
SENATE BILL 6602

State of Washington 60th Legislature 2008 Regular Session

By Senators Haugen and Swecker; by request of Board of Pilotage Commissioners

Read first time 01/18/08. Referred to Committee on Transportation.

1 AN ACT Relating to the pilotage act; amending RCW 88.16.010,
2 88.16.035, 88.16.070, 88.16.090, 88.16.100, 88.16.102, 88.16.103,
3 88.16.105, 88.16.107, 88.16.110, 88.16.135, 88.16.155, 88.16.200, and
4 34.05.514; reenacting and amending RCW 88.16.118; and adding a new
5 section to chapter 88.16 RCW.

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

7 **Sec. 1.** RCW 88.16.010 and 2003 c 58 s 1 are each amended to read
8 as follows:

9 (1) The board of pilotage commissioners of the state of Washington
10 is hereby created and shall consist of the assistant secretary of
11 marine ((~~transportation~~)) operations of the department of
12 transportation of the state of Washington, or the assistant secretary's
13 designee who shall be an employee of the marine division, who shall be
14 chairperson, the director of the department of ecology, or the
15 director's designee, and seven members appointed by the governor and
16 confirmed by the senate. Each of the appointed commissioners shall be
17 appointed for a term of four years from the date of the member's
18 commission. No person shall be eligible for appointment to the board
19 unless that person is at the time of appointment eighteen years of age

1 or over and a citizen of the United States and of the state of
2 Washington. Two of the appointed commissioners shall be pilots
3 licensed under this chapter and actively engaged in piloting upon the
4 waters covered by this chapter for at least three years immediately
5 preceding the time of appointment and while serving on the board. One
6 pilot shall be from the Puget Sound pilotage district and the other
7 pilot shall be from either the Grays Harbor pilotage district or the
8 Puget Sound pilotage district. Two of the appointed commissioners
9 shall be actively engaged in the ownership, operation, or management of
10 deep sea cargo and/or passenger carrying vessels for at least three
11 years immediately preceding the time of appointment and while serving
12 on the board. One of the shipping commissioners shall be a
13 representative of American and one of foreign shipping. One of the
14 commissioners shall be a representative from a recognized environmental
15 organization concerned with marine waters. The remaining commissioners
16 shall be persons interested in and concerned with pilotage, maritime
17 safety, and marine affairs, with broad experience related to the
18 maritime industry exclusive of experience as either a state licensed
19 pilot or as a shipping representative.

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

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

27 **Sec. 2.** RCW 88.16.035 and 2006 c 53 s 1 are each amended to read
28 as follows:

29 (1) The board of pilotage commissioners shall:

30 (a) Adopt rules, pursuant to chapter 34.05 RCW, necessary for the
31 enforcement and administration of this chapter;

32 (b)(i) Issue training licenses and pilot licenses to pilot
33 applicants meeting the qualifications provided for in RCW 88.16.090 and
34 such additional qualifications as may be determined by the board;

35 (ii) Establish a comprehensive training program to assist in the
36 training and evaluation of pilot applicants before final licensing; and

1 (iii) Establish additional training requirements, including a
2 program 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 (c) 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 (d) 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 (e) 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, for all vessels in direct transit to or
18 from a Canadian port where Puget Sound pilotage is required for a
19 portion of the voyage, or for being carried to sea on vessels against
20 the will of the pilot, and for such other services as may be determined
21 by the board;

22 (f) File annually with the governor and the chairs of the
23 transportation committees of the senate and house of representatives a
24 report which includes, but is not limited to, the following: The
25 number, names, (~~addresses,~~) ages, pilot license number, training
26 license number, and years of service as a Washington licensed pilot of
27 any person licensed by the board as a Washington state pilot or
28 trainee; the names, employment, and other information of the members of
29 the board; the total number of pilotage assignments by pilotage
30 district, including information concerning the various types and sizes
31 of vessels and the total annual tonnage; the annual earnings or
32 stipends of individual pilots and trainees before and after deduction
33 for expenses of pilot organizations, including extra compensation as a
34 separate category; the annual expenses of private pilot associations,
35 including personnel employed and capital expenditures; the status of
36 pilotage tariffs, extra compensation, and travel; the retirement
37 contributions paid to pilots and the disposition thereof; the number of
38 groundings, (~~miscellaneous~~) marine occurrences, or other incidents which

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

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

25 (h) Appoint advisory committees and employ marine experts as
26 necessary to carry out its duties under this chapter;

27 (i) Provide for the maintenance of efficient and competent pilotage
28 service on all waters covered by this chapter; and do such other things
29 as are reasonable, necessary, and expedient to insure proper and safe
30 pilotage upon the waters covered by this chapter and facilitate the
31 efficient administration of this chapter.

32 (2) The board may pay stipends to pilot trainees under subsection
33 (1)(b) of this section.

34 **Sec. 3.** RCW 88.16.070 and 1996 c 144 s 1 are each amended to read
35 as follows:

36 Every vessel not exempt under this section that operates in the

1 waters of the Puget Sound pilotage district or Grays Harbor pilotage
2 district is subject to compulsory pilotage under this chapter.

3 (1) A United States vessel on a voyage in which it is operating
4 exclusively on its coastwise endorsement, its fishery endorsement
5 (including catching and processing its own catch outside United States
6 waters and economic zone for delivery in the United States), and/or its
7 recreational (or pleasure) endorsement, and all United States and
8 Canadian vessels engaged exclusively in the coasting trade on the west
9 coast of the continental United States (including Alaska) and/or
10 British Columbia shall be exempt from the provisions of this chapter
11 unless a pilot licensed under this chapter be actually employed, in
12 which case the pilotage rates provided for in this chapter shall apply.
13 ((However,))

14 (2) The board ((shall)) may, upon the written petition of any
15 interested party, and upon notice and opportunity for hearing, grant an
16 exemption from the provisions of this chapter to any vessel that the
17 board finds is (a) a small passenger vessel ((or yacht which)) that is
18 not more than five hundred gross tons (international), does not exceed
19 two hundred feet in overall length, and is operated exclusively in the
20 waters of the Puget Sound pilotage district and lower British Columbia,
21 or (b) a yacht that is not more than five hundred gross tons
22 (international) and does not exceed two hundred feet in overall length.

23 Such an exemption shall not be detrimental to the public interest in
24 regard to safe operation preventing loss of human lives, loss of
25 property, and protecting the marine environment of the state of
26 Washington. Such petition shall set out the general description of the
27 vessel, the contemplated use of same, the proposed area of operation,
28 and the name and address of the vessel's owner. The board shall
29 annually, or at any other time when in the public interest, review any
30 exemptions granted to this specified class of small vessels to insure
31 that each exempted vessel remains in compliance with the original
32 exemption. The board shall have the authority to revoke such exemption
33 where there is not continued compliance with the requirements for
34 exemption. The board shall maintain a file which shall include all
35 petitions for exemption, a roster of vessels granted exemption, and the
36 board's written decisions which shall set forth the findings for grants
37 of exemption. Each applicant for exemption or annual renewal shall pay
38 a fee, payable to the pilotage account. Fees for initial applications

1 and for renewals shall be established by rule, and shall not exceed one
2 thousand five hundred dollars. The board shall report annually to the
3 legislature on such exemptions.

4 (3) Every vessel not ~~((se))~~ exempt~~((7))~~ under subsection (1) or (2)
5 of this section shall, while navigating the Puget Sound and Grays
6 Harbor ~~((and Willapa Bay))~~ pilotage districts, employ a pilot licensed
7 under the provisions of this chapter and shall be liable for and pay
8 pilotage rates in accordance with the pilotage rates herein established
9 or which may hereafter be established under the provisions of this
10 chapter: PROVIDED, That any vessel inbound to or outbound from
11 Canadian ports is exempt from the provisions of this section, if said
12 vessel actually employs a pilot licensed by the Pacific pilotage
13 authority (the pilot licensing authority for the western district of
14 Canada), and if it is communicating with the vessel traffic system and
15 has appropriate navigational charts, and if said vessel uses only those
16 waters east of the international boundary line which are west of a line
17 which begins at the southwestern edge of Point Roberts then to Alden
18 Point (Patos Island), then to Skipjack Island light, then to Turn Point
19 (Stuart Island), then to Kellet Bluff (Henry Island), then to Lime Kiln
20 (San Juan Island) then to the intersection of one hundred twenty-three
21 degrees seven minutes west longitude and forty-eight degrees twenty-
22 five minutes north latitude then to the international boundary. The
23 board shall correspond with the Pacific pilotage authority from time to
24 time to ensure the provisions of this section are enforced. If any
25 exempted vessel does not comply with these provisions it shall be
26 deemed to be in violation of this section and subject to the penalties
27 provided in RCW 88.16.150 as now or hereafter amended and liable to
28 pilotage fees as determined by the board. The board shall investigate
29 any accident on the waters covered by this chapter involving a Canadian
30 pilot and shall include the results in its annual report.

31 **Sec. 4.** RCW 88.16.090 and 2007 c 518 s 706 are each amended to
32 read as follows:

33 (1) A person may pilot any vessel subject to this chapter on waters
34 covered by this chapter only if licensed to pilot such vessels on such
35 waters under this chapter.

36 (2)(a) A person is eligible to be licensed as a pilot or a pilot
37 trainee if the person:

1 (i) Is a citizen of the United States;

2 (ii) Is over the age of twenty-five years and under the age of
3 seventy years;

4 (iii) ~~((Is a resident of the state of Washington at the time of
5 licensure as a pilot;~~

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

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

20 (C) The board may ~~((establish such other))~~ require that applicants
21 and pilots have federal licenses ~~((requirements for applicants and~~
22 ~~pilots--))~~ and endorsements as it deems appropriate; and

23 ~~((v))~~ (iv) Successfully completes a board-specified training
24 program.

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

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

33 (3) The board may establish such other training license and pilot
34 license requirements as it deems appropriate.

35 (4) Pilot applicants shall be evaluated and may be ranked for entry
36 into a board-specified training program in a manner specified by the
37 board based on their ~~((experience, other qualifications as may be set~~
38 ~~by the board,))~~ performance on a written examination or examinations

1 established by the board, ~~((and))~~ performance ~~((in such))~~ on other
2 evaluation exercises as may be required by the board, ~~((for entry into~~
3 ~~a board specified training program))~~ and other criteria or
4 qualifications as may be set by the board.

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

11 After the completion of the training program the board shall
12 evaluate the trainee's performance and knowledge. The board, as it
13 deems appropriate, may then issue a pilot license, delay the issuance
14 of the pilot license, deny the issuance of the pilot license, or
15 require further training and evaluation.

16 (5) The board may (a) appoint a special independent committee or
17 ~~((may))~~ (b) contract with ~~((a firm))~~ private or governmental entities
18 knowledgeable and experienced in the development ~~((of professional~~
19 ~~tests and evaluations for development and grading of the examinations~~
20 ~~and other evaluation methods.~~ Active licensed state pilots may be
21 consulted for the general development of any examinations and
22 evaluation exercises but shall have no knowledge of the specific
23 questions. ~~The pilot members of the board may participate in the~~
24 ~~grading of examinations)),~~ administration, and grading of licensing
25 examinations or simulator evaluations for marine pilots, or (c) do
26 both. Active, licensed pilots designated by the board may participate
27 in the development, administration, and grading of examinations and
28 other evaluation exercises. If the board does appoint a special
29 examination or evaluation development committee, it is authorized to
30 pay the members of the committee the same compensation and travel
31 expenses as received by members of the board. Any person who willfully
32 gives advance knowledge of information contained on a pilot examination
33 or other evaluation exercise is guilty of a gross misdemeanor.

34 (6) This subsection applies to the review of a pilot applicant's
35 written examinations and evaluation exercises to qualify to be placed
36 on a waiting list to become a pilot trainee. Failure to comply with
37 the process set forth in this subsection renders the results of the
38 pilot applicant's written examinations and evaluation exercises final.

1 A pilot applicant may seek board review, administrative review, and
2 judicial review of the results of the written examinations and
3 evaluation exercises in the following manner:

4 (a) A pilot applicant who seeks a review of the results of his or
5 her written examinations or evaluation exercises must request from the
6 board-appointed or board-designated examination committee an
7 administrative review of the results of his or her written examinations
8 or evaluation exercises as set forth by board rule.

9 (b) The determination of the examination committee's review of a
10 pilot applicant's examination results becomes final after thirty days
11 from the date of service of written notification of the committee's
12 determination unless a full adjudicative hearing before an
13 administrative law judge has been requested by the pilot applicant
14 before the thirty-day period has expired, as set forth by board rule.

15 (c) When a full adjudicative hearing has been requested by the
16 pilot applicant, the board shall request the appointment of an
17 administrative law judge under chapter 34.12 RCW who has sufficient
18 experience and familiarity with pilotage matters to be able to conduct
19 a fair and impartial hearing. The hearing shall be governed by
20 chapter 34.05 RCW. The administrative law judge shall issue an initial
21 order.

22 (d) The initial order of the administrative law judge is final
23 unless within thirty days of the date of service of the initial order
24 the board or pilot applicant requests review of the initial order
25 under chapter 34.05 RCW.

26 (e) The board may appoint a person to review the initial order and
27 to prepare and enter a final order as governed by chapter 34.05 RCW and
28 as set forth by board rule. The person appointed by the board under
29 this subsection (6)(e) is called the board reviewing officer.

30 (7) Pilots are licensed under this section for a term of five years
31 from and after the date of the issuance of their respective state
32 licenses. Licenses must thereafter be renewed as a matter of course,
33 unless the board withholds the license for good cause. Each pilot
34 shall pay to the state treasurer an annual license fee in an amount set
35 by the board by rule. The fees established under this subsection may
36 be increased in excess of the fiscal growth factor as provided in RCW
37 43.135.055 through the fiscal year ending June 30, 2009. The fees must

1 be deposited in the state treasury to the credit of the pilotage
2 account. The board may assess partially active or inactive pilots a
3 reduced fee.

4 ~~((7))~~ (8) All pilots and ~~((applicants))~~ pilot trainees are
5 subject to an annual physical examination by a physician chosen by the
6 board. The physician shall examine the ~~((applicant's))~~ pilot's or
7 pilot trainee's heart, blood pressure, circulatory system, lungs and
8 respiratory system, eyesight, hearing, and such other items as may be
9 prescribed by the board. After consultation with a physician and the
10 United States coast guard, the board shall establish minimum health
11 standards to ensure that pilots and pilot trainees licensed by the
12 state are able to perform their duties. Within ninety days of the date
13 of each annual physical examination, and after review of the
14 physician's report, the board shall make a determination of whether the
15 pilot or ~~((applicant))~~ pilot trainee is fully able to carry out the
16 duties of a pilot or pilot trainee under this chapter. The board may
17 in its discretion check with the appropriate authority for any
18 convictions of or information regarding offenses by a licensed pilot or
19 pilot trainee involving drugs or the personal consumption of alcohol in
20 the prior twelve months.

21 ~~((8))~~ (9) The board may require vessel simulator training for a
22 pilot ~~((applicant))~~ trainee and shall require vessel simulator training
23 for a licensed pilot subject to RCW 88.16.105. The board shall also
24 require vessel simulator training in the first year of active duty for
25 a new pilot and at least once every five years for all active pilots.

26 ~~((9))~~ (10) The board shall prescribe, pursuant to chapter 34.05
27 RCW, such reporting requirements and review procedures as may be
28 necessary to assure the accuracy and validity of license and service
29 claims. Willful misrepresentation of such required information by a
30 pilot applicant shall result in disqualification of the pilot
31 applicant.

32 **Sec. 5.** RCW 88.16.100 and 1990 c 116 s 28 are each amended to read
33 as follows:

34 (1) The board shall have power on its own motion or, in its
35 discretion, upon the written request of any interested party, to
36 investigate the performance of pilotage services subject to this
37 chapter and to issue a reprimand, impose a fine against a pilot in an

1 amount not to exceed five thousand dollars, suspend, withhold, or
2 revoke the license of any pilot, or any combination of the above, for
3 misconduct, incompetency, inattention to duty, intoxication, or failure
4 to perform his duties under this chapter, or violation of any of the
5 rules or regulations provided by the board for the government of
6 pilots. The board may partially or totally stay any disciplinary
7 action authorized in this subsection and subsection (2) of this
8 section. The board shall have the power to require that a pilot
9 satisfactorily complete a specific course of training or treatment.

10 (2) In all instances where a pilot licensed under this chapter
11 performs pilot services on a vessel exempt under RCW 88.16.070, the
12 board may on its own motion, or in its discretion upon the written
13 request of any interested party, investigate whether the services were
14 performed in a professional manner consistent with sound maritime
15 practices. If the board finds that the pilotage services were
16 performed in a manner that constitutes an act of incompetence,
17 misconduct, or negligence so as to endanger life, limb, or property, or
18 violated or failed to comply with state laws or regulations intended to
19 promote marine safety or to protect navigable waters, the board may
20 issue a reprimand, impose a fine against a pilot in an amount not to
21 exceed five thousand dollars, suspend, withhold, or revoke the state
22 pilot license, or any combination of the above. The board shall have
23 the power to require that a pilot satisfactorily complete a specific
24 course of training or treatment.

25 (3) The board shall implement a system of specified disciplinary
26 actions or corrective actions, including training or treatment, that
27 will be taken when a state licensed pilot in a specified period of time
28 has had multiple disciplinary actions taken against the pilot's license
29 pursuant to subsections (1) and (2) of this section. In developing
30 these disciplinary or corrective actions, the board shall take into
31 account the cause of the disciplinary action and the pilot's previous
32 record.

33 (4) The board shall immediately review the pilot's license of a
34 pilot who has been (~~convicted within the prior twelve months of~~)
35 charged with any offense involving drugs or the personal consumption of
36 alcohol while on duty, including an offense of operation of a vehicle
37 or vessel while under the influence of alcohol or drugs. After a
38 hearing held pursuant to subsection (5) of this section:

1 (a) The board shall order a pilot who has been found to have been
2 convicted (~~((within the prior twelve months))~~) of an offense involving
3 drugs or the personal consumption of alcohol while on duty and who has
4 not been convicted of another offense involving drugs or the personal
5 consumption of alcohol in the previous five years to actively
6 participate in and satisfactorily complete a specific program of
7 treatment. The board may impose other sanctions it determines are
8 appropriate. If the pilot does not satisfactorily complete the program
9 of treatment, the board shall suspend, revoke, or withhold the pilot's
10 license until the treatment is completed; and

11 (b) The board shall suspend for (~~((up to))~~) not less than one year
12 the license of a pilot found to have been convicted (~~((within the prior
13 twelve months))~~) of a second or subsequent offense involving drugs or
14 the personal consumption of alcohol while on duty.

15 (5) When the board determines that reasonable cause exists to issue
16 a reprimand, impose a fine, suspend, revoke, or withhold any pilot's
17 license or require training or treatment under subsection (1), (2), or
18 (4) of this section, it shall (~~((forthwith))~~) prepare and personally
19 serve upon such pilot a notice advising him or her of the board's
20 intended action, the specific grounds (~~((therefor))~~) for the action, and
21 the right to request a hearing to challenge the board's action. The
22 pilot shall have thirty days from the date on which notice is served to
23 request a full hearing before an administrative law judge on the issue
24 of the reprimand, fine, suspension, revocation, or withholding of his
25 or her pilot's license, or requiring treatment or training. The
26 board's proposed reprimand, fine, suspension, revocation, or
27 withholding of a license, or requiring treatment or training shall
28 become final upon the expiration of thirty days from the date notice is
29 served, unless a hearing has been requested prior to that time. When
30 a hearing is requested, the board shall request the appointment of an
31 administrative law judge under chapter 34.12 RCW who has sufficient
32 experience and familiarity with pilotage matters to be able to conduct
33 a fair and impartial hearing. The hearing shall be governed by the
34 provisions of Title 34 RCW. All final decisions of the administrative
35 law judge shall be subject to review by the superior court of the state
36 of Washington for Thurston county (~~((or))~~), by the superior court of the
37 county in which the pilot maintains his or her residence or principal
38 place of business, or by the superior court of the county in which the

1 board maintains its office, to which court any case with all the papers
2 and proceedings therein shall be immediately certified by the
3 administrative law judge if requested to do so by any party to the
4 proceedings at any time within thirty days after the date of any such
5 final decision. No appeal may be taken after the expiration of thirty
6 days after the date of final decision. Any case so certified to the
7 superior court shall be tried de novo and after certification of the
8 record to said superior court the proceedings shall be had as in a
9 civil action. Moneys collected from fines under this section shall be
10 deposited in the pilotage account.

11 (6) The board shall have the power, on an emergency basis, to
12 temporarily suspend a state pilot's license: (a) When a pilot has been
13 involved in any vessel accident where there has been major property
14 damage, loss of life, or loss of a vessel, or (b) where there is a
15 reasonable cause to believe that a pilot has diminished mental capacity
16 or is under the influence of drugs, alcohol, or other substances, when
17 in the opinion of the board, such an accident or physical or mental
18 impairment would significantly diminish that pilot's ability to carry
19 out pilotage duties and that the public health, safety, and welfare
20 requires such emergency action. The board shall make a determination
21 within seventy-two hours whether to continue the suspension. The board
22 shall develop rules for exercising this authority including procedures
23 for the chairperson or vice-chairperson of the board to temporarily
24 order such suspensions, emergency meetings of the board to consider
25 such suspensions, the length of suspension, opportunities for hearings,
26 and an appeal process. The board shall develop rules under chapter
27 34.05 RCW.

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

31 **Sec. 6.** RCW 88.16.102 and 1979 ex.s. c 207 s 4 are each amended to
32 read as follows:

33 The license of (~~all pilots shall be~~) a pilot is terminated upon
34 the pilot reaching the age of seventy(~~PROVIDED, That all pilots~~
35 ~~licensed as of September 1, 1979 may continue piloting and hold~~
36 ~~licenses until May 1, 1982~~)).

1 **Sec. 7.** RCW 88.16.103 and 1986 c 122 s 2 are each amended to read
2 as follows:

3 (1) Pilots and pilot trainees, after completion of an assignment or
4 assignments which are seven hours or longer in duration, shall receive
5 a mandatory rest period of seven hours.

6 (2) A pilot or pilot trainee shall refuse a pilotage assignment if
7 the pilot or pilot trainee is physically or mentally fatigued or if the
8 pilot or pilot trainee has a reasonable belief that the assignment
9 cannot be carried out in a competent and safe manner. Upon refusing an
10 assignment (~~as herein provided~~) under this subsection, a pilot or
11 pilot trainee shall submit a written explanation to the board within
12 forty-eight hours. If the board finds that the pilot's or pilot
13 trainee's written explanation is without merit, or reasonable cause did
14 not exist for the assignment refusal, such pilot or pilot trainee may
15 be subject to the provisions of RCW 88.16.100.

16 (3) The board shall quarterly review the dispatch records of pilot
17 organizations or pilot's quarterly reports to ensure the provisions of
18 this section are enforced. The board may prescribe rules for rest
19 periods pursuant to chapter 34.05 RCW.

20 **Sec. 8.** RCW 88.16.105 and 1991 c 200 s 1003 are each amended to
21 read as follows:

22 The board shall prescribe, pursuant to chapter 34.05 RCW, rules
23 governing the size and type of vessels which a newly licensed pilot may
24 be assigned to pilot on the waters of this state and whether the
25 assignment involves docking or undocking a vessel. The rules shall
26 also prescribe required familiarization trips before a newly licensed
27 pilot may pilot a larger or different type of vessel. (~~Such rules~~
28 ~~shall be for the first five year period in which pilots are actually~~
29 ~~employed.))~~

30 **Sec. 9.** RCW 88.16.107 and 1977 ex.s. c 337 s 15 are each amended
31 to read as follows:

32 Any pilot or pilot trainee licensed pursuant to this chapter may
33 appear or testify before the legislature or board of pilotage
34 commissioners and no person shall place any sanction against said pilot
35 or pilot trainee for having testified or appeared.

1 **Sec. 10.** RCW 88.16.110 and 2001 c 36 s 5 are each amended to read
2 as follows:

3 (1) Every pilot licensed under this chapter shall file with the
4 board not later than the tenth day of January, April, July, and October
5 of each year a report for the preceding quarter. ~~((Said))~~ The report
6 shall contain an account of all moneys received for pilotage by him or
7 her or by any other person for the pilot or on the pilot's account or
8 for his or her benefit. ~~((Said))~~ The report shall state the name of
9 each vessel piloted, the amount charged to and/or collected from each
10 vessel, the port of registry of such vessel, its dead weight tonnage,
11 whether it was inward or outward bound, whether the amount so received,
12 collected, or charged is in full payment of pilotage, and ~~((such))~~
13 other information as the board shall prescribe by ~~((regulation~~
14 ~~prescribe))~~ rule. The board may from time to time require additional
15 information as it deems necessary.

16 (2) The report shall include information for each vessel that
17 suffers a grounding, collision, or other major marine casualty that
18 occurred while the pilot was on duty during the reporting period. The
19 report shall also include information on near miss incidents as defined
20 in RCW 88.46.100. Information concerning near miss incidents provided
21 pursuant to this section shall not be used for imposing any sanctions
22 or penalties. The board shall forward information provided under this
23 subsection to the department of ecology for inclusion in the collision
24 reporting system established under RCW 88.46.100.

25 **Sec. 11.** RCW 88.16.118 and 2005 c 123 s 2 and 2005 c 26 s 3 are
26 each reenacted and amended to read as follows:

27 (1)(a) A ~~((ship's))~~ pilot licensed to act as such by the state of
28 Washington, and any countywide port district located partly or entirely
29 within the Grays Harbor pilotage district as defined by RCW
30 88.16.050(2) authorized to provide pilotage services with pilots
31 employed by or under contract with the port district, shall not be
32 liable for damages in excess of the amount of five thousand dollars for
33 damages or loss occasioned by a pilot's or pilot trainee's errors,
34 omissions, fault, or neglect in the performance of pilotage or pilot
35 training services, except as may arise by reason of the willful
36 misconduct or gross negligence of ~~((a))~~ the pilot.

1 (b) A pilot trainee licensed to act as such by the state of
2 Washington is not liable for damages in excess of the amount of five
3 thousand dollars for damages or loss occasioned by the pilot trainee's
4 errors, omissions, fault, or neglect in the performance of pilotage or
5 pilot training services, except as may arise by reason of the willful
6 misconduct or gross negligence of the pilot trainee.

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

16 (3) Pilots, pilot trainees, and board members are immune from civil
17 liability to any party for damages or other relief that is in any way
18 based on the communication of, to a pilot or pilot trainee, to the
19 board, or to any other appropriate governmental authority or person,
20 any of the following: (a) Information about any incident or occurrence
21 involving collision, allision, or grounding of any vessel, including
22 near-miss occurrences; (b) information about any other marine
23 occurrence that the pilot or pilot trainee believes involved or
24 involves undue risk in the navigation of any vessel that could result
25 in damage to any person, vessel, structure, aid to navigation, or the
26 marine environment of this state; or (c) any report or other written,
27 oral, or electronic evaluation of the performance of any pilot or pilot
28 trainee. "Performance" includes, but is not limited to, professional
29 ability, attitude, performance of duties, effort, knowledge, skills,
30 and other relevant factors. This protection and immunity does not
31 apply when a pilot or pilot trainee intentionally releases or discloses
32 information known to be false. The immunity granted to a person under
33 this section is in addition to any common law or statutory privilege or
34 immunity enjoyed by the person, and this section is not intended to
35 abrogate or modify any such common law or statutory privilege or
36 immunity. The immunity from civil liability provided under this
37 section shall be liberally construed to accomplish the purposes of this

1 chapter and to encourage the free flow of information and opinions to
2 the board.

3 **Sec. 12.** RCW 88.16.135 and 1987 c 485 s 6 are each amended to read
4 as follows:

5 Any (~~steamship company or~~) ship operator or ship husbanding agent
6 may submit a request in writing to the board that a particular pilot
7 not be assigned to pilot that company's vessels. The request shall be
8 based on specific safety concerns of the (~~steamship company or~~) ship
9 operator or ship husbanding agent.

10 The board shall notify interested persons and hold a hearing on
11 that request, and either approve or disapprove the request. If the
12 request is approved, the board shall notify the affected pilot and give
13 the pilot a specific list of vessels for which that pilot shall not
14 provide pilotage services.

15 **Sec. 13.** RCW 88.16.155 and 1977 ex.s. c 337 s 11 are each amended
16 to read as follows:

17 (1) The master of any vessel which employs a Washington licensed
18 pilot shall certify on a form prescribed by the board of pilotage
19 commissioners that the vessel complies with:

20 (a) Such provisions of the United States coast guard regulations
21 governing the safety and navigation of vessels in United States waters,
22 as codified in Title 33 of the code of federal regulations, as the
23 board may prescribe; and

24 (b) The provisions of current international agreements governing
25 the safety, radio equipment, and pollution of vessels and other matters
26 as ratified by the United States Senate and prescribed by the board.

27 (2) The master of any vessel which employs a Washington licensed
28 pilot shall be prepared to produce, and any Washington licensed pilot
29 employed by a vessel shall request to see, certificates of the vessel
30 which certify and indicate that the vessel complies with subsection (1)
31 of this section and the rules of the board promulgated pursuant to
32 subsection (1) of this section.

33 (3) If the master of a vessel which employs a Washington licensed
34 pilot cannot certify that the vessel complies with subsection (1) of
35 this section and the rules of the board adopted pursuant to subsection
36 (1) of this section, the master shall certify that:

1 (a) The vessel will comply with subsection (1) of this section
2 before the time the vessel is scheduled to leave the waters of
3 Washington state; and

4 (b) The coast guard captain of the port was notified of the
5 noncomplying items when they were determined; and

6 (c) The coast guard captain of the port has authorized the vessel
7 to proceed under such conditions as prescribed by the coast guard
8 pursuant to its authority under federal statutes and regulations.

9 (4) After the board has prescribed the form required under
10 subsection (1) of this section, no Washington licensed pilot shall
11 offer pilotage services to any vessel on which the master has failed to
12 make a certification required by this section. If the master fails to
13 make a certification the pilot shall:

14 (a) Disembark from the vessel as soon as safely practicable; and

15 (b) Immediately inform the (~~port~~) coast guard captain of the port
16 of the conditions and circumstances by the best possible means; and

17 (c) Forward a written report to the board no later than twenty-four
18 hours after disembarking from the vessel.

19 (5) Any Washington licensed pilot who offers pilotage services to
20 a vessel on which the master has failed to make a certification
21 required by this section or the rules of the board adopted under this
22 section shall be subject to RCW 88.16.150, as now or hereafter amended,
23 and RCW 88.16.100, as now or hereafter amended.

24 (6) The board shall revise the requirements enumerated in this
25 section as necessary to reflect changes in coast guard regulations,
26 federal statutes, and international agreements. All actions of the
27 board under this section shall comply with chapters 34.05 and 42.30
28 RCW. The board shall prescribe the time of and method for retention of
29 forms which have been signed by the master of a vessel in accordance
30 with the provisions of this section.

31 (7) This section shall not apply to the movement of dead ships.
32 The board shall prescribe pursuant to chapter 34.05 RCW, after
33 consultation with the coast guard and interested persons, for the
34 movement of dead ships and the certification process thereon.

35 **Sec. 14.** RCW 88.16.200 and 1991 c 200 s 603 are each amended to
36 read as follows:

1 Any vessel designed for the purpose of carrying as its cargo
2 liquefied natural or (~~propane~~) liquefied petroleum gas shall adhere
3 to the provisions of RCW 88.16.190(2) as though it were an oil tanker.

4 NEW SECTION. **Sec. 15.** A new section is added to chapter 88.16 RCW
5 to read as follows:

6 A master, pilot, or pilot trainee who deviates from the provisions
7 of this chapter or Title 363 WAC in order to comply with any federal or
8 international law or treaty, such as 46 U.S.C. Sec. 2304 et seq., or
9 any other provision of law of the state, or who deviates in order to
10 ensure the safety of the vessel or its crew under the control of the
11 master, pilot, or pilot trainee, shall submit a pilot's report of
12 marine safety occurrence as prescribed by the board of pilotage
13 commissioners in WAC 363-116-200 in the case of a near-miss occurrence.
14 If the deviation occurred while the vessel was operating under the
15 control of a pilot or pilot trainee licensed in this state, then the
16 report must be submitted by the pilot or pilot trainee with input
17 provided by the master. The report must describe the circumstances
18 leading to the deviation from the provisions of this chapter and the
19 consequences of that deviation. If the consequences of the deviation
20 include an incident as defined in WAC 363-116-200, then the pilot's
21 report of marine safety occurrence must be submitted in addition to any
22 reports required as a result of the incident. The board shall
23 investigate the circumstances surrounding the deviation and, if the
24 facts of the situation so warrant, may waive enforcement action against
25 the master, pilot, or pilot trainee if the board finds that the
26 deviation was: Taken in order to comply with any other law that may
27 have precedence; required by the ordinary practice of seamen; or
28 justified by the special circumstances of the case.

29 **Sec. 16.** RCW 34.05.514 and 2001 c 220 s 3 are each amended to read
30 as follows:

31 (1) Except as provided in subsections (2) (~~and (3)~~) through (4)
32 of this section, proceedings for review under this chapter shall be
33 instituted by paying the fee required under RCW 36.18.020 and filing a
34 petition in the superior court, at the petitioner's option, for (a)
35 Thurston county, (b) the county of the petitioner's residence or

1 principal place of business, or (c) in any county where the property
2 owned by the petitioner and affected by the contested decision is
3 located.

4 (2) For proceedings involving institutions of higher education, the
5 petition shall be filed either in the county in which the principal
6 office of the institution involved is located or in the county of a
7 branch campus if the action involves such branch.

8 (3) For proceedings conducted by the pollution control hearings
9 board pursuant to chapter 43.21B RCW or as otherwise provided in RCW
10 90.03.210(2) involving decisions of the department of ecology on
11 applications for changes or transfers of water rights that are the
12 subject of a general adjudication of water rights that is being
13 litigated actively under chapter 90.03 or 90.44 RCW, the petition must
14 be filed with the superior court conducting the adjudication, to be
15 consolidated by the court with the general adjudication. A party to
16 the adjudication shall be a party to the appeal under this chapter only
17 if the party files or is served with a petition for review to the
18 extent required by this chapter.

19 (4) For proceedings involving appeals of examinations or evaluation
20 exercises of the board of pilotage commissioners under chapter 88.16
21 RCW, the petition must be filed either in Thurston county or in the
22 county in which the board maintains its principal office.

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