

AMENDED IN SENATE JUNE 14, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

AMENDED IN ASSEMBLY MARCH 15, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1888**

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**Introduced by Assembly Member Ma**

February 16, 2010

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*An act to amend Sections 1127, 1137, 1190, and 1190.1 of the An act to amend Sections 1127, 1137, and 1150 of, and to add Section 1193 to, the Harbors and Navigation Code, relating to harbors and ports.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1888, as amended, Ma. Harbors and ports: Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun: pilotage.

Existing law provides for the regulation and licensing of pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun: ~~Existing~~ *by the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. The board consists of 7 members, appointed by the Governor, with the consent of the Senate, with specified staggered terms.*

*This bill would revise the terms for members of the board who are licensed pilots and members who represent the industry.*

*Existing law specifies the rates of bar pilotage for vessels inward or outward bound through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun and also imposes certain movement fees and ~~training~~ surcharges.*

*This bill would exempt from those pilotage fees and surcharges noncommercial vessels that are maritime academy training vessels and*

vessels owned and ~~exhibited~~ operated by nonprofit museums or foundations. *These vessels would be subject to the board operations surcharge.*

Existing law exempts from pilotage fees a vessel sailing under a coastwise license or appropriately endorsed registry and engaged in the coasting trade, as described, unless a pilot or inland pilot is actually used. A foreign vessel, a vessel bound to or from a foreign port, or a vessel sailing under a register is required to use a pilot or inland pilot. These provisions do not apply to a vessel that is less than 300 gross tons and is manufactured and used for private recreation.

This bill would instead state that those provisions do not apply to a vessel that is less than 750 gross tons and is manufactured and used for private recreation.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1127 of the Harbors and Navigation Code  
2 is amended to read:

3 1127. (a) The Legislature finds and declares that it is the policy  
4 of the state to ensure the safety of persons, property, and vessels  
5 using the waters of Monterey Bay and the Bays of San Francisco,  
6 San Pablo, and Suisun and to avoid damage to those waters and  
7 surrounding ecosystems as a result of vessel collision or damage  
8 by providing competent, efficient, and regulated pilotage for vessels  
9 required by this division to secure pilotage services.

10 (b) This section does not supersede, modify, or otherwise alter  
11 pilot practices that are not safety related, including, but not limited  
12 to, the determination of rates charged for pilot services or  
13 employer-employee relationships for individuals, agencies, or  
14 organizations involved in providing pilotage services between any  
15 port of Monterey Bay and the Bays of San Francisco, San Pablo,  
16 and Suisun and any other port of the United States that is in  
17 existence on December 31, 1995, or otherwise abridge the authority  
18 of local port or harbor districts relating to pilotage in effect on  
19 December 31, 1995.

20 (c) The board shall regulate pilotage on waters of the state as  
21 provided in this division.

1 (d) A vessel sailing under a coastwise license or appropriately  
2 endorsed registry and engaged in the coasting trade between a port  
3 of Monterey Bay and the Bays of San Francisco, San Pablo, and  
4 Suisun and another port of the United States is exempt from all  
5 pilotage charges unless a pilot or inland pilot is actually employed.  
6 A foreign vessel and a vessel bound between a foreign port and a  
7 port of Monterey Bay and the Bays of San Francisco, San Pablo,  
8 and Suisun, and a vessel sailing under a register between a port of  
9 Monterey Bay and the Bays of San Francisco, San Pablo, and  
10 Suisun and another port of the United States, shall use a pilot or  
11 inland pilot holding a license issued pursuant to this division,  
12 except as otherwise provided by law.

13 (e) Subdivision (d) does not apply to a vessel that is less than  
14 750 gross tons and is manufactured and used for private recreation.

15 SEC. 2. Section 1137 of the Harbors and Navigation Code is  
16 amended to read:

17 1137. (a) The account required pursuant to Section 1136 shall  
18 show all of the following:

19 (1) The name of each vessel piloted.

20 (2) The name of each vessel for which pilotage has been charged  
21 or collected.

22 (3) The amount charged to or collected for each vessel.

23 (4) Any rebates made and allowed and for what amounts.

24 (5) The amount of the fees and surcharges not collected pursuant  
25 to ~~subdivision (e) of Section 1190~~ *Section 1193*.

26 (6) The depth of each vessel's draft and its highest gross  
27 tonnage.

28 (7) Whether the vessel was inward or outward bound.

29 (b) The board shall record the accounts in full detail in a book  
30 prepared for that purpose. The account book is a public record.

31 SEC. 3. *Section 1150 of the Harbors and Navigation Code is*  
32 *amended to read:*

33 1150. (a) There is in the Business, Transportation and Housing  
34 Agency a Board of Pilot Commissioners for the Bays of San  
35 Francisco, San Pablo, and Suisun, consisting of seven members  
36 appointed by the Governor, with the consent of the Senate, as  
37 follows:

38 (1) Two members shall be pilots licensed pursuant to this  
39 division.

1 (2) Two members shall represent the industry and shall be  
2 persons currently engaged as owners, officers, directors, employees,  
3 or representatives of a firm or association of firms that is a  
4 substantial user of pilotage service in the Bay of San Francisco,  
5 San Pablo, Suisun, or Monterey, one of whom shall be engaged  
6 in the field of tanker company operations, and one of whom shall  
7 be engaged in dry cargo operations. The board of directors of a  
8 regional maritime trade association controlled by West Coast vessel  
9 operators that specifically represents the owners and operators of  
10 vessels or barges engaged in transportation by water of cargo or  
11 passengers from or to the Pacific area of the United States shall  
12 nominate, rank, and submit to the Governor the names of three  
13 persons for each category of industry member to be appointed.

14 (3) Three members shall be public members. Any person may  
15 serve as a public member unless otherwise prohibited by law,  
16 except that during his or her term of office or within the two years  
17 preceding his or her appointment, no public member appointed  
18 may have (A) any financial or proprietary interest in the ownership,  
19 operation, or management of tugs, cargo, or passenger vessels, (B)  
20 sailed under the authority of a federal or state pilot license in waters  
21 under the jurisdiction of the board, (C) been employed by a  
22 company that is a substantial user of pilot services, or (D) been a  
23 consultant or other person providing professional services who  
24 had received more than 20 percent in the aggregate of his or her  
25 income from a company that is a substantial user of pilot services  
26 or an association of companies that are substantial users of pilot  
27 services. Ownership of less than one-tenth of 1 percent of the stock  
28 of a publicly traded corporation is not a financial or proprietary  
29 interest in the ownership of tugs, cargo, or passenger vessels.

30 (4) Notwithstanding any other provision of law, this chapter  
31 does not prohibit the Governor from notifying the nominating  
32 authority identified in paragraph (2) that persons nominated are  
33 unacceptable for appointment. Following that notification, the  
34 nominating authority shall submit a new list of nominees to the  
35 Governor, naming three persons, none of whom were previously  
36 nominated, from which the Governor may make the appointment.  
37 This process shall be continued until a person nominated by the  
38 nominating authority and satisfactory to the Governor has been  
39 appointed.

1 (b) *Members appointed pursuant to subdivision (a) shall be*  
2 *appointed with staggered terms as follows:*

3 (1) Each of the members appointed pursuant to paragraphs (1)  
4 and (2) of subdivision (a) shall be appointed for a four-year term,  
5 ~~and may not be appointed for more than two terms. Members~~  
6 *except that the first member appointed after December 31, 2012,*  
7 *to an initial term pursuant to paragraph (1) of subdivision (a)*  
8 *shall be appointed to a term expiring on December 31, 2014, and*  
9 *the first member appointed after December 31, 2012, to an initial*  
10 *term pursuant to paragraph (2) of subdivision (a) shall be*  
11 *appointed to a term expiring on December 31, 2014.*

12 (2) *Members appointed pursuant to paragraph (3) of subdivision*  
13 *(a) shall be appointed with staggered four-year terms with the*  
14 *initial four-year terms expiring on December 31 of the years 1988,*  
15 *1990, and 1991, respectively,* ~~and a.~~

16 (3) A person may not be appointed for more than two terms.  
17 ~~Vacancies~~

18 (4) *Vacancies* on the board for both expired and unexpired terms  
19 shall be filled by the appointing power in the manner prescribed  
20 by subdivision (a).

21 (c) A quorum of the board members consists of four members.  
22 All actions of the board shall require the vote of four members, a  
23 quorum being present.

24 (d) The Secretary of the Business, Transportation and Housing  
25 Agency shall serve as an ex officio member of the board who,  
26 without vote, may exercise all other privileges of a member of the  
27 board.

28 *SEC. 4. Section 1193 is added to the Harbors and Navigation*  
29 *Code, to read:*

30 *1193. (a) Notwithstanding Section 1120, only the following*  
31 *noncommercial vessels that use pilotage services are exempt from*  
32 *the pilotage fees and surcharges established pursuant to this*  
33 *division, except for the board operations surcharge as established*  
34 *and calculated pursuant to Section 1159.1:*

35 (1) *Maritime academy training vessels, whether foreign or*  
36 *domestic.*

37 (2) *Vessels owned and operated by a nonprofit museum or*  
38 *foundation.*

39 (b) *The vessels specified in subdivision (a) are subject to Section*  
40 *1198.*

1     ~~SEC. 3.—~~ Section 1190 of the Harbors and Navigation Code is  
2 amended to read:

3     ~~1190. (a) A vessel spoken inward or outward bound shall pay~~  
4 ~~the following rate of bar pilotage through the Golden Gate and~~  
5 ~~into or out of the Bays of San Francisco, San Pablo, and Suisun:~~

6     ~~(1) Eight dollars and eleven cents (\$8.11) per draft foot of the~~  
7 ~~vessel's deepest draft and fractions of a foot pro rata, and an~~  
8 ~~additional charge of 73.01 mills per high gross registered ton as~~  
9 ~~changed pursuant to law in effect on December 31, 1999. The mill~~  
10 ~~rates established by this paragraph may be changed as follows:~~

11     ~~(A) (i) On and after January 1, 2010, if the number of pilots~~  
12 ~~licensed by the board is 58 or 59 pilots, the mill rate in effect on~~  
13 ~~December 31, 2006, shall be decreased by an incremental amount~~  
14 ~~that is proportionate to one-half of the last audited annual average~~  
15 ~~net income per pilot for each pilot licensed by the board below 60~~  
16 ~~pilots.~~

17     ~~(ii) On and after January 1, 2010, if the number of pilots licensed~~  
18 ~~by the board is fewer than 58 pilots, the mill rate in effect on~~  
19 ~~December 31, 2006, shall be adjusted in accordance with the~~  
20 ~~method described in clause (i) as though there are 58 pilots licensed~~  
21 ~~by the board.~~

22     ~~(iii) The incremental mill rate adjustment authorized by this~~  
23 ~~subparagraph shall be calculated using the data reported to the~~  
24 ~~board for the number of gross registered tons handled by pilots~~  
25 ~~licensed under this division during the same 12-month period as~~  
26 ~~the audited annual average net income per pilot. The incremental~~  
27 ~~mill rate adjustment shall become effective at the beginning of the~~  
28 ~~immediately following quarter, commencing January 1, April 1,~~  
29 ~~July 1, or October 1, as directed by the board.~~

30     ~~(iv) On and after January 1, 2010, if, during any quarter~~  
31 ~~described in this paragraph, the number of pilots licensed by the~~  
32 ~~board is equal to or greater than 60, clauses (i) to (iii), inclusive,~~  
33 ~~shall become inoperative on the first day of the immediately~~  
34 ~~following quarter.~~

35     ~~(B) There shall be an incremental rate of additional mills per~~  
36 ~~high gross registered ton as is necessary and authorized by the~~  
37 ~~board to recover the pilots' costs of obtaining new pilot boats and~~  
38 ~~of funding design and engineering modifications for the purposes~~  
39 ~~of extending the service life of existing pilot boats, excluding costs~~  
40 ~~for repair or maintenance. The incremental mill rate charge~~

1 authorized by this subparagraph shall be identified as a pilot boat  
2 surcharge on the pilots' invoices and separately accounted for in  
3 the accounting required by Section 1136. Net proceeds from the  
4 sale of existing pilot boats shall be used to reduce the debt on the  
5 new pilot boats and any debt associated with the modification of  
6 pilot boats under this subparagraph. The board may adjust a pilot  
7 boat surcharge to reflect any associated operational savings  
8 resulting from the modification of pilot boats under this  
9 subparagraph, including, but not limited to, reduced repair and  
10 maintenance expenses.

11 (C) In addition to the incremental rate specified in subparagraph  
12 (B), the mill rate established by this subdivision may be adjusted  
13 at the direction of the board if, after a hearing conducted pursuant  
14 to Article 9 (commencing with Section 11120) of Chapter 1 of  
15 Part 1 of Division 3 of Title 2 of the Government Code, the board  
16 determines that there has been a catastrophic cost increase to the  
17 pilots that would result in at least a 2-percent increase in the overall  
18 annual cost of providing pilot services.

19 (2) A minimum charge for bar pilotage shall be six hundred  
20 sixty-two dollars (\$662) for each vessel piloted.

21 (3) The vessel's deepest draft shall be the maximum draft  
22 attained, on a stillwater basis, at any part of the vessel during the  
23 course of such transit inward or outward.

24 (b) The rate specified in subdivision (a) shall apply only to a  
25 pilotage that passes through the Golden Gate to or from the high  
26 seas to or from a berth within an area bounded by the Union Pacific  
27 Railroad Bridge to the north and Hunter's Point to the south. The  
28 rate for pilotage to or from the high seas to or from a point past  
29 the Union Pacific Railroad Bridge or Hunter's Point shall include  
30 a movement fee in addition to the basic bar pilotage rate as  
31 specified by the board pursuant to Section 1191.

32 (e) (1) Notwithstanding Section 1120, only the following  
33 noncommercial vessels that use pilotage services are exempt from  
34 the pilotage fees and surcharges established pursuant to this  
35 division:

36 (A) Maritime academy training vessels, whether foreign or  
37 domestic.

38 (B) Vessels owned and operated by a nonprofit museum or  
39 foundation.

1     ~~(2) The vessels specified in paragraph (1) are subject to Section~~  
2     ~~1198.~~

3     ~~(d) The rate established in paragraph (1) of subdivision (a) shall~~  
4     ~~be for a trip from the high seas to dock or from the dock to high~~  
5     ~~seas. The rate specified in Section 1191 shall not be charged by~~  
6     ~~pilots for docking and undocking vessels. This subdivision does~~  
7     ~~not apply to the rates charged by inland pilots for their services.~~

8     ~~(e) The board shall determine the number of pilots to be licensed~~  
9     ~~based on the 1986 manpower study adopted by the board.~~

10    ~~(f) Consistent with the board's May 2002 adoption of rate~~  
11    ~~recommendations, the rates imposed pursuant to paragraph (1) of~~  
12    ~~subdivision (a) that are in effect on December 31, 2002, shall be~~  
13    ~~increased by 4 percent on January 1, 2003; those in effect on~~  
14    ~~December 31, 2003, shall be increased by 4 percent on January 1,~~  
15    ~~2004; those in effect on December 31, 2004, shall be increased by~~  
16    ~~3 percent on January 1, 2005; and those in effect on December 31,~~  
17    ~~2005, shall be increased by 3 percent on January 1, 2006.~~

18    ~~(g) (1) There shall be a movement fee as is necessary and~~  
19    ~~authorized by the board to recover a pilot's costs for the purchase,~~  
20    ~~lease, or maintenance of navigation software, hardware, and~~  
21    ~~ancillary equipment purchased after November 5, 2008, and before~~  
22    ~~January 1, 2011.~~

23    ~~(2) The software, equipment, and technology covered by this~~  
24    ~~subdivision shall be used strictly and exclusively to aid in piloting~~  
25    ~~on the pilotage grounds. The movement fee authorized by this~~  
26    ~~subdivision shall be identified as a navigation technology surcharge~~  
27    ~~on a pilot's invoices and separately accounted for in the accounting~~  
28    ~~required by Section 1136. The board shall review and adjust as~~  
29    ~~necessary the navigation technology surcharge at least quarterly.~~  
30    ~~This subdivision shall become inoperative on January 1, 2011.~~

31    ~~SEC. 4. Section 1190.1 of the Harbors and Navigation Code~~  
32    ~~is amended to read:~~

33    ~~1190.1. Every vessel that uses a pilot under this division while~~  
34    ~~navigating the waters of Monterey Bay shall pay the rate provided~~  
35    ~~by subdivisions (a) and (f) of Section 1190.~~

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