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Chapter 776

1963 REPLACEMENT PART

Pilots and Pilotage

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DEFINITIONS AND GENERAL PROVISIONS

776.010 [Repealed by 1957 c.448 §27]

776.015 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Oregon Board of Pilot Commissioners.

(2) "Secretary" means the secretary of the board.

(3) "Chairman" means the public member of the board appointed under ORS 776.105.

[1957 c.448 §1]

776.020 [Repealed by 1957 c.448 §27]

776.025 Description of bar and river pilotage grounds. Except as may be established by the board under subsection (4) of ORS 776.115, bar and river pilotage grounds shall be as follows:

(1) The Columbia River bar pilotage ground extends from the uppermost dock or wharf at the Port of Astoria or Knappton to the open sea in at least thirty fathoms of water.

(2) The Columbia and Willamette River pilotage ground extends from the lowermost dock or wharf at the Port of Astoria to the head of navigation on the Columbia and Willamette Rivers and their tributaries.

(3) The Coos Bay bar pilotage ground extends from the head of navigation on Coos Bay and its tributaries to the open sea in at least thirty fathoms of water.

(4) The Yaquina Bay bar pilotage ground extends from the head of navigation on Yaquina Bay and its tributaries to the open sea in at least thirty fathoms of water.

[1957 c.448 §2]

776.030 [Repealed by 1957 c.448 §27]

776.040 [Repealed by 1957 c.448 §27]

776.050 [Repealed by 1957 c.448 §27]

776.060 [Repealed by 1957 c.448 §27]

776.070 [Repealed by 1957 c.448 §27]

776.080 [Repealed by 1957 c.448 §27]

776.090 [Repealed by 1957 c.448 §27]

776.100 [Repealed by 1957 c.448 §27]

OREGON BOARD OF PILOT COMMISSIONERS

776.105 Oregon Board of Pilot Commissioners. (1) The Oregon Board of Pilot Commissioners is established within the Department of Commerce, and shall consist of five members appointed by the Director of Commerce with the approval of the Governor for terms of four years. One member, who shall be the public member and shall act as the chairman of the board, shall not during his term have or for three years prior to his appointment have had any interest in the ownership, operation or management of any tugs, cargo or passenger vessels, or in the carriage of freight or passengers. The public member shall not during his term be or for three years prior to his appointment have been a member of any association or organization composed of individuals engaged in the maritime industry in any capacity. The public member shall not hold or have held a pilot's license issued by any state or federal authority. One member shall be a bar pilot, and one member shall be a river pilot, licensed for more than three years under this chapter, and during his term of office shall be actively engaged in piloting upon one of the pilotage grounds of this state. The river pilot shall be a resident of Oregon. The bar pilot shall be a resident of one of the Oregon counties having a bar pilotage ground. Two members of the board shall, for at least three years immediately preceding their appointment have been and during their terms of office, be actively engaged in the ownership, operation or management of ocean-going vessels. All members shall be over 35 years of age at the time of appointment, shall have been residents of Oregon for at least three years prior to appointment and shall be citizens of the United States.

(2) A member of the board may be removed at any time during his term of office at the pleasure of the Director of Commerce.

(3) Three members shall constitute a quorum for the transaction of all business if at least one member is a pilot member and one member is a member engaged in the ownership, operation or management of ocean-going vessels, except when the board fixes pilotage fees under subsection (6) of ORS 776.115 a quorum shall consist of all five members.

(4) Each member shall receive no compensation for his services, but shall receive a per diem allowance of $10 for each day in attendance upon his duties under this chapter. No expenditures under this chapter are authorized in excess of funds available for payment thereof.

(5) Of the first five members appointed to the board, the chairman and one member shall be appointed to serve for a term of four years, and the other members shall be ap-

pointed for one, two or three-year terms as designated by the Director of Commerce. Succeeding members shall be appointed for terms of four years.
[1957 c.448 §3; 1963 c.580 §93]

Note: Chapter 580, Oregon Laws 1963, establishing the Department of Commerce, becomes operative not later than July 1, 1964, and stands repealed on July 1, 1967.

776.110 [Repealed by 1957 c.448 §27]

776.115 Powers and duties of board. The board is authorized and directed to:

(1) Appoint a secretary and other personnel and fix their compensation subject to the limitations contained in ORS 776.105.

(2) Fix the manner of calling and fixing the places of meetings; provided that at least one meeting shall be held each calendar year.

(3) Provide for efficient and competent pilotage service on all pilotage grounds, and regulate and limit the number of pilots to be licensed under this chapter, such number of pilots to be regulated and limited to the number found by the board to be required to render efficient and competent pilotage service.

(4) Establish and fix the boundaries of pilotage grounds not described in ORS 776.025.

(5) Establish the qualifications of pilots, provide for their examination, for the issuance of pilots' licenses and the suspension or the revocation thereof.

(6) Fix, at reasonable and just rates, pilotage fees, extra fees for vessels in distress, fees for extraordinary pilotage services, fees for a pilot being carried to sea unwillingly and reimbursement for his return to pilot station or for the detention of a pilot; except that pilotage fees shall not be less inbound or outbound on vessels, propelled in whole or in part by their own power, than the following:

(a) Between Astoria and Portland or Vancouver, $2.50 per foot draft and 2 cents per net ton;

(b) Between Astoria or Knappton and the sea, $3 per foot draft and 2 cents per net ton;

(c) Between Yaquina Bay and the sea, $3 per foot draft and 2 cents per ton;

(d) Between Coos Bay and the sea, $2.50 per foot draft and 2 cents per ton.

(7) In fixing fees pursuant to subsection (6) of this section, the board shall give due regard to the following factors:

(a) The length and net tonnage of the vessels to be piloted.

(b) The difficulty and inconvenience of the particular service and the skill required to render it.

(c) The supply of and demand for pilotage services.

(d) The public interest in maintaining efficient, economical and reliable pilotage service.

(e) Other factors relevant to the determination of reasonable and just rates.

(8) Conduct or authorize the holding of hearings. In so doing the board or the examiner in charge of the hearing may subpena witnesses, administer oaths, take depositions, fix the fees and mileage of witnesses, compel the attendance of witnesses, and the production of papers, books, accounts, documents and testimony.

(9) Adopt any rule or regulation or make any order, not inconsistent with law, for the effective administration and enforcement of this chapter.
[1957 c.448 §4]

776.120 [Repealed by 1957 c.448 §27]

776.125 Hearings required in certain cases. The board shall make no order or finding or adopt any rule and regulation (except as shall be deemed automatically entered or in force pursuant to section 29, chapter 448, Oregon Laws 1957) under subsections (3), (4), (6) and that part of subsection (5) relative to the qualifications of pilots of ORS 776.115, until after a publicized public hearing.
[1957 c.448 §5]

776.130 [Repealed by 1957 c.448 §27]

776.135 Calling hearings; notice; adjournment and reconvening. (1) Hearings may be held by the board upon the motion of a majority thereof or may be called by the chairman upon complaint of an interested party. Notice of hearings, if required, shall be by publication once a week for two successive weeks in newspapers of general circulation in Multnomah County and in each of two counties containing pilotage grounds. The notices shall state in general terms the subject matter to be considered and the place of the holding of the hearing. Hearings may be adjourned and reconvened in the same or another locale.

(2) Hearings under subsection (6) of ORS 776.115 for the purpose of fixing pilotage fees shall not be set by the board within six months from the date the final order of

the board was entered in the last hearing for such purpose, except that this subsection shall not apply to the first hearing for such purpose held by the board after July 1, 1957. No such hearing shall be set by the board upon the complaint of an interested party until such interested party has deposited $1,000 with the board to defray the costs and expenses of such hearing but this requirement shall not prohibit the assessment of all or any part of such costs and expenses to any party or parties to such hearing in any final order, which may be entered by the board upon such hearing.
[Subsection (1) enacted as part of 1957 c.448 §5; subsection (2) enacted as 1957 c.448 §24]

776.140 [Repealed by 1957 c.448 §27]

776.145 Hearing procedure. (1) For the purposes of holding hearings under this chapter, the term "board" shall be deemed to mean and include any member thereof or an appointed examiner to whom the board's authority under this chapter to hold such hearings may be delegated; however, any final order entered in any hearing must be approved by the board. All testimony shall be transcribed.

(2) The board may adopt rules and regulations for the orderly conduct of any hearing, or if no such rules or regulations have been adopted, the board or person conducting the hearing may provide by order during the hearing, or otherwise, the procedure to be followed in the proceedings so as to permit and secure a full, fair and orderly hearing and permit all relevant evidence to be received therein. A full record shall be kept of all evidence taken or offered at such hearing.

(3) The board may subpena witnesses, administer oaths, take depositions and fix the fees and mileage of witnesses and compel the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state, and the board shall provide for defraying the expenses thereof.

(4) In case of the refusal of any witness to attend or testify before any hearing or produce any papers required by any subpena issued therein, the board may petition the circuit court in the county in which the hearing is then pending, setting forth that due notice has been given of the time and place of attendance of the witness, or the production of papers, that the witness has failed and refused to attend or produce the papers required by the subpena or has refused to answer questions propounded to him in the course of such hearing, and ask an order of the court compelling the witness to attend and testify or produce the papers before the board.

(5) The court shall, upon the petition of the board, enter an order directing the witness to appear before the court at a time and place fixed by the court in such order, the time to be not more than 10 days from the date of service of the order, and to show cause why he has not attended and testified or produced the papers before the board.

(6) A copy of the order shall be served upon the witness.

(7) If it is apparent to the court that the subpena was regularly issued by the board the court shall thereupon enter an order that the witness appear before the board, at a time and place fixed in such order, and testify and produce the required papers and upon failure to obey the order the witness shall be dealt with as for contempt of court.
[1957 c.448 §6]

776.150 [Repealed by 1957 c.448 §27]

776.155 Findings of fact; conclusions of law; order or decision. After the completion of the taking of evidence and the conclusion of the hearings, and within a reasonable time, the board shall prepare and file findings of fact and conclusions of law upon the evidence and the record received in the matter and shall make and file its order, decision or adopted rule and regulation, thereon. The findings of fact and conclusions of law may be embodied in the same instrument with the order or may be embodied in a separate instrument. The findings of fact, conclusions of law and order thereon shall be signed by the board. The order shall state the date it becomes effective. A copy of the findings of fact and conclusions of law and a copy of the order shall, upon the filing of the same, be mailed to each of the parties to the proceeding.
[1957 c.448 §7]

776.160 [Repealed by 1957 c.448 §27]

776.165 Scope of judicial review. An appeal may be had to the circuit court from any order, decision or adoption of any rule or regulation. The appeal shall not be extended further than to determine whether:

(1) The board acted without or in excess of its powers, or in violation of law.

(2) The order or decision was procured by fraud.

(3) The order, decision, rule or regulation is unreasonable.

(4) If findings of fact are made, the findings of fact support the order or decision under review.
[1957 c.448 §8]

776.170 [Repealed by 1957 c.448 §27]

776.175 Procedure for taking appeal. The appeal may be taken to the circuit court of Marion County, or the county in which the hearing terminated, or the county in which is located the residence or principal place of business of either party. To give the circuit court jurisdiction, it is sufficient that a notice be filed with the clerk of the court to the effect that an appeal is taken to the circuit court from the order or decision of the board and describing the order or decision sufficient for purposes of identification. The notice shall be signed by the party appealing or his attorney, and a copy thereof shall be served by registered mail on the secretary of the board. Within 10 days after the receipt of the notice, the secretary of the board shall file with the clerk of the court the record of proceedings before the board, including a transcript of the evidence and all evidence adduced upon the hearing and rehearing, if any, before the board. The circuit court on application for good cause shown may extend the time within which the board shall file such record, transcript and evidence.
[1957 c.448 §9]

776.185 Suspension of board order pending appeal. After the commencement of an appeal the circuit court may, for good cause shown, upon application to the circuit court or presiding judge thereof, and upon notice to the board and hearing, suspend or stay the operation of the order of the board complained of until the final disposition of such appeal, upon the giving of such bond or other security, or upon such conditions as the court may require. Such bond shall be executed in favor of the board for the benefit of whom it may concern and may be enforceable by the board, or any person interested therein in an appropriate proceeding.
[1957 c.448 §10]

776.195 Hearing and determining appeal by circuit court. (1) If, upon appeal, evidence is introduced which is found by the court to be different from that offered upon the hearing before the board or additional thereto, the court shall:

(a) Before proceeding to render judgment, unless the parties to such appeal stipulate in writing to the contrary, transmit a copy of such evidence to the board and shall stay further proceedings in the appeal for 15 days after the date of such transmission.

(b) Upon the receipt of such evidence the board shall consider it and may alter, modify, amend or rescind its order in the proceeding or the findings of fact and conclusions of law with reference thereto. The board shall report its action on such additional evidence to such court within 10 days from receipt of such evidence.

(c) If the board rescinds the order complained of, the appeal shall be dismissed. If it alters, modifies or amends its order, rule or regulation, findings of fact or conclusions of law, such altered, modified or amended order, rule or regulation, findings of fact or conclusions of law shall take the place of the original and the court shall enter its judgment or decree thereon as though the order, rule or regulation, findings of fact or conclusions of law as so changed had been made in the first instance. If the original order, rule or regulation, findings of fact or conclusions of law are not rescinded or changed by the board, judgment or decree shall be rendered in accordance with subsection (2) of this section.

(2) The appeal shall be heard and determined by the circuit court in a summary manner and shall be determined as a suit in equity. If, upon the hearing, the court finds that the order, rule or regulation, findings of fact or conclusions of law appealed from were reasonable, valid and proper as reviewed under the provisions of ORS 776.165, it shall affirm the order, rule or regulation, findings of fact or conclusions of law. If the court shall find that the order, rule or regulation, findings of fact or conclusions of law were unreasonable, or invalid or improper as reviewed under the provisions of ORS 776.165, it shall render its judgment or decree accordingly.

(3) The provisions of law governing costs and disbursements are applicable to all hearings and appeals under this chapter.
[1957 c.448 §11]

776.205 Appeal to Supreme Court. Any party to an appeal may, within 60 days after the entry of the judgment or decree of the

circuit court, appeal to the Supreme Court. Where an appeal is taken the cause shall, on the return of the papers to the Supreme Court, immediately be placed on the calendar of the then pending term and shall be assigned and brought to a hearing in the same manner as other causes on the calendar, but shall have precedence over civil causes of a different nature pending in the Supreme Court.
[1957 c.448 §12]

776.210 to 776.300 [Reserved for expansion]

PILOTS; LICENSING; COMPENSATION; GENERAL FUNCTIONS

776.305 Application for pilot's license. An application for a pilot's license shall be made in writing to the board, stating such information as the board by rule and regulation may require.
[1957 c.448 §13]

776.310 [Repealed by 1957 c.448 §27]

776.315 Form of license. A pilot license shall be issued in the name of the State of Oregon and contain a designation of the pilot ground for which it is intended. The license must be signed by the chairman of the board.
[1957 c.448 §14]

776.320 [Amended by 1953 c.140 §2; repealed by 1957 c.448 §27]

776.325 Qualifications of pilots. (1) No person shall be licensed as a pilot unless:

(a) He can meet the qualifications adopted by the board under rules and regulations;

(b) He is an American citizen of at least 21 years of age;

(c) He is of temperate habits, good mental and physical health and good moral character; and

(d) He possesses the requisite skill and the experience as a navigator and pilot, together with practical knowledge of the currents, tides, soundings, bearings and distances of the several shoals, rocks, bars, points of landings, lights and fog signals of or pertaining to the navigation of the pilot ground for which he applies for a license to act as pilot.

(2) An applicant for a license over any river pilot ground must have at least one year's continuous experience piloting ocean-going vessels in the domestic trade over the pilot ground for which he makes application, prior to making application for a license, and must have had the necessary experience in handling ocean-going vessels through the bridges, under varying conditions with and without towboats.

(3) An applicant for a license on bar pilotage grounds shall satisfy the board that he has means available to him for boarding and leaving vessels which he may be called upon to pilot.
[1957 c.448 §15]

776.330 [Repealed by 1957 c.448 §27]

776.335 Application for license following rejection. A person whose application for a pilot license has been refused may apply again after the expiration of six months, but not sooner.
[1957 c.448 §16]

776.340 [Repealed by 1953 c.297 §2]

776.345 Renewal of license; withholding renewal; hearing. (1) A license granted to a pilot under this chapter shall, as a matter of course, be annually renewed, unless the board determines that there is good cause for withholding such renewal, in which case it shall notify the pilot in writing, at least 60 days before the expiration of his license, of such determination and the cause thereof.

(2) The pilot may thereupon apply within 10 days for a hearing in regard to such cause for withholding the license, which shall be granted. If, upon such hearing, it appears to the satisfaction of the board that there is not sufficient cause for withholding the license it shall be renewed as a matter of course, and not otherwise.
[1957 c.448 §17]

776.350 [Repealed by 1957 c.448 §27]

776.355 Pilot license fees. Each pilot licensed under this chapter shall pay to the board a license fee of $50, and for each yearly renewal thereof, a fee of $50.
[1957 c.448 §22; 1963 c.105 §2]

776.360 [Repealed by 1957 c.448 §27]

776.365 Disposition and use of moneys by board. The money received under this chapter shall be paid into the State Treasury and placed to the credit of the General Fund in the Pilot Account which account hereby is established. Such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of this chapter. The Secretary of State is authorized to audit all claims approved by the board pursuant to such appropriation and draw his warrants therefor on the State

Treasurer, payable out of the Pilot Account in the General Fund.
[1957 c.448 §23]

776.370 [Repealed by 1957 c.448 §27]

776.380 [Repealed by 1957 c.448 §27]

776.390 [Repealed by 1957 c.448 §27]

776.400 [Repealed by 1957 c.448 §27]

776.405 Pilots must be licensed; exceptions. No person shall pilot any vessel upon any of the pilotage grounds established under ORS 776.025 or 776.115 without being a licensed pilot under this chapter unless he is the master or owner of the vessel.
[1957 c.448 §25(1)]

776.410 [Amended by 1955 c.558 §1; repealed by 1957 c.448 §27]

776.415 Pilots to be compensated at rate provided by law. No pilot shall demand or receive any greater, lesser or different compensation for piloting a vessel upon any of the pilotage grounds than is allowed by law.
[1957 c.448 §25(2)]

776.420 [Amended by 1953 c.141 §2; 1953 c.142 §2; 1955 c.698 §1; repealed by 1957 c.448 §27]

776.425 Authority of pilots generally. A pilot licensed under this chapter may pilot any registered seagoing vessel anywhere upon the pilot ground for which he is licensed, pilot her upon and over such ground, and demand and receive therefor the compensation allowed by law.
[1957 c.448 §20(1)]

776.430 [Repealed by 1957 c.448 §27]

776.435 Declining services of pilot. If the master or person in charge of any vessel declines to accept the services of a pilot upon any pilot ground, the vessel, her owners, operators and agents are not liable for pilotage.
[1957 c.448 §20(2)]

776.440 [Repealed by 1957 c.448 §27]

776.445 Liability of certain persons for pilot's compensation. In addition to the lien of the pilot upon the vessel for any sum due him for piloting, the master, owner and consignee or agent are jointly and severally liable to him therefor.
[1957 c.448 §21]

776.450 [Repealed by 1957 c.448 §27]

776.455 Exhibition of license on boarding vessel. On boarding a vessel and if required by the master thereof, a pilot shall exhibit his license before he is authorized to act as a pilot thereon.
[1957 c.448 §19]

776.460 [Repealed by 1957 c.448 §27]

776.465 Complaint against pilot; form, verification, service; hearing; application of section. (1) A complaint against a pilot shall not be entertained by the board unless it is reduced to writing, and verified as a complaint in a civil action. When such complaint is filed with the board, the pilot thereby accused shall be forthwith served with a copy thereof, and required to appear and answer the complaint within 10 days after such service, whereupon the matter shall then be heard, or at a future day designated by the board.

(2) This section shall not apply to or control the proceedings in any action taken against a pilot upon motion of the board.
[1957 c.448 §18]

776.470 [Repealed by 1957 c.448 §27]

776.480 [Repealed by 1957 c.448 §27]

776.490 [Repealed by 1957 c.448 §27]

776.500 [Repealed by 1957 c.448 §27]

776.510 Declaration of legislative intent relating to liability of licensed pilots. (1) The stimulation and preservation of maritime commerce on the bar and river pilotage grounds of this state is declared to be affected with the public interest and the limitation and regulation of liability of pilots licensed by this state is necessary to such stimulation and preservation of maritime commerce and is deemed to be in the public interest.

(2) The legislature hereby declares that to effect the ends and purposes listed in this section, and to conform to existing custom and usage on the bar and river pilotage grounds of this state, ORS 776.520 is adopted.
[1959 c.404 §2]

776.520 Special contracts or tariffs limiting liability of licensed pilots. Pilots licensed by this state are authorized to limit their liability by special contracts or tariffs containing substantially the terms and provisions of the following form:

The rates and charges named in this tariff do not include marine insurance insuring the vessel, its owners, agents or operators from the consequences of negligence

or errors in judgment of the particular pilot supplying the services.

Upon reasonable notice from the vessel, its master, owners, agents or operators, pilots parties hereto will provide such insurance on a "trip" basis to the value of the vessel and its cargo, the premium of which will be assessed in addition to the rates and charges specified herein.

The election of the vessel, its master, owners, agents or operators not to request pilots parties hereto to procure such insurance and to elect to have the pilots parties hereto perform services on the rates and charges specified herein shall constitute a binding and irrevocable agreement on the part of the vessel, its master, owners, agents or operators to the terms and conditions of the following:

It is understood and agreed, and is the essence of the contract under which services of the pilot are tendered to and accepted by the vessel, its master and owners, that:

(1) The services rendered hereunder are rendered by a pilot duly and regularly licensed by the State of Oregon pursuant to ORS chapter 776, or (with respect to domestic vessels) the holder of a valid license issued by the Federal Government;

(2) Such services have been voluntarily requested and are voluntarily rendered;

(3) Such services are advisory in nature only, the master of the vessel remaining at all times in full command of the vessel;

(4) The services of the pilot are accepted on the express understanding that when he goes aboard the vessel he becomes the servant of the vessel and its owners and operators, and the master, owners and operators of the vessel expressly covenant and agree not to assert any personal liability against the pilot to respond in damage (including any rights over) arising out of or connected with, directly or indirectly, any damage, loss or expense sustained by the vessel, its master, owners, operators and crew, and any third parties, even though resulting from acts or omissions of the pilot in respect to the giving of orders to any tugs furnished to or engaged in assisting services and in respect to the handling of the vessel; and provided, further, that to the extent only to which liability is legally imposed against the vessel, taking into consideration any limitation thereof to which the vessel or its owners is entitled by reason of contract, bills of lading or any statute or rule of law in force, the said master, owners and operators further covenant and agree to indemnify and hold harmless the pilot in respect to any liability arising out of suits or actions directly against the pilot by third parties by reason of errors or omissions of the pilot in the performance of pilotage services; excepting, however, such personal liability and rights over as may arise by reason of the wilful misconduct or gross negligence of the pilot; and

(5) The fees charged for the services rendered by the pilot under this agreement have been computed and are assessed in accordance with and based upon the above stipulations.

[1959 c.404 §3]

776.530 to 776.980 [Reserved for expansion]

PENALTIES

776.990 [Repealed by 1957 c.448 §27]

776.991 Penalties. Any person violating any of the provisions of this chapter is punishable, upon conviction, by a fine not to exceed $500, or by imprisonment in the county jail not to exceed six months, or both.
[1957 c.448 §26]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1963.

Sam R. Haley
Legislative Counsel