

CHAPTER 72

AN ACT concerning pilotage, amending various parts of the statutory law and supplementing chapter 8 of Title 12 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.12:8-1.1 Findings, declarations relative to pilotage.

1. The Legislature finds and declares:

a. The State of New Jersey has responsibility for port security in the Port of New York and New Jersey and, pursuant to federal law, has the right and responsibility to regulate maritime pilotage in the port.

b. In the aftermath of the terrorist attacks of September 11, 2001, increased emphasis has been required by both the federal and state governments on homeland security, with particular attention to the security of American ports.

c. Although efforts have been made to enhance the defense of the New York and New Jersey port area from terrorist attacks and to implement improved immigration and customs procedures, modernization and clarification of New Jersey's laws relating to those who pilot and dock foreign and domestic vessels have not yet occurred.

d. There is a need to provide for a system that will ensure the proper and consistent identification, training, selection, oversight and monitoring of both maritime pilots and docking pilots.

e. It is therefore in the public interest to modernize, clarify, revise and expand New Jersey's maritime pilotage laws, and to strengthen the New Jersey pilotage commission by expanding its powers and duties and clarifying that docking pilots are under its jurisdiction.

f. It is further in the public interest that the commission be charged with the concurrent responsibility to ensure the safe operation and navigation of vessels, to protect the environment and enhance the economic viability of the port.

C.12:8-1.2 Definitions relative to pilotage.

2. As used in chapter 8 of Title 12 of the Revised Statutes:

"Apprentice" means a person who is listed as a qualified apprentice with the commission pursuant to section 34 of P.L.2004, c.72 (C.12:8-50) or who is on the commission's books as an apprentice pursuant to R.S.12:8-10, R.S.12:8-11 or R.S.12:8-12.

"Bar of Sandy Hook" or "bar" means the built-up area under the waters between the northern most point of Sandy Hook extending generally northeastward to the south shore of Long Island caused by a deposit of sediment. The location of the bar is not static.

"Commission" means the New Jersey Maritime Pilot and Docking Pilot Commission established pursuant to R.S.12:8-1.

"Commissioners" means the commissioners of maritime and docking pilots appointed by the Governor pursuant to R.S.12:8-1.

"Docking pilot" means a person licensed by the commission and entered in the register maintained pursuant to section 36 of P.L.2004, c.72 (C.12:8-52).

"Independent Pilot Association" means any association of pilots or docking pilots, other than the United New York or New Jersey Sandy Hook Pilots' Benevolent Associations, whose members are qualified to pilot vessels in pilotage waters.

"Maritime pilot," "Licensed pilot" or "Sandy Hook pilot" means a person who is licensed by the commission to pilot regulated vessels pursuant to R.S.12:8-12 and who is a member of the United New Jersey Sandy Hook Pilots' Benevolent Association or the United New York Sandy Hook Pilots' Benevolent Association.

"Pilotage waters" means boundary waters of the states of New Jersey and New York, ports on those boundary waters, the Sandy Hook, Raritan, Upper and Lower Bays of the Port of New York and New Jersey; the rivers Raritan, Hackensack, Passaic and Shrewsbury, Newark Bay, Arthur Kill, Kill van Kull, the Bar at Sandy Hook and waters easterly of the Bar on which regulated vessels navigate when entering or departing the port of New York and New Jersey, ports south of Sandy Hook to Atlantic City and waters easterly of these ports which regulated vessels navigate when entering or departing these ports.

"Pilots' Association" or "association" means the United New Jersey Sandy Hook Pilots' Benevolent Association or the United New York Sandy Hook Pilots' Benevolent Association.

"President" means the president of the commission.

"Regulated vessel" means a vessel required by the laws of the states of New Jersey or New York to take a state licensed maritime pilot.

"Tugboat" means any vessel employed to assist the movement of a regulated vessel on pilotage waters.

3. R.S.12:8-1 is amended to read as follows:

Appointment; term; qualifications; vacancies; name changed; transfer of Board in but not of DOT; redesignated commission.

12:8-1. The Governor, by and with the advice and consent of the Senate, shall appoint six commissioners of maritime and docking pilots, hereinafter in this chapter called "commissioners", who shall hold their offices, respectively, for three years and until a successor is appointed and qualified. No more than three of the commissioners shall be members of the same political party, and they shall be selected from among such persons as have been officers in our naval, Coast Guard or merchant service, or have been duly qualified as United States Merchant Marine Officers.

The Board of Commissioners of Pilotage of the State of New Jersey, together with its functions, powers and duties is continued as the New Jersey Maritime Pilot and Docking Pilot Commission (the "commission") but is transferred to the Department of Transportation. The commission shall be in, but not of, the Department of Transportation. This transfer shall be subject to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14B-1 et seq.). Nothing in this section shall be construed as affecting the terms of office of the present commissioners of pilotage. The commission shall consist of the commissioners appointed pursuant to this section.

Each January, the commission shall elect from its membership a president, vice president, treasurer and secretary. The commission may employ an executive director and other employees on such terms and conditions as it deems appropriate, without regard to the provisions of Title 11A of the New Jersey Statutes.

The commissioners and officers and employees of the commission shall be enrolled in the Public Employees' Retirement System and shall be eligible to participate in the State Health Benefits Program established pursuant to the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.). The commissioners and officers and employees who may currently be members of the Public Employees' Retirement System shall continue in membership.

In case any commissioner shall die or resign, or otherwise become disqualified to act, the governor shall forthwith fill such vacancy in the same manner and for the same term as an original appointment.

A true copy of the minutes of every meeting of the commission shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at that meeting by the commission shall have force or effect until the earlier of 15 days, exclusive of Saturdays, Sundays and public holidays, after the copy of the minutes shall have been so delivered, or the approval thereof by the Governor. If, in the 15-day period, the Governor returns the copy of the minutes with veto of any action taken by the commission or any member thereof at that meeting, the action shall be null and of no effect. The minutes of any meeting at which the commission proposed or approves its operating or capital outlay budget shall include a copy of that budget. This paragraph shall not apply to any disciplinary proceedings or actions taken by the commission.

C.12:8-1.3 References deemed changed to NJ Maritime Pilot and Docking Pilot Commission.

4. On and after the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.) any reference in any law, rule, regulation, order, contract or document to the "Board of Commissioners of Pilotage of the State of New Jersey" or the "board of New Jersey pilot commissioners" shall be deemed to mean or refer to the New Jersey Maritime Pilot and Docking Pilot Commission in but not of the Department of Transportation.

5. R.S.12:8-2 is amended to read as follows:

Rules, orders, regulations.

12:8-2. The commission may make and establish such rules, orders and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), not inconsistent with the constitutions or the laws of this state or of the United States, for the better government of the maritime pilots, docking pilots, and apprentices, as defined in section 2 of P.L.2004, c.72 (C.12:8-1.2), to ensure safe operation of vessels and safe navigation, and to ensure the most current and exacting levels of training and may provide for such fines and penalties for the violation of these rules, orders and regulations, as it shall deem proper. It may from time to time revoke or amend any such rule, order or regulation.

6. R.S.12:8-3 is amended to read as follows:

Interest in pilotage business prohibited.

12:8-3. No commissioner shall have any direct or indirect financial interest in the pilotage business.

7. R.S.12:8-4 is amended to read as follows:

Compensation of commissioners; fees, certain, for expenses of commission.

12:8-4. The commission shall from time to time establish the percentage of the fees received by maritime pilots for pilotage which is to be remitted to the commission for its services under this chapter. However, the percentage amount shall not be greater than three percent of the pilotage fees. The amount received by the commission shall be used to pay the commission's administrative expenses including, but not limited to, the compensation of the commissioners, their expenses, rent, utilities, employee salaries and benefits. Compensation of the commissioners shall be \$28,000 per annum. They shall not be entitled to receive the commissions on extra pilotage for boarding off-shore, or for fees received for what is called transportation or harbor pilotage or any percentage of the fees received by docking pilots.

8. R.S.12:8-5 is amended to read as follows:

Annual report to Legislature, Governor, State Treasurer.

12:8-5. The commission shall lay before the Legislature, the Governor and the State Treasurer annually:

- a. (Deleted by amendment, P.L.2004, c.72);
- b. A report of the activities of the commission within the last year;
- c. A statement of the number of licensed maritime pilots, docking pilots and the number of vessels taken in and out; and
- d. Such observations in relation to the system of pilotage as in its opinion may tend to the benefit of the cause of commerce and be of advantage to the general interest of the State.

The report shall also include: (1) The commission's receipts and disbursements or revenues and expenses during that year in accordance with the categories and classifications established by the commission for its own operating and capital outlay purposes and as may be requested by the State Treasurer;

- (2) Its assets and liabilities at the end of the year;
- (3) A list of all contracts exceeding \$17,500 entered into during the year; and
- (4) A table of organization of the commission's employees.

9. R.S.12:8-6 is amended to read as follows:

Authority to administer oaths; subpoena power.

12:8-6. The president or in the absence of the president, any member of the commission may administer the oath of office to any newly appointed commissioner, deputy maritime pilot, full

branch maritime pilot, docking pilot or apprentice and an oath to any person appearing before the commission. By majority vote of the authorized membership, the commission may cause the issuance of subpoena to compel the appearance of persons or the production of documents for use in accident investigations, incident investigations, licensure investigations and revocation proceedings.

10. R.S.12:8-7 is amended to read as follows:

Order, judgment considered final agency action; judicial review.

12:8-7. An order or judgment of the commission shall be considered final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall be subject only to judicial review as provided in Rules of Court. Any and all proceedings, hearings or meetings of the commission shall be conducted in conformance with the "Open Public Meetings Act," P.L.1975, c.231 (C. 10:4-6 et seq.) including disciplinary and license proceedings, complaints against pilots by users of pilotage services, rate disputes, and any other proceeding resulting in an opinion or order of the commission.

11. R.S.12:8-8 is amended to read as follows:

Employment of maritime pilots; rotation system.

12:8-8. Whenever the services of a maritime pilot are required to pilot a vessel in pilotage waters, the maritime pilots so to be employed shall be employed in rotation.

The commission shall approve any changes in the rotation system by regulation.

Nothing in this chapter shall be construed to authorize the commission to establish, affect, regulate or control any rotation system or method of assignment of docking pilots or to approve or disapprove any changes in the contractual relationships between docking pilots and shipping or tugboat companies.

12. R.S.12:8-9 is amended to read as follows:

Licensing of maritime, docking pilots.

12:8-9. No person shall be licensed as a maritime pilot or docking pilot of this State, except as hereinafter in this chapter provided.

13. Section 6 of P.L.1991, c.76 (C.12:8-9.1) is amended to read as follows:

C.12:8-9.1 Pilotage requirements not extended.

6. Nothing in this amendatory and supplementary act shall be construed to extend the requirement of pilotage to any type of vessel that is not required to be piloted pursuant to the laws of this State, and any rules or regulations established thereunder by the commission or that is otherwise exempted from the requirements of state pilotage regulations by statutes of the United States.

14. R.S. 12:8-10 is amended to read as follows:

Pilot boats in Sandy Hook service; apprentices, control and direction of; docking boats.

12:8-10. The pilot boats employed by or belonging in whole or in part to the United New Jersey Sandy Hook Pilots' Benevolent Association, or to the United New Jersey Sandy Hook Pilots' Association, shall be the only maritime pilot boats in the New Jersey Sandy Hook pilot service, or in any bays, rivers, harbors, or ports of the waters of this State or approaches to the waters of this State between Sandy Hook, in the county of Monmouth and the city of Atlantic City, in the county of Atlantic. Apprentices shall be attached to the pilot boats of said association and the pilot boats may have more than one apprentice.

The apprentices shall be entered in the books of the commission in the name of and indentured to the association, and shall serve as apprentices under the laws of this State.

The association shall have the sole control of all apprentices, subject to the regulations of the commission, until they have served a term of at least four years and shall see that all apprentices entered in the commission's books are fully instructed in their duties in such manner as is necessary to fully qualify them in every respect to perform the duties of a maritime pilot.

Docking pilot boats may be employed by docking pilots for the performance of their duties as needed.

15. R.S. 12:8-11 is amended to read as follows:

Apprentices, term of service, license as deputy maritime pilot after examination.

12:8-11. Apprentices shall serve at least four years and for such longer periods of time as may be required by the commission. They shall be examined by the commission as directed by law and thereafter licensed as a deputy maritime pilot, at the discretion of the commission. The apprentices herein provided for shall be the only apprentices to be appointed or employed by the New Jersey Sandy Hook pilots.

16. R.S.12:8-12 is amended to read as follows:

Licensing as Sandy Hook Pilot, requirements.

12:8-12. Only a person who has successfully served an apprenticeship with the United New Jersey or New York Sandy Hook Pilots' Benevolent Associations and passed an examination approved by the commission shall be licensed as a deputy maritime pilot or maritime pilot of the State of New Jersey. A person so licensed is to be known as a Sandy Hook Pilot. No New Jersey licensed maritime pilot or deputy maritime pilot may be licensed by another state without the prior permission of the commission and under such terms and conditions as the commission may require.

17. R.S.12:8-13. is amended to read as follows:

Acting as maritime, docking pilot during emergency.

12:8-13. Upon a specific finding of an emergency, the commission may permit for such time as the emergency exists and at its discretion, any person to act as a maritime or docking pilot as hereinafter provided for, off the bar of Sandy Hook, or of the river Raritan, or of the harbor of Jersey City, Newark or Perth Amboy, after having examined such person in the manner hereinafter mentioned and made such inquiries respecting such person and the person's qualifications as to the commission shall appear necessary and expedient.

18. R.S.12:8-14 is amended to read as follows:

Examination for deputy maritime pilot license; eligibility.

12:8-14. The commission, before granting to an applicant a license to serve as a deputy maritime pilot, shall require the applicant to pass a qualifying examination approved by the commission for such service, examining in particular, the applicant's knowledge of the tides, soundings, bearings and distances of the several shoals, rocks, bars and points of land, and such other matters deemed by the commission as relevant to the safe navigation of vessels in the navigation for which the applicant applies for a license. Only an applicant certified by the New Jersey or New York Sandy Hook Pilots' Benevolent Association as having successfully completed the apprenticeship shall be eligible to apply for a license to serve as a maritime deputy pilot.

The examination shall be prescribed, administered and graded under the supervision of the commission and may be conducted in the presence of one or more full maritime branch pilots of this State. The commission shall by regulation establish grades of maritime pilots. For each grade, the commission shall specify the draft and tonnage of vessels a maritime pilot in that grade is authorized to pilot and the time in grade required to advance to the next highest grade.

Maritime pilots achieving the highest grade shall be full branch maritime pilots.

19. R.S.12:8-15 is amended to read as follows:

Certificate of appointment as a maritime pilot.

12:8-15. Certificate of appointment as a maritime pilot. The commission shall give to every person appointed by it as a deputy or full branch maritime pilot, a certificate of appointment or license signed by a majority of the commissioners. At the time the commission advances a maritime pilot in grade, the secretary shall endorse the certificate noting the advancement in grade.

20. R.S.12:8-16 is amended to read as follows:

Oath taken by maritime pilot.

12:8-16. Whenever a person is first licensed as a maritime pilot, the president of the commission, or in the absence of the president, any commissioner, shall administer to that person the following oath:

"I, A.B., do solemnly swear (or affirm), that I will well and faithfully, and according to the best of my skill and knowledge, execute and discharge the business and duty of a deputy or full branch maritime pilot for pilotage waters including, but not limited to, the bar, Jersey City, Newark, and Perth Amboy and harbor of Sandy Hook, and any bays, rivers, harbors, or ports of the waters of this State between Sandy Hook, in the county of Monmouth and the city of Atlantic City, in the county of Atlantic, and that I will at all times use my best endeavors to repair on board all ships and vessels that I shall see and conceive to be bound for, or coming into, or going out of the harbor and bodies of water aforesaid, unless I am well assured that some other licensed pilot is then on board the same; and I do further swear (or affirm), that I will, from time to time and at all times, make the best dispatch in my power to bring safely over the bar at Sandy Hook and into any bays, rivers, harbors, or ports of the waters of this State between Sandy Hook, in the county of Monmouth and the city of Atlantic City, in the county of Atlantic, every vessel committed to my care in coming in or going out; and that I will, from time to time and at all times, truly observe, follow and fulfill, to the best of my skill, ability, and knowledge, all such orders and directions as I shall or may receive from the New Jersey Maritime Pilot and Docking Pilot Commission, relative to all matters or things that may appertain to the duty of a pilot."

21. R.S.12 8-18 is amended to read as follows:

New licenses; forfeiture.

12:8-18. The commission may direct all maritime pilots to deliver up their former and take out new licenses whenever so required, but no maritime pilot shall be charged a fee for such a new license. Every maritime pilot not complying with these conditions shall forthwith forfeit his license and be disqualified to act as a maritime pilot for twelve months, and shall afterwards obtain no maritime pilot's license unless he be readmitted under the same formalities as one applying in the first instance.

22. R.S. 12:8-19 is amended to read as follows:

Revocation, suspension of license; grounds.

12:8-19. The commission may, upon majority vote of its authorized membership, revoke or suspend the license or route or reduce the grade of a maritime pilot or the license of a docking pilot who has willfully or negligently infringed on or violated this chapter or the regulations of the commission, or has failed to perform the duties in a manner expected of a prudent maritime pilot or docking pilot or the commission may set such other conditions as it deems appropriate for such infringement or violation. An order or judgment of the commission shall be considered a final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410

(C.52:14B-1 et seq.) and shall be subject only to judicial review as provided in Rules of Court.

23. R.S.12:8-20 is amended to read as follows:

Surrender of license.

12:8-20. If a maritime pilot or a docking pilot has forfeited any license or is no longer entitled to the use of such license by virtue of sections 12:8-18 and 12:8-19 of this title, and of section 36 of P.L.2004, c.72 (C.12:8-52), the commission shall demand the surrender of the license. Upon a refusal to give up the license on demand, the commission shall notify those individuals and agencies as it shall deem appropriate and necessary, that such person has no longer a right to act as a maritime pilot or a docking pilot.

24. R.S.12:8-21 is amended to read as follows:

Notice, hearing of revocation of license, suspension from acting as pilot, or reduction in grade.

12:8-21. Before a maritime pilot or a docking pilot shall be deprived of a license, or suspended from acting thereunder, or reduced in grade, he shall be compelled to appear before the commission to show cause against his suspension or the revocation of his license or reduction in grade. The notice shall be delivered to such maritime pilot or docking pilot not less than fifteen days before the time specified in the notice for his appearance. If the maritime pilot or docking pilot neglects or refuses to appear before the commission at the time specified in the notice, or if the cause shown by him against his suspension, or the revocation of his license or reduction in grade shall appear insufficient to the commission, it may, upon a majority vote of the full membership of the commission, either revoke the license or suspend him from acting as a maritime pilot or a docking pilot or reduce him in grade; except that the president of the commission, or in the absence of the president, the president's designee, may immediately and temporarily, for a period not to exceed 30 days, suspend the license of any maritime pilot or docking pilot upon a determination that, because of the maritime pilot's or docking pilot's mental or physical health or use of alcohol or controlled dangerous substance, the pilot cannot safely perform the pilot's duties. An order or judgment of the commission shall be considered final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall be subject only to judicial review as provided in the Rules of Court.

25. R.S.12:8-31 is amended to read as follows

Pay of maritime pilot carried to sea.

12:8-31. A maritime pilot who is carried to sea when a boat is attending to receive him shall receive at the rate of 500 dollars per day and his reasonable expenses during his absence.

26. R.S.12:8-35 is amended to read as follows:

Vessels required to take maritime pilot; exceptions.

12:8-35. Every United States vessel and every foreign vessel shall take a State-licensed maritime pilot when entering or leaving pilotage waters and shall take a licensed maritime pilot or docking pilot, as provided for herein, when otherwise underway in pilotage waters. This requirement shall not apply to:

- a. a vessel documented under the United States flag and operating in a coastwise trade; or
- b. a public vessel of the United States or a vessel otherwise exempt from state pilotage regulation by United States law; or
- c. a yacht of less than 200 feet in length.

If a regulated vessel underway on State pilotage waters fails to take a maritime pilot, the master, owner, agent or charterer shall pay the pilotage fees as if one had been employed and be subject to penalties under the commission's regulations.

27. R.S.12:8-39 is amended to read as follows:

Master to give pilot draft of vessel; penalty, proceeding, judicial review.

12:8-39. Every master of a vessel shall give an account to the maritime pilot and docking pilot, when boarding, of the deep drafts, air drafts and other information necessary to the safe navigation of the vessel. If the information is not provided or incorrect, the master shall be liable to a penalty of up to twenty-five thousand dollars which may be sued for by the commission and applied to the General Fund of the State. Any proceeding of the commission in this regard shall be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and any finding of the commission shall be considered final agency action for the purposes of such statute and shall be subject only to judicial review as provided in the Rules of Court.

28. R.S.12:8-40 is amended to read as follows:

Maritime pilots to account for fees.

12:8-40. The maritime pilots shall, once in each month, account to the commission for the fees received by them for pilotage. The commission may require such additional financial information as it deems necessary to effectuate the purposes of this chapter, provided that such additional information, being proprietary, shall not be subject to public disclosure under P.L.1963, c.73 (C.47:1A-1 et seq.).

29. R.S.12:8-44 is amended to read as follows:

Production of identity badge, card, documents.

12:8-44. The commission shall from time to time issue each commissioner, employee, maritime pilot and docking pilot a badge signifying his office. The commission shall, on the anniversary date of each maritime pilot and docking pilot, issue an identity card bearing a picture of the recipient, along with the recipient's description and other pertinent identifying information as the commission deems necessary for the security in the port of New York and New Jersey.

Every maritime pilot and docking pilot, on offering his services to the master of a vessel, shall produce and show to the master his identity badge, identity card or such documents as the commission may require by regulation.

30. R.S.12:8-47 is amended to read as follows:

Piloting without license, fourth degree crime; fine.

12:8-47. Any person not holding a license as a maritime pilot or docking pilot under the laws of this state or of the state of New York, who shall pilot or offer to pilot a regulated vessel, on state pilotage waters, or any person on board a steam tug or towboat who shall tow a regulated vessel on pilotage waters not having a licensed pilot or docking pilot on board the tug or tow boat or on board the vessel shall be guilty of a crime of the fourth degree, except that the fine may be up to \$50,000.

C.12:8-8.1 Provision of vessels, aircraft for embarkation, disembarkation; inbound, outbound discharge.

31. The maritime pilots shall provide vessels or aircraft to embark and disembark maritime pilots to and from vessels required to take a maritime pilot. The general location and type of vessels or aircraft shall be approved by the commission after consultation with the maritime pilots and Commissioners of Pilotage of the State of New York. Maritime pilots assigned to inbound vessels or vessels operating on the waters of this State or boundary waters of this State and the state of New York are not entitled to their discharge until the vessel has arrived at a safe anchorage or is secure in a berth. Maritime pilots assigned to outbound vessels are not entitled to their discharge until the vessel has been brought to a safe anchorage or has reached the pilot station or a point substantially seaward of the sea buoys, or, upon their removal, of the entrance

buoys, for Ambrose or Sandy Hook channels.

C.12:8-24.1 Fees for maritime pilotage, use of pilotage rates.

32. (New section) The fees for maritime pilotage for vessels not exempted from State pilotage by this chapter or any law of the United States shall be as follows:

a. For every vessel entering or departing or underway on the pilotage waters, but not including those south of Sandy Hook, the pilotage rates shall be the same as those charged by maritime pilots licensed by the state of New York; except that, unless otherwise ordered by the commission, a change in rates by New Jersey licensed pilots shall not be effective until thirty days after the effective date of a rate change by pilots licensed by the state of New York.

b. Pilotage rates for vessels entering or departing ports and underway on waters of ports south of Sandy Hook to, and including, Atlantic City shall be established by the commission.

c. Maritime pilotage rates for intermediate or intra-harbor movement of vessels shall be established by the commission after conferring with the New York Pilotage Commission.

d. Nothing in this section shall pertain to the rates charged by docking pilots.

C.12:8-49 Qualification of docking pilot without apprenticeship; requirements.

33. Unless the commission for good cause determines otherwise, a person shall qualify within 12 months of the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.) as a docking pilot without fulfilling the apprentice docking pilot requirements of this chapter if the person:

a. Has been regularly engaged, other than as a member of a vessel's crew, for the purpose of docking and undocking and the movement of not fewer than one hundred seagoing vessels of not less than ten thousand registered gross tons on the waters of the port of New York and New Jersey during the two-year period immediately prior to the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.);

b. Holds a current first class pilot's license issued by the United States Coast Guard or a first class pilot endorsement to a license issued by the United States Coast Guard authorizing the piloting of vessels of any tonnage, and endorsed for the routes in which the services of a docking pilot are permitted, and executes an authorization permitting the commission to obtain from the United States Coast Guard information pertaining to the applicant's Coast Guard license and records;

c. Holds a current unlimited radar observer's certificate required by the United States Coast Guard;

d. Has participated in and successfully completed a United States Department of Transportation, Department of Homeland Security, or their successors' drug screening and testing program mandated for mariners and executed an authorization permitting the commission to obtain from that organization information pertaining to the applicant's drug screening and testing;

e. Has been examined by a licensed physician in the manner prescribed by the United States Coast Guard no less than once each year and been declared by the examiner competent to perform the duties of a docking master;

f. Submits an application for review and approval by the commission within six months of the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.), which approval shall not be unreasonably withheld; and

g. Pays any required annual fee established by the regulations of the commission, such fee not to exceed the reasonable cost of administration directly attributable to the licensing of docking pilots.

A docking pilot who meets the requirements of subsections a. through e. of this section and who submits the docking pilot's name and a summary of qualifications to the commission within 30 days of the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.) may continue to perform the work of a licensed docking pilot until such time as the commission acts upon the application of that docking pilot. Prior to the issuance of a docking pilot license, such docking pilot shall be subject to all other provisions of this chapter, as if the license had been issued upon the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.).

C.12:8-50 Documentation for consideration as docking pilot apprentice.

34. To be considered as a docking pilot apprentice, a person shall submit the following

documentation to the commission:

- a. A current first class pilot's license or a first class pilot endorsement to a license issued by the United States Coast Guard authorizing the piloting of vessels of any tonnage and endorsed for the waters for which service may be required and an authorization executed permitting the commission to obtain from the United States Coast Guard information pertaining to the applicant's Coast Guard license and records;
- b. Evidence that the person holds a current unlimited radar observer's certificate required by the United States Coast Guard;
- c. Evidence of participation in a United States Department of Transportation required drug screening and testing program;
- d. Evidence of a current physical examination by a licensed physician in a manner prescribed by the United States Coast Guard and that the person has been declared competent by the physician to perform the duties of a docking pilot;
- e. Written documentation that the person has not less than ten years' experience in the maritime industry, including, but not limited to, credits at an approved United States maritime college; and deck experience, provided that the person shall have served not less than five years as a licensed mate or master in the towing industry and is endorsed by an independent pilot association providing docking pilot services on pilotage waters; and
- f. Such additional documentation as the commission may require by regulation.

C.12:8-51 Additional requirements for qualification as docking pilot.

35. To qualify as a docking pilot a person shall, in addition to the requirements of section 34 of P.L.2004, c.72 (C.12:8-50), have:

- a. Performed at least 25 dockings or undocking movements of vessels not less than 10,000 gross tons on pilotage waters assisted by a tugboat or tugboats on routes for which the applicant applies to be licensed as a docking pilot under the supervision of a docking pilot;
- b. Observed not less than 200 dockings or undockings of seagoing vessels of not less than 10,000 registered tons on pilotage waters assisted by a tugboat or tugboats under the close supervision of a docking pilot;
- c. Successfully completed a docking pilot apprentice program approved by the commission prior to application to the commission for licensing as a docking pilot; and
- d. Submitted an application to the commission for review and approval.

Upon having the application declared complete and acceptable by the commission, and endorsed by an independent pilot association, the applicant's name shall be added to a list of qualified docking pilots. After considering the need for additional qualified docking pilots, the commission may, in its sole discretion, thereafter appoint successful applicants as docking pilots. To ensure recency, prior to issuing a license under this section, the commission may require the applicant to conduct additional dockings, undockings and intra-harbor movements under the supervision of a licensed docking pilot.

C.12:8-52 Registration of docking pilots; fee.

36. The commission shall enter on a register maintained by it the names and status of all persons who demonstrate to the satisfaction of the commission that they meet the requirements of section 33 or 35 of P.L.2004, c.72 (C.12:8-49 or C.12:8-51) and who submit to the commission an initial license fee not to exceed the reasonable cost of administration directly attributable to the licensing of docking pilots and an annual license fee thereafter not to exceed the reasonable cost of administration directly attributable to the licensing of docking pilots. The commission may refuse to license or may suspend or revoke the license of any person who does not comply with the requirements of section 33 of P.L.2004, c.72 (C.12:8-49), or other lawful requirements of the commission.

C.12:8-53 Authority of docking pilots.

37. a. A docking pilot is authorized upon the approval of the master of a vessel upon pilotage waters as defined in section 2 of P.L.2004, c.72 (C.12:8-1.2) to:

- (1) Dock or undock vessels; direct the navigation of vessels within the harbor being moved from an anchorage to an anchorage or to a berth; direct the navigation of vessels within the harbor being moved from a berth to an anchorage or another berth; direct the navigation of

vessels departing the port until relieved by a maritime pilot licensed by the commission or the Commissioners of Pilotage of the State of New York, at such locations where by custom and practice prior to the effective date of P.L.2004, c.72 (C12:8-1.1 et al.) such relief took place, provided that the maritime pilot, docking pilot and the vessel's master concur that the relief can be accomplished without compromising the safe navigation of the vessel; and

(2) Direct the navigation of vessels entering the port upon relieving a maritime pilot licensed by this commission or the Commissioners of Pilotage of the State of New York for the purpose of docking such vessels at such points where by custom and practice prior to the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.) such relief took place, provided that the relief can be accomplished without compromising the safe navigation of the vessel.

b. Nothing in the provisions authorizing the licensing of docking pilots is intended to authorize licensed docking pilots to pilot regulated vessels on pilotage waters as they enter or leave the Port of New York and New Jersey.

c. Nothing in the provisions of this section is intended to preclude licensed maritime pilots from docking or undocking vessels, conducting in harbor movements of vessels or piloting vessels on pilotage waters.

d. When the services of a tugboat are employed to dock or undock a vessel, a docking pilot shall be employed by the vessel if requested by the vessel owner or agent.

C.12:8-17.1 Access to certain records of pilots.

38. A docking pilot or maritime pilot licensed by the State of New Jersey or applying for a license is deemed to authorize the commission to obtain, from time to time, the National Drivers Registry records pertaining to the docking pilot or maritime pilot and from his employer or association records pertaining to the docking pilot's or maritime pilot's participation in a drug testing program and the results of drug or alcohol tests issued by a testing facility.

C.12:8-35.1 Rights of owner, operator, master of vessel.

39. Nothing in this chapter shall affect the right of the owner, operator or master of a regulated vessel to choose, select or engage an individual docking pilot or tugboat company, or be construed to permit the commission to exercise any control or authority over docking pilot rates, pensions, benefits or other compensation of docking pilots.

Repealer.

40. The following are repealed:

R.S.12:8-17; R.S.12:8-22; R.S.12:8-23; R.S.12:8-24; R.S.12:8-25; R.S.12:8-26; R.S.12:8-27; R.S.12:8-28; R.S.12:8-29; section 5 of P.L.1991, c.76 (C.12:8-29.1); R.S.12:8-30; R.S.12:8-32; R.S.12:8-33; R.S.12:8-34; R.S.12:8-41; R.S.12:8-42; R.S.12:8-43; R.S.12:8-45; R.S.12:8-46.

41. This act shall take effect on the 60th day after enactment, but the commission may take such anticipatory administrative action in advance as shall be necessary for implementation of this act.

Approved July 1, 2004.