
SENATE BILL 5121

State of Washington

57th Legislature

2001 Regular Session

By Senators Regala, Morton, Oke, Eide, Fraser and Jacobsen

Read first time 01/11/2001. Referred to Committee on Environment,
Energy & Water.

1 AN ACT Relating to correcting references to the former office
2 of marine safety; and amending RCW 42.17.2401, 43.21B.300,
3 43.21B.310, 88.16.010, and 88.16.110.

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

5 **Sec. 1.** RCW 42.17.2401 and 1996 c 186 s 504 are each amended to
6 read as follows:

7 For the purposes of RCW 42.17.240, the term "executive state
8 officer" includes:

9 (1) The chief administrative law judge, the director of
10 agriculture, (~~the administrator of the office of marine safety,~~)
11 the administrator of the Washington basic health plan, the
12 director of the department of services for the blind, the director
13 of the state system of community and technical colleges, the
14 director of community, trade, and economic development, the
15 secretary of corrections, the director of ecology, the
16 commissioner of employment security, the chairman of the energy
17 facility site evaluation council, the secretary of the state
18 finance committee, the director of financial management, the

1 director of fish and wildlife, the executive secretary of the
2 forest practices appeals board, the director of the gambling
3 commission, the director of general administration, the secretary
4 of health, the administrator of the Washington state health care
5 authority, the executive secretary of the health care facilities
6 authority, the executive secretary of the higher education
7 facilities authority, the executive secretary of the horse racing
8 commission, the executive secretary of the human rights
9 commission, the executive secretary of the indeterminate sentence
10 review board, the director of the department of information
11 services, the director of the interagency committee for outdoor
12 recreation, the executive director of the state investment board,
13 the director of labor and industries, the director of licensing,
14 the director of the lottery commission, the director of the office
15 of minority and women's business enterprises, the director of
16 parks and recreation, the director of personnel, the executive
17 director of the public disclosure commission, the director of
18 retirement systems, the director of revenue, the secretary of
19 social and health services, the chief of the Washington state
20 patrol, the executive secretary of the board of tax appeals, the
21 secretary of transportation, the secretary of the utilities and
22 transportation commission, the director of veterans affairs, the
23 president of each of the regional and state universities and the
24 president of The Evergreen State College, each district and each
25 campus president of each state community college;

26 (2) Each professional staff member of the office of the
27 governor;

28 (3) Each professional staff member of the legislature; and

29 (4) Central Washington University board of trustees, board of
30 trustees of each community college, each member of the state board
31 for community and technical colleges, state convention and trade
32 center board of directors, committee for deferred compensation,
33 Eastern Washington University board of trustees, Washington
34 economic development finance authority, The Evergreen State
35 College board of trustees, executive ethics board, forest
36 practices appeals board, forest practices board, gambling
37 commission, Washington health care facilities authority, each
38 member of the Washington health services commission, higher

1 education coordinating board, higher education facilities
2 authority, horse racing commission, state housing finance
3 commission, human rights commission, indeterminate sentence review
4 board, board of industrial insurance appeals, information services
5 board, interagency committee for outdoor recreation, state
6 investment board, commission on judicial conduct, legislative
7 ethics board, liquor control board, lottery commission, marine
8 oversight board, Pacific Northwest electric power and conservation
9 planning council, parks and recreation commission, personnel
10 appeals board, board of pilotage commissioners, pollution control
11 hearings board, public disclosure commission, public pension
12 commission, shorelines hearing board, public employees' benefits
13 board, board of tax appeals, transportation commission, University
14 of Washington board of regents, utilities and transportation
15 commission, Washington state maritime commission, Washington
16 personnel resources board, Washington public power supply system
17 executive board, Washington State University board of regents,
18 Western Washington University board of trustees, and fish and
19 wildlife commission.

20 **Sec. 2.** RCW 43.21B.300 and 1993 c 387 s 23 are each amended to
21 read as follows:

22 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
23 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144,
24 90.56.310, and 90.56.330 shall be imposed by a notice in writing,
25 either by certified mail with return receipt requested or by
26 personal service, to the person incurring the penalty from the
27 department(~~(, the administrator of the office of marine safety,)~~)
28 or the local air authority, describing the violation with
29 reasonable particularity. Within fifteen days after the notice is
30 received, the person incurring the penalty may apply in writing to
31 the department(~~(, the administrator,)~~) or the authority for the
32 remission or mitigation of the penalty. Upon receipt of the
33 application, the department(~~(, the administrator,)~~) or authority
34 may remit or mitigate the penalty upon whatever terms the
35 department(~~(, the administrator,)~~) or the authority in its
36 discretion deems proper. The department or the authority may
37 ascertain the facts regarding all such applications in such

1 reasonable manner and under such rules as it may deem proper and
2 shall remit or mitigate the penalty only upon a demonstration of
3 extraordinary circumstances such as the presence of information or
4 factors not considered in setting the original penalty.

5 (2) Any penalty imposed under this section may be appealed to
6 the pollution control hearings board in accordance with this
7 chapter if the appeal is filed with the hearings board and served
8 on the department(~~(, the administrator,)~~) or authority thirty days
9 after receipt by the person penalized of the notice imposing the
10 penalty or thirty days after receipt of the notice of disposition
11 of the application for relief from penalty.

12 (3) A penalty shall become due and payable on the later of:

13 (a) Thirty days after receipt of the notice imposing the
14 penalty;

15 (b) Thirty days after receipt of the notice of disposition on
16 application for relief from penalty, if such an application is
17 made; or

18 (c) Thirty days after receipt of the notice of decision of the
19 hearings board if the penalty is appealed.

20 (4) If the amount of any penalty is not paid to the department
21 (~~(or the administrator)~~) within thirty days after it becomes due
22 and payable, the attorney general, upon request of the department
23 (~~(or the administrator)~~), shall bring an action in the name of the
24 state of Washington in the superior court of Thurston county, or
25 of any county in which the violator does business, to recover the
26 penalty. If the amount of the penalty is not paid to the authority
27 within thirty days after it becomes due and payable, the authority
28 may bring an action to recover the penalty in the superior court
29 of the county of the authority's main office or of any county in
30 which the violator does business. In these actions, the procedures
31 and rules of evidence shall be the same as in an ordinary civil
32 action.

33 (5) All penalties recovered shall be paid into the state
34 treasury and credited to the general fund except those penalties
35 imposed pursuant to RCW 18.104.155, which shall be credited to the
36 reclamation account as provided in RCW 18.104.155(7), RCW
37 70.94.431, the disposition of which shall be governed by that
38 provision, RCW 70.105.080, which shall be credited to the

1 hazardous waste control and elimination account, created by RCW
2 70.105.180, and RCW 90.56.330, which shall be credited to the
3 coastal protection fund created by RCW 90.48.390.

4 **Sec. 3.** RCW 43.21B.310 and 1992 c 73 s 3 are each amended to read
5 as follows:

6 (1) Any order issued by the department (~~(, the administrator of~~
7 ~~the office of marine safety,)~~) or local air authority pursuant to
8 RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020,
9 88.46.070, or 90.48.120(2) or any provision enacted after July 26,
10 1987, or any permit, certificate, or license issued by the
11 department may be appealed to the pollution control hearings board
12 if the appeal is filed with the board and served on the department
13 or authority within thirty days after receipt of the order. Except
14 as provided under chapter 70.105D RCW, this is the exclusive means
15 of appeal of such an order.

16 (2) The department (~~(, the administrator,)~~) or the authority in
17 its discretion may stay the effectiveness of an order during the
18 pendency of such an appeal.

19 (3) At any time during the pendency of an appeal of such an
20 order to the board, the appellant may apply pursuant to RCW
21 43.21B.320 to the hearings board for a stay of the order or for
22 the removal thereof.

23 (4) Any appeal must contain the following in accordance with
24 the rules of the hearings board:

25 (a) The appellant's name and address;

26 (b) The date and docket number of the order, permit, or license
27 appealed;

28 (c) A description of the substance of the order, permit, or
29 license that is the subject of the appeal;

30 (d) A clear, separate, and concise statement of every error
31 alleged to have been committed;

32 (e) A clear and concise statement of facts upon which the
33 requester relies to sustain his or her statements of error; and

34 (f) A statement setting forth the relief sought.

35 (5) Upon failure to comply with any final order of the
36 department (~~(or the administrator)~~), the attorney general, on
37 request of the department (~~(or the administrator)~~), may bring an

1 action in the superior court of the county where the violation
2 occurred or the potential violation is about to occur to obtain
3 such relief as necessary, including injunctive relief, to insure
4 compliance with the order. The air authorities may bring similar
5 actions to enforce their orders.

6 (6) An appealable decision or order shall be identified as such
7 and shall contain a conspicuous notice to the recipient that it
8 may be appealed only by filing an appeal with the hearings board
9 and serving it on the department within thirty days of receipt.

10 **Sec. 4.** RCW 88.16.010 and 1991 c 200 s 1001 are each amended to
11 read as follows:

12 (1) The board of pilotage commissioners of the state of
13 Washington is hereby created and shall consist of the assistant
14 secretary of marine transportation of the department of
15 transportation of the state of Washington, or the assistant
16 secretary's designee who shall be an employee of the marine
17 division, who shall be chairperson, the (~~administrator of the~~
18 ~~office of marine safety, or the administrator's~~) director of the
19 department of ecology, or the director's designee, and seven
20 members appointed by the governor and confirmed by the senate. Each
21 of the appointed commissioners shall be appointed for a term of
22 four years from the date of the member's commission. No person
23 shall be eligible for appointment to the board unless that person
24 is at the time of appointment eighteen years of age or over and a
25 citizen of the United States and of the state of Washington. Two of
26 the appointed commissioners shall be pilots licensed under this
27 chapter and actively engaged in piloting upon the waters covered
28 by this chapter for at least three years immediately preceding the
29 time of appointment and while serving on the board. One pilot shall
30 be from the Puget Sound pilotage district and one shall be from
31 the Grays Harbor pilotage district. Two of the appointed
32 commissioners shall be actively engaged in the ownership,
33 operation, or management of deep sea cargo and/or passenger
34 carrying vessels for at least three years immediately preceding
35 the time of appointment and while serving on the board. One of
36 said shipping commissioners shall be a representative of American
37 and one of foreign shipping. One of the commissioners shall be a

1 representative from a recognized environmental organization
2 concerned with marine waters. The remaining commissioners shall be
3 persons interested in and concerned with pilotage, maritime
4 safety, and marine affairs, with broad experience related to the
5 maritime industry exclusive of experience as either a state
6 licensed pilot or as a shipping representative.

7 (2) Any vacancy in an appointed position on the board shall be
8 filled by the governor for the remainder of the unfilled term,
9 subject to confirmation by the senate.

10 (3) Five members of the board shall constitute a quorum. At
11 least one pilot, one shipping representative, and one public
12 member must be present at every meeting. All commissioners and the
13 chairperson shall have a vote.

14 **Sec. 5.** RCW 88.16.110 and 1991 c 200 s 1004 are each amended to
15 read as follows:

16 (1) Every pilot licensed under this chapter shall file with the
17 board not later than the tenth day of January, April, July and
18 October of each year a report for the preceding quarter. Said
19 report shall contain an account of all moneys received for
20 pilotage by him or her or by any other person for the pilot or on
21 the pilot's account or for his or her benefit. Said report shall
22 state the name of each vessel piloted, the amount charged to
23 and/or collected from each vessel, the port of registry of such
24 vessel, its dead weight tonnage, whether it was inward or outward
25 bound, whether the amount so received, collected or charged is in
26 full payment of pilotage and such other information as the board
27 shall by regulation prescribe.

28 (2) The report shall include information for each vessel that
29 suffers a grounding, collision, or other major marine casualty
30 that occurred while the pilot was on duty during the reporting
31 period. The report shall also include information on near miss
32 incidents as defined in RCW 88.46.100. Information concerning near
33 miss incidents provided pursuant to this section shall not be used
34 for imposing any sanctions or penalties. The board shall forward
35 information provided under this subsection to the (~~office of~~
36 ~~marine safety~~) department of ecology for inclusion in the
37 collision reporting system established under RCW 88.46.100.

--- END ---

