

**CHAPTER 462A
PILOTAGE**

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§462A-1 Definitions. As used in this chapter:

"Department" means the department of commerce and consumer affairs.

"Director" means the director of the department of commerce and consumer affairs.

"License" means a pilot's license issued pursuant to this chapter.

"Pilot" means a state pilot licensed pursuant to this chapter as a port pilot or a deputy port pilot.

"Pilotage waters" means the waters of this State covered by this chapter.

"Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water. Each tug and each of its tows shall be considered a separate vessel.

§462A-2 REPEALED.

§462A-3 Powers and duties of the director. In addition to any other powers and duties authorized by law, the director shall:

- (1) Grant licenses to port pilots and deputy port pilots pursuant to this chapter, when the need arises;
- (2) Adopt, amend, or repeal rules in accordance with chapter 91 as may be necessary to carry out the purposes of this chapter which are to provide for maximum efficiency in navigating vessels entering or leaving the waters of this State; maintain a pilotage system devoted to the preservation, and protection of lives, property, and vessels entering or leaving waters of the State; and ensure an adequate supply of qualified pilots in aid of commerce and navigation;
- (3) Develop appropriate standards for licensure and renewal of licensure to maintain an adequate supply of pilots based on the needs of users of pilotage services or the department of transportation's harbors division. Licensing requirements shall include examinations and investigations to determine whether persons applying for full port pilot, or deputy port pilot licenses are qualified;
- (4) Enforce this chapter and rules adopted pursuant thereto;
- (5) Suspend, revoke or deny the issuance of any license for any cause prescribed by this chapter, or for any violation of the rules;
- (6) Investigate any person for violations of any provisions of this chapter;
- (7) Adopt methods to improve disciplinary and enforcement programs against violations of this chapter; and
- (8) Do all things reasonable, necessary, and expedient to insure proper and safe pilotage and to facilitate the efficient administration of this chapter.

[§462A-3.5] Adequate supply of licenses. (a) The director shall determine the number of pilots necessary to maintain an efficient pilotage service in accordance with this chapter.

(b) The director, in consultation with users of pilotage services, the department of transportation's harbors division, and the professional association of port pilots in the State shall give primary consideration to the public interest in ensuring that there is an adequate supply of qualified pilots to safely and economically meet the requirements of commerce.

§§462A-4, 5 REPEALED.

§462A-6 Duration and renewal of license. All licenses shall expire on June 30 of even-numbered years. All applicants for renewal of license shall submit a renewal application pursuant to section 436B-13 and comply with all applicable rules of the department. No applicant shall be denied a renewal of the applicant's license, except as provided in this chapter, as long as the applicant possesses the qualifications established by the department and remains in active service as a pilot in the State.

§462A-7 REPEALED.

§462A-8 Denial, suspension, or revocation. In addition to any other actions authorized by law, the director may deny the issuance of a license to any applicant, and may suspend or revoke the license of any pilot for any cause authorized by law, including but not limited to the following:

- (1) Violation of this chapter or any rule adopted by the director;
- (2) Loss, damage, or injury due to negligent pilotage;
- (3) Habitual use of any substance rendering a pilot unfit to be entrusted with the charge of a vessel;
- (4) Inability to physically or mentally perform the duties of a pilot;
- (5) Failure to maintain active service as a pilot in the State;
- (6) Procurement of a license through fraudulent misrepresentation or deceit;
- (7) Participation in any unfair or deceptive act or practice as prohibited by section 480-2;
- (8) Violation of any law or rule intended to promote marine safety or protect navigational waters;
- (9) Failure to report marine accidents in accordance with the rules of this chapter; or
- (10) Failure to maintain a current and valid federal pilots license issued in accordance with title 46, United States Code, chapter 71.

§462A-9 Exhibition of license. A pilot, on boarding a vessel, and if required by the master thereof, shall exhibit the pilot's license or a photostatic copy thereof.

§462A-10 Piloting without a license. It shall be unlawful for any person not licensed as a pilot under this chapter to pilot or to offer to pilot a vessel not

exempt from this chapter. It shall be unlawful for any person on board a tug or towboat to tow a vessel or barge not exempt from this chapter, unless the vessel or barge shall have on board a pilot licensed under this chapter. Violation of this section shall be a misdemeanor.

§462A-11 Rates of pilotage. The director shall establish the rates of pilotage for vessels subject to this chapter as follows:

- (1) The rates of pilotage in effect on July 1, 1978, shall remain in effect until changed by the director pursuant to this chapter.
- (2) No rate shall be increased, lowered, or altered without a public hearing in accordance with chapter 91. Due notice of hearing shall be mailed at least thirty days prior to the date of hearing to the individual licensed pilots, the pilot's association, and all owners, charterers, operators, and agents of vessels who have registered with the department.
- (3) The director, in setting rates of pilotage, shall fix such amounts as will be a fair charge for the services rendered with due regard to necessary operating expenses, maintenance of, depreciation on, and return on investment for property used in the business of pilotage, and the rates and charges of pilotage at comparable ports of the United States.
- (4) Persons aggrieved by the director's decision setting the rates of pilotage may appeal to circuit court as provided in chapter 91.

§§462A-12, 13 REPEALED.

§462A-14 Lien for pilotage fees. Every licensed pilot shall have a lien for the pilot's pilotage fees upon the whole of any vessel liable to the pilot therefor.

§462A-15 Pilot association. The pilots licensed under this chapter, each of whom shall be deemed an individual contractor, may form a nonprofit association which shall not be deemed a partnership or corporation for liability purposes, in order to provide such arrangements and facilities as may be necessary and desirable for the efficient dispatching of vessels and rendering of pilotage services required under this chapter. The association shall have no control over the selection of persons to be licensed as pilots or their discharge. The association shall have no direction over the manner in which an individual pilot performs the pilot's duties.

The association may adopt any working rules that are not inconsistent with the law or of the rules of the department.

§462A-16 REPEALED.

§462A-17 Description of pilotage waters. Pilotage waters as established under this chapter shall be the waters of the State described as follows:

- (1) Port Allen: All waters inside a line drawn from Puolu Point to Weli Point.
- (2) Nawiliwili: All waters inside a line drawn from Ninini Point to Kawaii Point.
- (3) Honolulu: All waters inside a line drawn from Diamond Head Light, 278° true, to the intersection of a line drawn from the seaward edge of the reef runway at Latitude 21°-18.2' North and Longitude 157°-55.6' West, 180° true.
- (4) Kahului: All waters inside a line drawn from Waiehu Point to Waihee Reef Lighted Buoy 2 in Latitude 20°55.9' North and Longitude 156°28.5' West and thence to Papaula Point.
- (5) Hilo: All waters inside a line drawn from the outer extremity of the Hilo Bay breakwater to Paukaa Point Light.
- (6) Kawaihae: All waters inside a line drawn from the outer extremity of the Kawaihae Harbor breakwater due West to Longitude 155°51' West, thence due North to Latitude 20°03' North and thence due East to where it intersects with the shoreline.
- (7) Barbers Point: All waters inside a line drawn from the northernmost refinery tower, 250° true, to the intersection of a line drawn tangentially to Maile Point, 165° true.

§462A-18 Vessels required to take a pilot. Every vessel, other than an exempt vessel, entering or departing from any port in or traversing the waters of the State designated as pilotage waters shall employ a pilot licensed under this chapter; provided that a vessel declared by the director of transportation to be in immediate danger of destruction or which poses an immediate hazard to public safety by its presence in the harbor may be moved without a pilot when a pilot is not immediately available.

§462A-19 Exempt vessels. This chapter does not apply to:

- (1) Any vessel required by the laws of the United States of America to be under the direction and control of a federally licensed pilot;
- (2) Public vessels of the United States of America;
- (3) Fishing vessels that have been issued a fishery license or appropriately endorsed registry under the laws of the United States of America;
- (4) Tugs or towboats of 1,600 gross tons or less which are registered in the United States if the master, mate, or operator is licensed in the United States and has made a minimum of six round trips into and out of the pilotage water which the vessel is traversing; or
- (5) Vessels under 300 gross tons.

This section provides minimum pilotage requirements, and is not intended to negate the department of transportation's responsibility for the safety of all ports and shore waters in the State, nor does it limit the department's right to require additional pilotage should that department determine it is necessary to ensure safety in the ports or shore waters of the State.

§462A-20 REPEALED.