

**ASSEMBLY BILL**

**No. 1025**

---

---

**Introduced by Assembly Member Skinner  
(Coauthor: Assembly Member Buchanan)**

February 18, 2011

---

---

An act to amend Sections 1113, 1126, 1127, 1136, 1140, 1156, 1157, 1157.1, 1157.5, 1158.1, 1171, 1171.5, 1176, 1180, 1180.3, 1180.6, 1181, 1182, 1183, 1191, 1196, 1196.1, and 1196.3 of, to amend and renumber Section 1159.1 of, to add Section 1171.6 to, and to repeal Section 1142 of, the Harbors and Navigation Code, relating to bar pilots, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1025, as introduced, Skinner. Harbors and ports: inland pilots.

Existing law provides for the regulation and licensing of pilots and inland pilots for the Bays of Monterey, San Francisco, San Pablo, and Suisun by the Board of Pilot Commissioners (board). Under existing law, any person who does not hold a license as a pilot or as an inland pilot and who pilots any vessel into or out of any harbor or port of the Bays of Monterey, San Francisco, San Pablo, or Suisun, or who acts as a pilot for ship movements or special operations upon the waters of any of those bays is guilty of a misdemeanor.

Existing law requires the board to adopt a continuing education program for pilots and inland pilots funded from fees from the surcharge for each movement of a vessel using pilot services.

Existing law requires the board to adopt training standards and a training program for pilot trainees.

This bill would delete all references to inland pilots from these provisions also.

The bill would require an examination fee to be charged in an amount established by the board to each applicant to the training program who participates in any written or simulator examinations established by the board for the purposes of determining admission to the training program. The bill would require that the fee be charged only to those who actually participate in an examination and not exceed the administrative costs to the board of preparing and administering the examination. The bill would require that the moneys charged and collected from the applicant be paid to the board and deposited into the Board of Pilot Commissioners’ Special Fund, a continuously appropriated fund, and be used only to fund the training program in the manner established by the board.

By increasing the amount of revenue deposited into a continuously appropriated fund and by authorizing the expenditure of money in that fund for a new purpose, the bill would make an appropriation.

Existing law requires the Governor to appoint one assistant director to serve at the pleasure of the Governor. Existing law requires the assistant director to have the duties as assigned by the executive director who is appointed by the Board of Pilot Commissioners.

This bill would require that the assistant director be appointed by the Secretary of Business, Transportation and Housing and serve at the pleasure of the secretary.

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

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

- 1 SECTION 1. Section 1113 of the Harbors and Navigation Code
- 2 is amended to read:
- 3 1113. “Inland pilot” means a person holding an inland pilot
- 4 license pursuant to Section 1142 prior to January 1, 2011.
- 5 SEC. 2. Section 1126 of the Harbors and Navigation Code is
- 6 amended to read:
- 7 1126. (a) ~~Every~~A person who does not hold a license as a
- 8 pilot ~~or as an inland pilot~~ issued pursuant to this division, and who
- 9 pilots any vessel into or out of any harbor or port of Monterey Bay
- 10 and the Bay of San Francisco, San Pablo, or Suisun, or who acts
- 11 as a pilot for ship movements or special operations upon the waters
- 12 of any of those bays, is guilty of a misdemeanor. In addition to the
- 13 fines or other penalties provided by law, the court may order that

1 person to pay to the pilot who is entitled to pilot the vessel the  
2 amount of pilotage fees collected. No fees shall be paid for pilotage  
3 if a state-licensed pilot refuses to join the vessel under paragraph  
4 (5) of subdivision (c).

5 (b) ~~Any~~A person may also be enjoined from engaging in the  
6 pilotage prescribed by subdivision (a) by a court of competent  
7 jurisdiction.

8 (c) This section does not apply to any of the following persons:

9 (1) The master of a vessel who has relieved the pilot to ensure  
10 the safe operation of the vessel, but only from the point where the  
11 pilot is relieved to the closest safe berth or anchorage, or the high  
12 seas if closer than a safe berth or anchorage.

13 (2) Persons piloting vessels pursuant to the valid regulatory  
14 authority of the Port of Sacramento or the Port of Stockton.

15 (3) Persons piloting vessels sailing under an enrollment, as  
16 specified in Section 1127.

17 (4) Persons piloting vessels pursuant to Section 1179.

18 (5) Persons piloting vessels ~~when~~ *if* a state-licensed pilot refuses  
19 to join the vessel. However, a vessel may not hire a pilot not  
20 licensed by the state until a representative of the vessel notifies  
21 the port agent or his or her designee that the vessel will hire a pilot  
22 not licensed by the state unless a state-licensed pilot offers to join  
23 the vessel immediately. The port agent or his or her designee shall  
24 notify the executive director of the board or his or her designee  
25 that this paragraph applies.

26 (d) The exemption set forth in paragraph (5) of subdivision (c)  
27 does not apply in instances ~~where~~ *in which* a state licensed pilot  
28 refuses to join a vessel because of suspected safety violations  
29 concerning that vessel's pilot hoists or pilot ladders.

30 SEC. 3. Section 1127 of the Harbors and Navigation Code is  
31 amended to read:

32 1127. (a) The Legislature finds and declares that it is the policy  
33 of the state to ensure the safety of persons, property, and vessels  
34 using the waters of Monterey Bay and the Bays of San Francisco,  
35 San Pablo, and Suisun and to avoid damage to those waters and  
36 surrounding ecosystems as a result of vessel collision or damage  
37 by providing competent, efficient, and regulated pilotage for vessels  
38 required by this division to secure pilotage services.

39 (b) This section does not supersede, modify, or otherwise alter  
40 pilot practices that are not safety related, including, but not limited

1 to, the determination of rates charged for pilot services or  
 2 employer-employee relationships for individuals, agencies, or  
 3 organizations involved in providing pilotage services between any  
 4 port of Monterey Bay and the Bays of San Francisco, San Pablo,  
 5 and Suisun and any other port of the United States that is in  
 6 existence on December 31, 1995, or otherwise abridge the authority  
 7 of local port or harbor districts relating to pilotage in effect on  
 8 December 31, 1995.

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

11 (d) A vessel sailing under a coastwise license or appropriately  
 12 endorsed registry and engaged in the coasting trade between a port  
 13 of Monterey Bay and the Bays of San Francisco, San Pablo, and  
 14 Suisun and another port of the United States is exempt from all  
 15 pilotage charges unless a pilot ~~or inland pilot~~ is actually employed.  
 16 A foreign vessel and a vessel bound between a foreign port and a  
 17 port of Monterey Bay and the Bays of San Francisco, San Pablo,  
 18 and Suisun, and a vessel sailing under a register between a port of  
 19 Monterey Bay and the Bays of San Francisco, San Pablo, and  
 20 Suisun and another port of the United States, shall use a pilot ~~or~~  
 21 ~~inland pilot~~ holding a license issued pursuant to this division,  
 22 except as otherwise provided by law.

23 (e) Subdivision (d) does not apply to a vessel that is less than  
 24 750 gross tons and is manufactured and used for private recreation.

25 SEC. 4. Section 1136 of the Harbors and Navigation Code is  
 26 amended to read:

27 1136. ~~Every~~ A pilot ~~and inland pilot~~ licensed pursuant to this  
 28 division shall do all of the following:

- 29 (a) Take an oath of office in the manner prescribed by law.
- 30 (b) Submit monthly to the board a verified account of all moneys  
 31 or other compensation received by the pilot ~~or inland pilot~~ as a  
 32 result of pilotage services, or by any other person for the pilot ~~or~~  
 33 ~~inland pilot~~, or on the pilot's ~~or inland pilot's~~ account, on the forms  
 34 furnished by the board.

35 SEC. 5. Section 1140 of the Harbors and Navigation Code is  
 36 amended to read:

- 37 ~~1140. (a) No person shall hold both a pilot license and an~~  
 38 ~~inland pilot license concurrently.~~
- 39 (b)

1 1140. (a) It is the intent of the Legislature to provide for a  
2 unified system of state regulated pilotage for Monterey Bay and  
3 the Bays of San Francisco, San Pablo, and Suisun.

4 (e)

5 (b) The Legislature finds and declares that unified pilotage will  
6 be beneficial to the safety of people, vessels, and property using  
7 those bays and tributaries.

8 (d)

9 (c) The Legislature further finds and declares that unified  
10 systems of regulated pilotage are common to the ports of the world  
11 and are most familiar to, and best able to serve, both foreign and  
12 domestic vessels.

13 SEC. 6. Section 1142 of the Harbors and Navigation Code is  
14 repealed.

15 ~~1142. (a) Each existing inland pilot license shall be valid for~~  
16 ~~a period of one year and may be renewed upon application and the~~  
17 ~~applicant's passing of the physical examination required in Section~~  
18 ~~1176.~~

19 ~~(b) An existing inland pilot license shall not be renewed if the~~  
20 ~~inland pilot possessing the license does not actively pilot vessels~~  
21 ~~for any consecutive period of one year, unless the board determines~~  
22 ~~that the inland pilot is qualified and has presented satisfactory~~  
23 ~~proof of medical disability during that period.~~

24 ~~(c) An inland pilot shall at all times hold an active and proper~~  
25 ~~license to pilot vessels on the waters on which the pilot operates.~~

26 ~~(d) The board may revoke or suspend the license of any inland~~  
27 ~~pilot who does not use proper equipment or who operates on~~  
28 ~~territorial waters not described in the license. The suspension or~~  
29 ~~revocation of licenses under this section is governed by Article 2~~  
30 ~~(commencing with Section 1180) of Chapter 4.~~

31 SEC. 7. Section 1156 of the Harbors and Navigation Code is  
32 amended to read:

33 1156. (a) The board may appoint, fix the compensation of,  
34 and from time to time adjust the compensation of, an executive  
35 director who is exempt from the civil service laws, and other  
36 employees as may be necessary. The executive director may  
37 perform all duties, exercise all powers, discharge all  
38 responsibilities, and administer and enforce all laws, rules, and  
39 regulations under the jurisdiction of the board, with the approval  
40 of the board, including, but not limited to, all of the following:

- 1 (1) The administration of personnel employed by the board in  
2 accordance with the civil service laws.
- 3 (2) To serve as treasurer of the board and keep, maintain, and  
4 provide the board with all statements of accounts, records of  
5 receipts, and disbursements of the board in accordance with the  
6 law.
- 7 (3) The issuance and countersigning of licenses that shall also  
8 be signed by the president of the board.
- 9 (4) The administration of matters and the maintenance of files  
10 pertaining to action taken against licenses issued by the board.
- 11 (5) The administration of investigations of, and reporting on, a  
12 navigational incident or other matter for which a license issued by  
13 the board may be revoked or suspended.
- 14 (6) To work with board members, staff, and other interested  
15 stakeholders to recommend improvements in the pilot training  
16 program.
- 17 (7) Under the direction of the board, to coordinate with other  
18 state and federal agencies charged with protecting the environment  
19 and with the oil and hazardous chemical shipping industry.
- 20 (8) Any other function, task, or duty as may reasonably be  
21 assigned by the president of the board, including, but not limited  
22 to, performing research and obtaining documents and other  
23 evidence for board activities, including rate hearings.
- 24 (b) ~~The Governor~~ *Secretary of Business, Transportation and*  
25 *Housing* shall appoint one assistant director to serve at the pleasure  
26 of the ~~Governor~~ *secretary*. The assistant director shall have the  
27 duties as assigned by the executive director, and shall be  
28 responsible to the executive director for the performance of his or  
29 her duties.
- 30 (c) The board may employ personnel necessary to carry out the  
31 purposes of this chapter. All personnel shall be appointed pursuant  
32 to the State Civil Service Act (Part 1 (commencing with Section  
33 18000) of Division 5 of Title 2 of the Government Code), except  
34 for the executive director and the assistant director, who shall be  
35 exempt from state civil service. The board may fix the  
36 compensation of, and from time to time adjust the compensation  
37 of, any employees as may be necessary.
- 38 (d) All personnel of the board shall be appointed, directed, and  
39 controlled by the board, the executive director, or the board's  
40 authorized deputies or agents to whom it may delegate its powers.

1 (e) The board may contract and employ commission  
2 investigators. The board shall adopt regulations for the minimum  
3 standards for a commission investigator that shall include, but are  
4 not limited to, a basic knowledge of investigative techniques and  
5 maritime issues.

6 SEC. 8. Section 1157 of the Harbors and Navigation Code is  
7 amended to read:

8 1157. The board shall keep a written record of all the board's  
9 proceedings and acts.

10 (a) The board shall also keep a complete record of each pilot  
11 appointed and licensed by the board that includes at a minimum,  
12 his or her current mailing address, residence, the date of the initial  
13 issuance and renewal of the license, the date of completion for  
14 initial and any subsequent training, and a record of any reports of  
15 meritorious activities, commendation, misconduct, safety  
16 violations, or other incidents or information related or relevant to  
17 the issuance and use of his or her pilot license.

18 (b) All pilots ~~or inland pilots~~ licensed by the board shall provide  
19 the board with written notice of any change of name, mailing  
20 address, or residence within 30 days of that change in a manner  
21 prescribed by the board.

22 SEC. 9. Section 1157.1 of the Harbors and Navigation Code  
23 is amended to read:

24 1157.1. (a) Except as provided in Section 1157.4, all records  
25 of the board relating to the personal information of a pilot, ~~an~~  
26 ~~inland pilot~~, a pilot trainee, or an applicant to the pilot trainee  
27 training program are confidential and shall not be open to public  
28 inspection.

29 (b) For purposes of this section, "personal information" means  
30 information, other than the name and mailing address, that  
31 identifies an individual, including an individual's photograph,  
32 social security number, address, telephone number, and medical  
33 or disability information, but does not include other information  
34 related to licensing such as incidents, rules or safety violations,  
35 misconduct, training records, commendations, and license status.

36 SEC. 10. Section 1157.5 of the Harbors and Navigation Code  
37 is amended to read:

38 1157.5. On or before April 15, 2010, and annually thereafter,  
39 the board shall submit to the Secretary of the Senate, the Chief  
40 Clerk of the Assembly, and the Secretary of Business,

1 Transportation and Housing a report describing the board’s  
2 activities for the preceding calendar year. The report shall include,  
3 but not be limited to, all of the following:

4 (a) The number of vessel movements across the bar, on the bays,  
5 and on the rivers within the board’s jurisdiction.

6 (b) The name of each licensed pilot, ~~inland pilot~~, and pilot  
7 trainee, and the status of each person. If a person has had more  
8 than one status during the reporting year, each status and the length  
9 of time in that status shall be indicated. For the purposes of this  
10 section, “status” includes all of the following designations:

- 11 (1) Licensed and fit for duty.
- 12 (2) Licensed and not fit for duty.
- 13 (3) Licensed and on authorized training.
- 14 (4) Licensed and on active military duty.
- 15 (5) Licensed and on leave of absence.
- 16 (6) Licensed but license suspended.

17 (c) A summary of each report of misconduct or a navigational  
18 incident involving a pilot, ~~inland pilot~~, or pilot trainee, or other  
19 matters for which a license issued by the board may be revoked  
20 or suspended. For those cases that have been closed, the summary  
21 shall include a description of findings made by the incident review  
22 committee and of the resulting action taken by the board. For those  
23 cases that are still under investigation, the summary shall include  
24 a description of the reported incident and an estimated completion  
25 date for the investigation. For those closed cases involving a pilot  
26 who has been involved in a prior incident ~~where~~ *and* a finding of  
27 pilot error had been made, the report shall also include a summary  
28 of that incident.

29 SEC. 11. Section 1158.1 of the Harbors and Navigation Code  
30 is amended to read:

31 1158.1. The executive director shall not, during the term of his  
32 or her office, serve as a member of the board, ~~nor~~ *or* as a pilot ~~or~~  
33 ~~inland pilot~~, ~~nor~~ *be*, *or* otherwise *be* concurrently employed in the  
34 maritime industry.

35 SEC. 12. Section 1159.1 of the Harbors and Navigation Code,  
36 as amended by Section 20 of Chapter 567 of the Statutes of 2008,  
37 is amended and renumbered to read:

38 ~~1159.1.~~

39 159.2 (a) The vessel shall pay a board operations surcharge,  
40 the purpose of which is to fully compensate the board and the

1 Business, Transportation and Housing Agency for the official  
2 services, staff services, and incidental expenses of the board and  
3 agency. The amount of the surcharge shall be 7.5 percent of all  
4 pilotage fees charged by pilots ~~and inland pilots~~, pursuant to  
5 Sections 1190 and 1191 unless the board establishes, with the  
6 approval of the Department of Finance, a lesser percentage, not to  
7 exceed any percentage consistent with subdivision (d).

8 (b) The surcharge shall be billed and collected by the pilots ~~and~~  
9 ~~inland pilots~~. The pilots ~~and inland pilots~~ shall pay all surcharges  
10 collected by them to the board monthly or at ~~such a~~ later time ~~as~~  
11 *that* the board may direct.

12 (c) The board shall quarterly review its ongoing and anticipated  
13 expenses and adjust the surcharge to reflect any changes ~~which~~  
14 *that* have occurred since the last adjustment.

15 (d) The board operations surcharge shall not represent a  
16 percentage significantly more than that required to support the  
17 board and any costs of the Business, Transportation and Housing  
18 Agency related to the administration of the board pursuant to  
19 subdivision (a) in addition to the maintenance of a reasonable  
20 reserve.

21 SEC. 13. Section 1171 of the Harbors and Navigation Code is  
22 amended to read:

23 1171. (a) The board shall have the sole authority to determine  
24 the qualifications for obtaining a license as a pilot ~~or inland pilot~~  
25 pursuant to this division, determine who shall have ~~such a~~ *the*  
26 license, and issue the license.

27 (b) ~~All persons~~ *A person* possessing a valid state pilot's license  
28 on January 1, 1985, ~~are~~ *is* hereby licensed as if the license was  
29 granted by the board.

30 SEC. 14. Section 1171.5 of the Harbors and Navigation Code  
31 is amended to read:

32 1171.5. (a) The board shall adopt, by regulation, licensing  
33 standards that equal or exceed standards for obtaining federal  
34 endorsements and that conform with and support the state policy  
35 specified in Sections 1100 and 1101.

36 (b) The board shall adopt reasonable rules and regulations that  
37 require pilots to be qualified to perform all pilot duties.

38 (c) The board shall adopt, by regulation, training standards and  
39 a training program for pilot trainees, and continuing education  
40 standards and a continuing education program for pilots ~~and inland~~

1 pilots. In the case of pilot trainees, the training program shall be  
2 for a minimum of one year and a maximum of three years. In the  
3 case of pilots ~~and inland pilots~~, the board shall specify the type,  
4 nature, duration, and frequency of the continuing education  
5 required and the identity of the pilots ~~or inland pilots~~ who are  
6 required to undergo continuing education in the next 12-month  
7 period. Pursuant to Section 1182, the license of a pilot ~~or an inland~~  
8 pilot may be revoked or suspended if he or she fails to complete  
9 the continuing education required by this subdivision during the  
10 period specified. The board shall also require that an evaluation  
11 of the pilot's ~~or inland pilot's~~ performance be prepared by the  
12 institution selected by the board to provide pilot continuing  
13 education, and the institution shall provide copies of the evaluation  
14 to the pilot ~~or inland pilot~~ and to the board.

15 (d) The board shall adopt, by regulation, the qualifications,  
16 standards, and rating criteria for admission of pilot trainees to the  
17 training program. Notwithstanding subdivision (f), the board shall  
18 administer and conduct the pilot trainee admission selection in  
19 accordance with the regulations for admission.

20 (e) The board shall establish a pilot evaluation committee  
21 consisting of five active pilots who each have at least 10 years'  
22 experience as a pilot on the Bays of San Francisco, San Pablo, and  
23 Suisun. The board shall select the members of the pilot evaluation  
24 committee. A member may not serve for more than two four-year  
25 terms, except that two of the initial members appointed to the pilot  
26 evaluation committee shall serve terms of two years.

27 (f) The pilot evaluation committee shall conduct and supervise  
28 the pilot trainee training program pursuant to the direction and  
29 regulation of the board and consistent with the intent of this  
30 division.

31 (g) The board shall issue a certificate of completion to each  
32 pilot trainee who satisfactorily completes the training program.  
33 The board shall not issue a pilot's license to ~~any~~ a person who  
34 does not receive a certificate of completion of the training program  
35 from the board, although the board may refuse to issue a pilot  
36 license to a pilot trainee who has received this certificate.

37 (h) The training program for pilot trainees and the continuing  
38 education program for pilots ~~and inland pilots~~ shall be funded from  
39 revenues collected for these purposes as determined by the board

1 pursuant to Sections 1195 and 1196 and deposited into the Board  
2 of Pilot Commissioners' Special Fund pursuant to Section 1159.

3 SEC. 15. Section 1171.6 is added to the Harbors and Navigation  
4 Code, to read:

5 1171.6. (a) There shall be an examination fee to be charged  
6 in an amount established by the board to each applicant to the  
7 training program who participates in any written or simulator  
8 examinations established by the board for the purposes of  
9 determining admission to the trainee program pursuant to  
10 subdivision (d) of Section 1171.5. The fee shall be charged only  
11 to those who actually participate in an examination and shall not  
12 exceed the administrative costs to the board of preparing and  
13 administering the examination.

14 (b) The moneys charged and collected from the applicant  
15 pursuant to subdivision (a) shall be paid to the board and deposited  
16 into the Board of Pilot Commissioners' Special Fund pursuant to  
17 Section 1159. The moneys shall be used only to fund the training  
18 program in the manner established by the board.

19 SEC. 16. Section 1176 of the Harbors and Navigation Code is  
20 amended to read:

21 1176. (a) The board shall appoint a physician or physicians  
22 who are qualified to determine the suitability of a person to perform  
23 his or her duties as a pilot, ~~an inland pilot~~, or a pilot trainee in  
24 accordance with subdivision (c).

25 (b) An applicant for a pilot trainee position or for a pilot license,  
26 ~~or an existing a pilot trainee, or a pilot, or an inland pilot~~ seeking  
27 renewal of his or her license shall undergo a physical examination  
28 by a board-appointed physician in accordance with standards  
29 prescribed by the board. Within 30 days prior to the examination,  
30 the applicant or licensee shall submit to the physician conducting  
31 the physical examination a complete list of all prescribed  
32 medications being taken by or administered to the applicant or  
33 licensee.

34 (c) On the basis of both the examination and an evaluation of  
35 the effects of the prescription medications named on the submitted  
36 list, the physician shall designate to the board whether or not the  
37 pilot, ~~inland pilot~~, or pilot trainee is fit to perform his or her duties  
38 as a pilot, ~~an inland pilot~~, or a pilot trainee.

39 (d) The license of a pilot or an inland pilot shall not be renewed  
40 unless he or she is found fit for duty pursuant to subdivision (c).

1 (e) ~~Whenever~~ *If* a pilot, ~~an inland pilot,~~ or a pilot trainee is  
 2 prescribed either a new dosage of a medication or a new  
 3 medication, or suspends the use of a prescribed medication, he or  
 4 she shall, within 10 days, submit that information to the  
 5 board-appointed physician having possession of the prescribed  
 6 medication list submitted pursuant to subdivision (b). ~~Whenever~~  
 7 *If* the physician receives the updated information, the physician  
 8 shall determine whether or not the medication change affects the  
 9 licensee’s or trainee’s fitness for duty. If the physician determines  
 10 that the medication change results in the pilot, ~~inland pilot,~~ or pilot  
 11 trainee being unfit for duty, the physician shall inform the board.

12 (f) The board may terminate a pilot trainee or suspend or revoke  
 13 the license of a pilot ~~or an inland pilot~~ who fails to submit the  
 14 prescribed medication information required by this section.

15 SEC. 17. Section 1180 of the Harbors and Navigation Code is  
 16 amended to read:

17 1180. ~~When~~ *If*, in the opinion of the board, there is reasonable  
 18 cause to believe that the public interest requires that a pilot ~~or~~  
 19 ~~inland pilot~~ be summarily suspended pending hearing on charges  
 20 of misconduct ~~which~~ *that* include any of the causes for suspension  
 21 or revocation specified in Section 1181 or ~~when~~ *if* the board has  
 22 information ~~which~~ *that* leads it to believe that a pilot ~~or inland~~  
 23 ~~pilot~~ has become unable to comply with the standards of health or  
 24 physical condition requisite to a pilot’s ~~or inland pilot’s~~ duties, the  
 25 board may, without hearing, temporarily suspend the license of  
 26 the pilot ~~or inland pilot~~ for not exceeding 40 days pending hearing  
 27 and decision on the charges. Unless an accusation on the charge  
 28 is served on the pilot ~~or inland pilot~~ as provided in Chapter 5  
 29 (commencing with Section 11500) of Part 1 of Division 3 of Title  
 30 2 of the Government Code, prior to the close of the sixth day after  
 31 the suspension becomes effective, the temporary suspension  
 32 terminates at the close of the sixth day.

33 SEC. 18. Section 1180.3 of the Harbors and Navigation Code  
 34 is amended to read:

35 1180.3. (a) The board shall establish an incident review  
 36 committee, which shall be composed of one public member of the  
 37 board and the executive director. The board shall delegate to the  
 38 incident review committee the responsibility to review all reports  
 39 of misconduct or navigational incidents involving pilots ~~or inland~~  
 40 ~~pilots~~ or other matters for which a license issued by the board may

1 be revoked or suspended. This subdivision does not apply to an  
2 incident involving a pilot ~~or inland pilot~~ aboard a vessel of less  
3 than 300 gross tons unless a pilot ~~or inland pilot~~ is required by  
4 law.

5 (b) The incident review committee, with the assistance of one  
6 or more investigators, shall investigate the incident, misconduct,  
7 or other matter and prepare a written report. The incident review  
8 committee may call witnesses and request additional information  
9 if the incident review committee considers it necessary to conduct  
10 a complete investigation. In performing their duties, the members  
11 of the incident review committee and its investigators shall act  
12 fairly and impartially and shall treat all matters developed or  
13 maintained as required by law. The members of the incident review  
14 committee and the investigators shall not discuss any investigation  
15 with the board or any member of the board until the matter has  
16 been finally disposed of by the incident review committee or final  
17 action has been taken by the board, as appropriate. The board shall  
18 specify, by regulation, the information to be contained in the report,  
19 which shall include, but need not be limited to, the following  
20 information relating to the incident, misconduct, or other matter:

21 (1) The name of the vessel, date, location, and identification of  
22 the pilot ~~or inland pilot~~.

23 (2) A description of the weather and sea conditions.

24 (3) An illustration and description of the incident, misconduct,  
25 or other matter under investigation.

26 (4) An estimate of the damages, if any.

27 (5) The names of the witnesses providing information relating  
28 to the incident, misconduct, or other matter under investigation.

29 (6) The nature and extent of any injuries.

30 (7) A summary of any prior investigations of incidents,  
31 misconduct, or other matters involving the same pilot ~~or inland~~  
32 ~~pilot~~ designated pursuant to paragraph (1).

33 (8) Any relevant correspondence or records from the United  
34 States Coast Guard relating to the incident, misconduct, or other  
35 matter under investigation.

36 (9) A historical record of the actions taken in the investigation  
37 and the action taken pursuant to Section 1180.6.

38 (10) A summary of the factual background of the incident,  
39 misconduct, or other matter investigated.

1 (11) The following information that is not a part of the public  
2 record:

- 3 (A) The report from the pilot ~~or inland pilot~~.
- 4 (B) The confidential report of the investigator.
- 5 (c) Unless an accusation for suspension or revocation of the  
6 pilot's ~~or inland pilot's~~ license is served on the pilot ~~or inland pilot~~  
7 as provided in Chapter 5 (commencing with Section 11500) of  
8 Part 1 of Division 3 of Title 2 of the Government Code, the incident  
9 review committee shall present the completed investigation report  
10 to the board at the first monthly meeting of the board after the  
11 completion of the report. Unless an extension is granted by the  
12 board, the report shall be presented within 90 days of the date of  
13 the incident, misconduct, or other matter investigated.
- 14 (d) The record of the investigation prepared pursuant to  
15 subdivision (b) and the final disposition of the incident,  
16 misconduct, or other matter shall be retained in the records of the  
17 board for 10 years after the completion of the investigation and,  
18 except for the items listed in paragraph (11) of subdivision (b),  
19 shall be a public record.

20 SEC. 19. Section 1180.6 of the Harbors and Navigation Code  
21 is amended to read:

22 1180.6. (a) The board, after full consideration of the evidence,  
23 report, and recommendations presented by the incident review  
24 committee relating to an incident, misconduct, or other matter  
25 pursuant to Section 1180.3, shall take one or more of the following  
26 actions:

- 27 (1) Serve an accusation for suspension or revocation of the  
28 pilot's ~~or inland pilot's~~ license on the pilot ~~or inland pilot~~, as  
29 provided in Chapter 5 (commencing with Section 11500) of Part  
30 1 of Division 3 of Title 2 of the Government Code, pursuant to  
31 Sections 1181 and 1182.
- 32 (2) Enter into a written stipulation for corrective action to be  
33 performed by the pilot ~~or inland pilot~~, which may include, but is  
34 not limited to, further training or supervised practice trips.
- 35 (3) Provide counseling for the pilot ~~or inland pilot~~ relating to  
36 the duties and obligations of a pilot.
- 37 (4) Issue a warning letter of reprimand to the pilot ~~or inland~~  
38 pilot.
- 39 (5) Take any other action, as provided in the guidelines adopted  
40 pursuant to subdivision (e).

1 (6) Close the investigation without further action.

2 (7) Remand the matter to the incident review committee for  
3 further investigation.

4 (b) Action required pursuant to subdivision (a) shall be taken  
5 by a majority vote of the board.

6 (c) A member of the board shall not sit on the board as a trier  
7 of fact for those cases in which he or she has served on the incident  
8 review committee recommending action to the board.

9 (d) The executive director shall note any action taken by the  
10 board pursuant to this section in a pilot's ~~or inland pilot's~~ record  
11 and shall establish a suspense file to ensure that all training,  
12 practice trips, or other corrective action required to be performed  
13 pursuant to subdivision (a) by the pilot ~~or inland pilot~~ are  
14 completed as required. The executive director shall report to the  
15 board each month on the progress of any training, supervised  
16 practice trips, or other corrective action or the completion of any  
17 other action required pursuant to subdivision (a).

18 (e) The executive director shall notify the board of a pilot ~~or~~  
19 ~~inland pilot~~ who fails, or refuses, to complete training, practice  
20 trips, or other corrective action imposed by the board pursuant to  
21 subdivision (a). If the board determines that the pilot ~~or inland~~  
22 ~~pilot~~ has intentionally failed to complete training, practice trips,  
23 or other corrective action, the board may take additional action as  
24 specified in subdivision (a).

25 (f) The board shall adopt guidelines for the determination by  
26 the incident review committee of the action to be taken pursuant  
27 to subdivision (a) at the completion of an investigation conducted  
28 pursuant to Section 1180.3.

29 SEC. 20. Section 1181 of the Harbors and Navigation Code is  
30 amended to read:

31 1181. The license of a pilot ~~or inland pilot~~ may be revoked or  
32 suspended before its expiration only for reasons of misconduct,  
33 which shall include, but not be limited to, the following:

34 (a) Neglect, for 30 days after it becomes due, to render an  
35 account to the board of all money received for pilotage.

36 (b) Neglect, for 30 days after it becomes due, to pay over to the  
37 board the percentage of all pilotage money received, as set by the  
38 board.

39 (c) Rendering to the board a false account of pilotage received.

1 (d) Absence from duty for more than one month at any one time  
2 without leave granted by the board, unless sickness or personal  
3 injury causes the absence. ~~This subdivision does not apply to inland  
4 pilots.~~

5 (e) Refusing to exhibit the pilot ~~or inland pilot~~ license when  
6 requested to do so by the master of any vessel boarded.

7 (f) Intoxication or being under the influence of any substance  
8 or combination of substances that so affects the nervous system,  
9 brain, or muscles as to impair, to an appreciable degree, the ability  
10 to conduct the duties of a pilot ~~or inland pilot~~ while on duty.

11 (g) Negligently, ignorantly, or willfully running a vessel on  
12 shore, or otherwise rendering it liable to damage, or otherwise  
13 causing injury to persons or damage to property. However, this  
14 subdivision does not apply to a vessel of less than 300 gross tons  
15 unless a pilot ~~or inland pilot~~ is required by law.

16 (h) Willful violation of the rules and regulations adopted by the  
17 board for the government of pilots ~~or inland pilots~~.

18 (i) Inability to comply with the standards of health or physical  
19 condition requisite to the duties of a pilot ~~or inland pilot~~, but in  
20 that case the burden of proving compliance with these standards  
21 is upon the licensee, unless prior to the hearing the licensee takes  
22 and passes those tests or examinations required by the board.

23 (j) Failure or refusal, to complete training, practice trips, or  
24 other corrective action imposed on that pilot ~~or inland pilot~~ by the  
25 board pursuant to Section 1180.6.

26 SEC. 21. Section 1182 of the Harbors and Navigation Code is  
27 amended to read:

28 1182. If, after a hearing, the board finds that the pilot ~~or inland~~  
29 ~~pilot~~ is guilty of misconduct sufficient for deprivation of the  
30 license, the board shall revoke or suspend the license of the pilot  
31 ~~or inland pilot~~. The order shall be entered in the minutes and placed  
32 in the record of the pilot maintained pursuant to Section 1157. The  
33 proceedings shall be conducted in accordance with Chapter 5  
34 (commencing with Section 11500) of Part 1 of Division 3 of Title  
35 2 of the Government Code, and the board shall have all the powers  
36 granted pursuant to that chapter.

37 SEC. 22. Section 1183 of the Harbors and Navigation Code is  
38 amended to read:

39 1183. (a) Upon notification of nonrenewal of the license, a  
40 pilot ~~or inland pilot~~ is entitled to a trial and hearing in the same

1 manner that other charges and accusations against pilots and inland  
2 pilots are tried.

3 ~~In~~

4 (b) *In* every case of nonrenewal, suspension, or revocation of  
5 the license of a pilot or inland pilot for cause, the final decision of  
6 the board is subject to judicial review in accordance with law, and  
7 the court shall exercise its independent judgment on the evidence.

8 SEC. 23. Section 1191 of the Harbors and Navigation Code is  
9 amended to read:

10 1191. (a) The board, pursuant to Chapter 6 (commencing with  
11 Section 1200), shall recommend that the Legislature, by statute,  
12 adopt a schedule of pilotage rates providing fair and reasonable  
13 return to pilots and inland pilots engaged in ship movements or  
14 special operations where *if* rates for those movements or operations  
15 are not specified in Section 1190.

16 (b) ~~Every~~ A vessel using pilots and inland pilots for ship  
17 movements or special operations that do not constitute bar pilotage  
18 shall pay the rate specified in the schedule of pilotage rates adopted  
19 by the Legislature.

20 (c) Consistent with the board's adoption of rate  
21 recommendations in May 2002, the minimum rates imposed  
22 pursuant to this section that are in effect on December 31, 2002,  
23 shall be increased by 26 percent on January 1, 2003; those in effect  
24 on December 31, 2003, shall be increased by 26 percent on January  
25 1, 2004; those in effect on December 31, 2004, shall be increased  
26 by 14 percent on January 1, 2005; and those in effect on December  
27 31, 2005, shall be increased by 14 percent on January 1, 2006.

28 SEC. 24. Section 1196 of the Harbors and Navigation Code is  
29 amended to read:

30 1196. (a) In addition to other fees for pilotage, there shall be  
31 a surcharge in an amount established by the board for each  
32 movement of a vessel using pilot services for the pilot and inland  
33 pilot continuing education program established by the board.

34 (b) The moneys charged and collected each month from the  
35 pilot and inland pilot continuing education program surcharge shall  
36 be paid to the board. The moneys shall be used only to fund the  
37 pilot and inland pilot continuing education program in the manner  
38 established by the board.

1 (c) By action of the board, the board may adjust the amount  
2 established pursuant to subdivision (a) as necessary to efficiently  
3 administer the pilot-and-inland-pilot continuing education program.

4 SEC. 25. Section 1196.1 of the Harbors and Navigation Code  
5 is amended to read:

6 1196.1. (a) The moneys charged and collected each month  
7 from the pilot-and-inland-pilot continuing education surcharge  
8 pursuant to Section 1196 shall be paid to the Board of Pilot  
9 Commissioners' Special Fund pursuant to Section 1159. The  
10 moneys shall be used only to fund the pilot-and-inland-pilot  
11 continuing education program referred to in subdivision (h) of  
12 Section 1171.5 and Section 1196.3.

13 (b) Information regarding moneys remitted to the Board of Pilot  
14 Commissioners' Special Fund pursuant to Section 1159 collected  
15 from the surcharge authorized pursuant to Section 1196, or  
16 otherwise collected by the board for that purpose, and information  
17 regarding moneys spent as pilot-and-inland-pilot continuing  
18 education expenses authorized by Section 1196.3 shall be made  
19 available to the public upon request and to the board or its finance  
20 committee.

21 SEC. 26. Section 1196.3 of the Harbors and Navigation Code  
22 is amended to read:

23 1196.3. Pilot-and-inland-pilot continuing education expenses  
24 shall include all costs incurred by the board in the operation and  
25 administration of the pilot-and-inland-pilot continuing education  
26 program and all costs resulting from any contracts entered into for  
27 the purchase or lease of goods and services required by the board,  
28 including, but not limited to, the reimbursement of costs of services  
29 provided to the board by other governmental entities; and for the  
30 costs for any other goods and services necessary for effectuating  
31 the purposes of continuing education as determined by the board.