

HOUSE BILL 766

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2000 Regular Session
0lr1365
CF 0lr1673

By: **Delegates McHale, Owings, Krysiak, DeCarlo, Malone, K. Kelly, Cole, Hammen, Moe, Love, Hurson, Eckardt, Donoghue, McIntosh, Hill, and Walkup**

Introduced and read first time: February 10, 2000
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vessels - Pilots - Special Duty Assignments**

3 FOR the purpose of prohibiting an individual from providing certain pilotage without
4 certain licenses or a certain certification; including a special duty license within
5 a certain list of licenses issued to pilots in this State; specifying certain
6 requirements for a special duty license; authorizing the State Board of Pilots to
7 certify certain licensed individuals to perform pilotage for a special duty
8 assignment if the applicant meets certain requirements; specifying the scope of
9 a special duty license and a special duty assignment certification; providing for
10 the eligibility of a special duty license pilot for certain payments as an inactive
11 or permanently disabled pilot; repealing certain exceptions to the requirement
12 that certain American and foreign vessels employ a certain licensed pilot under
13 certain circumstances; requiring the holder of a special duty license or a special
14 duty assignment certification to charge certain fees when performing a special
15 duty assignment until the Public Service Commission adopts certain
16 regulations; defining certain terms; altering certain definitions; providing for a
17 delayed effective date for a portion of this Act; and generally relating to certain
18 requirements concerning pilots of vessels.

19 BY repealing and reenacting, with amendments,
20 Article - Business Occupations and Professions
21 Section 11-101, 11-401, 11-402, 11-404, 11-407, 11-501, 11-502, and 11-504
22 through 11-506
23 Annotated Code of Maryland
24 (1995 Replacement Volume and 1999 Supplement)

25 BY adding to
26 Article - Business Occupations and Professions
27 Section 11-403.1
28 Annotated Code of Maryland
29 (1995 Replacement Volume and 1999 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Business Occupations and Professions**

4 11-101.

5 (a) In this title the following words have the meanings indicated.

6 (b) "Apprentice pilot" means an individual who is engaged in training, under
7 the supervision of a licensed pilot, to provide pilotage.

8 (c) "Association" means the Association of Maryland Pilots.

9 (d) "Board" means the State Board of Pilots.

10 (e) "FULL MEMBER" MEANS A PILOT WHO IS LICENSED BY THE BOARD FOR A
11 PERIOD OF 3 YEARS OR MORE.

12 (F) (1) "License" means, unless the context requires otherwise, a license
13 issued by the Board to provide pilotage.

14 (2) "License" includes, unless the context requires otherwise, a limited
15 license OR A SPECIAL DUTY LICENSE.

16 [(f)] (G) (1) "Licensed pilot" means a pilot who is licensed by the Board to
17 provide pilotage.

18 (2) "Licensed pilot" includes the holder of a limited license OR A SPECIAL
19 DUTY LICENSE.

20 [(g)] (H) (1) "Limited license" means a license issued by the Board to provide
21 pilotage as limited by § 11-407 of this title.

22 (2) "Limited license" includes a 37-foot-draft limited license, a
23 34-foot-draft limited license, and a 28-foot-draft limited license.

24 (3) "LIMITED LICENSE" DOES NOT INCLUDE A SPECIAL DUTY LICENSE.

25 [(h)] (I) "Pilot" means an individual who provides pilotage.

26 [(i)] (J) (1) "Provide pilotage" means to pilot a vessel under the provisions
27 of this title when the vessel is underway on the navigable waters of the State,
28 including when the vessel is towing or being towed by another vessel.

29 (2) "Provide pilotage" [does not include:

30 (i) maneuvering a vessel during berthing or unberthing
31 operations; or

1 (ii) shifting a vessel within a port with tug assistance and a docking
2 master aboard the vessel] INCLUDES A SPECIAL DUTY ASSIGNMENT.

3 (K) "SPECIAL DUTY ASSIGNMENT" MEANS:

4 (1) MANEUVERING A VESSEL DURING A BERTHING OR UNBERTHING
5 OPERATION WITH TUG ASSISTANCE; OR

6 (2) SHIFTING A VESSEL WITHIN A PORT WITH TUG ASSISTANCE.

7 (L) "SPECIAL DUTY LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO
8 PROVIDE PILOTAGE LIMITED TO A SPECIAL DUTY ASSIGNMENT.

9 (M) "SPECIAL DUTY LICENSE PILOT" MEANS A PILOT WHO IS LICENSED BY THE
10 BOARD TO PROVIDE PILOTAGE LIMITED TO A SPECIAL DUTY ASSIGNMENT.

11 11-401.

12 (a) Except as otherwise provided in this subtitle, an individual shall be
13 licensed by the Board before the individual may provide pilotage in the State.

14 (b) An individual may provide pilotage to a vessel in distress until a licensed
15 pilot comes on board and offers to provide pilotage.

16 (c) AN INDIVIDUAL MAY NOT PROVIDE PILOTAGE FOR A SPECIAL DUTY
17 ASSIGNMENT UNLESS THE INDIVIDUAL HOLDS:

18 (1) A SPECIAL DUTY LICENSE ISSUED UNDER § 11-403.1 OF THIS
19 SUBTITLE; OR

20 (2) A LICENSE AND A SPECIAL DUTY ASSIGNMENT CERTIFICATION
21 ISSUED UNDER § 11-404 OF THIS SUBTITLE.

22 (D) A person who provides pilotage without a license is liable for any damages
23 that result.

24 11-402.

25 Subject to the provisions of this subtitle, the Board may issue:

26 (1) a license;

27 (2) a 37-foot-draft limited license;

28 (3) a 34-foot-draft limited license; [and]

29 (4) a 28-foot-draft limited license; AND

30 (5) A SPECIAL DUTY LICENSE.

1 11-403.1.

2 TO QUALIFY FOR A SPECIAL DUTY LICENSE, AN APPLICANT SHALL:

3 (1) BE AT LEAST 18 YEARS OLD;

4 (2) BE A FULL-TIME DOCKING MASTER WHO, ON OR BEFORE JANUARY 1,
5 2000:

6 (I) MEETS THE REQUIREMENTS OF THIS SECTION; AND

7 (II) HAS PERFORMED A SPECIAL DUTY ASSIGNMENT:

8 1. FOR AT LEAST 500 VESSELS IN THE PORT OF BALTIMORE
9 AFTER JANUARY 1, 1995; AND

10 2. FOR AT LEAST 100 VESSELS IN THE PORT OF BALTIMORE
11 FROM JANUARY 1, 1999 THROUGH JANUARY 1, 2000;

12 (3) BE A CITIZEN OF THE UNITED STATES;

13 (4) PROVIDE THE BOARD WITH PROOF OF RECENT SATISFACTORY
14 COMPLETION OF THE PHYSICAL REQUIREMENT FOR A FIRST-CLASS PILOT LICENSE,
15 AS DETERMINED BY THE UNITED STATES COAST GUARD;

16 (5) AGREE TO PARTICIPATE IN A RANDOM DRUG TESTING PROGRAM
17 APPROVED BY THE UNITED STATES COAST GUARD, AS SPECIFIED IN THE BYLAWS OF
18 THE ASSOCIATION;

19 (6) POSSESS THE FOLLOWING LICENSES AND CERTIFICATIONS ISSUED
20 BY THE UNITED STATES COAST GUARD:

21 (I) A FIRST-CLASS PILOT LICENSE FOR STEAM AND MOTOR
22 VESSELS OF ANY GROSS TONS FOR THE WATERS ON WHICH THE APPLICANT INTENDS
23 TO OPERATE UNDER A SPECIAL DUTY LIMITED LICENSE;

24 (II) A MASTERS LICENSE FOR STEAM OR MOTOR VESSELS UPON
25 INLAND WATERS;

26 (III) UNLIMITED RADAR OBSERVER ENDORSEMENT;

27 (IV) CERTIFICATION OF SUCCESSFUL COMPLETION OF AN
28 ACCREDITED BRIDGE RESOURCE MANAGEMENT PROGRAM; AND

29 (V) CERTIFICATION OF SUCCESSFUL COMPLETION OF THE
30 AUTOMATIC RADAR PILOTING AID (ARPA) PROGRAM;

31 (7) HAVE A MINIMUM OF 5 YEARS EXPERIENCE IN THE MARITIME
32 INDUSTRY WORKING ON VESSELS IN THE DECK DEPARTMENT AS A LICENSED
33 MASTER OR MATE ON TUGS OR INSPECTED VESSELS; AND

1 (8) APPLY TO THE BOARD ON OR BEFORE DECEMBER 31, 2000.

2 11-404.

3 (a) To qualify for a license other than a limited license OR A SPECIAL DUTY
4 LICENSE, an applicant shall be an individual who [meets the requirements of this
5 section.]:

6 [(b)] (1) [An applicant] shall be at least 18 years old[.];

7 [(c)] (2) [An applicant] shall have held a limited license and have provided
8 pilotage for at least 3 years[.]; AND

9 [(d)] (3) [An applicant] shall possess sufficient ability, skill, and experience
10 for the license as determined by the Board through observation of the applicant's
11 performance providing pilotage.

12 (B) AN APPLICANT WHO IS QUALIFIED AND LICENSED UNDER THIS SECTION
13 MAY BE CERTIFIED BY THE BOARD TO PERFORM PILOTAGE FOR A SPECIAL DUTY
14 ASSIGNMENT IF THE APPLICANT:

15 (1) HAS UNDERTAKEN ANY TRAINING THE BOARD MAY REQUIRE FOR A
16 SPECIAL DUTY ASSIGNMENT; AND

17 (2) POSSESSES SUFFICIENT ABILITY, SKILL, AND EXPERIENCE FOR
18 CERTIFICATION AS THE BOARD DETERMINES THROUGH OBSERVATION OF THE
19 PERFORMANCE OF THE APPLICANT IN PROVIDING PILOTAGE ON A SPECIAL DUTY
20 ASSIGNMENT.

21 11-407.

22 (a) While a license, other than a limited license OR A SPECIAL DUTY LICENSE,
23 is in effect, it authorizes the licensee to provide pilotage for vessels of [any]
24 UNLIMITED draft.

25 (b) (1) While a 37-foot-draft limited license is in effect, it authorizes the
26 licensee to provide pilotage for vessels not exceeding 37-foot-draft.

27 (2) While a 34-foot-draft limited license is in effect, it authorizes the
28 licensee to provide pilotage for vessels not exceeding 34-foot-draft.

29 (3) While a 28-foot-draft limited license is in effect, it authorizes the
30 licensee to provide pilotage for vessels not exceeding 28-foot-draft.

31 (C) WHILE A SPECIAL DUTY LICENSE OR A SPECIAL DUTY ASSIGNMENT
32 CERTIFICATION IS IN EFFECT, IT AUTHORIZES THE LICENSEE TO PROVIDE PILOTAGE
33 FOR VESSELS OF UNLIMITED DRAFT:

34 (1) MANEUVERING DURING BERTHING OR UNBERTHING OPERATIONS
35 WITH TUG ASSISTANCE; OR

1 (2) SHIFTING WITHIN A PORT WITH TUG ASSISTANCE.

2 11-502.

3 (a) The Public Service Commission shall establish pilotage fees in accordance
4 with § 4-303 of the Public Utility Companies Article.

5 (b) (1) Regardless of whether the employment is required under § 11-501(a)
6 of this subtitle or voluntary under [§ 11-501(c)] § 11-501(B) of this subtitle, a vessel
7 that employs a licensed pilot to provide pilotage shall pay the licensed pilot the full
8 pilotage fee.

9 (2) Regardless of whether the vessel uses the services of the pilot for the
10 entire pilotage, a vessel that employs a licensed pilot to provide pilotage shall pay the
11 licensed pilot the full pilotage fee.

12 (c) Notwithstanding any contract between a licensed pilot who has provided
13 pilotage for a vessel and the master, owner, charterer, or agent of the vessel or any
14 other party, the vessel, its tackle, apparel, and furniture, and the master, owner,
15 charterer, and agent of the vessel shall be jointly and severally liable for payment of
16 the pilotage fee to the licensed pilot.

17 (d) A licensed pilot who has provided pilotage for a vessel shall have a lien for
18 the amount of the pilotage fee due, enforceable in a court of competent jurisdiction, on
19 the vessel and its tackle, apparel, and furniture.

20 (e) If a vessel fails to employ a licensed pilot to provide pilotage as required
21 under § 11-501(a) of this subtitle, the vessel and its master, owner, charterer, and
22 agent shall be jointly and severally liable for payment of the full pilotage fee as if a
23 licensed pilot had been employed.

24 11-504.

25 (a) A pilot is eligible for payments as an inactive pilot under § 11-506 of this
26 subtitle if the pilot:

27 (1) chooses to be placed on the list of inactive pilots maintained by the
28 Association; and

29 (2) has been, for at least 25 years:

30 (i) a FULL member in good standing of the Association; and

31 (ii) licensed by the Board to provide pilotage for vessels of unlimited
32 draft OR TO PROVIDE PILOTAGE LIMITED TO A SPECIAL DUTY ASSIGNMENT.

33 (b) A pilot is eligible for reduced payments as an inactive pilot under § 11-506
34 of this subtitle if the pilot:

35 (1) chooses to be placed on the list of inactive pilots maintained by the
36 Association; and

1 (2) has been, for at least 20 years:

2 (i) a FULL member in good standing of the Association; and

3 (ii) licensed by the Board to provide pilotage for vessels of unlimited
4 draft OR TO PROVIDE PILOTAGE LIMITED TO A SPECIAL DUTY ASSIGNMENT.

5 11-505.

6 (a) A pilot is eligible for payments as a permanently disabled pilot under §
7 11-506 of this subtitle if:

8 (1) the pilot has:

9 (i) been certified to be permanently incapable of providing pilotage
10 by two physicians chosen by the Board; or

11 (ii) had a federal or State pilot's license revoked for physical
12 disability; and

13 (2) before becoming permanently disabled, the pilot was:

14 (i) a FULL member in good standing of the Association; and

15 (ii) licensed by the Board to provide pilotage for vessels of [any]
16 UNLIMITED draft OR TO PROVIDE PILOTAGE LIMITED TO A SPECIAL DUTY
17 ASSIGNMENT.

18 (b) Eligibility for payments as a permanently disabled pilot shall cease if:

19 (1) a pilot who was declared permanently incapable of providing pilotage
20 becomes capable of providing pilotage; or

21 (2) a pilot who had a federal or State pilot's license revoked for physical
22 disability has the license reissued.

23 11-506.

24 (a) Each month, the Association shall distribute the pilotage fees that the
25 Association collects in the following order:

26 (1) within 10 days after the close of each month, the Association shall
27 pay to the Board for that month an amount determined under subsections (b), (c), and
28 (d) of this section for distribution to the pilots who, at the beginning of that month,
29 were eligible for payments as inactive or permanently disabled pilots; and

30 (2) the balance of the pilotage fees collected shall be:

31 (i) first, used by the Association to pay its expenses;

1 (ii) second, paid to the Maintenance and Replacement Fund under
2 § 11-507 of this subtitle; and

3 (iii) finally, in accordance with the bylaws of the Association, paid to
4 the regularly working licensed pilots who are members in good standing of the
5 Association.

6 (b) The amount to be paid by the Association to the Board for distribution to
7 eligible inactive pilots who for at least 25 years have been FULL members in good
8 standing of the Association and licensed by the Board to provide pilotage for vessels of
9 unlimited draft OR TO PROVIDE PILOTAGE LIMITED TO A SPECIAL DUTY
10 ASSIGNMENT shall be computed by:

11 (1) determining the greater of:

12 (i) \$200; or

13 (ii) 40% of the share payable under this subtitle for the month for
14 which the payment is to be made to a regularly working licensed pilot; and

15 (2) multiplying the figure determined under item (1) of this subsection
16 by the number of pilots in the Association who, at the beginning of the month for
17 which the payment is to be made, were eligible for payments as inactive pilots under
18 this subsection.

19 (c) The amount to be paid by the Association to the Board for distribution to
20 eligible inactive pilots who become inactive with at least 20 years but less than 25
21 years as FULL members in good standing of the Association and licensed by the Board
22 to provide pilotage for vessels of unlimited draft OR TO PROVIDE PILOTAGE LIMITED
23 TO A SPECIAL DUTY ASSIGNMENT shall be computed as follows:

24 (1) for each pilot determining the greater of:

25 (i) \$200; or

26 (ii) 1. 32% of the share payable under this subtitle for the month
27 for which the payment is to be made to a regularly working licensed pilot; and

28 2. 1.6% of the share payable under this subtitle for the
29 month for which the payment is to be made to a regularly working licensed pilot in
30 addition for each year of service in excess of 20 years and up to 25 years; and

31 (2) totalling the sums determined under item (i) of this paragraph for
32 each pilot in the Association who, at the beginning of the month for which the
33 payment is to be made, was eligible for payment as an inactive pilot under this
34 subsection.

35 (d) The amount to be paid by the Association to the Board for distribution to
36 permanently disabled pilots shall be computed by:

- 1 (1) determining the greater of:
- 2 (i) \$200; or
- 3 (ii) 40% of the share payable under this subtitle for the month for
4 which the payment is to be made to a regularly working licensed pilot; and
- 5 (2) multiplying the figure determined under item (i) of this paragraph by
6 the number of pilots in the Association who, at the beginning of the month for which
7 the payment is to be made, were eligible for payments as permanently disabled pilots.

8 (e) Within 10 days after the Board receives the amounts paid under
9 subsections (b), (c), or (d) of this section, the Board shall distribute those amounts:

10 (1) equally to those pilots who, at the beginning of the month for which
11 the payment is made, were eligible for payments as inactive or permanently disabled
12 pilots under subsections (b) and (d) of this section; and

13 (2) in the amounts as adjusted in accordance with subsection (c) of this
14 section to inactive pilots with at least 20 years but less than 25 years as a member in
15 good standing of the Association and licensed by the Board to provide pilotage for
16 vessels of unlimited draft OR TO PROVIDE PILOTAGE LIMITED TO A SPECIAL DUTY
17 ASSIGNMENT.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
19 read as follows:

20 **Article - Business Occupations and Professions**

21 11-501.

22 (a) [Except as otherwise provided in this section, each] EACH American vessel
23 engaged in foreign trade and each foreign vessel shall employ a licensed pilot to pilot
24 the vessel when it is underway on the navigable waters of the State, including when
25 the vessel is towing or being towed by another vessel.

26 (b) [Subsection (a) of this section does not apply to a vessel:

27 (1) maneuvering during berthing or unberthing operations; or

28 (2) shifting within a port with tug assistance and a docking master
29 aboard the vessel.

30 (c)] A vessel that is not required to employ a licensed pilot under subsection (a)
31 of this section may voluntarily employ a licensed pilot when the vessel is underway on
32 the navigable waters of the State.

33 SECTION 3. AND BE IT FURTHER ENACTED, That after the effective date of
34 this Act and until the Public Service Commission adopts fees for Special Duty
35 Assignments pursuant to § 11-502(a) of the Business Occupations and Professions

1 Article as enacted by this Act, any holder of a special duty license or a special duty
2 assignment certification shall charge the same fees for performing special duty
3 assignments as such holder was entitled to charge, pursuant to contract or otherwise,
4 prior to the effective date.

5 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
6 take effect January 1, 2001.

7 SECTION 5. AND BE IT FURTHER ENACTED, That except as provided in
8 Section 4 of this Act, this Act shall take effect October 1, 2000.