Harbor (~~and Willapa Harbor~~). The boundary line between Grays Harbor
18 (~~and Willapa Harbor~~) and the high seas shall be defined by the board.

1 **Sec. 2.** RCW 88.16.070 and 1987 c 194 s 2 are each amended to read
2 as follows:

3 All vessels under enrollment and all United States and Canadian
4 vessels engaged exclusively in the coasting trade on the west coast of
5 the continental United States (including Alaska) and/or British
6 Columbia shall be exempt from the provisions of this chapter unless a
7 pilot licensed under this chapter be actually employed, in which case
8 the pilotage rates provided for in this chapter shall apply. However,
9 the board shall, upon the written petition of any interested party, and
10 upon notice and hearing, grant an exemption from the provisions of this
11 chapter to any vessel that the board finds is a small passenger vessel
12 or yacht which is not more than five hundred gross tons
13 (international), does not exceed two hundred feet in length, and is
14 operated exclusively in the waters of the Puget Sound pilotage district
15 and lower British Columbia. Such an exemption shall not be detrimental
16 to the public interest in regard to safe operation preventing loss of
17 human lives, loss of property, and protecting the marine environment
18 of the state of Washington. Such petition shall set out the general
19 description of the vessel, the contemplated use of same, the proposed
20 area of operation, and the name and address of the vessel's owner. The
21 board shall annually, or at any other time when in the public interest,
22 review any exemptions granted to this specified class of small vessels
23 to insure that each exempted vessel remains in compliance with the
24 original exemption. The board shall have the authority to revoke such
25 exemption where there is not continued compliance with the requirements
26 for exemption. The board shall maintain a file which shall include all
27 petitions for exemption, a roster of vessels granted exemption, and the
28 board's written decisions which shall set forth the findings for grants
29 of exemption. The board shall report annually to the legislature on
30 such exemptions. Every vessel not so exempt, shall while navigating
31 the Puget Sound and Grays Harbor (~~and Willapa Bay~~) pilotage
32 districts, employ a pilot licensed under the provisions of this chapter
33 and shall be liable for and pay pilotage rates in accordance with the
34 pilotage rates herein established or which may hereafter be established
35 under the provisions of this chapter: PROVIDED, That any vessel
36 inbound to or outbound from Canadian ports is exempt from the
37 provisions of this section, if said vessel actually employs a pilot
38 licensed by the Pacific pilotage authority (the pilot licensing
39 authority for the western district of Canada), and if it is

1 communicating with the vessel traffic system and has appropriate
2 navigational charts, and if said vessel uses only those waters east of
3 the international boundary line which are west of a line which begins
4 at the southwestern edge of Point Roberts then to Alden Point (Patos
5 Island), then to Skipjack Island light, then to Turn Point (Stuart
6 Island), then to Kellet Bluff (Henry Island), then to Lime Kiln (San
7 Juan Island) then to the intersection of one hundred twenty-three
8 degrees seven minutes west longitude and forty-eight degrees twenty-
9 five minutes north latitude then to the international boundary. The
10 board shall correspond with the Pacific pilotage authority from time to
11 time to ensure the provisions of this section are enforced. If any
12 exempted vessel does not comply with these provisions it shall be
13 deemed to be in violation of this section and subject to the penalties
14 provided in RCW 88.16.150 as now or hereafter amended and liable to
15 pilotage fees as determined by the board. The board shall investigate
16 any accident on the waters covered by this chapter involving a Canadian
17 pilot and shall include the results in its annual report.

18 **Sec. 3.** RCW 88.16.090 and 1991 c 200 s 1002 are each amended to
19 read as follows:

20 (1) A person may pilot any vessel subject to the provisions of this
21 chapter on waters covered by this chapter only if appointed and
22 licensed to pilot such vessels on said waters under and pursuant to the
23 provisions of this chapter.

24 (2) A person is eligible to be appointed a pilot if the person is
25 a citizen of the United States, over the age of twenty-five years and
26 under the age of seventy years, a resident of the state of Washington
27 at the time of appointment and only if the pilot applicant holds as a
28 minimum, a United States government license as a master of ocean or
29 near coastal steam or motor vessels of not more than one thousand six
30 hundred gross tons or as a master of inland steam or motor vessels of
31 not more than one thousand six hundred gross tons, such license to have
32 been held by the applicant for a period of at least two years prior
33 (~~((such license to have been held by the applicant for a period of at
34 least two years prior))~~) to taking the Washington state pilotage
35 examination and a first class United States endorsement without
36 restrictions on that license to pilot in the pilotage districts for
37 which the pilot applicant desires to be licensed, and if the pilot
38 applicant meets such other qualifications as may be required by the

1 board. A person applying for a license under this section shall not
2 have been convicted of an offense involving drugs or the personal
3 consumption of alcohol in the twelve months prior to the date of
4 application. This restriction does not apply to license renewals under
5 this section.

6 (3) Pilots shall be licensed hereunder for a term of five years
7 from and after the date of the issuance of their respective state
8 licenses. Such licenses shall thereafter be renewed as of course,
9 unless the board shall withhold same for good cause. Each pilot shall
10 pay to the state treasurer an annual license fee established by the
11 board of pilotage commissioners pursuant to chapter 34.05 RCW, but not
12 to exceed ((one)) two thousand ((five hundred)) dollars, to be placed
13 in the state treasury to the credit of the pilotage account. The board
14 may assess partially active or inactive pilots a reduced fee.

15 (4) Pilot applicants shall be required to pass a written and oral
16 examination administered and graded by the board which shall test such
17 applicants on this chapter, the rules of the board, local harbor
18 ordinances, and such other matters as may be required to compliment the
19 United States examinations and qualifications. The board shall hold
20 examinations at such times as will, in the judgment of the board,
21 ensure the maintenance of an efficient and competent pilotage service.
22 An examination shall be scheduled for the Puget Sound pilotage district
23 if there are three or fewer successful candidates from the previous
24 examination who are waiting to become pilots in that district.

25 (5) The board shall develop an examination and grading sheet for
26 each pilotage district, for the testing and grading of pilot
27 applicants. The examinations shall be administered to pilot applicants
28 and shall be updated as required to reflect changes in law, rules,
29 policies, or procedures. The board may appoint a special independent
30 examination committee or may contract with a firm knowledgeable and
31 experienced in the development of professional tests for development of
32 said examinations. Active licensed state pilots may be consulted for
33 the general development of examinations but shall have no knowledge of
34 the specific questions. The pilot members of the board may participate
35 in the grading of examinations. If the board does appoint a special
36 examination development committee it is authorized to pay the members
37 of said committee the same compensation and travel expenses as received
38 by members of the board. When grading examinations the board shall
39 carefully follow the grading sheet prepared for that examination. The

1 board shall develop a "sample examination" which would tend to indicate
2 to an applicant the general types of questions on pilot examinations,
3 but such sample questions shall not appear on any actual examinations.
4 Any person who willfully gives advance knowledge of information
5 contained on a pilot examination is guilty of a gross misdemeanor.

6 (6) All pilots and applicants are subject to an annual physical
7 examination by a physician chosen by the board. The physician shall
8 examine the applicant's heart, blood pressure, circulatory system,
9 lungs and respiratory system, eyesight, hearing, and such other items
10 as may be prescribed by the board. After consultation with a physician
11 and the United States coast guard, the board shall establish minimum
12 health standards to ensure that pilots licensed by the state are able
13 to perform their duties. Within ninety days of the date of each annual
14 physical examination, and after review of the physician's report, the
15 board shall make a determination of whether the pilot or candidate is
16 fully able to carry out the duties of a pilot under this chapter. The
17 board may in its discretion check with the appropriate authority for
18 any convictions of offenses involving drugs or the personal consumption
19 of alcohol in the prior twelve months.

20 (7) The board shall prescribe, pursuant to chapter 34.05 RCW, a
21 number of (~~familiarization~~) training trips, between a minimum number
22 of twenty-five and a maximum of one hundred, and a minimum period of
23 four months and a maximum of six months, which pilot (~~applicants~~)
24 candidates must make under the supervision of an experienced pilot in
25 the pilotage district for which they desire to be licensed.
26 (~~Familiarization~~) The board may for just cause extend the program for
27 up to an additional four months. Training trips any particular
28 (~~applicant~~) candidate must make are to be based upon (~~the~~
29 ~~applicant's~~) his or her vessel handling experience.

30 (8) The board may require vessel simulator training for a pilot
31 applicant and shall require vessel simulator training for a pilot
32 subject to RCW 88.16.105. The board shall also require vessel
33 simulator training in the first year of active duty for a new pilot and
34 at least once every five years for all active pilots.

35 (9) The board shall prescribe, pursuant to chapter 34.05 RCW, such
36 reporting requirements and review procedures as may be necessary to
37 assure the accuracy and validity of license and service claims, and
38 records of familiarization trips of pilot candidates. Willful

1 misrepresentation of such required information by a pilot candidate
2 shall result in disqualification of the candidate.

3 (10) The board shall adopt rules to establish time periods and
4 procedures for additional training trips and retesting as necessary for
5 pilots who at the time of their licensing are unable to become active
6 pilots.

7 **Sec. 4.** RCW 88.16.100 and 1990 c 116 s 28 are each amended to read
8 as follows:

9 (1) The board shall have power on its own motion or, in its
10 discretion, upon the written request of any interested party, to
11 investigate the performance of pilotage services subject to this
12 chapter and to issue a reprimand, impose a fine against a pilot in an
13 amount not to exceed five thousand dollars, suspend, withhold, or
14 revoke the license of any pilot, or any combination of the above, for
15 misconduct, incompetency, inattention to duty, intoxication, ((or))
16 failure to perform his or her duties under this chapter, ((or))
17 violation of any of the rules or regulations provided by the board for
18 the government of pilots, or violation of state laws and regulations
19 intended to promote marine safety and to protect the navigable waters
20 and the following federal laws addressing the same objectives: Vessel
21 Traffic Management, 33 C.F.R. Sec. 161.01 - 161.226; Navigation Rules
22 (International-Inland), Parts A-D of Appendix A to 33 C.F.R. Sec. 81
23 and 33 C.F.R. Sec. 84-89; and Bridge to Bridge Radio Telephone
24 Regulation, 33 C.F.R. Sec. 26. The board may partially or totally stay
25 any disciplinary action authorized in this subsection and subsection
26 (2) of this section. The board shall have the power to require that a
27 pilot satisfactorily complete a specific course of training or
28 treatment.

29 (2) In all instances where a pilot licensed under this chapter
30 performs pilot services on a vessel exempt under RCW 88.16.070, the
31 board may on its own motion, or in its discretion upon the written
32 request of any interested party, investigate whether the services were
33 performed in a professional manner consistent with sound maritime
34 practices. If the board finds that the pilotage services were
35 performed in a manner that constitutes an act of incompetence,
36 misconduct, or negligence so as to endanger life, limb, or property, or
37 violated or failed to comply with state and the following federal laws
38 addressing the same objectives: Vessel Traffic Management, 33 C.F.R.

1 Sec. 161.01 - 161.226; Navigation Rules (International-Inland), Parts
2 A-D of Appendix A to 33 C.F.R. Sec. 81 and 33 C.F.R. Sec. 84-89; and
3 Bridge to Bridge Radio Telephone Regulation, 33 C.F.R. Sec. 26, laws or
4 regulations intended to promote marine safety or to protect navigable
5 waters((7)). The board may issue a reprimand, impose a fine against a
6 pilot in an amount not to exceed five thousand dollars, suspend,
7 withhold, or revoke the state pilot license, or any combination of the
8 above. The board shall have the power to require that a pilot
9 satisfactorily complete a specific course of training or treatment.

10 (3) The board shall implement a system of specified disciplinary
11 actions or corrective actions, including training or treatment, that
12 will be taken when a state licensed pilot in a specified period of time
13 has had multiple disciplinary actions taken against the pilot's license
14 pursuant to subsections (1) and (2) of this section. In developing
15 these disciplinary or corrective actions, the board shall take into
16 account the cause of the disciplinary action and the pilot's previous
17 record.

18 (4) The board shall immediately review the pilot's license of a
19 pilot who has been convicted within the prior twelve months of any
20 offense involving drugs or the personal consumption of alcohol while on
21 duty, including an offense of operation of a vehicle or vessel while
22 under the influence of alcohol or drugs. After a hearing held pursuant
23 to subsection (5) of this section:

24 (a) The board shall order a pilot who has been found to have been
25 convicted within the prior twelve months of an offense involving drugs
26 or the personal consumption of alcohol while on duty and who has not
27 been convicted of another offense involving drugs or the personal
28 consumption of alcohol in the previous five years to actively
29 participate in and satisfactorily complete a specific program of
30 treatment. The board may impose other sanctions it determines are
31 appropriate. If the pilot does not satisfactorily complete the program
32 of treatment, the board shall suspend, revoke, or withhold the pilot's
33 license until the treatment is completed; and

34 (b) The board shall suspend for up to one year the license of a
35 pilot found to have been convicted within the prior twelve months of a
36 second or subsequent offense involving drugs or the personal
37 consumption of alcohol while on duty.

38 (5) When the board determines that reasonable cause exists to issue
39 a reprimand, impose a fine, suspend, revoke, or withhold any pilot's

1 license or require training or treatment under subsection (1), (2), or
2 (4) of this section, it shall forthwith prepare and personally serve
3 upon such pilot a notice advising him of the board's intended action,
4 the specific grounds therefor, and the right to request a hearing to
5 challenge the board's action. The pilot shall have thirty days from
6 the date on which notice is served to request a full hearing before an
7 administrative law judge on the issue of the reprimand, fine,
8 suspension, revocation, or withholding of his pilot's license, or
9 requiring treatment or training. The board's proposed reprimand, fine,
10 suspension, revocation, or withholding of a license, or requiring
11 treatment or training shall become final upon the expiration of thirty
12 days from the date notice is served, unless a hearing has been
13 requested prior to that time. When a hearing is requested the board
14 shall request the appointment of an administrative law judge under
15 chapter 34.12 RCW who has sufficient experience and familiarity with
16 pilotage matters to be able to conduct a fair and impartial hearing.
17 The hearing shall be governed by the provisions of Title 34 RCW. All
18 final decisions of the administrative law judge shall be subject to
19 review by the superior court of the state of Washington for Thurston
20 county or by the superior court of the county in which the pilot
21 maintains his residence or principal place of business, to which court
22 any case with all the papers and proceedings therein shall be
23 immediately certified by the administrative law judge if requested to
24 do so by any party to the proceedings at any time within thirty days
25 after the date of any such final decision. No appeal may be taken
26 after the expiration of thirty days after the date of final decision.
27 Any case so certified to the superior court shall be tried de novo and
28 after certification of the record to said superior court the
29 proceedings shall be had as in a civil action. Moneys collected from
30 fines under this section shall be deposited in the pilotage account.

31 (6) The board shall have the power, on an emergency basis, to
32 temporarily suspend a state pilot's license: (a) When a pilot has been
33 involved in any vessel accident where there has been major property
34 damage, loss of life, or loss of a vessel, or (b) where there is a
35 reasonable cause to believe that a pilot has diminished mental capacity
36 or is under the influence of drugs, alcohol, or other substances, when
37 in the opinion of the board, such an accident or physical or mental
38 impairment would significantly diminish that pilot's ability to carry
39 out pilotage duties and that the public health, safety, and welfare

1 requires such emergency action. The board shall make a determination
2 within seventy-two hours whether to continue the suspension. The board
3 shall develop rules for exercising this authority including procedures
4 for the chairperson or vice-chairperson of the board to temporarily
5 order such suspensions, emergency meetings of the board to consider
6 such suspensions, the length of suspension, opportunities for hearings,
7 and an appeal process. The board shall develop rules under chapter
8 34.05 RCW.

9 (7) The board shall immediately notify the United States coast
10 guard that it has revoked or suspended a license pursuant to this
11 section and that a suspended or revoked license has been reinstated.

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