

TITLE 58

SHIPPING AND NAVIGATION

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Chapter 776

1983 REPLACEMENT PART

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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776.010 [Repealed by 1957 c.448 §27]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 Maritime Pilots.

(2) "Administrator" means the administrator of the board.

(3) "Pilot" means an individual licensed pursuant to this chapter and any individual who has notified the board that the individual is in a pilot trainee status.

(4) "Organization of pilots" means any legal entity or association of any type to which pilots belong as members, or with which pilots are associated, for cooperative performance of functions, including but not limited to, the dispatching of pilots, collection of pilotage fees, ownership and operation of pilot boats, distribution of pilots' earnings, and education and training so as to facilitate the rendition of pilotage services by individual pilots. [1957 c.448 §1; 1981 c.88 §2; 1983 c.330 §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776.020 [Repealed by 1957 c.448 §27]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 ORS 776.115 (4), 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 30 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 30 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 30 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776.030 [Repealed by 1957 c.448 §27]

776.040 [Repealed by 1957 c.448 §27]

776.050 [Repealed by 1957 c.448 §27]

776.060 [Repealed by 1957 c.448 §27]

776.070 [Repealed by 1957 c.448 §27]

776.080 [Repealed by 1957 c.448 §27]

776.090 [Repealed by 1957 c.448 §27]

776.100 [Repealed by 1957 c.448 §27]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 MARITIME PILOTS

776.105 Oregon Board of Maritime Pilots; term; qualifications; appointment; quorum. (1) The Oregon Board of Maritime Pilots is established within the Department of Commerce, and shall consist of seven members appointed by the Governor for terms of four years. One member of the board shall be a public member, who shall act as chairman of the board. One member shall be a Columbia River bar pilot, one member shall be a Columbia River pilot and one member shall be a Coos Bay or Yaquina Bay pilot. All pilot members must have been licensed for more than three years under this chapter. During their terms of office, the pilot members must be actively engaged in piloting and must be residents of this state. Three 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) The public member of the board shall not:

(a) During the term of office or for three years prior to appointment have any interest in the ownership, operation or management of any tugs, cargo or passenger vessels or in the carriage of freight or passengers;

(b) During the term of office or for three years prior to appointment, have been a member of any association or organization composed of individuals engaged in the maritime industry in any capacity; or

(c) Hold or have held a pilot license issued by any state or federal authority.

(3) The majority of 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. However, when the board fixes pilotage fees under ORS 776.115 (6) a quorum shall consist of five members. [1957 c.448 §3; 1963 c.580 §93; 1967 c.401 §8; 1969 c.314 §102; 1971 c.753 §41; 1981 c.88 §3]

776.110 [Repealed by 1957 c.448 §27]

776.115 Powers and duties of board.

The board is authorized and directed to:

(1) Appoint an administrator 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 the 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; and

(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 subpoena 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 make any order, not inconsistent with law, for the effective administration and enforcement of this chapter.

(10) Rates established pursuant to subsection (6) of this section shall be set for a period of not less than two years, and shall continue in effect until a subsequent hearing process under subsection (8) of this section is completed. Rates may include automatic adjustment provisions to reflect changing economic conditions. All rates, and adjustments thereto, shall become effective on the same date specified by the board for all pilotage grounds. [1957 c.448 §4; 1981 c.88 §5; 1983 c.313 §5]

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 Hearings; notice; assessment of costs. (1) Hearings under ORS 776.125 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. In addition to the requirements of ORS 183.310 to 183.550, notice of hearings 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) To defray the costs and expenses of any hearing held for the purpose of fixing pilotage fees, the board may assess 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; 1971 c.734 §184; 1983 c.313 §1]

- 776.140 [Repealed by 1957 c.448 §27]
 776.145 [1957 c.448 §6; repealed by 1971 c.734 §21]
 776.150 [Repealed by 1957 c.448 §27]
 776.155 [1957 c.448 §7; repealed by 1971 c.734 §21]
 776.160 [Repealed by 1957 c.448 §27]
 776.165 [1957 c.448 §8; repealed by 1971 c.734 §21]
 776.170 [Repealed by 1957 c.448 §27]
 776.175 [1957 c.448 §9; repealed by 1971 c.734 §21]
 776.185 [1957 c.448 §10; repealed by 1971 c.734 §21]
 776.195 [1957 c.448 §11; repealed by 1971 c.734 §21]
 776.205 [1957 c.448 §12; repealed by 1971 c.734 §21]

PILOTS; LICENSING; COMPENSATION; GENERAL FUNCTIONS

776.300 Training to obtain pilot's license; notice to board. Whenever an individual undertakes training for the purpose of obtaining a pilot license, the individual shall so notify the board in writing as soon as practicable after training commences. [1981 c.88 §7]

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 the person:

(a) Can meet the qualifications adopted by the board under rules;

(b) Is an American citizen of at least 18 years of age;

(c) Conforms to such behavioral standards as the board may establish by rule regarding physical and mental health, the use of alcohol or controlled substances, violations of criminal law and such other matters as the board determines have a bearing on the ability of the person to perform the duties of a pilot in a manner consist-

ent with the public health, safety and welfare; and

(d) Possesses the requisite skill and the experience as a navigator and pilot, as demonstrated by satisfactory performance on such written examinations as the board may prescribe, 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 application is made 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 application is made, 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 the applicant has means available for boarding and leaving vessels which the applicant may be called upon to pilot. [1957 c.448 §15; 1973 c.827 §82; 1981 c.88 §8; 1983 c.313 §2]

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 be renewed annually upon submission of the annual license fee and the certificate of a physician indicating that the licensee's health is satisfactory for performance of duties as a pilot, unless the board determines that renewal should be withheld because the pilot has failed to maintain compliance with the standards established pursuant to ORS 776.325 (1)(c), in which case it shall notify the pilot in writing, at least 60 days before the expiration of the 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 other-

wise. [1957 c.448 §17; 1981 c.88 §13; 1983 c.313 §3]

776.350 [Repealed by 1957 c.448 §27]

776.355 Pilot license fees. (1) Except as provided in subsection (2) of this section, each pilot licensed under this chapter shall pay to the board a license fee of \$400, and for each yearly renewal thereof, a fee of \$400.

(2) The board by rule may establish reduced license fees for those individuals who engage in pilotage activities on less than a full-time basis. However, in no event shall the fee be less than \$50. [1957 c.448 §22; 1963 c.105 §2; 1973 c.832 §68; 1977 c.40 §2; 1979 c.11 §2; 1981 c.88 §9; 1983 c.313 §4]

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 Executive Department shall draw warrants for all claims approved by the board pursuant to the appropriations on the State Treasurer, payable out of the Pilot Account in the General Fund. [1957 c.448 §23; 1983 c.740 §256]

776.370 [Repealed by 1957 c.448 §27]

776.375 Disciplinary proceedings; rules and orders; judicial review. (1) Where the board proposes to refuse to issue or renew a pilot's license, or proposes to revoke or suspend a pilot's license or proposes to issue to a pilot a written reprimand, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be as provided in ORS 183.310 to 183.550. The board may appoint any member thereof or any competent person to preside at hearings. [1971 c.734 §186; 1981 c.88 §14]

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; exemption. Except as expressly exempted by federal statute, 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 that person is the master or owner of the vessel. [1957 c.448 §25(1); 1973 c.650 §1; 1983 c.330 §3]

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

776.415 Compensation of pilots determined 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 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); 1973 c.650 §2]

776.430 [Repealed by 1957 c.448 §27]

776.435 Refusing services of pilot; liability for pilotage fee. (1) If the master or person in charge of any vessel declines to accept pilotage service upon any pilot ground, the vessel, its owners, operators and agents are liable for three-quarters of the applicable pilotage fee.

(2) Notwithstanding subsection (1) of this section, the master or person in charge of any vessel may refuse to accept the services of any particular pilot and may call for another pilot, in which case the vessel and the owners, operators and agents of the vessel are liable only for the services of the pilot employed. [1957 c.448 §20(2); 1983 c.330 §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 and organizations of pilots is necessary to such stimulation and preservation of maritime commerce and is deemed to be in the public interest.

(2) To accomplish the stimulation and preservation of maritime commerce it is necessary to establish an optional rate system whereby vessels and persons engaging the services of a pilot have the option of:

(a) Agreeing not to assert any personal liability against any pilot and any organization of pilots to which the pilot belongs, and to defend, indemnify and save harmless the pilot and organization of pilots against all claims and demands arising from acts or omissions of the pilot or organization of pilots which relate, directly or indirectly, to pilotage of the vessel; or

(b) Directing pilots in writing and in sufficient time for insurance to be procured by them, on a "trip" basis, insuring such pilots and organization of pilots to which they belong against all claims or demands arising from or relating to, directly or indirectly, pilotage of the vessel, the premium or cost of such insurance to be included in the charges for pilotage services and paid on demand by the vessel.

(3) The Legislative Assembly hereby declares that to effect the ends and purposes listed in this section, and to maintain pilotage fees at reasonable levels on the bar and river pilotage grounds of this state, ORS 776.520, 776.530 and 776.540 are adopted. [1959 c.404 §2; 1983 c.330 §4]

776.520 Tariffs limiting liability of licensed pilots or organization of pilots. Pilots are authorized to limit their liability and the liability of any organization of pilots to

which they belong by tariffs approved by the board containing substantially the terms and provisions of the following form:

The provisions of ORS 776.510 and 776.540 hereby are incorporated into and made a part of this tariff. By reason of the option granted by ORS 776.510, the rates and charges named in this tariff do not include the cost of marine insurance insuring the pilot and any organization of pilots to which the pilot belongs, the vessel, its owners, agents or operators from the consequences of negligence or errors in judgment of the pilots or organizations of pilots.

However, upon reasonable notice to the pilots in writing from the vessel, its master, owners, agents or operators, the pilots parties hereto will procure such insurance on a "trip" basis in an amount equal to the value of the vessel and its cargo, or such other amount as may be agreed upon between the pilots and the vessel, its master, owners, agents or operators, insuring the pilots and the organization of pilots to which they belong against all claims or demands arising from or based upon, directly or indirectly, pilotage of the vessel. The premium for such insurance shall 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 thereby 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, operators 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) The services of any individual pilot (except with respect to domestic vessels) have been voluntarily accepted and are voluntarily rendered pursuant to the election authorized by ORS 776.510;

(3) Such services are advisory in nature only, the master of the vessel remaining at all times in full command of the vessel and empowered to relieve the pilot of duties;

(4) The services of the pilot are accepted on the express understanding that when the pilot goes aboard the vessel the pilot 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 directly or indirectly, any personal liability against the pilot, any organization of pilots to which the pilot belongs, and against any members of such organization, 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 (including cargo), even though resulting from acts or omissions of any organization of pilots to which the pilot belongs, from acts or omissions of its members, or any acts or omissions of the pilot and to defend, indemnify and hold harmless the pilot, any organization of pilots to which the pilot belongs, and any members of such organization, from any claims whatsoever for damages, loss or expense arising out of, or connected with any acts or omissions of the pilot or organization of pilots which relate, directly or indirectly, to pilotage of the vessel except as to such personal liability and rights over as may arise by reason of the wilful misconduct or gross negligence of the pilot;

(5) The master, owners and operators of the vessel shall not be liable to indemnify and hold harmless the pilot and any organization of pilots to an extent greater than the amount to which the liability of the vessel, its owners and operators, is limited by reason of contract, bill of lading or statute, including but not limited to, the Limitation of Liability Act (46 U.S.C. §§181-189), the Harter Act (46 U.S.C. §§190-195), the Carriage of Goods by Sea Act (46 U.S.C. §§1300-1315), and the Federal Water Pollution Control Act (33 U.S.C. §1321); and

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

[1959 c.404 §3; 1973 c.650 §3; 1983 c.330 §5]

776.530 Licensed pilots and organization of pilots not liable for certain acts or omissions. An organization of pilots shall not be liable for any claims arising from acts or omissions of a pilot or organization of pilots which relate, directly or indirectly, to pilotage of a vessel. A pilot shall not be liable either directly or as a member or associate of an organization of pilots for any claims arising from acts or omissions of any other pilot or any organization of

pilots which relate, directly or indirectly, to pilotage of a vessel. This section does not apply to acts or omissions relating to the ownership and operation of pilot boats or the transportation of pilots to and from the vessel being pilot-ed. [1983 c.330 §8]

776.540 Surety bond required of licensed pilots; conditions of bond; limitation of liability. (1) Each pilot licensed under this chapter shall procure and furnish to the board a security in the sum of \$250 as a surety bond, in a form approved by the board and underwritten by a surety company authorized to engage in business in the State of Oregon, or as a cash deposit in a form approved by the board. The cash deposit or bond shall be conditioned so as to pay the sum to any person, firm, corporation or other legal entity who or which shall suffer any loss or damage by reason of any negligent act or omission of the pilot which relate, directly or indirectly, to pilotage of the vessel. No pilot shall be liable for any such act or omission beyond the amount of the security. However, this limitation of liability shall not apply:

(a) To wilful misconduct on the part of the pilot;

(b) To the extent to which insurance is procured pursuant to the option granted by ORS 776.510 and 776.520; or

(c) To acts or omissions relating to the ownership and operation of pilot boats or the transportation of pilots to and from the vessel being piloted.

(2) When any suit or action is brought in any court against a pilot for any such act or omission in respect of which liability is limited as provided by this section and other claims are made or anticipated in respect of the same act or omission, upon payment by the pilot of the amount of the security into the court in which such suit or action is brought, the court shall distribute that amount rateably among the several claimants and shall dismiss the proceedings as to the pilot. [1983 c.330 §7]

776.880 Civil penalties. (1) In addition to any other penalty provided by law, any pilot who commits any act for which the board could revoke, suspend or refuse to issue or renew a license is subject to a civil penalty in an amount determined by the board of not more than \$250 for each offense. Any such penalty shall be assessed in a proceeding under ORS 183.310 to 183.550 applicable to contested cases.

(2) Unless the amount of the penalty is paid within 10 days after the order assessing the penalty becomes final, the order shall constitute

a judgment and execution issued thereon in the same manner as filing and execution upon a judgment of a court of record.

(3) All amounts recovered under this section are subject to ORS 776.365. [1981 c.88 §11]

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]

PENALTIES

776.990 [Repealed by 1957 c.448 §27]

