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**SUBSTITUTE SENATE BILL 5150**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by Senators Haugen, Swecker and Jacobsen; by request of Board of Pilotage Commissioners)

READ FIRST TIME 02/25/05.

1 AN ACT Relating to marine pilot licensing qualifications and  
2 procedures; amending RCW 88.16.035, 88.16.090, and 88.16.118;  
3 prescribing penalties; and declaring an emergency.

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

5 **Sec. 1.** RCW 88.16.035 and 1987 c 264 s 1 are each amended to read  
6 as follows:

7 The board of pilotage commissioners shall:

8 (1) Adopt rules, pursuant to chapter 34.05 RCW (~~as now existing or~~  
9 ~~hereafter amended~~), necessary for the enforcement and administration  
10 of this chapter;

11 (2) (~~License~~) (a) Issue training licenses and pilot licenses to  
12 pilot applicants meeting the qualifications ((and passing the  
13 examination as)) provided for in RCW 88.16.090 ((as now or hereafter  
14 amended)) and such additional qualifications as may be determined by  
15 the board;

16 (b) Establish a comprehensive training program to assist in the  
17 training and evaluation of pilot applicants before final licensing; and  
18 ((to))

1        (c) Establish additional training requirements, including a program  
2 of continuing education developed after consultation with pilot  
3 organizations, including those located within the state of Washington,  
4 as required to maintain a competent pilotage service;

5        (3) Maintain a register of pilots, records of pilot accidents and  
6 other history pertinent to pilotage, along with a roster of vessels,  
7 agents, owners, operators, and masters necessary for the maintenance of  
8 a roster of persons interested in and concerned with pilotage and  
9 maritime safety;

10        (4) Determine from time to time the number of pilots necessary to  
11 be licensed in each district of the state to optimize the operation of  
12 a safe, fully regulated, efficient, and competent pilotage service in  
13 each district;

14        (5) Annually fix the pilotage tariffs for pilotage services  
15 performed aboard vessels as required by this chapter: PROVIDED, That  
16 the board may fix extra compensation for extra services to vessels in  
17 distress, for awaiting vessels, or for being carried to sea on vessels  
18 against the will of the pilot, and for such other services as may be  
19 determined by the board;

20        (~~(5)~~) (6) File annually with the governor and the chairs of the  
21 transportation committees of the senate and house of representatives a  
22 report which includes, but is not limited to, the following: The  
23 number, names, addresses, ages, pilot license number, and years of  
24 service as a Washington licensed pilot of any person licensed by the  
25 board as a Washington state pilot; the names, employment, and other  
26 information of the members of the board; the total number of pilotage  
27 assignments by pilotage district, including information concerning the  
28 various types and sizes of vessels and the total annual tonnage; the  
29 annual earnings of individual pilots before and after deduction for  
30 expenses of pilot organizations, including extra compensation as a  
31 separate category; the annual expenses of private pilot associations,  
32 including personnel employed and capital expenditures; the status of  
33 pilotage tariffs, extra compensation, and travel; the retirement  
34 contributions paid to pilots and the disposition thereof; the number of  
35 groundings, mishaps, or other incidents which are reported to or  
36 investigated by the board, and which are determined to be accidents, as  
37 defined by the board, including the vessel name, location of incident,  
38 pilot's name, and disposition of the case together with information

1 received before the board acted from all persons concerned, including  
2 the United States coast guard; the names, qualifications, time  
3 scheduled for examinations, and the district of persons desiring to  
4 apply for Washington state pilotage licenses; summaries of dispatch  
5 records, quarterly reports from pilots, and the bylaws and operating  
6 rules of pilotage organizations; the names, sizes in deadweight tons,  
7 surcharges, if any, port of call, name of the pilot, and names and  
8 horsepower of tug boats for any and all oil tankers subject to the  
9 provisions of RCW 88.16.190 together with the names of any and all  
10 vessels for which the United States coast guard requires special  
11 handling pursuant to their authority under the Ports and Waterways  
12 Safety Act of 1972; the expenses of the board; and any and all other  
13 information which the board deems appropriate to include;

14 ~~((+6))~~ (7) Publish a manual which includes the pilotage act and  
15 other statutes of Washington state and the federal government which  
16 affect pilotage, including the rules of the board, together with such  
17 additional information as may be informative for pilots, agents,  
18 owners, operators, and masters. Such manual shall be distributed  
19 without cost to all pilots and governmental agencies upon request. All  
20 other copies shall be sold for a five dollar fee with proceeds to be  
21 credited to the pilotage account;

22 ~~((+7))~~ (8) Appoint advisory committees and employ marine experts  
23 as necessary to carry out its duties under this chapter;

24 ~~((+8))~~ (9) Provide for the maintenance of efficient and competent  
25 pilotage service on all waters covered by this chapter; and do such  
26 other things as are reasonable, necessary, and expedient to insure  
27 proper and safe pilotage upon the waters covered by this chapter and  
28 facilitate the efficient administration of this chapter.

29 **Sec. 2.** RCW 88.16.090 and 1999 sp.s. c 1 s 607 are each amended to  
30 read as follows:

31 (1) A person may pilot any vessel subject to ~~((the provisions of))~~  
32 this chapter on waters covered by this chapter only if ~~((appointed~~  
33 ~~and))~~ licensed to pilot such vessels on ~~((said))~~ such waters under  
34 ~~((and pursuant to the provisions of))~~ this chapter.

35 (2)(a) A person is eligible to be ~~((appointed))~~ licensed as a pilot  
36 if the person:

37 (i) Is a citizen of the United States~~((7))~~;

1        (ii) Is over the age of twenty-five years and under the age of  
2 seventy years~~(( $\tau$ ))~~;

3        (iii) Is a resident of the state of Washington at the time of  
4 ~~((appointment and only if the pilot applicant))~~ licensure as a pilot;

5        (iv)(A) Holds at the time of application, as a minimum, a United  
6 States government license as ((a)) master of ((ocean or near coastal))  
7 steam or motor vessels of not more than one thousand six hundred gross  
8 register tons ((or as a master of)) (three thousand international  
9 tonnage convention tons) upon oceans, near coastal waters, or inland  
10 ~~((steam or motor vessels of not more than one thousand six hundred~~  
11 ~~gross tons,~~) waters; or the then most equivalent federal license as  
12 determined by the board; any such license to have been held by the  
13 applicant for a period of at least two years ((prior to taking the  
14 ~~Washington state pilotage examination and))~~ before application;

15        (B) Holds at the time of licensure as a pilot, after successful  
16 completion of the board-required training program, a first class United  
17 States endorsement without restrictions on ((that)) the United States  
18 government license ((to pilot in)) for the pilotage district((s for))  
19 in which the pilot applicant desires to be licensed((, and if the pilot  
20 ~~applicant meets))~~; however, all applicants for a pilot examination  
21 scheduled to be given before July 1, 2008, must have the United States  
22 pilotage endorsement at the time of application; and

23        (C) The board may establish such other federal license requirements  
24 for applicants and pilots as it deems appropriate; and

25        (v) Successfully completes a board-specified training program.

26        (b) In addition to the requirements of (a) of this subsection, a  
27 pilot applicant must meet such other qualifications as may be required  
28 by the board.

29        (c) A person applying for a license under this section shall not  
30 have been convicted of an offense involving drugs or the personal  
31 consumption of alcohol in the twelve months prior to the date of  
32 application. This restriction does not apply to license renewals under  
33 this section.

34        ~~(3) ((Pilots shall be licensed hereunder for a term of five years~~  
35 ~~from and after the date of the issuance of their respective state~~  
36 ~~licenses. Such licenses shall thereafter be renewed as of course,~~  
37 ~~unless the board shall withhold same for good cause. Each pilot shall~~  
38 ~~pay to the state treasurer an annual license fee as follows: For the~~

1 ~~period beginning July 1, 1995, through June 30, 2001, the fee shall be~~  
2 ~~two thousand five hundred dollars; and for the period beginning July 1,~~  
3 ~~2001, the fee shall be three thousand dollars. The fees shall be~~  
4 ~~deposited in the state treasury to the credit of the pilotage account.~~  
5 ~~The board may assess partially active or inactive pilots a reduced~~  
6 ~~fee)) The board may establish such other training license and pilot~~  
7 ~~license requirements as it deems appropriate.~~

8 (4) ~~Pilot applicants shall be ((required to pass a written and oral~~  
9 ~~examination administered and graded by the board which shall test such~~  
10 ~~applicants on this chapter, the rules of the board, local harbor~~  
11 ~~ordinances, and such other matters as may be required to compliment~~  
12 ~~[complement] the United States examinations and qualifications. The~~  
13 ~~board shall hold examinations at such times as will, in the judgment of~~  
14 ~~the board, ensure the maintenance of an efficient and competent~~  
15 ~~pilotage service. An examination shall be scheduled for the Puget~~  
16 ~~Sound pilotage district if there are three or fewer successful~~  
17 ~~candidates from the previous examination who are waiting to become~~  
18 ~~pilots in that district.)) evaluated and ranked in a manner specified~~  
19 ~~by the board based on their experience, other qualifications as may be~~  
20 ~~set by the board, performance on a written examination or examinations~~  
21 ~~established by the board, and performance in such other evaluation~~  
22 ~~exercises as may be required by the board, for entry into a board-~~  
23 ~~specified training program.~~

24 When the board determines that the demand for pilots requires entry  
25 of an applicant into the training program it shall issue a training  
26 license to that applicant, but under no circumstances may an applicant  
27 be issued a training license more than four years after taking the  
28 written entry examination. The training license authorizes the trainee  
29 to do such actions as are specified in the training program.

30 After the completion of the training program the board shall  
31 evaluate the trainee's performance and knowledge. The board, as it  
32 deems appropriate, may then issue a pilot license, delay the issuance  
33 of the pilot license, deny the issuance of the pilot license, or  
34 require further training and evaluation.

35 (5) ~~((The board shall develop an examination and grading sheet for~~  
36 ~~each pilotage district, for the testing and grading of pilot~~  
37 ~~applicants. The examinations shall be administered to pilot applicants~~  
38 ~~and shall be updated as required to reflect changes in law, rules,~~

1 ~~policies, or procedures.~~) The board may appoint a special independent  
2 ((~~examination~~)) committee or may contract with a firm knowledgeable and  
3 experienced in the development of professional tests and evaluations  
4 for development and grading of ((~~said~~)) the examinations and other  
5 evaluation methods. Active licensed state pilots may be consulted for  
6 the general development of any examinations and evaluation exercises  
7 but shall have no knowledge of the specific questions. The pilot  
8 members of the board may participate in the grading of examinations.  
9 If the board does appoint a special examination or evaluation  
10 development committee it is authorized to pay the members of ((~~said~~))  
11 the committee the same compensation and travel expenses as received by  
12 members of the board. ((~~When grading examinations the board shall~~  
13 ~~carefully follow the grading sheet prepared for that examination. The~~  
14 ~~board shall develop a "sample examination" which would tend to indicate~~  
15 ~~to an applicant the general types of questions on pilot examinations,~~  
16 ~~but such sample questions shall not appear on any actual~~  
17 ~~examinations.~~)) Any person who willfully gives advance knowledge of  
18 information contained on a pilot examination or other evaluation  
19 exercise is guilty of a gross misdemeanor.

20 (6) Pilots are licensed under this section for a term of five years  
21 from and after the date of the issuance of their respective state  
22 licenses. Licenses must thereafter be renewed as a matter of course,  
23 unless the board withholds the license for good cause. Each pilot  
24 shall pay to the state treasurer an annual license fee of three  
25 thousand dollars. The fees must be deposited in the state treasury to  
26 the credit of the pilotage account. The board may assess partially  
27 active or inactive pilots a reduced fee.

28 (7) All pilots and applicants are subject to an annual physical  
29 examination by a physician chosen by the board. The physician shall  
30 examine the applicant's heart, blood pressure, circulatory system,  
31 lungs and respiratory system, eyesight, hearing, and such other items  
32 as may be prescribed by the board. After consultation with a physician  
33 and the United States coast guard, the board shall establish minimum  
34 health standards to ensure that pilots licensed by the state are able  
35 to perform their duties. Within ninety days of the date of each annual  
36 physical examination, and after review of the physician's report, the  
37 board shall make a determination of whether the pilot or ((~~candidate~~))  
38 applicant is fully able to carry out the duties of a pilot under this

1 chapter. The board may in its discretion check with the appropriate  
2 authority for any convictions of offenses involving drugs or the  
3 personal consumption of alcohol in the prior twelve months.

4 ~~((7) The board shall prescribe, pursuant to chapter 34.05 RCW, a  
5 number of familiarization trips, between a minimum number of twenty-  
6 five and a maximum of one hundred, which pilot applicants must make in  
7 the pilotage district for which they desire to be licensed.  
8 Familiarization trips any particular applicant must make are to be  
9 based upon the applicant's vessel handling experience.))~~

10 (8) The board may require vessel simulator training for a pilot  
11 applicant and shall require vessel simulator training for a licensed  
12 pilot subject to RCW 88.16.105. The board shall also require vessel  
13 simulator training in the first year of active duty for a new pilot and  
14 at least once every five years for all active pilots.

15 (9) The board shall prescribe, pursuant to chapter 34.05 RCW, such  
16 reporting requirements and review procedures as may be necessary to  
17 assure the accuracy and validity of license and service claims(~~(, and~~  
18 ~~records of familiarization trips of pilot candidates)~~). Willful  
19 misrepresentation of such required information by a pilot (~~(candidate)~~)  
20 applicant shall result in disqualification of the (~~(candidate)~~) pilot  
21 applicant.

22 ~~((10) The board shall adopt rules to establish time periods and  
23 procedures for additional training trips and retesting as necessary for  
24 pilots who at the time of their licensing are unable to become active  
25 pilots.))~~

26 **Sec. 3.** RCW 88.16.118 and 1984 c 69 s 1 are each amended to read  
27 as follows:

28 (1) A ship's pilot licensed to act as such by the state of  
29 Washington shall not be liable for damages in excess of the amount of  
30 five thousand dollars for damages or loss occasioned by the pilot's  
31 errors, omissions, fault, or neglect in the performance of pilotage or  
32 pilot training services, except as may arise by reason of the willful  
33 misconduct or gross negligence of ((the)) that pilot. A ship's pilot  
34 trainee licensed to act as such by the state of Washington is not  
35 liable for damages in excess of the amount of five thousand dollars for  
36 damages or loss occasioned by the pilot trainee's errors, omissions,

1 fault, or neglect in the performance of pilotage or pilot training  
2 services, except as may arise by reason of the willful misconduct or  
3 gross negligence of that pilot trainee.

4 (2) When a pilot or pilot trainee boards a vessel, that pilot or  
5 pilot trainee becomes a servant of the vessel and its owner and  
6 operator. Nothing in this section exempts the vessel, its owner or  
7 operator from liability for damage or loss occasioned by that ship to  
8 a person or property on the ground that ((+1)) (a) the ship was  
9 piloted by a Washington state licensed pilot or pilot trainee, or  
10 ((+2)) (b) the damage or loss was occasioned by the error, omission,  
11 fault, or neglect of a Washington state licensed pilot or pilot  
12 trainee.

13 NEW SECTION. Sec. 4. This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of the  
15 state government and its existing public institutions, and takes effect  
16 immediately.

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