

CERTIFICATION OF ENROLLMENT

SENATE BILL 5121

Chapter 36, Laws of 2001

57th Legislature
2001 Regular Session

OFFICE OF MARINE SAFETY--TECHNICAL CORRECTIONS

EFFECTIVE DATE: 7/22/01

Passed by the Senate March 10, 2001
YEAS 49 NAYS 0

ROSA FRANKLIN

President of the Senate

Passed by the House April 4, 2001
YEAS 93 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CLYDE BALLARD

Speaker of the House of Representatives

Approved April 16, 2001.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5121** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

Secretary

FILED

April 16, 2001 - 9:45 a.m.

**Secretary of State
State of Washington**

SENATE BILL 5121

Passed Legislature - 2001 Regular Session

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 of
2 marine safety; and amending RCW 42.17.2401, 43.21B.300, 43.21B.310,
3 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,~~) the
11 administrator of the Washington basic health plan, the director of the
12 department of services for the blind, the director of the state system
13 of community and technical colleges, the director of community, trade,
14 and economic development, the secretary of corrections, the director of
15 ecology, the commissioner of employment security, the chairman of the
16 energy facility site evaluation council, the secretary of the state
17 finance committee, the director of financial management, the director
18 of fish and wildlife, the executive secretary of the forest practices
19 appeals board, the director of the gambling commission, the director of

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

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

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

24 (4) Central Washington University board of trustees, board of
25 trustees of each community college, each member of the state board for
26 community and technical colleges, state convention and trade center
27 board of directors, committee for deferred compensation, Eastern
28 Washington University board of trustees, Washington economic
29 development finance authority, The Evergreen State College board of
30 trustees, executive ethics board, forest practices appeals board,
31 forest practices board, gambling commission, Washington health care
32 facilities authority, each member of the Washington health services
33 commission, higher education coordinating board, higher education
34 facilities authority, horse racing commission, state housing finance
35 commission, human rights commission, indeterminate sentence review
36 board, board of industrial insurance appeals, information services
37 board, interagency committee for outdoor recreation, state investment
38 board, commission on judicial conduct, legislative ethics board, liquor
39 control board, lottery commission, marine oversight board, Pacific

1 Northwest electric power and conservation planning council, parks and
2 recreation commission, personnel appeals board, board of pilotage
3 commissioners, pollution control hearings board, public disclosure
4 commission, public pension commission, shorelines hearing board, public
5 employees' benefits board, board of tax appeals, transportation
6 commission, University of Washington board of regents, utilities and
7 transportation commission, Washington state maritime commission,
8 Washington personnel resources board, Washington public power supply
9 system executive board, Washington State University board of regents,
10 Western Washington University board of trustees, and fish and wildlife
11 commission.

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

14 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
15 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and
16 90.56.330 shall be imposed by a notice in writing, either by certified
17 mail with return receipt requested or by personal service, to the
18 person incurring the penalty from the department(~~(, the administrator~~
19 ~~of the office of marine safety,)~~) or the local air authority,
20 describing the violation with reasonable particularity. Within fifteen
21 days after the notice is received, the person incurring the penalty may
22 apply in writing to the department(~~(, the administrator,)~~) or the
23 authority for the remission or mitigation of the penalty. Upon receipt
24 of the application, the department(~~(, the administrator,)~~) or authority
25 may remit or mitigate the penalty upon whatever terms the department(~~(,~~
26 ~~the administrator,)~~) or the authority in its discretion deems proper.
27 The department or the authority may ascertain the facts regarding all
28 such applications in such reasonable manner and under such rules as it
29 may deem proper and shall remit or mitigate the penalty only upon a
30 demonstration of extraordinary circumstances such as the presence of
31 information or factors not considered in setting the original penalty.

32 (2) Any penalty imposed under this section may be appealed to the
33 pollution control hearings board in accordance with this chapter if the
34 appeal is filed with the hearings board and served on the department(~~(,~~
35 ~~the administrator,)~~) or authority thirty days after receipt by the
36 person penalized of the notice imposing the penalty or thirty days
37 after receipt of the notice of disposition of the application for
38 relief from penalty.

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

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

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

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

7 (4) If the amount of any penalty is not paid to the department (~~or~~
8 ~~the administrator~~) within thirty days after it becomes due and
9 payable, the attorney general, upon request of the department (~~or the~~
10 ~~administrator~~), shall bring an action in the name of the state of
11 Washington in the superior court of Thurston county, or of any county
12 in which the violator does business, to recover the penalty. If the
13 amount of the penalty is not paid to the authority within thirty days
14 after it becomes due and payable, the authority may bring an action to
15 recover the penalty in the superior court of the county of the
16 authority's main office or of any county in which the violator does
17 business. In these actions, the procedures and rules of evidence shall
18 be the same as in an ordinary civil action.

19 (5) All penalties recovered shall be paid into the state treasury
20 and credited to the general fund except those penalties imposed
21 pursuant to RCW 18.104.155, which shall be credited to the reclamation
22 account as provided in RCW 18.104.155(7), RCW 70.94.431, the
23 disposition of which shall be governed by that provision, RCW
24 70.105.080, which shall be credited to the hazardous waste control and
25 elimination account, created by RCW 70.105.180, and RCW 90.56.330,
26 which shall be credited to the coastal protection fund created by RCW
27 90.48.390.

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

30 (1) Any order issued by the department(~~(, the administrator of the~~
31 ~~office of marine safety,)~~) or local air authority pursuant to RCW
32 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, 88.46.070, or
33 90.48.120(2) or any provision enacted after July 26, 1987, or any
34 permit, certificate, or license issued by the department may be
35 appealed to the pollution control hearings board if the appeal is filed
36 with the board and served on the department or authority within thirty
37 days after receipt of the order. Except as provided under chapter
38 70.105D RCW, this is the exclusive means of appeal of such an order.

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

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

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

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

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

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

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

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

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

19 (5) Upon failure to comply with any final order of the department
20 (~~(or the administrator)~~), the attorney general, on request of the
21 department (~~(or the administrator)~~), may bring an action in the
22 superior court of the county where the violation occurred or the
23 potential violation is about to occur to obtain such relief as
24 necessary, including injunctive relief, to insure compliance with the
25 order. The air authorities may bring similar actions to enforce their
26 orders.

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

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

33 (1) The board of pilotage commissioners of the state of Washington
34 is hereby created and shall consist of the assistant secretary of
35 marine transportation of the department of transportation of the state
36 of Washington, or the assistant secretary's designee who shall be an
37 employee of the marine division, who shall be chairperson, the
38 (~~(administrator of the office of marine safety, or the~~

1 administrator's)) director of the department of ecology, or the
2 director's designee, and seven members appointed by the governor and
3 confirmed by the senate. Each of the appointed commissioners shall be
4 appointed for a term of four years from the date of the member's
5 commission. No person shall be eligible for appointment to the board
6 unless that person is at the time of appointment eighteen years of age
7 or over and a citizen of the United States and of the state of
8 Washington. Two of the appointed commissioners shall be pilots
9 licensed under this chapter and actively engaged in piloting upon the
10 waters covered by this chapter for at least three years immediately
11 preceding the time of appointment and while serving on the board. One
12 pilot shall be from the Puget Sound pilotage district and one shall be
13 from the Grays Harbor pilotage district. Two of the appointed
14 commissioners shall be actively engaged in the ownership, operation, or
15 management of deep sea cargo and/or passenger carrying vessels for at
16 least three years immediately preceding the time of appointment and
17 while serving on the board. One of said shipping commissioners shall be
18 a representative of American and one of foreign shipping. One of the
19 commissioners shall be a representative from a recognized environmental
20 organization concerned with marine waters. The remaining commissioners
21 shall be persons interested in and concerned with pilotage, maritime
22 safety, and marine affairs, with broad experience related to the
23 maritime industry exclusive of experience as either a state licensed
24 pilot or as a shipping representative.

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

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

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

34 (1) Every pilot licensed under this chapter shall file with the
35 board not later than the tenth day of January, April, July and October
36 of each year a report for the preceding quarter. Said report shall
37 contain an account of all moneys received for pilotage by him or her or
38 by any other person for the pilot or on the pilot's account or for his

1 or her benefit. Said report shall state the name of each vessel
2 piloted, the amount charged to and/or collected from each vessel, the
3 port of registry of such vessel, its dead weight tonnage, whether it
4 was inward or outward bound, whether the amount so received, collected
5 or charged is in full payment of pilotage and such other information as
6 the board shall by regulation prescribe.

7 (2) The report shall include information for each vessel that
8 suffers a grounding, collision, or other major marine casualty that
9 occurred while the pilot was on duty during the reporting period. The
10 report shall also include information on near miss incidents as defined
11 in RCW 88.46.100. Information concerning near miss incidents provided
12 pursuant to this section shall not be used for imposing any sanctions
13 or penalties. The board shall forward information provided under this
14 subsection to the (~~office of marine safety~~) department of ecology for
15 inclusion in the collision reporting system established under RCW
16 88.46.100.

Passed the Senate March 10, 2001.

Passed the House April 4, 2001.

Approved by the Governor April 16, 2001.

Filed in Office of Secretary of State April 16, 2001.