

Introduced by Senator BlakesleeFebruary 24, 2012

An act to amend Sections 1136, 1171, 1172, 1173, 1175, 1180, 1183, and 1196.1 of, to add Sections 1102, 1115.5, 1130.5, 1130.7, 1135, 1156.7, 1175.5, 1176.5, 1181.5, and 1196.2 to, to add Article 9 (commencing with Section 1142) to Chapter 1 of Division 5 of, to repeal Article 8 (commencing with Section 1140) of Chapter 1 of Division 5 of, and to repeal and add Sections 1137, 1171.5, 1177, and 1178 of, the Harbors and Navigation Code, relating to bar pilots.

LEGISLATIVE COUNSEL'S DIGEST

SB 1408, as introduced, Blakeslee. Bar pilots: Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

Existing law provides for the regulation and licensing of pilots for Monterey Bay, and the Bays of San Francisco, San Pablo, and Suisun, and the payment of specified pilotage rates and charges imposed on vessels piloted in those bays. Existing law also establishes in the Business, Transportation and Housing Agency, a Board of Pilot Commissioners for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun, and prescribes the membership, functions, and duties of the board.

Existing law requires a pilot to submit monthly to the board a verified account of all moneys or other compensation received by the pilot as a result of pilotage services, which includes specific information. Existing law requires the pilots to appoint a port agent to carry out the orders of the board, other applicable laws, and otherwise administer the affairs of the pilots.

This bill would, instead, require the port agent to submit to the board a verified account of all moneys or other compensation received by the

pilots as a result of pilotage services, including the specific information, and would require the port agent to provide additional data to the board annually and at other times that the board may direct.

Existing law prohibits a person from operating a vessel, other than a recreational vessel, for 24 hours if the person is found by a peace officer to have an alcohol concentration of 0.01% or more in his or her blood.

This bill would, notwithstanding that law, make it a misdemeanor for any pilot who has 0.01% or more, by weight, of alcohol in his or her blood to conduct any licensed activity, as defined. By creating a new crime, the bill would impose a state-mandated local program.

Existing law provides that the board shall have sole authority to determine the qualification for obtaining a pilot's license, and requires the board to adopt, by regulation, licensing standards that equal or exceed standards for obtaining federal endorsements that conform with and support state policy with regard to the safe operation of vessels.

This bill would revise certain licensing requirements for pilots and would authorize the board to deny a license on the ground that the applicant knowingly made any false statement of fact or a material omission of any fact required to be revealed in the application for a license, or to take certain action against a licensee to suspend or revoke a license for unprofessional conduct, as specified.

This bill would require the board to adopt a pilot fatigue mitigation and prevention program, with specified components. The bill would prescribe hours of service rules and portable pilot unit equipment requirements for pilots. The bill would authorize a pilot to refuse a pilotage assignment if physically or mentally fatigued or request the assignment of an additional pilot to assist in completing his or her assignment, but would subject the pilot to license suspension if the board finds the actions to be without merit or reasonable cause pursuant to a written explanation the pilot would be required to provide to the board within 48 hours of the refusal or request.

Existing law requires the board to adopt training standards and a training program for pilot trainees, and continuing education standards and a continuous education program for pilots.

This bill would subject a pilot identified by the board as requiring continuing education within a 12-month period who fails to complete continuing education to license suspension or revocation.

Existing law requires that the moneys charged and collected each month from pilots from the pilots continuing education surcharge be

paid to the Board of Pilot Commissioner’s Special Fund and used for pilots’ continuing education.

This bill would also authorize the use of those moneys for the continuing education programs required to be established by the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 1102 is added to the Harbors and
2 Navigation Code, to read:

3 1102. (a) It is the intent of the Legislature to provide for a
4 unified system of state regulated pilotage for Monterey Bay and
5 the Bays of San Francisco, San Pablo, and Suisun.

6 (b) The Legislature finds and declares the following:

7 (1) Unified pilotage will be beneficial to the safety of people,
8 vessels, and property using those bays and tributaries.

9 (2) Unified systems of regulated pilotage are common to ports
10 of the world and are most familiar to, and best able to serve, both
11 foreign and domestic vessels.

12 SEC. 2. Section 1115.5 is added to the Harbors and Navigation
13 Code, to read:

14 1115.5. “Port agent” means a person appointed by the pilots
15 to carry out the orders of the board, other applicable laws, and
16 otherwise administer the affairs of the pilots.

17 SEC. 3. Section 1130.5 is added to the Harbors and Navigation
18 Code, to read:

19 1130.5. (a) The port agent shall provide the following data to
20 the board annually and at those other times as the board may direct:

- 21 (1) Total number of vessel moves.
- 22 (2) Total number of pilots assigned to move vessels.
- 23 (3) Number of pilots assigned to move vessels each day.
- 24 (4) Number of bar crossings.
- 25 (5) Number of bay moves.
- 26 (6) Number of river moves.

- 1 (7) Average draft of piloted vessels.
- 2 (8) Average gross registered tonnage of piloted vessels.
- 3 (9) Number of pilots reported sick or injured and number of
- 4 days each was unable to perform piloting duties.
- 5 (10) Number of times a pilot resumed duties with less than 12
- 6 hours off duty, the contributing circumstances, and the actual hours
- 7 off duty between assignments.
- 8 (11) Number of pilot days during which pilots were engaged in
- 9 board-mandated training.
- 10 (12) Number of pilot days during which pilots were engaged in
- 11 administrative duties authorized by the port agent, with a
- 12 description of those duties.
- 13 (b) The data shall cover the previous 12-month period, or any
- 14 other period that the board may direct.
- 15 (c) All reports made under this section are public records.

16 SEC. 4. Section 1130.7 is added to the Harbors and Navigation
 17 Code, to read:

- 18 1130.7. (a) The port agent shall submit monthly to the board
- 19 a verified account of all moneys or other compensation received
- 20 by pilots as a result of pilotage services, or by any other person
- 21 for the pilot, or on the pilot’s account, on the forms furnished by
- 22 the board.
- 23 (b) The account shall include all of the following:
- 24 (1) The name of each vessel piloted.
- 25 (2) The name of each vessel for which pilotage has been charged
- 26 or collected.
- 27 (3) The amount charged to or collected for each vessel.
- 28 (4) Any rebates made and allowed and for what amounts.
- 29 (5) The amount of the fees and surcharges not collected pursuant
- 30 to Section 1193.
- 31 (6) The depth of each vessel’s draft and its highest gross
- 32 tonnage.
- 33 (7) Whether the vessel was inward or outward bound.
- 34 (c) The board shall record the accounts in a single location and
- 35 maintain the accounts as a public record.

36 SEC. 5. Section 1135 is added to the Harbors and Navigation
 37 Code, to read:

38 1135. (a) Notwithstanding Section 655.05, it is unlawful for
 39 any pilot who has 0.01 percent or more, by weight, of alcohol in

1 his or her blood to conduct any licensed activity. Any person who
2 violates this section is guilty of a misdemeanor.

3 (b) For purposes of this section, percent, by weight, of alcohol
4 in a person's blood is based upon grams of alcohol per 100
5 milliliters of blood or grams of alcohol per 210 liters of breath.

6 (c) For purposes of this section, it is a rebuttable presumption
7 that a licensee does not have 0.01 percent or more, by weight, of
8 alcohol in his or her blood if that person has not consumed any
9 alcohol in the immediately previous 14 hours.

10 (d) There is a rebuttable presumption that the person had 0.01
11 percent or more, by weight, of alcohol in his or her blood at the
12 time of conducting any licensed activity if the person had 0.01
13 percent or more, by weight, of alcohol in his or her blood at the
14 time of the performance of a chemical test within two hours after
15 the performance of those licensed activities.

16 (e) For purposes of this section, "licensed activity" means any
17 duty prescribed by this division or any activity otherwise required
18 to be performed by a pilot licensed under this division.

19 SEC. 6. Section 1136 of the Harbors and Navigation Code is
20 amended to read:

21 1136. A pilot licensed pursuant to this division shall do all of
22 the following:

23 (a) Take an oath of office in the manner prescribed by law.

24 ~~(b) Submit monthly to the board a verified account of all moneys
25 or other compensation received by the pilot as a result of pilotage
26 services, or by any other person for the pilot, or on the pilot's
27 account, on the forms furnished by the board.~~

28 *(b) Comply with the conflict-of-interest code required to be
29 adopted by the board pursuant to Section 1170.3.*

30 SEC. 7. Section 1137 of the Harbors and Navigation Code is
31 repealed.

32 ~~1137. (a) The account required pursuant to Section 1136 shall
33 show all of the following:~~

34 ~~(1) The name of each vessel piloted.~~

35 ~~(2) The name of each vessel for which pilotage has been charged
36 or collected.~~

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

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

39 ~~(5) The amount of the fees and surcharges not collected pursuant
40 to Section 1193.~~

1 ~~(6) The depth of each vessel's draft and its highest gross~~
2 ~~tonnage.~~

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

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

6 SEC. 8. Section 1137 is added to the Harbors and Navigation
7 Code, to read:

8 1137. A pilot shall at all times hold a valid license to pilot
9 vessels.

10 SEC. 9. Article 8 (commencing with Section 1140) of Chapter
11 1 of Division 5 of the Harbors and Navigation Code is repealed.

12 SEC. 10. Article 9 (commencing with Section 1142) is added
13 to Chapter 1 of Division 5 of the Harbors and Navigation Code,
14 to read:

15
16 Article 9. Navigational Safety

17
18 1142. Navigational safety is of the utmost concern in state
19 pilotage. In order to ensure and promote the highest level of safety
20 in pilotage, the board is empowered to effectively monitor and
21 oversee the practices of pilots.

22 1143. (a) The board shall publish operations guidelines for
23 the movement of vessels in the pilotage grounds subject to this
24 division no later than January 1, 2014. The board shall update
25 those guidelines, as necessary.

26 (b) The board may establish by regulation a public process
27 through which the operations guidelines for the movement of
28 vessels as made effective by subdivision (a) may be amended. The
29 public process established by the board pursuant to this subdivision
30 shall do all of the following:

31 (1) Specify a process for notifying the public and publishing
32 proposed amendments to the guidelines.

33 (2) Require that any proposed amendments are publicly
34 circulated for at least 45 days prior to a hearing by the board.

35 (3) Establish basic evaluation criteria that shall be considered
36 in the board's review of any proposed guideline amendments. Each
37 evaluation shall include, but is not limited to, a detailed description
38 of the manner, extent, and nature of how each of the operations
39 guideline amendments proposed to be adopted would be applied

1 to which channels, berths, ports, or other navigational locations
2 or hazards within the pilotage grounds subject to this division.

3 (c) Amendments to the operations guidelines shall be adopted
4 by a majority vote of the board.

5 (d) All amendments adopted by the board shall be integrated
6 into the operations guidelines managed by the board pursuant to
7 subdivision (a) and shall only be considered effective upon being
8 published after their adoption.

9 1144. (a) The board shall adopt, by regulation, continuing
10 education standards and a continuing education program for pilots.
11 The board shall specify the type, nature, duration, and frequency
12 of the continuing education required, including requirements for
13 recurring bridge resource management training.

14 (b) The board shall identify those pilots who are required to
15 undergo continuing education in the next 12-month period and
16 provide to the pilot and the public notice of this requirement.

17 (c) Pursuant to subdivision (j) of Section 1181, the license of a
18 pilot may be revoked or suspended if he or she fails to complete
19 the continuing education required by this subdivision during the
20 period specified.

21 (d) The board shall require that any institution selected by the
22 board to provide pilot continuing education prepare an evaluation
23 of each pilot's performance and the institution shall provide copies
24 of the evaluation to the pilot and to the board.

25 (e) The continuing education program for pilots shall be funded
26 from revenues collected for these purposes as determined by the
27 board, pursuant to Section 1196, and those revenues shall be
28 deposited into the Board of Pilot Commissioners' Special Fund
29 pursuant to Section 1159.

30 1145. (a) No later than January 1, 2014, the board shall adopt,
31 by regulation, a pilot fatigue mitigation and prevention program.

32 (b) The program shall do both of the following:

33 (1) Regularly inform pilots of the hazards of fatigue and of
34 effective strategies to prevent fatigue while on duty. This
35 requirement may be satisfied upon its inclusion into the continuing
36 education program for pilots established pursuant to this article.

37 (2) Promulgate hours of service rules that prevent fatigue
38 resulting from extended hours of service, insufficient rest within
39 a 24-hour period, and disruption of circadian rhythms.

1 1146. (a) (1) Notwithstanding any hours of service rules, to
2 the extent consistent with state and federal law, pilots shall receive
3 a mandatory minimum rest period of at least seven hours within
4 24 hours of completing any assignment or assignments that
5 cumulatively exceed seven hours in duration.

6 (2) A pilot who is operating in a manner consistent with the
7 hours of service rules adopted by the board may nonetheless be
8 relieved at the discretion of the port agent if the pilot has been on
9 assignment in excess of 12 consecutive hours.

10 (3) A pilot may be assigned to multiple bay moves if the final
11 bay move is finished within 10 hours of the time of the first bay
12 move.

13 (4) A pilot who is assigned to a vessel that is delayed in sailing
14 at a berth or original anchorage, for any reason, for longer than 12
15 hours from the pilot's time of arrival at the vessel shall be relieved
16 by the port agent.

17 (b) Notwithstanding the hour of service rules or any other
18 provision of this section, a pilot shall refuse a pilotage assignment
19 if the pilot is physically or mentally fatigued such that the pilot
20 has a reasonable belief that the assignment cannot be carried out
21 in a competent and safe manner. Upon refusing an assignment
22 under this subdivision, a pilot shall submit a written explanation
23 to the board within 48 hours. If the board finds that the pilot's
24 written explanation is without merit, or reasonable cause did not
25 exist for the assignment refusal, the pilot may be subject to the
26 suspension requirements of Section 1180.

27 (c) Any pilot assigned to a vessel may request that the port agent
28 assign an additional pilot to assist him or her in completing the
29 assignment, and the port agent shall thereafter specially assign
30 another pilot to assist the pilot making the request. Upon making
31 a request for an additional pilot assignment under this subdivision,
32 a pilot shall submit a written explanation to the board within 48
33 hours. If the board finds that the pilot's written explanation is
34 without merit, or reasonable cause did not exist for the additional
35 assignment, the pilot may be subject to Section 1180.

36 (d) The board shall regularly review the port agent's records
37 prepared pursuant to Section 1130.5 to ensure this section is
38 enforced.

39 1147. (a) A pilot shall equip himself or herself with a portable
40 pilot unit while piloting and be proficient in its use.

1 (b) For purposes of this section, a “portable pilot unit” shall
2 consist of a portable computer that has, at a minimum, the
3 capability to display all of the following information:

4 (1) Electronic navigational charts published by the National
5 Oceanographic and Atmospheric Administration or any other
6 competent federal agency inclusive of the pilotage grounds.

7 (2) The piloted vessel’s position and heading on the electronic
8 navigation charts to the accuracy required by the International
9 Maritime Organization for automatic identification systems.

10 (3) Other navigational information provided through the piloted
11 vessel’s automatic identification system pilot plug.

12 (c) A pilot is not required to be equipped with a portable pilot
13 unit pursuant to this section if an unacceptable safety hazard
14 prevents its carriage, and the pilot has reported the nature and
15 extent of the safety hazard to the port agent and the circumstances
16 of the unacceptable safety hazard that prevented carriage within
17 24 hours of the completion of the vessel transit.

18 (d) (1) The Legislature finds and declares that portable pilot
19 units are one of several navigational tools that can provide the pilot
20 with valuable information during the navigation of a vessel.

21 (2) This section does not impose any liability on a pilot who
22 does not use a portable pilot unit in the event an incident occurs.

23 (3) The lack of a portable pilot unit shall not preclude a pilot
24 from carrying out his or her piloting duties as otherwise required
25 by this division.

26 1148. (a) (1) The port agent shall not assign pilots in a manner
27 that is inconsistent with the operational guidelines or hours of
28 service rules adopted pursuant to this article.

29 (2) The port agent shall not refuse to assign pilots to any vessel
30 that seeks to be piloted in a manner consistent with the operational
31 guidelines adopted pursuant to this article.

32 (b) (1) A pilot does not have any obligation under this division
33 to pilot any vessel in a manner contrary to the operational
34 guidelines or hours of service rules adopted by the board pursuant
35 to this article.

36 (2) Except as otherwise authorized by this division, a pilot who
37 would not, if he or she refused, be in violation of the hours of
38 service rules shall not refuse service to any vessel if it seeks to be
39 piloted in a manner consistent with the operational guidelines
40 adopted pursuant to this article.

1 1149. The rulemaking provisions of the Administrative
2 Procedure Act (Chapter 3.5 (commencing with Section 11340))
3 of Part 1 of Division 3 of Title 2 of the Government Code) shall
4 not apply to any guideline, rule, or regulation adopted pursuant to
5 this article.

6 SEC. 11. Section 1156.7 is added to the Harbors and Navigation
7 Code, to read:

8 1156.7. If the executive director alerts the United States Coast
9 Guard to a violation or likely violation of safety standards pursuant
10 to Section 1156.6 and has reason to believe that the violation or
11 likely violation will not be corrected prior to the vessel reaching
12 its next port of call, the executive director shall request the United
13 States Coast Guard to report the suspected safety standard violation
14 to the port state control officer or a pilot organization in an
15 expected future port of call. This section does not preclude any
16 other party from disseminating any report of the findings and
17 recommendations of the executive director pursuant to Section
18 1156.6 and all those reports and findings shall be considered public
19 records.

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

22 1171. (a) The board shall have the sole authority to determine
23 the qualifications for obtaining a license as a pilot pursuant to this
24 division, determine who shall have the license, and issue the
25 license.

26 *(b) (1) The board shall adopt, by regulation, licensing standards*
27 *that equal or exceed standards for obtaining federal endorsements*
28 *and that conform with and support the state policy specified in*
29 *Sections 1100 and 1101.*

30 *(2) Persons applying for an original license shall not receive a*
31 *license unless they have proper federal endorsements allowing*
32 *them to pilot on the high seas and the waters of the bays as*
33 *provided under subdivision (e) of Section 1175.*

34 *(c) The board shall adopt reasonable rules and regulations that*
35 *require pilots to be qualified to perform all pilot duties.*

36 ~~(b)~~

37 *(d) A person possessing a valid state pilot's license on January*
38 *1, 1985, is hereby licensed as if the license was granted by the*
39 *board.*

1 SEC. 14. Section 1171.5 of the Harbors and Navigation Code
2 is repealed.

3 ~~1171.5. (a) The board shall adopt, by regulation, licensing~~
4 ~~standards that equal or exceed standards for obtaining federal~~
5 ~~endorsements and that conform with and support the state policy~~
6 ~~specified in Sections 1100 and 1101.~~

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

9 ~~(c) The board shall adopt, by regulation, training standards and~~
10 ~~a training program for pilot trainees, and continuing education~~
11 ~~standards and a continuing education program for pilots. In the~~
12 ~~case of pilot trainees, the training program shall be for a minimum~~
13 ~~of one year and a maximum of three years. In the case of pilots,~~
14 ~~the board shall specify the type, nature, duration, and frequency~~
15 ~~of the continuing education required and the identity of the pilots~~
16 ~~who are required to undergo continuing education in the next~~
17 ~~12-month period. Pursuant to Section 1182, the license of a pilot~~
18 ~~may be revoked or suspended if he or she fails to complete the~~
19 ~~continuing education required by this subdivision during the period~~
20 ~~specified. The board shall also require that an evaluation of the~~
21 ~~pilot's performance be prepared by the institution selected by the~~
22 ~~board to provide pilot continuing education, and the institution~~
23 ~~shall provide copies of the evaluation to the pilot and to the board.~~

24 ~~(d) The board shall adopt, by regulation, the qualifications,~~
25 ~~standards, and rating criteria for admission of pilot trainees to the~~
26 ~~training program. Notwithstanding subdivision (f), the board shall~~
27 ~~administer and conduct the pilot trainee admission selection in~~
28 ~~accordance with the regulations for admission.~~

29 ~~(e) The board shall establish a pilot evaluation committee~~
30 ~~consisting of five active pilots who each have at least 10 years'~~
31 ~~experience as a pilot on the Bays of San Francisco, San Pablo, and~~
32 ~~Suisun. The board shall select the members of the pilot evaluation~~
33 ~~committee. A member may not serve for more than two four-year~~
34 ~~terms, except that two of the initial members appointed to the pilot~~
35 ~~evaluation committee shall serve terms of two years.~~

36 ~~(f) The pilot evaluation committee shall conduct and supervise~~
37 ~~the pilot trainee training program pursuant to the direction and~~
38 ~~regulation of the board and consistent with the intent of this~~
39 ~~division.~~

1 ~~(g) The board shall issue a certificate of completion to each~~
2 ~~pilot trainee who satisfactorily completes the training program.~~
3 ~~The board shall not issue a pilot's license to a person who does~~
4 ~~not receive a certificate of completion of the training program from~~
5 ~~the board, although the board may refuse to issue a pilot license~~
6 ~~to a pilot trainee who has received this certificate.~~

7 ~~(h) The training program for pilot trainees and the continuing~~
8 ~~education program for pilots shall be funded from revenues~~
9 ~~collected for these purposes as determined by the board pursuant~~
10 ~~to Sections 1195 and 1196 and deposited into the Board of Pilot~~
11 ~~Commissioners' Special Fund pursuant to Section 1159.~~

12 SEC. 15. Section 1171.5 is added to the Harbors and Navigation
13 Code, to read:

14 1171.5. (a) The board shall adopt, by regulation, the
15 qualifications, standards, and rating criteria for admission of pilot
16 trainees to the training program. Notwithstanding subdivision (d),
17 the board shall administer and conduct the pilot trainee admission
18 selection in accordance with the regulations for admission.

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

27 (c) 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 (d) 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 a person who does
34 not receive a certificate of completion of the training program from
35 the board, although the board may refuse to issue a pilot license
36 to a pilot trainee who has received this certificate.

37 (e) The training program for pilot trainees shall be funded from
38 revenues collected for these purposes as determined by the board
39 pursuant to Sections 1195 and 1196 and deposited into the Board
40 of Pilot Commissioners' Special Fund pursuant to Section 1159.

1 SEC. 16. Section 1172 of the Harbors and Navigation Code is
2 amended to read:

3 1172. (a) Pilots licensed by the board shall be carefully
4 examined as to their qualifications. ~~A license as a pilot shall~~

5 (b) *Each pilot license shall be granted for a term of 12 months.*
6 ~~The~~

7 (c) *The license shall be renewed annually unless the board has*
8 *good cause to withhold renewal pursuant to ~~Article 2 (commencing~~*
9 *with ~~Section 1180~~) of this chapter.*

10 (d) *A pilot license may be renewed by the board only upon*
11 *receipt of a complete application pursuant to this chapter and*
12 *successful completion of the physical examination required by*
13 *Section 1176.*

14 (e) *A pilot license shall not be renewed if the pilot possessing*
15 *the license does not actively pilot vessels for any consecutive period*
16 *of one year, unless the board determines that the pilot is qualified*
17 *and makes one of the following findings:*

18 (1) *The pilot has presented satisfactory proof of medical*
19 *disability during that period.*

20 (2) *The board has granted the pilot a leave of absence without*
21 *pay during that period.*

22 (3) *The pilot has been serving as port agent under Section 1130.*

23 SEC. 17. Section 1173 of the Harbors and Navigation Code is
24 amended to read:

25 1173. (a) An application for a pilot's license shall be made
26 in writing to the board, stating ~~such~~ *that* information as the board
27 by rule and regulation may require.

28 (b) *An application includes the original documents or writings*
29 *filed pursuant to this section and any other supporting documents*
30 *or writings provided or filed in support of the application whether*
31 *provided or filed by the applicant or by any other person in support*
32 *of the application and whether contemporaneously or later.*

33 SEC. 18. Section 1175 of the Harbors and Navigation Code is
34 amended to read:

35 1175. ~~No~~ *A person shall not be licensed as a pilot unless all of*
36 *the following requirements are met:*

37 (a) *The person can meet the qualifications set by the board,*
38 *including age limitations, if any.*

39 (b) *The person is of good mental and physical health and good*
40 *moral character.*

1 (c) The person possesses the requisite skill and experience as a
2 navigator and pilot, together with practical knowledge of the
3 currents, tide, soundings, bearings, and distances of the several
4 shoals, and the rocks, bars, points of landings, lights, and fog
5 signals of, or pertaining to, the navigation of the pilot ground for
6 which the person applies for a license to act as a pilot.

7 (d) The person can satisfy the board that the person has means
8 available for boarding and leaving vessels which the person may
9 be called upon to pilot.

10 (e) (1) *The person obtains and maintains proper federal*
11 *endorsements allowing him or her to pilot the high seas and on*
12 *all waters of the Bays of San Francisco, San Pablo, and Suisun,*
13 *excluding the San Joaquin River and the Sacramento deep water*
14 *ship channel.*

15 (2) *Notwithstanding paragraph (1), each person issued an*
16 *original license pursuant to this division on or after December 31,*
17 *1987, shall have and maintain proper federal endorsements*
18 *allowing him or her to pilot on the high seas and on all waters of*
19 *the Bays of San Francisco, San Pablo, and Suisun, including the*
20 *San Joaquin River and the Sacramento deep water ship channel.*

21 (3) *With respect to licenses issued pursuant to this division for*
22 *pilotage on Monterey Bay, the person shall have and maintain*
23 *proper federal endorsements allowing him or her to pilot on the*
24 *high seas and on all the waters of Monterey Bay.*

25 SEC. 19. Section 1175.5 is added to the Harbors and Navigation
26 Code, to read:

27 1175.5. (a) The board may deny a license on the ground that
28 the applicant knowingly made any false statement of fact or a
29 material omission of any fact required to be revealed in the
30 application for the license.

31 (b) The board may deny a license on the ground that the
32 applicant has violated Section 123 of the Business and Professions
33 Code as it may pertain to subversion of pilot trainee admittance
34 examinations.

35 (c) "Material" includes a statement or omission substantially
36 related to the qualifications, functions, or duties of pilotage.

37 SEC. 20. Section 1176.5 is added to the Harbors and Navigation
38 Code, to read:

39 1176.5. (a) At the time of the physical examination, the trainee
40 applicant shall disclose to the board appointed physician conducting

1 the physical examination pursuant to Section 1176 any and all of
2 the following if applicable:

3 (1) If at any time prior to the examination the trainee applicant
4 has been rendered incapable of safely operating a vessel or any
5 other motor vehicle because of alcoholism, excessive and chronic
6 use of alcoholic beverages, or addiction to, or habitual use of, any
7 drug.

8 (2) If at any time prior to the examination the trainee applicant
9 has been addicted to the use of narcotic drugs or participated in a
10 narcotic treatment program.

11 (3) If at any time prior to the examination the trainee applicant
12 has suffered from a disorder characterized by lapses of
13 consciousness or has experienced, within the last three years, either
14 a lapse of consciousness or an episode of marked confusion caused
15 by any condition which may bring about recurrent lapses, or has
16 any physical or mental disability, disease, or disorder which could
17 affect the safe operation of a vessel or motor vehicle.

18 (b) At the time of the physical examination, the licensee shall
19 disclose to the board appointed physician conducting the physical
20 examination pursuant to Section 1176 any and all of the following
21 if applicable:

22 (1) If at any time during the year prior to the examination the
23 licensee applicant has been rendered incapable of safely operating
24 a vessel or any other motor vehicle because of alcoholism,
25 excessive and chronic use of alcoholic beverages, or addiction to,
26 or habitual use of, any drug.

27 (2) If at any time during the year prior to the examination the
28 licensee has been addicted to the use of narcotic drugs or
29 participated in a narcotic treatment program.

30 (3) If at any time during the year prior to the examination the
31 licensee has suffered from a disorder characterized by lapses of
32 consciousness or has experienced either a lapse of consciousness
33 or an episode of marked confusion caused by any condition which
34 may bring about recurrent lapses, or has any physical or mental
35 disability, disease, or disorder which could affect the safe operation
36 of a vessel or any other motor vehicle.

37 (c) The board may refuse to admit a trainee applicant to the
38 training program or to issue or renew a license to any person when
39 the board appointed physician conducting the physical examination
40 pursuant to Section 1176 determines that the trainee applicant, the

1 license applicant, or licensee excessively or habitually uses, or is
2 addicted to, alcoholic beverages, narcotics, or dangerous drugs.

3 (d) The board shall not admit a trainee applicant or shall not
4 issue a license to a pilot license applicant or a pilot license renewal
5 applicant who fails to submit the information required by this
6 section.

7 SEC. 21. Section 1177 of the Harbors and Navigation Code is
8 repealed.

9 ~~1177. (a) All pilots licensed pursuant to this division shall
10 have and maintain proper federal endorsements allowing them to
11 pilot on the high seas and on all waters of the Bays of San
12 Francisco, San Pablo, and Suisun, excluding the San Joaquin River
13 and the Sacramento deep water ship channel.~~

14 ~~(b) Notwithstanding subdivision (a), all pilots issued original
15 licenses pursuant to this division after December 31, 1987, shall
16 have and maintain proper federal endorsements allowing them to
17 pilot on the high seas and on all waters of the Bays of San
18 Francisco, San Pablo, and Suisun, including the San Joaquin River
19 and the Sacramento deep water ship channel.~~

20 ~~(c) All pilots licensed pursuant to this division for Monterey
21 Bay shall have and maintain proper federal endorsements allowing
22 them to pilot on the high seas and on all the waters of Monterey
23 Bay.~~

24 SEC. 22. Section 1177 is added to the Harbors and Navigation
25 Code, to read:

26 1177. (a) Upon the refusal to issue or renew a pilot license,
27 the board's proceedings shall be conducted in accordance with
28 Chapter 5 (commencing with Section 11500) of Part 1 of Division
29 3 of Title 2 of the Government Code.

30 (b) The board may deny an application for a license without a
31 hearing, if within one year previously, and after proceedings
32 conducted in accordance with Chapter 5 (commencing with Section
33 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
34 an application from the same applicant has been denied upon the
35 same grounds.

36 (c) Notwithstanding any other law, in any action taken by the
37 board to deny an application for a license or renewal of a license
38 upon the ground that the applicant or the licensee has been
39 convicted of a crime substantially related to the qualifications,
40 functions, and duties of pilotage, the record of conviction of the

1 crime shall be conclusive evidence of the fact that the conviction
2 occurred, but only of that fact, and the board may inquire into the
3 circumstances surrounding the commission of the crime in order
4 to fix the degree of discipline or to determine if the conviction is
5 substantially related to the qualifications, functions, and duties of
6 pilotage.

7 SEC. 23. Section 1178 of the Harbors and Navigation Code is
8 repealed.

9 ~~1178. Persons applying for an original license shall not receive
10 a license unless they have proper federal endorsements allowing
11 them to pilot on the high seas and all the waters of those bays
12 pursuant to Section 1171.~~

13 SEC. 24. Section 1178 is added to the Harbors and Navigation
14 Code, to read:

15 1178. (a) The board shall participate in a pull-notice system,
16 pursuant to Section 1808.1 of the Vehicle Code, with respect to
17 all pilot trainees.

18 (b) The port agent shall participate in a pull-notice system,
19 pursuant to Section 1808.1 of the Vehicle Code, with respect to
20 all pilots.

21 (c) The purpose of board and port agent participation in a
22 pull-notice system pursuant to this section is to provide the board
23 with a report showing each pilot's current public record as recorded
24 by the Department of Motor Vehicles, and any subsequent
25 convictions, failures to appear, accidents, driver's license
26 suspensions, driver's license revocations, or any other actions
27 taken against the driving privilege or certificate, added to the
28 driver's record while the notification request remains valid and
29 uncanceled.

30 (d) As used in this section, participation in the pull-notice system
31 means obtaining a requester code and enrolling all pilots and
32 trainees who are subject to the board's jurisdiction under that
33 requester code.

34 (e) The board and port agent shall, additionally, obtain a periodic
35 report from the Department of Motor Vehicles at least every 12
36 months. The port agent shall verify that each pilot's driver's license
37 has not been suspended or revoked and whether the pilot has been
38 convicted of a violation of Section 23152 or 23153 of the Vehicle
39 Code or Section 655, or any other related conviction. If obtained
40 by the port agent, the report shall be signed and dated by the port

1 agent and presented to the board. If obtained by the board, the
2 executive director shall sign and date the report and file it
3 appropriately upon presentation to the pilot evaluation committee.

4 (f) Upon the termination of a pilot’s license, the port agent shall
5 notify the Department of Motor Vehicles to discontinue the driver’s
6 enrollment in the pull-notice system.

7 (g) For the purposes of the pull-notice system and periodic report
8 process required by subdivisions (a) and (b), a pilot and pilot
9 trainee shall be enrolled as if he or she were an employee.

10 (h) The board and port agent shall both be exempt from any
11 fees required under the pull-notice system, pursuant to Section
12 1808.1 of the Vehicle Code.

13 SEC. 25. Section 1180 of the Harbors and Navigation Code is
14 amended to read:

15 1180. If, in the opinion of the board, there is reasonable cause
16 to believe that the public interest requires that a pilot be summarily
17 suspended pending hearing on charges of misconduct that include
18 any of the causes for suspension or revocation specified in Section
19 1181 *or* 1181.5 or if the board has information that leads it to
20 believe that a pilot has become unable to comply with the standards
21 of health or physical condition requisite to a pilot’s duties, the
22 board may, without hearing, temporarily suspend the license of
23 the pilot for not exceeding 40 days pending hearing and decision
24 on the charges. Unless an accusation on the charge is served on
25 the pilot as provided in Chapter 5 (commencing with Section
26 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
27 prior to the close of the sixth day after the suspension becomes
28 effective, the temporary suspension terminates at the close of the
29 sixth day.

30 SEC. 26. Section 1181.5 is added to the Harbors and Navigation
31 Code, to read:

32 1181.5. (a) In addition to any other action that the board is
33 permitted to take against a licensee, the board may suspend or
34 revoke a license for unprofessional conduct under this section.

35 (b) Notwithstanding any other law, the board may exercise any
36 authority to discipline a licensee for conviction of a crime that is
37 independent of the authority granted under subdivision (a) only if
38 the crime is substantially related to the qualifications, functions,
39 or duties of pilotage and is determined to be unprofessional
40 conduct.

1 (c) A conviction within the meaning of subdivision (b) means
2 a plea or verdict of guilty or a conviction following a plea of nolo
3 contendere. An action that a board is permitted to take following
4 the establishment of a conviction may be taken when the time for
5 appeal has elapsed, or the judgment of conviction has been affirmed
6 on appeal, or when an order granting probation is made suspending
7 the imposition of sentence, irrespective of a subsequent order under
8 Section 1203.4 of the Penal Code. The record of conviction shall
9 be conclusive evidence of the fact that the conviction occurred.

10 (d) For purposes of this section, the following constitutes
11 unprofessional conduct:

12 (1) The improper use of equipment maintained exclusively for
13 pilotage. This paragraph shall not be construed to require the use
14 of a pilot boat in order to provide pilotage services for Monterey
15 Bay.

16 (2) Operating on territorial waters not described in the license.

17 (3) The conviction of a charge of violating any federal statutes
18 or regulations or any statute or regulation of this state, regulating
19 dangerous drugs or controlled substances.

20 (4) The revocation, suspension, or other discipline, restriction,
21 or limitation imposed by another state upon a license or certificate
22 to provide pilotage issued by that state, or the revocation,
23 suspension, or restriction of the authority to provide pilotage by
24 any agency of the federal government, that would have been
25 grounds for discipline in the state of a licensee under this chapter.

26 (5) Securing a license or renewal of a license by fraud, deceit,
27 or knowing misrepresentation of a material fact or by knowingly
28 omitting to state a material fact.

29 (6) In support of another person's application for license or in
30 evaluation of another person's participation in a trainee training
31 program, knowingly making a false statement of a material fact
32 or knowingly omitting to state a material fact to the board regarding
33 the application or training.

34 (7) The conviction of a charge of driving under the influence
35 under the statutes of this or any other state or in violation of any
36 federal statutes or regulations.

37 (e) This section establishes an independent basis for the board
38 to impose discipline upon a licensee.

39 SEC. 27. Section 1183 of the Harbors and Navigation Code is
40 amended to read:

1 ~~1183. (a) Upon notification of nonrenewal of the license, a~~
2 ~~pilot is entitled to a trial and hearing in the same manner that other~~
3 ~~charges and accusations against pilots are tried.~~

4 ~~(b) In~~

5 *1183. In every case of nonrenewal, suspension, or revocation*
6 *of the license of a pilot for cause, the final decision of the board*
7 *is subject to judicial review in accordance with law, and the court*
8 *shall exercise its independent judgment on the evidence.*

9 SEC. 28. Section 1196.1 of the Harbors and Navigation Code
10 is amended to read:

11 1196.1. (a) The moneys charged and collected each month
12 from the pilot continuing education surcharge pursuant to Section
13 1196 shall be paid to the Board of Pilot Commissioners' Special
14 Fund pursuant to Section 1159. The moneys shall be used only to
15 fund the pilot continuing education program referred to in
16 ~~subdivision (h) of Section 1171.5 and Section~~ *Sections 1144,*
17 *1196.2, and 1196.3.*

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

25 SEC. 29. Section 1196.2 is added to the Harbors and Navigation
26 Code, to read:

27 1196.2. (a) Costs resulting from the provision of continuing
28 education for currently licensed pilots regarding instruction in the
29 proper utilization of portable pilot unit equipment and software,
30 if determined to be necessary for effectuating the purposes of
31 continuing education by the board, shall be considered pilot
32 continuing education expenses pursuant to Section 1196.3.

33 (b) Subdivision (a) shall apply only to those costs incurred after
34 January 1, 2013.

35 SEC. 30. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

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