

AMENDED IN SENATE JUNE 23, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 656

Introduced by Assembly Member Huber

February 16, 2011

An act to add Division 4.5 (commencing with Section 1100) to, to add Chapter 7 (commencing with Section 1220) to Division 5 of, and to repeal Division 5 (commencing with Section 1100) of, the Harbors and Navigation Code, relating to bay pilots. An act to repeal Sections 472.5 and 7137.5 of the Business and Professions Code, to amend Section 1795.92 of the Civil Code, to repeal Article 5 (commencing with Section 14380) of Chapter 3 of Division 5 of the Financial Code, to amend Sections 11121.1 and 26509 of the Government Code, to amend Sections 62.9, 63.6, 71.4, 71.7, 72.6, 76.5, and 76.6 of, to amend the heading of Division 1 (commencing with Section 30) of, to add Chapter 7 (commencing with Section 1220) to Division 5, to add Division 4.5 (commencing with Section 1100) to, to repeal Sections 31 and 704 of, and to repeal Chapter 3 (commencing with Section 80) of Division 1 of, and to repeal Division 5 (commencing with Section 1100) of, the Harbors and Navigation Code, to repeal Chapter 2 (commencing with Section 22000) of Part 3 of Division 2 of the Public Contract Code, and to amend Section 1803.5 of, to repeal Section 232 of, and to repeal Chapter 6 (commencing with Section 3000) of Division 2 of, the Vehicle Code, relating to boards and commissions. (PU RN20112123007) (PU 20110AB__065698AMD)

LEGISLATIVE COUNSEL'S DIGEST

AB 656, as amended, Huber. ~~Bar pilots: Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun. Boards and commissions: repeal.~~

Existing law establishes the Credit Union Advisory Committee in the Department of Financial Institutions. The duties of this committee include advising the commissioner and the Deputy Commissioner of Financial Institutions for the Division of Credit Unions on matters relating to credit unions and the credit union business.

Existing law establishes the Boating and Waterways Commission in the Department of Boating and Waterways. The duties of this committee include advising the department, recommending proposed changes to regulations, and causing studies and surveys to be made of the need for small craft harbors and connecting waterways throughout the state.

Existing law establishes the California Uniform Construction Cost Accounting Commission. The duties of this commission include recommending, for adoption by the Controller, uniform construction cost accounting procedures for implementation by public agencies in the performance of, or in contracting for, construction on public projects.

Existing law also establishes the New Motor Vehicle Board in the Department of Motor Vehicles. The duties of which include collecting fees for the administration of the certification of third-party dispute resolution processes for new motor vehicles established under the Business and Professions Code and resolving issues raised by protests or petitions filed with the board pursuant to, among other actions, an appeal from a decision of the Department of Motor Vehicles, and the regulation of franchises subject to the Vehicle Code.

This bill would, as of January 1, 2014, abolish those boards and commissions and the duties and responsibilities carried out by each of those boards and commissions.

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 of, and functions and duties of, the board.

This bill would, on January 1, 2014, repeal those provisions that require the licensing of pilots in Monterey Bay, and the Bays of San Francisco, San Pablo, and Suisun, and that require the payment of specified pilotage rates and charges imposed on vessels piloted in those bays. The bill would also eliminate the board, and would recast and reenact certain provisions that regulate pilots for those bays, as provided.

~~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 of, and functions and duties of the board. Existing law establishes the Board of Pilot Commissioners' Special Fund, a continuously appropriated fund, for the purposes of receiving moneys received by the board in the implementation of the above provisions.~~

~~This bill would, on January 1, 2014, eliminate the board and transfer the board's functions and duties to the Secretary of Business, Transportation and Housing, and would recast and reenact certain provisions that regulate pilots for those bays, as provided. The bill would rename the Board of Pilot Commissioners' Special Fund as the Bar Pilot Special Fund.~~

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 472.5 of the Business and Professions
- 2 Code is repealed.
- 3 472.5. The New Motor Vehicle Board in the Department of
- 4 Motor Vehicles shall, in accordance with the procedures prescribed
- 5 in this section, administer the collection of fees for the purposes
- 6 of fully funding the administration of this chapter.
- 7 (a) Fees collected pursuant to this section shall be deposited in
- 8 the Certification Account in the Consumer Affairs Fund and shall
- 9 be available, upon appropriation by the Legislature, exclusively
- 10 to pay the expenses incurred by the department in administering
- 11 this chapter and to pay the New Motor Vehicle Board as provided

1 in Section 3016 of the Vehicle Code. If, at the conclusion of any
2 fiscal year, the amount of fees collected exceeds the amount of
3 expenditures for that purpose during that fiscal year, the surplus
4 in the Certification Account shall be carried over into the
5 succeeding fiscal year.

6 (b) Beginning July 1, 1988, and on or before May 1 of each
7 calendar year thereafter, every manufacturer shall file with the
8 New Motor Vehicle Board a statement of the number of motor
9 vehicles sold, leased, or otherwise distributed by or for the
10 manufacturer in this state during the preceding calendar year, and
11 shall, upon written notice delivered to the manufacturer by certified
12 mail, return receipt requested, pay to the New Motor Vehicle Board
13 a fee, not to exceed one dollar (\$1) for each motor vehicle sold,
14 leased, or distributed by or for the manufacturer in this state during
15 the preceding calendar year. The total fee paid by each
16 manufacturer shall be rounded to the nearest dollar in the manner
17 described in Section 9559 of the Vehicle Code. Not more than one
18 dollar (\$1) shall be charged, collected, or received from any one
19 or more manufacturers pursuant to this subdivision with respect
20 to the same motor vehicle.

21 (c) (1) The fee required by subdivision (b) is due and payable
22 not later than 30 days after the manufacturer has received notice
23 of the amount due and is delinquent after that time. A penalty of
24 10 percent of the amount delinquent shall be added to that amount,
25 if the delinquency continues for more than 30 days.

26 (2) If a manufacturer fails to file the statement required by
27 subdivision (b) by the date specified, the New Motor Vehicle Board
28 shall assess the amount due from the manufacturer by using as the
29 number of motor vehicles sold, leased, or otherwise distributed by
30 or for the manufacturer in this state during the preceding calendar
31 year the total number of new registrations of all motor vehicles
32 sold, leased, or otherwise distributed by or for the manufacturer
33 during the preceding calendar year.

34 (d) On or before February 1 of each year, the department shall
35 notify the New Motor Vehicle Board of the dollar amount
36 necessary to fully fund the program established by this chapter
37 during the following fiscal year. The New Motor Vehicle Board
38 shall use this information in calculating the amounts of the fees to
39 be collected from manufacturers pursuant to this section.

1 ~~(e) For purposes of this section, “motor vehicle” means a new~~
2 ~~passenger or commercial motor vehicle of a kind that is required~~
3 ~~to be registered under the Vehicle Code, but the term does not~~
4 ~~include a motorcycle, a motor home, or any vehicle whose gross~~
5 ~~weight exceeds 10,000 pounds.~~

6 ~~(f) The New Motor Vehicle Board may adopt regulations to~~
7 ~~implement this section. The regulations shall include, at a~~
8 ~~minimum, a formula for calculating the fee, established pursuant~~
9 ~~to subdivision (b), for each motor vehicle and the total amount of~~
10 ~~fees to be collected from each manufacturer.~~

11 ~~(g) Any revenues already received by the Arbitration~~
12 ~~Certification Program and deposited in the Vehicle Inspection and~~
13 ~~Repair Fund for the 1991-92 fiscal year that have not yet been~~
14 ~~spent shall be deposited into the Certification Account in the~~
15 ~~Consumer Affairs Fund.~~

16 ~~SEC. 2. Section 7137.5 of the Business and Professions Code~~
17 ~~is repealed.~~

18 ~~7137.5. The sum of ten thousand dollars (\$10,000) shall be~~
19 ~~transferred from the Contractors’ License Fund to the Controller~~
20 ~~for the exclusive use of the California Uniform Construction Cost~~
21 ~~Accounting Commission.~~

22 ~~The commission shall prepare a recommendation to the~~
23 ~~Legislature for a local public agency source to fund the commission~~
24 ~~beginning July 1, 1991, which will provide revenue supported by~~
25 ~~the contract activities represented by the commission’s authority.~~

26 ~~Upon adoption of this funding program, the commission shall~~
27 ~~reimburse the Contractors’ License Fund in the amount of ten~~
28 ~~thousand dollars (\$10,000).~~

29 ~~SEC. 3. Section 1795.92 of the Civil Code is amended to read:~~

30 ~~1795.92. Manufacturers shall have the following duties:~~

31 ~~(a) A manufacturer shall, within 90 days of the adoption of an~~
32 ~~adjustment program, subject to priority for safety or~~
33 ~~emission-related recalls, notify by first-class mail all owners or~~
34 ~~lessees of motor vehicles eligible under the program of the~~
35 ~~condition giving rise to and the principal terms and conditions of~~
36 ~~the program.~~

37 ~~(b) Copies of all notices mailed in accordance with subdivision~~
38 ~~(a) shall be sent to the New Motor Vehicle Board within the~~
39 ~~Department of Motor Vehicles and made available for public~~
40 ~~inquiries.~~

1 (c) A manufacturer shall, within 30 days of the adoption of any
2 new adjustment program, notify its dealers, in writing, of all the
3 terms and conditions ~~thereof~~ of the new adjustment program.

4 (d) A manufacturer who establishes an adjustment program
5 shall implement procedures to assure reimbursement of each
6 consumer eligible under an adjustment program who incurs
7 expenses for repair of a condition subject to the program prior to
8 acquiring knowledge of the program. The reimbursement shall be
9 consistent with the terms and conditions of the particular program.
10 The manufacturer shall notify the consumer within 21 business
11 days of receiving a claim for reimbursement whether the claim
12 will be allowed or denied. If the claim is denied, the specific
13 reasons for the denial shall be stated in writing.

14 (e) Any consumer who, prior to acquiring knowledge of an
15 adjustment program, incurs expenses for repair of a condition
16 subject to the adjustment program may file a claim for
17 reimbursement under subdivision (d). The claim shall be made in
18 writing to the manufacturer within two years of the date of the
19 consumer's payment for repair of the condition.

20 *SEC. 4. Article 5 (commencing with Section 14380) of Chapter*
21 *3 of Division 5 of the Financial Code is repealed.*

22 *SEC. 5. Section 11121.1 of the Government Code is amended*
23 *to read:*

24 11121.1. As used in this article, "state body" does not include
25 any of the following:

26 (a) State agencies provided for in Article VI of the California
27 Constitution.

28 (b) Districts or other local agencies whose meetings are required
29 to be open to the public pursuant to the Ralph M. Brown Act
30 (Chapter 9 (commencing with Section 54950) of Part 1 of Division
31 2 of Title 5).

32 (c) State agencies provided for in Article IV of the California
33 Constitution whose meetings are required to be open to the public
34 pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2
35 (commencing with Section 9027) of Chapter 1.5 of Part 1 of
36 Division 2 of Title 2).

37 (d) State agencies when they are conducting proceedings
38 pursuant to Section 3596.

1 (e) State agencies provided for in Section 109260 of the Health
2 and Safety Code, except as provided in Section 109390 of the
3 Health and Safety Code.

4 ~~(f) The Credit Union Advisory Committee established pursuant~~
5 ~~to Section 14380 of the Financial Code.~~

6 SEC. 6. *Section 26509 of the Government Code is amended to*
7 *read:*

8 26509. (a) Notwithstanding any other provision of law,
9 including any provision making records confidential, and including
10 Title 1.8 (commencing with Section 1798) of Part 4 of Division 3
11 of the Civil Code, the district attorney shall be given access to,
12 and may make copies of, any complaint against a person subject
13 to regulation by a consumer-oriented state agency and any
14 investigation of the person made by the agency, where that person
15 is being investigated by the district attorney regarding possible
16 consumer fraud.

17 (b) ~~Where~~ *If* the district attorney does not take action with
18 respect to the complaint or investigation, the material shall remain
19 confidential.

20 (c) ~~Where~~ *If* the release of the material would jeopardize an
21 investigation or other duties of a consumer-oriented state agency,
22 the agency shall have discretion to delay the release of the
23 information.

24 (d) As used in this section, a consumer-oriented state agency is
25 any state agency that regulates the licensure, certification, or
26 qualification of persons to practice a profession or business within
27 the state, ~~where~~ *if* the regulation is for the protection of consumers
28 who deal with the professionals or businesses. It includes, but is
29 not limited to, all of the following:

- 30 (1) The Dental Board of California.
- 31 (2) The Medical Board of California.
- 32 (3) The State Board of Optometry.
- 33 (4) The California State Board of Pharmacy.
- 34 (5) The Veterinary Medical Board.
- 35 (6) The California Board of Accountancy.
- 36 (7) The California Architects Board.
- 37 (8) The State Board of Barbering and Cosmetology.
- 38 (9) The Board for Professional Engineers and Land Surveyors.
- 39 (10) The Contractors' State License Board.
- 40 ~~(11) The Funeral Directors and Embalmers Program.~~

- 1 (11) *Cemetery and Funeral Bureau.*
- 2 (12) The Structural Pest Control Board *within the Department*
- 3 *of Pesticide Regulation.*
- 4 (13) The Bureau of ~~Home Furnishings~~ *Electronic and Appliance*
- 5 *Repair, Home Furnishings,* and Thermal Insulation.
- 6 (14) The Board of Registered Nursing.
- 7 (15) The State Board of Chiropractic Examiners.
- 8 (16) The Board of ~~Behavioral Science Examiners~~ *Sciences.*
- 9 (17) The State Athletic Commission.
- 10 ~~(18) The Cemetery Program.~~
- 11 ~~(19)~~
- 12 ~~(18)~~ The State Board of Guide Dogs for the Blind.
- 13 ~~(20)~~
- 14 ~~(19)~~ The Bureau of Security and Investigative Services.
- 15 ~~(21)~~
- 16 ~~(20)~~ The Court Reporters Board of California.
- 17 ~~(22)~~
- 18 ~~(21)~~ The Board of Vocational Nursing and Psychiatric
- 19 *Technicians of the State of California.*
- 20 ~~(23)~~
- 21 ~~(22)~~ The Osteopathic Medical Board of California.
- 22 ~~(24)~~
- 23 ~~(23)~~ The Division of Investigation.
- 24 ~~(25)~~
- 25 ~~(24)~~ The Bureau of Automotive Repair.
- 26 ~~(26) The State Board for Geologists and Geophysicists.~~
- 27 ~~(27)~~
- 28 ~~(25)~~ The Department of Alcoholic Beverage Control.
- 29 ~~(28)~~
- 30 ~~(26)~~ The Department of Insurance.
- 31 ~~(29)~~
- 32 ~~(27)~~ The Public Utilities Commission.
- 33 ~~(30)~~
- 34 ~~(28)~~ The State Department of ~~Health Services~~ *Public Health.*
- 35 ~~(31) The New Motor Vehicle Board.~~
- 36 *SEC. 7. The heading of Division 1 (commencing with Section*
- 37 *30) of the Harbors and Navigation Code is amended to read:*

DIVISION 1. DEPARTMENT OF BOATING AND
WATERWAYS ~~AND THE BOATING AND WATERWAYS~~
COMMISSION

SEC. 8. Section 31 of the Harbors and Navigation Code is repealed.

~~31. "Commission" means the Boating and Waterways Commission.~~

SEC. 9. Section 62.9 of the Harbors and Navigation Code is amended to read:

62.9. Upon request, the department shall make available to persons owning or operating small craft harbors, ~~such information as is available to the commission~~ concerning the following:

(a) The maintenance and improvement of existing small craft harbor facilities.

(b) The application of new technical materials and concepts.

(c) The preparation of feasibility reports, environmental impact reports, permits, and other steps required to develop new small craft harbor facilities.

SEC. 10. Section 63.6 of the Harbors and Navigation Code is amended to read:

63.6. (a) (1) On or before January 15 of each odd-numbered year, the director shall make a report to the ~~commission, the~~ Legislature, and the Governor covering the operations of the department for the preceding biennium.

(2) With respect to Article 5 (commencing with Section 76), the report shall include all of the following:

(A) The total amount of loans made in each of the two fiscal years immediately preceding the preparation and submission of the report.

(B) For each recipient of a loan during each of the two fiscal years immediately preceding the preparation and submission of the report, the recipient's name, the location of the marina for which the loan was made, and the amount of the loan.

(C) The financial status of each loan.

(D) Any legislative recommendations.

(3) The report shall also include the status of the department's activities related to the monitoring of rates pursuant to Section 71.4 and subdivision (d) of Section 76.7.

(4) The report shall also include an evaluation of the public participation in the personal watercraft education course developed by the department pursuant to subdivision (b) of Section 668.3 and a determination of the effect of the course on personal watercraft safety in California.

(b) The department shall also make any special reports that are requested by the Secretary of Resources or the Governor.

SEC. 11. Section 71.4 of the Harbors and Navigation Code is amended to read:

71.4. (a) (1) The department, subject to the approval of the Legislature in accordance with Section 85.2, may make loans to qualified cities, counties, or districts having power to acquire, construct, and operate small craft harbors, for the design, planning, acquisition, construction, improvement, maintenance, or operation of small craft harbors and facilities in connection with the harbors, and connecting waterways, if the department finds that the project is feasible.

(2) The minimum annual rate of interest charged by the department for a loan shall be set annually ~~by the commission and shall be based on the Pooled Money Investment Account interest rate.~~

(b) The department shall establish, by rules and regulations, policies and standards to be followed in making loans pursuant to this section so as to further the proper development and maintenance of a statewide system of small craft harbors and connecting waterways. To the greatest extent possible, the department shall adhere to customary commercial practices to ensure that loans made pursuant to this section are adequately secured and that the loans are repaid consistent with the terms of the loan agreement. Any rules and regulations shall include policies and standards for restrooms, vessel pumpout facilities, oil recycling facilities, and receptacles for the purpose of separating, reusing, or recycling all solid waste materials.

(c) The department shall develop weighing and ranking criteria to qualify and prioritize the public loans.

(d) A loan under this section shall be repaid as provided in Section 70.

(e) Rates to be charged for the use of the boating facilities shall be established by the city, county, or district, subject to the approval of the department, in every loan contract. The department shall

1 concern itself with the rates charged only as prescribed in Section
2 71.8. The rates set shall be based on a monthly berthing charge,
3 and the department shall monitor these rates to ensure that the
4 berthing charges are sufficient to ensure timely and complete
5 repayment of the loan.

6 (f) The department shall submit any project for which it
7 recommends any loan be made to the Governor for inclusion in
8 the Budget Bill.

9 (g) The department may restate an existing loan under this
10 article, upon written request by the borrower, ~~and upon approval~~
11 ~~by the commission.~~

12 *SEC. 12. Section 71.7 of the Harbors and Navigation Code is*
13 *amended to read:*

14 71.7. Notwithstanding any other provision of this chapter,
15 ~~Section 82,~~ or any contract or agreement to the contrary, loan
16 payments on the loan on behalf of Spud Point Marina in the County
17 of Sonoma, as authorized by Schedule (b)(8) of Item 3680-101-516
18 of Section 2.00 of the Budget Act of 1982, and administered by
19 the department, may be renegotiated by the department and the
20 County of Sonoma, ~~with the advice and consent of the commission,~~
21 to solve the fiscal problems involving the marina existing on the
22 effective date of this section as enacted during the 1994 portion
23 of the 1993–94 Regular Session.

24 *SEC. 13. Section 72.6 of the Harbors and Navigation Code is*
25 *amended to read:*

26 72.6. Transfers pursuant to Section 70, loans pursuant to
27 Section 71.4, and grants pursuant to Section 72.5 shall be made
28 by the department ~~with the advice and consent of the commission.~~

29 *SEC. 14. Section 76.5 of the Harbors and Navigation Code is*
30 *amended to read:*

31 76.5. In processing applications under this article, the
32 department shall give priority to applications from qualified private
33 marina owners who have not received previous loans from the
34 department. ~~If the department finds a proposed loan project is~~
35 ~~feasible, the loan request shall be submitted to the commission for~~
36 ~~its advice and consent.~~

37 *SEC. 15. Section 76.6 of the Harbors and Navigation Code is*
38 *amended to read:*

39 76.6. Loans made under this article shall include, but are not
40 limited to, the following terms and conditions:

1 (a) The minimum annual rate of interest charged by the
2 department for a loan shall be set annually ~~by the commission and~~
3 ~~shall be~~ at a rate equal to 1 percent per annum plus the prime or
4 base rate of interest.

5 (b) The department shall require collateral in a minimum amount
6 of 110 percent of the loan.

7 (c) The repayment period of a loan shall not exceed 20 years,
8 or be longer than the length of the borrower's leasehold estate,
9 including renewal options, if the loan is based upon a leasehold
10 estate of the borrower.

11 (d) All loans shall amortize the principal over the term of the
12 loan. However, a loan shall become due and payable in full if the
13 borrower sells or otherwise transfers the recreational marina
14 developed with departmental funds, unless the transfer is, by reason
15 of the death of the borrower, to the borrower's heirs.

16 (e) The department's loans shall not be subordinated to any
17 future loans obtained by a private marina owner, except in those
18 cases involving loans acquired for refinancing previous senior
19 loans.

20 (f) The department may allow assumption of loans from the
21 original borrower by future parties, subject to completion of the
22 application process and upon approval by the department ~~and the~~
23 ~~commission.~~

24 (g) The department may, upon written request by the borrower,
25 ~~and upon the approval of the commission,~~ restate an existing loan.

26 *SEC. 16. Chapter 3 (commencing with Section 80) of Division*
27 *1 of the Harbors and Navigation Code is repealed.*

28 *SEC. 17. Section 704 of the Harbors and Navigation Code is*
29 *repealed.*

30 ~~704. In accordance with the provisions of Section 82 of this~~
31 ~~code, the commission shall advise the department with respect to~~
32 ~~all matters relating to the administration of this act. The department~~
33 ~~shall submit any proposed regulations or changes in regulations~~
34 ~~pertaining to this act for review and comment by the commission~~
35 ~~prior to enactment.~~

36 *SEC. 18. Division 4.5 (commencing with Section 1100) is added*
37 *to the Harbors and Navigation Code, to read:*

1 DIVISION 4.5. PILOTS FOR MONTEREY BAY AND THE
2 BAYS OF SAN FRANCISCO, SAN PABLO, AND SUISUN

3
4 CHAPTER 1. LEGISLATIVE POLICY AND FINDINGS

5
6 1100. The Legislature finds and declares that it is the policy
7 of the state to ensure the safety of persons, vessels, and property
8 using Monterey Bay and the Bays of San Francisco, San Pablo,
9 and Suisun, and the tributaries thereof, and to avoid damage to
10 those waters and surrounding ecosystems as a result of vessel
11 collision or damage, by providing competent, efficient, and
12 regulated pilotage for vessels required by this division to secure
13 pilotage services.

14 1101. The Legislature further finds and declares all of the
15 following:

16 (a) The maritime industry is necessary for the continued
17 economic well-being and cultural development of all California
18 citizens.

19 (b) The Bays of San Francisco, San Pablo, and Suisun provide
20 a vital transportation route for the maritime industry.

21 (c) The increase in vessel size and traffic, and the increase in
22 cargoes carried in bulk, particularly oil and gas and hazardous
23 chemicals, create substantial hazards to the life, property, and
24 values associated with the environment of those waters.

25 (d) The federal government has long adopted the policy of
26 providing minimum standards that ensure port and waterway
27 safety while encouraging state control over pilot qualifications.

28 (e) A program of pilot regulation is necessary in order to
29 ascertain and guarantee the qualifications, fitness, and reliability
30 of qualified personnel who can provide safe pilotage of vessels
31 entering and using Monterey Bay and the Bays of San Francisco,
32 San Pablo, and Suisun.

33 (f) The need to ensure safe and pollution-free waterborne
34 commerce requires that pilotage services be employed in the
35 confined, crowded, and environmentally sensitive waters of those
36 bays.

37 (g) Bar pilotage in the Bays of San Francisco, San Pablo, and
38 Suisun has continuously been regulated by a single-purpose state
39 board since 1850, and that regulation should be continued.

1 (h) The individual physical safety and well-being of pilots is of
2 vital importance in providing required pilot services.

3
4 *CHAPTER 2. APPLICATION*

5
6 1105. This division applies to pilots for Monterey Bay and the
7 Bays of San Francisco, San Pablo, and Suisun.

8
9 *CHAPTER 3. DEFINITIONS*

10
11 1110. (a) “Bays of San Francisco, San Pablo, and Suisun”
12 means all the waters of those bays and of the tributaries, ports,
13 and harbors of those bays, and includes the water areas from the
14 south end of San Francisco Bay and from the Ports of Sacramento
15 and Stockton to the Golden Gate Bridge. “Bay of San Francisco,
16 San Pablo, or Suisun” means any of those waters, respectively.

17 (b) “Monterey Bay” means all the waters of that bay and of the
18 tributaries, ports, and harbors of that bay.

19 1112. “High seas” includes all the navigable waters of the
20 Pacific Ocean west of the Golden Gate Bridge, and all navigable
21 waters west of the westward boundary of the pilotage grounds for
22 Monterey Bay.

23 1114. “Pilot” means either of the following:

24 (a) A person who pilots vessels including an inland pilot.

25 (b) A person licensed as a bar pilot for the Bays of San
26 Francisco, San Pablo, and Suisun prior to January 1, 2013.

27 1114.5. “Pilotage grounds” means all waters extending
28 eastward from the precautionary area surrounding buoy SF to,
29 and including, the Bays of San Francisco, San Pablo, and Suisun,
30 and also includes the waters of Monterey Bay, eastward of a
31 straight line drawn between Point Santa Cruz Light and Point
32 Pinos Light.

33
34 *CHAPTER 4. EXCLUSIVE RIGHTS AND DUTIES OF PILOTS*

35
36 1125. (a) Pilots have exclusive authority, to the extent not
37 provided otherwise by federal law, to pilot vessels from the high
38 seas to Monterey Bay and the Bays of San Francisco, San Pablo,
39 and Suisun and the ports thereof, and from those bays and ports
40 to the high seas. They shall also have exclusive authority to pilot

1 vessels within and along the waters of those bays, except as
2 otherwise set forth in this division.

3 (b) Nothing in this division shall interfere with pilotage
4 regulations of Monterey Bay and of the Ports of Sacramento and
5 Stockton, nor prevent the regulatory authority of those ports from
6 utilizing the pilots covered by this division.

7 1126. (a) A person may also be enjoined from engaging in the
8 pilotage prescribed by a court of competent jurisdiction.

9 (b) This section does not apply to any of the following persons:

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

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

16 (3) Persons piloting vessels sailing under an enrollment.

17 (4) Persons piloting noncommercial vessels.

18 1127. (a) The Legislature finds and declares that it is the policy
19 of the state to ensure the safety of persons, property, and vessels
20 using the waters of Monterey Bay and the Bays of San Francisco,
21 San Pablo, and Suisun and to avoid damage to those waters and
22 surrounding ecosystems as a result of vessel collision or damage
23 by providing competent, efficient, and regulated pilotage for vessels
24 required by this division to secure pilotage services.

25 (b) This section does not supersede, modify, or otherwise alter
26 pilot practices that are not safety related, including, but not limited
27 to, the determination of rates charged for pilot services or
28 employer-employee relationships for individuals, agencies, or
29 organizations involved in providing pilotage services between any
30 port of Monterey Bay and the Bays of San Francisco, San Pablo,
31 and Suisun and any other port of the United States that is in
32 existence on December 31, 1995, or otherwise abridge the
33 authority of local port or harbor districts relating to pilotage in
34 effect on December 31, 1995.

35 (c) A vessel sailing under a coastwise license or appropriately
36 endorsed registry and engaged in the coasting trade between a
37 port of Monterey Bay and the Bays of San Francisco, San Pablo,
38 and Suisun and another port of the United States is exempt from
39 all pilotage charges. A foreign vessel and a vessel bound between
40 a foreign port and a port of Monterey Bay and the Bays of San

1 *Francisco, San Pablo, and Suisun, and a vessel sailing under a*
2 *register between a port of Monterey Bay and the Bays of San*
3 *Francisco, San Pablo, and Suisun and another port of the United*
4 *States, shall use a pilot or inland pilot, except as otherwise*
5 *provided by law.*

6 *(d) Subdivision (c) does not apply to a vessel that is less than*
7 *750 gross tons and is manufactured and used for private*
8 *recreation.*

9 *1128. A nonself-propelled vessel in tow of a tug within*
10 *Monterey Bay and the Bay of San Francisco, San Pablo, or Suisun,*
11 *or between those bays, is exempt from pilotage charges.*

12 *1130. A majority of all of the pilots shall appoint one pilot to*
13 *act as port agent to carry out applicable laws, and to otherwise*
14 *administer the affairs of the pilots.*

15 *1132. Every pilot in charge of a vessel arriving in Monterey*
16 *Bay and the Bay of San Francisco, San Pablo, or Suisun, shall*
17 *safely moor the vessel in place and position as directed by the*
18 *master of the vessel, consistent with safe navigation and not*
19 *contrary to law.*

20 *1133. Every pilot in charge of a vessel leaving the Bays of San*
21 *Francisco, San Pablo, and Suisun shall pilot it from its point of*
22 *departure to a point beyond the San Francisco bar. Every pilot in*
23 *charge of a vessel leaving Monterey Bay shall pilot it from its point*
24 *of departure to a point westward of the pilotage grounds.*

25
26 *CHAPTER 5. PENSION PLAN*
27

28 *1160. There is hereby established a San Francisco Bar Pilot*
29 *Pension Plan which is continued in existence as the San Francisco*
30 *Pilot Pension Plan.*

31 *1161. All amounts generated by the pension plan shall be used*
32 *solely to pay pensions to retired pilots and inland pilots, disabled*
33 *pilots and inland pilots, the surviving spouses of pilots and inland*
34 *pilots, and to pay the expenses of the plan.*

35 *1163. (a) (1) (A) Each retired pilot and inland pilot, who has*
36 *completed 25 full years of service as a pilot or inland pilot, or*
37 *both, shall receive, as a target monthly pension, an amount that*
38 *is initially equal to 46 percent of an amount that is an average of*
39 *the highest three of the last five years of audited annual average*
40 *net income per pilot, prior to the pilot's or inland pilot's*

1 retirement, divided by 12, which initial target monthly pension
2 amount shall be subject to periodic adjustment pursuant to Section
3 1167. Pilots or inland pilots with other than 25 full years of service
4 as a pilot or inland pilot, or both, shall receive a monthly pension
5 in an amount that is determined by multiplying the above calculated
6 target monthly pension by a fraction, the numerator of which shall
7 be the number of full years of service that the pilot or inland pilot
8 has rendered and the denominator of which shall be 25, which
9 initial monthly pension amount shall be subject to periodic
10 adjustment pursuant to Section 1167.

11 (B) Each disabled pilot or inland pilot shall receive as an initial
12 target monthly pension an amount that is based on 46 percent of
13 the greater of the following, which amount shall be subject to
14 periodic adjustment pursuant to Section 1167:

15 (i) An amount that is the average of the highest three of the last
16 five years of audited annual average net income per pilot divided
17 by 12 and multiplied by a fraction, the numerator of which shall
18 be the number of full years of service that the pilot or inland pilot
19 has rendered and the denominator of which shall be 25.

20 (ii) The audited annual average net income per pilot, for the
21 last year prior to the pilot's or inland pilot's disability, divided by
22 12 and multiplied by a fraction, the numerator of which shall be
23 the number of full years of service that the pilot or inland pilot
24 has rendered and the denominator of which shall be 25.

25 (C) Each pilot who retired before January 1, 1985, shall receive
26 as an initial target monthly pension an amount that is one hundred
27 seventy-eight dollars (\$178) multiplied by the number of full years
28 of service he or she performed as a pilot licensed under this
29 division, which amount shall be subject to periodic adjustment
30 pursuant to Section 1167.

31 (D) Each pilot who retired on or after January 1, 1985, or each
32 inland pilot who retired after January 1, 1993, shall receive as an
33 initial target monthly pension an amount that is the greater of the
34 following, which amount shall be subject to periodic adjustment
35 pursuant to Section 1167:

36 (i) An amount that is calculated by multiplying one hundred
37 seventy-eight dollars (\$178) by the number of full years of service
38 the pilot or inland pilot performed as a pilot or inland pilot licensed
39 under this division.

1 (ii) An amount that is 46 percent of the average of the highest
2 three of the last five years of audited annual average net income
3 per pilot, prior to the pilot's or inland pilot's retirement, divided
4 by 12 and multiplied by a fraction, the numerator of which is the
5 pilot's or inland pilot's actual number of full years of service and
6 the denominator of which is 25.

7 (2) A pilot or inland pilot who retires or becomes disabled shall
8 not begin to receive a pension until the beginning of the benefit
9 payment period next following the date on which the pilot or inland
10 pilot retires or becomes disabled.

11 (3) A pilot or inland pilot shall not receive any benefits pursuant
12 to the pension plan in any benefit payment period unless the pilot's
13 or inland pilot's resignation as an active pilot or inland pilot
14 specifying a proposed date of retirement was submitted, in writing,
15 to the board, prior to November if the pilot's or inland pilot's
16 retirement is to be effective the first day of the following January,
17 prior to February if the pilot's or inland pilot's retirement is to
18 be effective the first day of the following April, prior to May if the
19 pilot's or inland pilot's retirement is to be effective the first day
20 of the following July, or prior to August if the pilot's or inland
21 pilot's retirement is to be effective the first day of the following
22 October. The pilot's or inland pilot's resignation as an active pilot
23 or inland pilot shall become effective on either January 1, April
24 1, July 1, or October 1, as specified in the written resignation.

25 (4) If a retired or disabled pilot or inland pilot who is receiving
26 a pension dies without a surviving spouse, the pilot's or inland
27 pilot's successor in interest shall receive the monthly pension for
28 the remainder of the benefit payment period within which the death
29 occurs, after which time the monthly pension shall cease.

30 (b) (1) The surviving spouse of a deceased pilot who is eligible
31 for a pension pursuant to paragraph (1) of subdivision (e) of
32 Section 1164 and the surviving spouse of a deceased inland pilot
33 who is eligible for a pension pursuant to paragraph (2) of
34 subdivision (e) of Section 1164 shall each receive, as a monthly
35 pension, three-fourths of the amount that the deceased pilot or
36 inland pilot would have received as a monthly pension pursuant
37 to this section had the pilot or inland pilot lived, calculated as if
38 the deceased pilot or inland pilot had been disabled pursuant to
39 subparagraph (B) of paragraph (1) of subdivision (a).

1 (2) If a retired or disabled pilot or inland pilot who was
2 receiving a pension dies, the surviving spouse shall continue to
3 receive the full amount of the monthly pension to which the
4 deceased pilot or inland pilot was entitled for the balance of the
5 benefit payment period within which the death occurs, after which
6 the surviving spouse shall receive the amount specified in
7 paragraph (1).

8 (3) If a surviving spouse receiving a pension dies, the surviving
9 spouse's successor in interest shall receive the monthly pension
10 for the remainder of the benefit payment period within which the
11 death occurs, after which time the monthly pension shall cease.

12 (c) For the purpose of the computations described in paragraph
13 (1) of subdivision (a), six months or more of service by a pilot or
14 inland pilot shall be considered a full year.

15 (d) Except as provided otherwise in this section and paragraph
16 (4) of subdivision (e) of Section 1164, monthly pension amounts
17 payable pursuant to this section to retired pilots and inland pilots
18 and to their surviving spouses are payable for the life of that retired
19 pilot, inland pilot, or spouse.

20 (e) To determine an inland pilot's full years of service under
21 this chapter, any periods of service that an inland pilot has
22 performed as a pilot shall be added to any service time performed
23 as an inland pilot after January 1, 1987.

24 (f) In calculating the benefits of a retired or disabled pilot who
25 was issued an original pilot's license in 1985 and who was not
26 thereafter issued an inland pilot's license, or in calculating the
27 benefits of the widow of such a pilot who is deceased, the number
28 of years of service used in the calculation shall be the greater of
29 the following:

30 (1) The actual number of full years of service the pilot has
31 rendered.

32 (2) Ten years.

33 1164. (a) Except as provided in subdivision (b), a pilot shall
34 be eligible for the pension provided in Section 1163 if the pilot
35 meets all of the following requirements:

36 (1) Held a license as a pilot and served at least 10 years in that
37 capacity or has attained 62 years of age, whichever occurs first.

38 (2) Retired after January 1, 1972.

39 (3) Is at least 60 years of age.

1 (b) A disabled pilot shall be eligible for the pension provided
2 in Section 1163 if it has been determined by the board, based upon
3 competent medical evidence, that the pilot is unable to perform
4 the duties of a pilot. As used in this chapter, “disabled” means a
5 disability of permanent or extended and uncertain duration, as
6 determined by the board, on the basis of competent medical
7 opinion.

8 (c) Except as provided in subdivision (d), an inland pilot shall
9 be eligible for the pension provided in Section 1163 if the inland
10 pilot meets all of the following requirements:

11 (1) Held a license as an inland pilot and served at least 10 years
12 in that capacity after January 1, 1987, or has attained 62 years of
13 age, whichever occurs first.

14 (2) Retired after January 1, 1987.

15 (3) Is at least 60 years of age.

16 (4) Since January 1, 1987, has held himself or herself out as
17 providing pilotage assistance to the entire shipping industry
18 consistent with the inland pilot’s license.

19 (5) For services provided after January 1, 1994, performs a
20 minimum of 75 assignments per calendar year unless excused from
21 performance of that requirement due to medical needs satisfactory
22 to the board.

23 (d) A disabled inland pilot who meets the requirements of
24 paragraph (4) of subdivision (c) shall be eligible for the pension
25 provided in Section 1163 if it has been determined by the board,
26 based upon competent medical evidence, that the inland pilot is
27 unable to perform the duties of an inland pilot.

28 (e) (1) A surviving spouse of a deceased pilot shall be eligible
29 for the pension provided in subdivision (b) of Section 1163 if that
30 deceased pilot died after January 1, 1972, and that deceased pilot
31 had held a license as a pilot.

32 (2) A surviving spouse of a deceased inland pilot shall be
33 eligible for the pension provided in subdivision (b) of Section 1163
34 if the deceased inland pilot died after January 1, 1987, had held
35 a license as an inland pilot, and since January 1, 1987, had held
36 himself or herself out as providing pilotage assistance to the entire
37 shipping industry consistent with the inland pilot’s license.

38 (3) In order for a surviving spouse to be eligible for any pension
39 benefits pursuant to this chapter, the surviving spouse shall have

1 *been legally married to the deceased pilot or inland pilot for at*
2 *least one year prior to the deceased pilot's or inland pilot's death.*

3 *(4) A surviving spouse of a deceased pilot or inland pilot shall*
4 *neither be eligible for, nor receive, pension benefits pursuant to*
5 *this chapter if the surviving spouse remarries. If a surviving spouse*
6 *who is receiving a monthly pension under this chapter remarries,*
7 *the surviving spouse's successor in interest shall receive the*
8 *amount of the monthly pension for the remainder of the benefit*
9 *payment period as if the surviving spouse had died, in accordance*
10 *with paragraph (3) of subdivision (b) of Section 1163.*

11 *1165. (a) A charge shall be levied for pilotage services at a*
12 *rate necessary to provide the benefits to be paid out pursuant to*
13 *the pension plan. The additional rate shall be determined as*
14 *follows:*

15 *(1) On March 1, June 1, September 1, and December 1 of each*
16 *year, the number of persons eligible to receive benefits under the*
17 *plan, their identities, the calculated amount each shall be entitled*
18 *to receive, and the total amount to be paid out to all of those*
19 *persons during each month of the next three-month period shall*
20 *be determined by the fiduciary agent or agents.*

21 *(2) After the total amount to be paid out monthly under the plan*
22 *has been determined, the rate necessary to provide that amount*
23 *each month shall be calculated by the fiduciary agent or agents.*
24 *The rate shall be based upon the volume of shipping, in gross*
25 *registered tons, handled by pilots under this division for the*
26 *12-month periods ending the previous September 30 for benefit*
27 *periods commencing the following January 1, ending the previous*
28 *December 31 for benefit periods commencing the following April*
29 *1, ending the previous March 31 for benefit periods commencing*
30 *the following July 1, and ending the previous June 30 for benefit*
31 *periods commencing the following October 1, respectively. The*
32 *rate shall be expressed as mills per gross registered ton and shall*
33 *be calculated to the nearest one-hundredth of a mill.*

34 *(3) The estimated cost of the services of the fiduciary agent or*
35 *agents to administer the pension plan shall be calculated by the*
36 *fiduciary agent or agents for the benefit periods described in*
37 *paragraph (2), shall be expressed as mills per gross registered*
38 *ton, and shall be calculated to the nearest one-hundredth of a mill.*

39 *(b) The rate determined pursuant to paragraphs (1), (2), and*
40 *(3) of subdivision (a) shall become effective on January 1 of the*

1 following year with respect to the September 30 calculations, on
2 April 1 of the following year with respect to the December 31
3 calculations, on July 1 of that year with respect to the March 31
4 calculations, and on October 1 of that year with respect to the
5 June 30 calculations. The rates shall be in effect for the succeeding
6 benefit payment period.

7 1166. (a) The benefits actually paid out each month by the
8 fiduciary agent or agents designated by the board to all retired
9 and disabled pilots and inland pilots, to surviving spouses of
10 deceased pilots and inland pilots, and to successors in interest
11 shall be equal to the revenue received pursuant to Section 1165
12 during the preceding month less the expenses of the fiduciary agent
13 or agents incurred during that month. The revenue, whether greater
14 or less than the amount used in determining the tonnage rates
15 under this chapter to provide the aggregate target pensions to
16 which those persons are entitled according to Section 1163, shall
17 be paid to each of them in proportion to the relative target amounts
18 to which they are entitled, after payment of the expenses of the
19 fiduciary agent or agents.

20 (b) Revenues for any month or year are the amounts to be
21 received pursuant to the pension plan for pilotage during that
22 month or year. The fiduciary agent or agents shall determine which
23 accounting system shall be used to make the payment, provided
24 that, if the accrual method is used, it shall be subject to later
25 equitable adjustments for unpaid receivables.

26 (c) Benefits pursuant to the new rate calculations shall be paid
27 commencing in February, May, August, and November of each
28 year and shall continue through, and include, the next following
29 April, July, October, and January, respectively, so that each benefit
30 pension period equals three months of payments. The period during
31 which benefits are paid is the benefit payment period.

32
33 *CHAPTER 6. EFFECTIVE DATE*
34

35 1170. This division shall become operative on January 1, 2014.

36 SEC. 19. Chapter 7 (commencing with Section 1220) is added
37 to Division 5 of the Harbors and Navigation Code, to read:

CHAPTER 7. REPEAL DATE

1220. This division shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2014, deletes or extends that date.

SEC. 20. Chapter 2 (commencing with Section 22000) of Part 3 of Division 2 of the Public Contract Code is repealed.

SEC. 21. Section 232 of the Vehicle Code is repealed.

~~232. The "board" is the New Motor Vehicle Board.~~

SEC. 22. Section 1803.5 of the Vehicle Code, as added by Chapter 216 of the Statutes of 2010, is amended to read:

1803.5. (a) In accordance with Section 41501 or 42005, the clerk of a court or hearing officer, when a person who receives a notice to appear at a court or board proceeding for a violation of any statute relating to the safe operation of vehicles is granted a continuance of the proceeding in consideration for completion of a program at a school for traffic violators, that results in a designation of the conviction as confidential in consideration for that completion, shall prepare an abstract of the record of the court or board proceeding that indicates that the person was convicted of the violation and ordered to complete a traffic violator program, certify the abstract to be true and correct, and cause the abstract to be forwarded to the department at its office at Sacramento within five days after receiving proof that the program was completed or the due date to which the proceeding was continued, whichever comes first.

(b) This section shall become operative on July 1, 2011.

SEC. 23. Chapter 6 (commencing with Section 3000) of Division 2 of the Vehicle Code is repealed.

SEC. 24. This act shall become operative January 1, 2014.

**All matter omitted in this version of the bill
appears in the bill as amended in the
Assembly, May 10, 2011. (JR11)**